



UNITED STATES CENTRAL COMMAND
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

April 20, 2021

Ms. Radhya Al-Mutawakel
Mwatana for Human Rights
Sana'a, Yemen

Ms. Priyanka Motaparthi
Human Rights Institute, Columbia Law School
New York, NY

Dear Ms. Al-Mutawakel and Ms. Motaparthi:

Thank you for your November 4, 2020 letter to U.S. Central Command (USCENTCOM) regarding eleven reports of civilian casualties during armed conflict in Yemen. USCENTCOM followed our existing practice by providing your letter and the new information contained therein for review and consideration by the appropriate commander. We considered this information as part of our standard civilian casualty assessment process, which considers new information from all sources. USCENTCOM continues to remain keenly focused on reducing the likelihood of harm faced by civilians during combat operations.

After considering the newly provided material, and after a careful review of the existing military records and intelligence, USCENTCOM concluded regrettably that U.S. combat operations resulted in civilian casualties in two of the eleven reports you provided. I am confident that U.S. forces fully complied with the law of war in all engagements.

First, USCENTCOM acknowledges one civilian casualty in a strike on January 22, 2019, in Al Bayda, Yemen (listed as "Annex III" in your submission). The command determined that condolence payments were not appropriate.

Second, USCENTCOM previously acknowledged that a raid on January 29, 2017, in Al Bayda, Yemen resulted in civilian casualties. This raid is listed as "Annex VI" in your submission. As publicly reported, the raid targeted an Al Qaeda compound and resulted in the seizure of materials and information that yielded valuable intelligence. During an intense firefight that resulted in the death of one U.S. servicemember and wounded three others, U.S. forces received fire from a determined enemy engaging from prepared fighting positions. The enemy firing on U.S. forces included armed women and intermingled its personnel with children. As U.S. forces engaged in fierce close-quarters ground combat, U.S. military personnel on the ground and in the air directed their fire only at combatants and fully complied with the law of war. Although U.S. forces took appropriate measures to mitigate civilian casualties during this operation, completely eliminating civilian casualties is often impossible when enemies such as Al Qaeda intermingle their forces with civilians. USCENTCOM previously assessed that this raid resulted in twelve civilians killed. The information you provided is broadly consistent with USCENTCOM's assessment of the number of civilian casualties. The commander determined that condolence payments were not appropriate, in part due to the civilians' presence at an Al Qaeda compound at the time of the raid. USCENTCOM's previous press release acknowledging civilian casualties in this event is available at <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1068267/us-central-command-statement-on-yemen-raid/>.

USCENTCOM determined that civilian casualties did not occur in the remaining nine reports. All of the reports you provided appear to correspond to specific U.S. combat operations, although the location, time, and other details you provided sometimes differ materially from U.S. military records. In each of the operations described in your reports, U.S. forces successfully struck or raided a valid Al Qaeda target. In each airstrike, U.S. forces exercised great care to ensure that the strike occurred at a location where only the targeted Al Qaeda personnel would be harmed. After reviewing the materials you provided, as well as the existing military records and intelligence, USCENTCOM is confident that each airstrike hit its intended Al Qaeda targets and nothing else.

These findings should in no way be understood as minimizing the value USCENTCOM attaches to the information you provided. USCENTCOM recognizes that civil society organizations often have access to important perspectives and sources of information that are otherwise unavailable to the U.S. military. Likewise, USCENTCOM often has access to detailed information that is unavailable to the general public, potentially including hours or days of pre-strike surveillance, videos of strikes, and specialized intelligence that further informs military decision-making.

Although national security considerations prevent more detailed answers to some of the questions you posed in your letter, I can address several of your questions in general terms. First, the U.S. military regularly takes extraordinary steps to mitigate civilian casualties when conducting precision counter-terrorism operations in Yemen. For example, U.S. forces regularly gather information about the patterns of life surrounding a potential target for days, or longer, before an operation. This information enables U.S. forces to better understand the potential civilian presence near a target and allows U.S. forces to plan the operation for a time or location when the risk of civilian casualties is lowest. When the target of a counter-terrorism strike is a known individual, U.S. forces regularly track the target's movements and conduct a precision strike when the target is at a location where there is no risk to civilians. If a precision air strike occurs against a vehicle on an empty road, or against an individual alone in a field, it is highly unlikely to be an accident. Rather, it is most likely the product of careful and successful employment of civilian casualty mitigation measures. Additionally, U.S. forces follow a detailed and highly-practiced targeting process when identifying and deciding whether to strike potential targets. The U.S. military's targeting process brings together experts on intelligence, law, munitions, and other backgrounds to ensure commanders appropriately consider the military and civilian impacts of striking potential targets. The targeting process also includes experts trained to best match munitions to potential targets to minimize collateral damage.

Second, your questions appear to use the terms "children and women" and "civilians" interchangeably. In a similar vein, your report points to ages and genders as evidence that various individuals were civilian casualties. Yet gender is largely irrelevant when distinguishing combatants from civilians. Al Qaeda and other international terrorist organizations regularly include female combatants within their ranks, as does the United States, although women serving in the U.S. military are lawful combatants rather than unprivileged belligerents. Further, Al Qaeda and other international terrorist organizations regularly seek to gain unlawful military advantages by exploiting the U.S. military's strict adherence to the laws of war and other internationally recognized standards, for example, by unlawfully using child soldiers in operations.

Third, I am confident that the planning and execution of all U.S. operations referenced in your report complied with the law of war and U.S. law and policy. As you know, the law of war recognizes that civilian casualties are an often-unavoidable aspect of armed conflict. By itself, the existence of civilian casualties does not indicate a violation of the law of war.

Fourth, you recommended that the U.S. military provide "condolence or compensation payments" related to the engagements described in your report. While U.S. commanders have the authority to

provide limited redress when appropriate, this is a matter of discretion. U.S. domestic law and the law of war do not require the United States, or any state, to assume liability or compensate individuals when lawful combat operations result in injuries to their person or property. Further, U.S. law prohibits condolence payments in a variety of scenarios, such as when commanders anticipate the payments may be used to support foreign terrorist organizations. This concern is heightened when the deceased's surviving family members or close associates may have ties to terrorist organizations, in areas where terrorist forces may "tax" the payment, or when the payment may expose the recipient to extortion from local terrorist forces.

It is unfortunate that national security considerations prevent more detailed answers to some of the questions you posed in your letter. However, I reiterate the great importance that USCENTCOM attaches to the prevention of civilian casualties. Unlike many of our enemies and adversaries, the U.S. military adheres to the highest standards for civilian casualty mitigation and response. USCENTCOM welcomes additional information from civil society organizations and always strives to be accurate in our acknowledgement and reporting of civilian casualties. While it is not unusual to have inconsistencies between civilian casualty information that is reported to civil society organizations in conflict zones and the classified information that is available to U.S. forces, USCENTCOM acknowledges the value of the additional facts and insights that civil society organizations can provide.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Leary', with a stylized flourish at the end.

THOMAS F. LEARY
Captain, Judge Advocate General's Corps, U.S. Navy
Staff Judge Advocate