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Latest Developments in Yemen after the Suspension of the Peace Talks

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Fokus

On 15 August 2016, a Saudi-led airstrike hit a hospital run by MSF in Yemen. 11 people were killed and 19 injured. It was the fourth attack on a MSF facility in 12 months and the latest in a series of attacks on objects used by civilians in Yemen.

Quellen:

<https://www.theguardian.com/world/2016/aug/15/saudi-led-air-strike-yemen-hospital-kills-at-least-seven>

<https://www.theguardian.com/world/2016/aug/09/saudi-led-airstrikes-yemen-food-factory-kill-people>

<https://www.hrw.org/news/2015/04/06/q-conflict-yemen-and-international-law>

On 15 August 2016, an airstrike by the Saudi-led coalition in Yemen hit an MSF hospital; 11 people were killed and 19 injured. It was the fourth attack on an MSF facility within the last 12 months. (For information on an attack on a hospital in Kunduz in October 2015 see *Behlert*, Bofax No. 480E) It was also the most recent in a series of attacks on objects used by civilians in Yemen. It followed an attack on a potato chips factory near the capital of Sana'a in which 14 people, mostly women, were killed and an attack on a school in the Haydan district in northern Saada governorate in which 10 students were killed.

The attacks are the latest outcome of what has been an ongoing civil war in Yemen since the beginning of 2015. The forces of Ansar Allah, better known as the Houthis, who are allied with supporters of former president Abdullah Saleh, control the capital Sana'a and the western part of the country. On the other side of the conflict are troops loyal to the government of president Abd-Rabbu Mansour Hadi who is currently in exile in Riyadh. They are supported by a Saudi-Arabia-led coalition that seeks to reinstate Hadi in Yemen and claims to legitimately act upon his request. (On the legality of the intervention see *Fenrich*, Bofax No. 473D.) The attacks occurred after peace talks in Kuwait that had been brokered by the UN had come to an end on 6 August 2016.

Since the conflict does not exclusively involve states but various groups of state and non-state actors, the conflict is governed by the law of armed conflict applicable to non-international armed conflicts. The applicable law is therefore common Article 3 of the Geneva Conventions and their Additional Protocol II as well as customary international law. Two of the most fundamental rules contained therein are the principle of distinction and the principle of proportionality.

The principle of distinction obliges warring parties to distinguish at all times between civilians and combatants. Since civilians and civilian objects enjoy special protection under IHL, they must never be the target of deliberate attacks. When in doubt if an object is civilian or military, the parties must regard it as civilian.

While International Humanitarian Law acknowledges that civilian casualties may at times be inevitable, the principle of proportionality prohibits attacks that are expected to cause incidental harm to civilians that would be excessive compared to their concrete and direct military advantage.

The objects that were attacked in Yemen were – at least originally – civilian objects. In the attacks against the school and the potato chips factory a relatively large number women and students were killed. Even if, as alleged by General Ahmed Assiri, the Houthis had deployed military personnel in the facilities, and even if this fact would render them military objects, the two strikes would be likely to have violated the principle of proportionality.

The MSF hospital that was struck in 15 August enjoys even stronger protection under IHL than other civilian objects. For a medical facility to be rendered military it must be used to conduct acts harmful to the enemy. The airstrike against the hospital is therefore unlikely to be justified with regard to the principle of distinction and the principle of proportionality.

However, the coalition has already acknowledged the UN secretary general's call for an investigation into the school attacks and held that the investigation "will be independent and follow international standards". One can only hope that such investigations will help to prevent incidents like these in the future.

Verantwortung

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