

1. Statement on behalf of: Claimant
2. Witness name: S Perlo-Freeman
3. Statement number: 1
4. Exhibits: **SPF1-SPF28**
5. Date of statement: 30 November 2022

**IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT**

CLAIM NO: CO/3579/2020

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BETWEEN:

**THE KING on the application of
CAMPAIGN AGAINST ARMS TRADE (“CAAT”)**

Claimant

- and -

SECRETARY OF STATE FOR INTERNATIONAL TRADE (“SSIT”)

Defendant

WITNESS STATEMENT OF DR SAM PERLO-FREEMAN

I, Sam Perlo-Freeman, of Campaign Against Arms Trade, Unit 1.9, The Green House, 244-254 Cambridge Heath Road, London E2 9DA SAY AS FOLLOWS:

Introduction

1. I am the Research Co-ordinator of Campaign Against Arms Trade (“CAAT”). I make this statement in support of CAAT’s claim for judicial review, further to the witness statement of my former colleague, Ann Feltham, dated 26 October 2020. Ms Feltham has since retired.
2. It has been 2 years since CAAT filed this claim for judicial review. The conflict in Yemen, ongoing since 2015, has continued during that time. There was a brief (relative to the length of the conflict) cease-fire between the months of

April and October 2022, but unfortunately this was not extended, and hostilities have now renewed. I refer in this statement to new open-source reporting, not available at the time of filing this claim, from credible sources, that serious violations of international humanitarian law (“IHL”) continue to emerge. This statement focuses in particular to reports of IHL violations committed by the Saudi-led coalition (“SLC”). This statement will also address the issue of a pattern of violations, in response to the Defendant’s evidence.

3. This statement does not intend to provide a comprehensive account of all allegations made against the SLC over the past 2 years. Instead, this statement intends to show that a range of agencies, applying rigorous methodology, as set out in their reports, have produced evidence highlighting the fact that a pattern of violations by the SLC continues.

Updating Evidence

A. UN Reports

- (i) *UN Group of Eminent International and Regional Experts on Yemen (UN Human Rights Council)*
4. On 3 December 2020, the UN Group of Eminent International and Regional Experts (“UNGEE”) on Yemen briefed the UN Security Council on serious violations of international human rights and humanitarian law (Exhibit **SPF1**). The mandate of the UNGEE was set out in UN General Assembly Resolution 36/31 on 29 September 2017 (Exhibit **SPF2**). That mandate includes monitoring and reporting on the situation of human rights in Yemen and carrying out comprehensive examination of all alleged violations and abuses of international human rights and other appropriate and applicable fields of international law committed by all parties to the conflict (paragraph 12(a)).
5. The UNGEE 3 December briefing found violations to include airstrikes that failed to abide by principles of distinction, proportionality and/or precaution, leading to high civilian casualties. Other violations included arbitrary detention, enforced disappearance and the impeding of humanitarian operations. Further, the UNGEE “*denounced the endemic impunity for violations, which has the effect of fueling more abuses*” and it was noted that, to the Experts’ knowledge,

not one person from any of the parties to the conflict had been held responsible for any violations in Yemen. The UNGEE Chairperson also noted:

“The situation in Yemen has reached a ‘surreal and absurd’ dimension. The continuation of violations this year underlines the complete lack of respect for international law and human life being displayed by parties to the conflict...

Our investigations this year have confirmed rampant levels of serious violations of international human rights law and international humanitarian law, many of which may amount to war crimes.”

6. On 25 February 2021, the UNGEE gave an oral update to the 46th session of the Human Rights Council (Exhibit **SPF3**), noting that since their last report, armed conflicts had continued to rage on a multitude of front lines, expanding to new areas, with civilians the “*main victims of an ever-growing cycle of violence*”. It was noted that:

“The scale of the attacks, the weaponry used, and the resulting number of casualties share certain commonalities, regardless of whether the attacks are being committed by the Government of Yemen, the Coalition, or the de facto authorities. In no instance have the warring parties shown any genuine commitment to their obligations under international law to take all feasible precautions in attack, and to avoid or minimise incidental loss of civilian life, injury to civilians, and damage to civilian objects.”

7. On 13 September 2021, the UNGEE published their findings on violations and abuses committed in Yemen from 1 July 2020 to 30 June 2021 (Exhibit **SPF4**). On the basis of properly corroborated information and satellite imagery, the UNGEE was able to draw conclusions about “*failures in specific airstrikes to respect the principles of distinction, proportionality and precautions in attack as required by international humanitarian law*” (paragraph 22). 4 SLC airstrikes or series of airstrikes were investigated during this period (see paragraphs 23-24 and 34 of the report), one of which (killing 7 children and 2 women in a house and injuring a boy and a woman breastfeeding her baby) was found by JIAT to be a result of ‘technical error’. In response, the UNGEE noted that the “*frequency with which the [JIAT] finds a “technical error” to be responsible for civilian losses without it leading to apparent changes in coalition procedures*

itself raises significant concerns as to the coalition's commitment to meeting the requirements of international humanitarian law" (paragraph 23).

8. Further commentary on the JIAT investigations is provided at paragraph 76 of that report, at which it is noted that:

"the Joint Incident Assessment Team has completed a further 18 investigations during this reporting period (bringing the total to more than 200 investigations), primarily relating to airstrikes. A further two cases have been referred to military prosecutors for breaches of the rules of engagement. Of the eight cases previously referred, it is understood that a first instance trial has been completed in only one case, with two other cases described as nearing completion in late 2020. No public information is yet available in relation to the proceedings. However, the Group continues to have concerns that coalition members are not acting with appropriate speed, diligence and transparency in pursuing investigations and prosecutions and that the prosecutions may not reflect the seriousness of the international humanitarian law violations and potential international crimes involved."

9. The following day, on 14 September 2021, the Human Rights Council submitted a supplement to the UNGEE report, its 'Accountability Update' (Exhibit **SPF5**). Paragraphs 14-24 of that report contains analysis of the JIAT investigations and conclusions. The report also notes other types of violations that required attention, which were believed to be committed by the SLC or parties backed by members of the Coalition, including arbitrary detention, torture including sexual violence, and the recruitment and use in hostilities of children (paragraph 21).

10. On 7 October 2021, following pressure by Saudi Arabia and other coalition partners, the UNGEE mandate was not renewed. I exhibit as **SPF6** statements by the UNGEE and Amnesty International about this development.

(ii) UN Security Council: Secretary-General

11. On 21 January 2022, the Secretary-General condemned an airstrike launched that day by the SLC against a detention centre in Saada city, from which initial reports indicated at least 60 deaths and over 100 injured among the inmates

(Exhibit **SPF7**). That same day, news agencies reported at least 6 civilians killed and a further 18 injured by SLC airstrikes on residential areas in the city (Exhibit **SPF8**).

12. On 27 March 2022, the Secretary-General strongly condemned an escalation of the conflict, which included SLC airstrikes in Sana'a, reportedly killing 8 civilians, including 5 children and 2 women (Exhibit **SPF9**).

(iii) *UN Security Council: Panel of Experts*

13. On 25 January 2021, the UNSC published the Panel of Experts on Yemen report covering the period January – December 2020 (Exhibit **SPF10**). The report includes (see Annex 29) a detailed examination of 5 specific incidents of airstrikes involving the SLC in the year 2020, some of which involved mass casualties (in particular the 14 February attack on a residential area, Al Jawf, leaving 32 dead and 21 injured, the majority being women and children). I note that redacted Annex 30 also refers to violations “*in the context of detention by members of the Coalition*”.
14. On 26 January 2021, the UNSC published the Panel of Experts on Yemen report covering the period January – December 2021 (Exhibit **SPF11**). Annex 33 presents case studies of SLC airstrikes in Yemen investigated by the Panel during that period. In 2 incidents, the Panel was able to conclude their investigations and find violations of IHL. The first, was an attack on 16 January 2021, hitting a car in Al Mahliyah District, resulting in the death of the driver, found to be a merchant transporting food.
15. The second, on 21 March 2021, was an airstrike on a food production warehouse at Al Salif port, injuring six workers of the Yemeni International Company for Food Production Ltd. Pictures of remnants from that second attack were consistent with guided bombs used by the SLC. The Panel lacked any conclusive evidence that the port was used for military activities, and therefore concluded it was unlikely the principles of distinction and proportionality were respected.

(iv) *UN High Commissioner for Human Rights*

16. On 18 January 2022, a spokesperson for the UN High Commissioner for Human Rights expressed deep concern over the continued escalation of the conflict in Yemen, noting that overnight:

“air strikes by the Saudi-led coalition on the capital, Sanaa, are reported to have left at least five civilians dead. According to preliminary information, those killed were five members of the same family, including two women and a child, when a house was hit in Ma’in district of the city at around 21.25. Two other women and a child were reported to have been injured.” (Exhibit **SPF12**)

17. It was also noted that between 9-13 January the SLC destroyed 3 telecommunications towers in Sa’ada, a main water reservoir in Sahar district (in Sa’ada), and injured 4 civilians in an airstrike on a hospital in Sanhan district, Sana’a. The emergency and in-patient departments of the hospital were also damaged.
18. A statement on 28 January responding in part to the 21 January airstrikes on the prison facility in Sa’ada (see paragraph 11 above) stated that during a recent OHCHR visit to that prison, no signs were found to indicate the prison, formerly a barracks, continued to have a military function. It was said to be a remand prison holding 1,300 pre-trial detainees as well as 700 migrants. (Exhibit **SPF13**).

(v) *UN Special Envoy for Yemen*

19. On 25 January 2022, the UN Special Envoy for Yemen expressed alarm over the *“escalating spiral of violence in Yemen that continues to harm civilians ...”* (Exhibit **SPF14**). Referring to the SLC airstrike against a prison facility in Sa’ada on 21 January (see paragraphs 11, 18 above) as *“the worst civilian-casualty incident in Yemen in three years”*. The casualties were reported here as 91 detainees killed and 226 injured. It was also noted that migrants were held at the prison.

B. NGO Reports

(vi) *Human Rights Watch, Amnesty International and Mwatana for Human Rights*

20. The HRW 2021 World Report section on Yemen (Exhibit **SPF15**) reported that as at March 2021, 6 years into the conflict beginning in March 2015, almost a third of SLC airstrikes hit civilian objects such as residential homes, hospitals, schools, weddings, farms, food stores, school buses, markets, mosques, bridges, civilian factories, detention centres, and water wells. It also reported the SLC had been one of the groups involved in the arbitrary arrest, detention, abduction or forced disappearance of people, including children, and torture or otherwise ill-treatment of detainees.
21. I exhibit as **SPF16** extracts from the Mwatana for Human Rights report 'Starvation Makers', which details the use of starvation by warring parties in Yemen (including the SLC) as a method of warfare.
22. The Amnesty International 'Yemen 2021' report (Exhibit **SPF17**) states that all parties to the conflict in Yemen continued to commit violations of international human rights and humanitarian law with impunity in 2021. Categories of violations in which the SLC is named include attacks that unlawfully killed and injured civilians and destroyed civilian objects, including food infrastructure; and continuing to detain, forcibly disappear and torture individuals. The report also notes that Saudi-led lobbying throughout 2021 contributed to the termination of the only international, impartial investigative mechanism for IHL violations in Yemen (the UNGEE).
23. I exhibit as **SPF18** the HRW Country Report 2022 section on Yemen, summarising reports concluding that conduct by the SLC (and their opponents) "*severely impeded civilians' access to food and water; effectively using starvation as a weapon of war, in violation of [IHL]*".
24. On 18 April 2022, HRW published a report detailing the three particularly deadly SLC attacks in Yemen in January 2022 (as dealt with above), exhibited as **SPF19**. The report also highlights that after the mandate of UNGEE ended, SLC airstrikes escalated.

25. A detailed report from Mwatana for Human Rights, also addressing the January incidents, is exhibited as **SPF20**. It also notes that JIAT found the 21 January strike on the prison was a legitimate military target, but concludes following its own evidence gathering together with HRW, that the targeted facility was a detention centre.

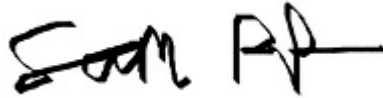
Earlier Evidence on Patterns

26. The Defendant's evidence indicate that the Secretary of State considered whether a pattern of violations by the SLC existed and concluded there was no such pattern. CAAT provided an extensive dossier of evidence to the Secretary of State on 9 September 2019 showing that pattern did exist. Investigative documents highlighting such a pattern include, for example:
- a. HRW's June 2015 report 'Targeting Saada' (Exhibit **SPF21**);
 - b. Amnesty International's August 2015 report 'Nowhere is safe for Civilians' (Exhibit **SPF22**);
 - c. Amnesty International's October 2015 report 'Bombs Fall from the Sky Day and Night' (Exhibit **SPF23**);
 - d. HRW's November 2015 report 'What Military Target Was in My Brother's House' (Exhibit **SPF24**);
 - e. Amnesty International's December 2015 report 'Our Kids are Bombed' (Exhibit **SPF25**);
 - f. HRW's September 2017 report 'Coalition Airstrikes Deadly for Children' (Exhibit **SPF26**);
 - g. HRW's August 2019 report 'Coalition Warships Attack Fishing Boats' (Exhibit **SPF27**);
 - h. Amnesty International's 2019 report 'Air Strikes and Cluster Munitions Attacks' (Exhibit **SPF28**).

Statement of Truth

I believe that the facts stated in this witness statement are true and are from within my own knowledge unless stated otherwise. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:

A handwritten signature in black ink, appearing to read "Sam PF", with a horizontal line extending to the right.

Sam Perlo-Freeman, Campaign Against Arms Trade

Dated: 30 November 2022