



Australian Lawyers for Human Rights
PO Box A147
Sydney South NSW 1235
vicepresident@alhr.org.au
w: alhr.org.au

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The Hon. Marise Payne
Minister for Foreign Affairs
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Via email: Senator.Payne@aph.gov.au

Dear Minister

Re: Kingdom of Saudi Arabia's bombing of civilians in Yemen

Australian Lawyers for Human Rights (**ALHR**) writes to raise its concern about Saudi Arabia's use of force in Yemen. It has been widely reported that at least 54 civilians were killed on Thursday 9 August in an airstrike in the northern town of Dahyan. The International Committee of the Red Cross said 29 of the dead were children, all under the age of 15, who were travelling in a school bus.

A spokesperson for the Saudi led coalition, Colonel Turki Al-Malki, said the attack was a "legitimate military operation, conducted in conformity with the International Humanitarian Law and its Customary Rules". Of particular concern is that Colonel Al-Malik statement appeared to rationalised the attack as a "necessary measure against...criminal acts of the terrorist Iranian-Houthi militia, such as recruiting child soldiers, throwing them in battlefields and using them as tools and covers to their terrorist acts".

Based on the reported circumstances of the attack, ALHR is of the opinion that this was a breach of International Humanitarian Law (**IHL**) and must be condemned by all members of the international community. It is time for Australia to call out Saudi Arabia on their transgressions in Yemen. In doing so, Australia would be joining countries like Canada, Germany and Sweden which have recently criticised Saudi Arabia on its human rights record.

ALHR would like to reiterate to you that there is no flexible approach to IHL:

- Distinction requires civilians to be distinguished from military targets. The use of force is unlawful if directed specifically against civilians, employed indiscriminately without distinction between civilians and military targets, or targeted at military targets but causing disproportionate civilian casualties. Intentionally directing attacks against civilians may constitute a war crime.

- Even if the attacks are lawfully directed, they will still be unlawful if the attacks are expected to cause incidental harm to civilians that is disproportionate to the military advantage. The military advantage anticipated must be direct and concrete, and the analysis must take place on a case-by-case basis.

The Australian Government must speak out against Saudi Arabia for its actions, and whenever breaches of IHL occur Australia should use diplomatic pressure to ensure countries, like Saudi Arabia, investigate all allegations of breaches of IHL, and minimise the harm caused to civilians during war.

We thank you for considering this letter.

Yours sincerely,



Jarrah Ekstein
Vice President
[Australian Lawyers for Human Rights](mailto:vicepresident@alhr.org.au)
vicepresident@alhr.org.au

ALHR was established in 1993 and is a national association of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees and specialist thematic committees. Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.