

List of Issues addressed to the Kingdom of Saudi Arabia by the Group of Eminent Experts on Yemen established pursuant to Human Rights Council resolution A/HRC/RES/45/15

I. Introduction

The United Nations Human Rights Council, in its resolution (A/HRC/RES/45/15) of 6 October 2020 renewing the mandate of the Group of Eminent Experts on Yemen (GEE), again “Encourages all parties to the armed conflict in Yemen to extend full and unfettered 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 9 March 2021, the GEE sent a note verbale to the Kingdom of Saudi Arabia. In this note verbale, the GEE requested to meet with officials of the Kingdom of Saudi Arabia and requested issuance of visas so that the Chairperson, Experts of the Group, and members of the GEE Secretariat could travel to the Kingdom of Saudi Arabia in order to meet officials and conduct investigations.

As of 8 June 2021, the GEE had not yet received permission from the Kingdom of Saudi Arabia to visit the country. In particular, the GEE notes that inability to visit the Kingdom of Saudi Arabia seriously curtails its ability to fully execute its mandate, including further investigation of matters raised by the Kingdom of Saudi Arabia and the Coalition in their responses to GEE’s report of 28 September 2020.

Considering the inability for the GEE so far in 2021 to access the Kingdom of Saudi Arabia, the GEE prepared the below list of issues pertaining to the Kingdom of Saudi Arabia. The GEE takes this opportunity to respectfully bring to the attention of the Kingdom of Saudi Arabia that it has yet to receive responses to the list of issues sent by the GEE on 25 March 2019 and on 18 June 2020 to the Coalition, and would welcome responses to this list.

The GEE respectfully requests the Kingdom of Saudi Arabia to address the queries detailed herein. Responses will be included in the Group of Experts’ report to the Human Rights Council, with the exception of any information that the Kingdom of Saudi Arabia requests to remain confidential.

The GEE would be grateful to receive replies no later than 10 July 2021. In addition, the GEE renews its request to the Kingdom of Saudi Arabia to receive any other submissions that the Kingdom of Saudi Arabia may wish to present.

II. List of issues to be addressed by the Kingdom of Saudi Arabia

JIAT and other mechanisms for redress

1. General Functioning of the JIAT
 - (a) To whom, or to which body, does the JIAT report?
 - (b) Please share a copy of the JIAT’s internal rules and procedures.
 - (c) Does the JIAT have the power to subpoena witnesses and/or compel the disclosure of relevant documents and communications from Coalition members and the Government of Yemen?
2. The GEE would appreciate receiving further information concerning the level and type of coordination between JIAT and NCOI. The GEE would also appreciate receiving information concerning the extent of any cooperation between the JIAT and NCOI in relation to facilitating investigations (eg in conducting site visits, facilitating access to victims and witnesses).
3. Does the JIAT communicate and coordinate with other Yemeni accountability mechanisms such as prosecutorial authorities (military or civilian), or other officials/institutions with an accountability focus? If so, how?

4. Please provide the GEE with the detailed JIAT investigation list of incidents which have been or are being investigated, including relevant case numbers.
5. Are the JIAT investigations limited to investigating airstrikes incidents or are there other violations being investigated? If so, the GEE would appreciate receiving further information concerning the nature of these violations, the number of these investigations and the results of any such investigations?

Prosecutions and other proceedings

6. The JIAT has referred in publicly available documentation to the referral of a number of cases for court martial proceedings with relevant national authorities. Please provide further details, including
 - (a) which national authorities the cases were referred to, and
 - (b) any information concerning the nature of the referral (eg recommended charges, the rank or office held of the accused).
7. The JIAT informed the UN Panel of Experts that as of October 2020, one case referred to military prosecutors had proceeded to completion of a first instance trial within the military justice system of Saudi Arabia (the case concerning the airstrike on Abs hospital, of 5 August 2016). It also informed the Panel of two other cases being in the process of completion (those involving the airstrikes affecting the bus in Dayan, 9 August 2019, and the wedding in Bani Qays, 22 April 2018). In relation to these cases, please provide further details of
 - (a) the proceedings at the national level (including the charges brought against the individual(s), the rank or office held of the accused; the outcomes of cases, eg convictions for offences, imposition of punishment or disciplinary penalties)?
 - (b) The status of the proceedings.
 - (c) Any judgements available in the relevant cases.
8. Are there any additional cases that have been referred in 2020 or 2021 to national authorities for investigation and prosecution? If so, please provide details similar to those outlined in questions 4 and 5 above.
9. Apart from the cases referred by the JIAT, have there been any other proceedings (civil or criminal) concerning violations committed by parties to the conflict in Yemen. If so, please provide relevant details.
10. Noting publicly available information, that JIAT has concluded ‘technical error’ occurred in a number of cases investigated by JIAT, the GEE seeks further information on further steps that have been taken. In particular:
 - (a) Have there been any investigations into the reasons for such technical error at a national or Coalition level?
 - (b) Is the JIAT aware of whether the Coalition or individual member States have taken steps to avoid repetition of such technical errors – for example by:
 - (i) contacting manufacturing companies regarding technical faults?
 - (ii) amending Procedures to avoid such technical errors occurring in the future?
11. The GEE notes that JIAT has concluded that some failures of airstrikes to hit their intended target are attributable to weather events (eg cloud coverage). The GEE would appreciate receiving further information in relation to such events, and receiving information as to what corrective measures have been taken to prevent this happening in the future.

Reparations

12. In how many cases has the JIAT recommended the making of payment of any funds, or other forms of reparation to victims of confirmed violations? If, yes, in how many cases?

13. Noting publicly available information concerning the Coalition's payments to victims through the Joint Committee on Humanitarian Aid ("Joint Committee"), the GEE would appreciate receiving further information concerning the Joint Committee, including its composition, its mandate/terms of reference, its methods of deliberations and its budget.

14. Noting information provided to the Panel of Experts that as of October 2020, payments had been made to the victims of 6 airstrikes through the mechanism of the Joint Committee, the GEE would appreciate receiving further statistical details of the payments, including:

- (a) How many payments have been made?
- (b) What are the numbers of beneficiaries (if available segregated by gender and age)?
- (c) What has been the quantum of such payments?
- (d) How is the level of assistance assessed?
- (e) How are victims identified?
- (f) What is the process by which victims have been able to access funds?
- (g) How are victims involved during the process? What means are used in publicising the available assistance?
- (h) What are the systems in place to monitor distribution of assistance?

The GEE would also appreciate details of any challenges faced in relation to providing such financial assistance and the means of seeking to address such challenges.

15. Have there been any other proceedings brought in Coalition States (civil or criminal) in relation to violations committed by parties to the conflict in Yemen?

16. In any court proceedings concerning violations committed during the conflict, have there been any orders for compensation to victims of the violations? Have any victims received payments as a result?

17. Are there any non-financial means of reparations provided to victims of violations in Yemen? In particular, what actions have been taken by the Coalition to:

- (a) Acknowledge the experience of victims in Yemen
- (b) Provide details about the violations which have impacted on them (including the fate/whereabouts of those disappeared);
- (c) Provide necessary medical care, psycho-social support and other forms of rehabilitative? assistance.
- (d) Provide other forms of assistance (eg education grants, employment opportunities). (In providing details of such assistance, it would be appreciated if statistical and disaggregated data could be included).

General

18. What measures do you consider important for parties to the conflict and other relevant actors /including the international community) to take in order to provide for accountability and the securing of victims' rights to truth, justice and redress.