

Congress of the United States
House of Representatives
Washington, DC 20515-0533

November 2, 2016

The Honorable Ashton Carter
U.S. Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

The Honorable John F. Kerry
U.S. Department of State
2201 C St. NW
Washington, D.C. 20520

Dear Secretaries Carter and Kerry,

Thank you for conducting a review to examine U.S. support of the Saudi-led military coalition (Coalition) in Yemen. I am writing in my capacity as a Member of the National Security Subcommittee of the House Oversight & Government Reform Committee. As you conduct this important review on Yemen, I am writing to seek clarity regarding a recent statement made by a senior U.S. Administration official about the role of the U.S. in the conflict. The official stated that U.S. support of the Coalition does not include “target selection and review.”¹ The U.S. is, however, providing material assistance to the Coalition, including refueling jets that strike targets in Yemen.

I find it deeply troubling that the U.S. apparently has no advanced knowledge of what targets will be struck by jets that are refueled by U.S. personnel with U.S. tankers. Reports last month revealed that State Department lawyers were concerned about potential violations of the Law of Armed Conflict (LOAC) by the Coalition, but the Administration nevertheless chose to proceed to aid and abet the Coalition.² Under LOAC, military operations that result in the application of force must follow basic principles, such as distinction, proportionality and military necessity.

As has been widely reported, the U.S. is engaged in military operations with the Coalition, such as refueling Coalition fighter jets that directly result in the use of force on targets in Yemen. The U.S. would appear to be violating LOAC and international standards by engaging in such direct military operations if U.S. personnel are not aware if targets are civilian or military, if the loss of life and property are disproportional, or if the operation is even militarily necessary.

But the current situation is even worse than just willful blindness by the U.S. in its operations in Yemen. By now, the U.S. has knowledge that in the past 18 months, Coalition jets have struck civilian targets multiple times. Amnesty International and Human Rights Watch have already documented at least 70 unlawful airstrikes by the Coalition on civilian targets, such as children at school, a wedding party, a civilian market, and multiple hospitals. An airstrike at a funeral last month reportedly killed at least 140 people and injured over 500 civilians. Saudi Arabia has admitted that Coalition jets intentionally struck the funeral ceremony.

¹ Julian Borger, “U.S. calls for end to Saudi airstrikes in Yemen,” *The Guardian*, October 31, 2016.

² Warren Strobel and Jonathan Landay, “Exclusive: As Saudis bombed Yemen, U.S. worried about legal blowback,” *Reuters*, October 10, 2016.

U.S. personnel are now at legal risk of being investigated and potentially prosecuted for committing war crimes. Under international law, a person can be found guilty of aiding and abetting war crimes. Under U.S. law, a person can be found guilty for conspiring to commit war crimes.

As you continue with your internal review of U.S. support of the Saudi-led coalition, I have some important questions about the role of the United States in this conflict:

1. What steps, if any, has the U.S. taken to ensure the Coalition follows the Law of Armed Conflict?
2. Currently, when the U.S. provides assistance to the Coalition, such as by refueling Coalition jets, do U.S. personnel know what targets will be bombed by the jets?
3. At any point since the start of U.S. operations with the Coalition in Yemen to the present, did the U.S. engage in target selection or target review? If so, what was the time range and what was the process?
4. Does the Administration believe that the Law of Armed Conflict allows the U.S. to engage in direct military operations—such as refueling Coalition attack jets—if the U.S. has no advance knowledge of targets? If so, can the Administration cite to a legal opinion or a case?
5. Amnesty International and Human Rights Watch have documented at least 70 unlawful airstrikes on civilians by the Coalition. Does the U.S. dispute those reports?
6. Is it true that the Coalition designated an entire city or province in Yemen as a legitimate military target?
7. Is it true that Coalition jets have bombed civilian farms and other agriculture targets in order to increase the famine in Yemen?
8. Did the U.S. refuel the Coalition jets that struck the funeral ceremony in Yemen last month? If so, did the U.S. know the funeral ceremony was the intended target?
9. Did the U.S. refuel the Coalition jets that struck a school in Yemen last August? If so, did the U.S. know the school would be struck?
10. Did the U.S. refuel the Coalition jets that struck a Doctors Without Borders Hospital in Yemen last August? If so, did the U.S. know the hospital would be struck?

Thank you for your attention to these important issues. I look forward to your reply.

Sincerely,



TED W. LIEU
Member of Congress