



DEATH BY DRONE

CIVILIAN HARM CAUSED BY
U.S. TARGETED KILLINGS IN YEMEN

Open Society Justice Initiative



Mwatana Organization
For Human Rights

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U.A.E

SAUDI ARABIA

OMAN

al-Jawf Governorate

Hadramout Governorate

Sana'a Governorate

Marib Governorate

YEMEN

al-Baidha Governorate

Dhamar Governorate

SOMALIA

ETHIOPIA



Foreword

Recent Events in Yemen

On January 22, 2015, Yemen's president, prime minister, and cabinet resigned in the face of pressure from Houthi rebels.¹ However, U.S. drone strikes in Yemen have continued after these events.²

At the time of writing, the political situation in Yemen was fluid. Although it is unclear which political forces will ultimately prevail, it appears that U.S. airstrikes in Yemen will continue, and with them, the possibility of civilian deaths and injuries such as those documented in this report.

Methodology

This report was jointly produced by the Mwatana Organization for Human Rights, a Yemeni non-governmental organization, and the Open Society Justice Initiative. It documents the civilian harm caused by nine U.S. airstrikes, all apparently conducted by unmanned aerial vehicles (drones), in Yemen between May 2012 and April 2014.³

Field research for this report was conducted from May 2013 until April 2014, at the sites where each airstrike took place, in al-Baidha, Sana'a, al-Jawf, Hadramout, Marib, and Dhamar Governorates. The field research included 96 interviews with injured survivors and eyewitnesses of U.S. airstrikes, relatives of individuals killed or injured in these attacks, local community leaders, doctors and hospital staff who were involved in the treatment of victims, and Yemeni government officials. The research also gathered corroborating information, including written government statements issued in relation to civilian victims, photographs and videos of the aftermath of the drone strikes, and medical records. An independent munitions expert provided additional analysis.

Research for this report was conducted in a context of pervasive U.S. and Yemeni government secrecy concerning the airstrikes, the tense security situation in many of the regions where the strikes took place, as well as the fear of reprisals that local communities experience in speaking openly about the strikes. In some instances, members of communities affected by the strikes refused to be interviewed. In other instances, security concerns prevented access to the sites of airstrikes.

Interviews for this report were conducted in Arabic and translated into English. The interviewees were informed of the purpose of the interview and asked if they consented to their identities being disclosed in this report. The report does not provide identifying information for interviewees who were not comfortable with being identified. No financial or other incentives were offered to the interviewees for speaking with the researchers.

This report does not purport to provide a comprehensive account of all civilian harm associated with all U.S. airstrikes in Yemen. Especially in light of the U.S. and Yemeni government secrecy associated with these strikes, it would be virtually impossible to conduct such a comprehensive study with sufficient accuracy.

Rather, the aim of this report is to document the civilian harm caused by nine specific U.S. airstrikes. Specifically, this report seeks to determine the extent of this harm and when it occurred in relation to President Obama's May 2013 National

Defense University (NDU) speech outlining the policy guidelines applied to U.S. targeted killings. The nine incidents described in this report were selected after research confirmed initial accounts of civilian harm from these strikes. In a number of cases, our findings of civilian casualties were confirmed by the statements and/or actions of Yemeni government officials, as well as other public reports. In other instances, initial reports of civilian casualties could not be confirmed on closer examination; these instances are not included in this report. In still other cases, closer examination suggested that civilian casualties had occurred but adverse security conditions precluded access to the locations where those attacks occurred; these instances are also not described in this report.

Although the term “civilian” has a specific legal meaning under international humanitarian law—where it is used in contrast with the concept of “combatant”—in this report, the term “civilian” refers to individuals who may not be targeted with lethal force by the United States, whether under international human rights law or international humanitarian law.⁴ The term “civilian harm” in this report includes deaths and injury, property damage, economic effects such as the loss of income, and social and psychological effects of U.S. airstrikes.

While people interviewed for this report provided information on whether or not specific individuals harmed in U.S. strikes were associated with al-Qaeda in the Arabian Peninsula (AQAP), we did not have access to undisclosed government intelligence relating to these individuals. We were unable to obtain specific information on the nature and duration of an individual’s alleged association with AQAP, including on whether such individuals presented an imminent threat to life (relevant for determining whether they were targetable under international human rights law), or whether they had assumed a continuous combat function or were directly participating in hostilities at the time of the strike (relevant for determining whether they were targetable under international humanitarian law). This report adopts a conservative approach in that it only counts individuals as “civilians” in those instances where we found no credible indication of association with AQAP. But association with or membership in AQAP alone does not render an individual targetable under international human rights law or under international humanitarian law. For this reason, this report likely undercounts the true number of civilians killed in the nine strikes.

Executive Summary

“*Our villages are poor—no education, no hospitals, no roads, nor any services. Of all the progress and advances in the modern world, only these deadly missiles reached us.*”

The United States has been conducting targeted killings in Yemen at least since 2002. These killings have been cloaked in secrecy. Neither the U.S. nor the Yemeni government systematically discloses information on civilian deaths and injuries caused by U.S. airstrikes. In the face of pervasive government secrecy, this report provides detailed and thorough information on civilian harm caused by nine such strikes in Yemen, all apparently conducted by U.S. drones.⁵ Based on in-depth investigations into civilian harm spanning the Yemeni governorates of al-Baidha, Sana’a, al-Jawf, Hadramout, Marib, and Dhamar, this report offers the following conclusions:

First, this report provides credible evidence that U.S. drone strikes have killed and injured civilians in Yemen. The nine case studies documented in this report provide evidence of 26 civilian deaths and injuries to an additional 13 civilians. This evidence casts doubt on the U.S. and Yemeni governments’ statements about the precision of drone strikes. Yemen’s President Abdu Rabbu Mansour al-Hadi praised U.S. drone strikes in Yemen as having a “zero margin of error” and commented that “the electronic brain’s precision is unmatched by the human brain.”⁶ The United States government has similarly emphasized that the precision afforded by drone technology enables the U.S. to kill al-Qaeda terrorists while limiting civilian harm.⁷

In addition, the nine strikes examined in this report raise questions about the extent to which the United States is complying with international law. These questions are especially serious with respect to the January 23, 2013 strike on a civilian house containing 19 civilians in Silat al-Jarraah village and the September 2, 2012 strike in which 12 civilians, including three children and a pregnant woman, were killed.

More generally, there are serious questions about whether the U.S. is using an overbroad definition of who may lawfully be targeted with lethal force. This would allow the U.S. to label civilians as lawful targets, thereby significantly increasing civilian casualties while underestimating actual civilian harm.

Second, U.S. airstrikes in Yemen have significant, adverse effects not only on civilian victims and their family members but also more generally on residents of the areas where the strikes occur. In assessing the impact of U.S. airstrikes on the ground in Yemen, it is vitally important to consider these effects. The individuals whose accounts are documented in this report are generally extremely poor, with little access to political influence or other means of ensuring that their voices are heard. Especially in light of the U.S. and Yemeni governments' refusal to disclose significant information about civilian casualties, these testimonies are crucial to understanding the effects of the U.S. targeted killing program.

General Stanley McChrystal (Ret.), who led coalition forces in Afghanistan and was the head of the U.S. Joint Special Operations Command, has said that drone strikes create "a perception of arrogance... a perception of helpless people in an area being shot at like thunderbolts from the sky by an entity that is acting as though they have omniscience and omnipotence."⁸ The testimonies in this report confirm his observations. Yaslem Saeed bin Ishaq, whose son was killed in an August 1, 2013 U.S. drone strike said: "They just kill. They do not know what havoc their missiles have caused. They are unaware of the suffering they create for our families."⁹ Moqbel Abdullah Ali al-Jarraah, a villager from Silat al-Jarraah, where a January 23, 2013 U.S. airstrike hit a civilian house, observed: "I believe that America is testing its lethal inventions in our poor villages, because [it] cannot afford to do so at any place where human life has value. Here, we are without value."¹⁰

In the incidents documented in this report, civilians were going about their everyday lives—driving to work, going to the market, or hitching a ride home after shopping—when they were killed. The father of Nasser Mohammed Nasser, one of four civilians killed in an April 19, 2014 U.S. drone strike, said: "My son and those who were with him had nothing to do with al-Qaeda. They were simply on their way to earn a living. Why then did the American aircraft strike them?"¹¹

The testimonies paint a picture of desperately poor communities left to fend for themselves amid the devastation caused by U.S. airstrikes. One Yemeni witness said: "Our villages are poor—no education, no hospitals, no roads, nor any services. Of all the progress and advances in the modern world, only these deadly missiles reached us."¹² The brother of one of the men killed in a September 2, 2012 attack in which only civilians were killed added: "The U.S. government should come to the region to see what targets it has hit. All of them were innocent and poor people who had nothing to do with any terrorist group. We had hoped that America would

come to the region with educational and development projects and services, but it came instead with aircrafts to kill our children.”¹³

In incident after incident, the fathers and mothers of individuals killed in drone strikes asked why their children had been killed when they had nothing to do with al-Qaeda or any other militant group. They spoke of their children’s bodies being charred beyond recognition. They described inconsolable loss and continuing pain and ill-health associated with their loss. Wives spoke of losing their husbands, and of young children asking where their fathers have gone. Many family members lost their breadwinners and described the extreme economic hardship caused by their loss.

This report also notes the terrorizing effects of U.S. drones on local populations. In many of the incidents documented here, local residents had to live with drones flying overhead continually prior to the strikes and have lived in constant fear of another attack since then. Some fled their villages for months after the strike, and lost their source of livelihood in the process. Survivors of the attacks continue to have nightmares of being killed in the next strike. Men go to their farms in fear. Children involuntarily urinate when they hear the sound of aircraft. They are afraid to go to school.

Third, this report raises questions about President Obama’s claim in his May 2013 National Defense University (NDU) speech that beyond the Afghan war theater, “before any strike is taken, there must be near-certainty that no civilians will be killed or injured.”¹⁴ Specifically, the report questions whether the “near-certainty” standard is being satisfied in its application. The White House said that this policy guidance applies outside “areas of active hostilities.”¹⁵ Although the Obama administration has not clearly defined which areas this covers, news reports suggest that the policy guidance applies in Yemen.¹⁶ Casting doubt on the adherence to this policy, this report provides credible evidence that civilians were killed and/or injured in all nine airstrikes, including four which post-date President Obama’s speech. To be sure, it is possible—owing to a mistake or an unforeseeable change of circumstances that manifests between the ordering of a strike and its occurrence—for civilians to be killed or injured despite a near-certainty prior to the strike that this would not happen. Nonetheless, the evidence of civilian deaths and injuries in nine cases raises serious concerns about the effective implementation of the “near-certainty” standard.

This report provides credible evidence that children have been amongst those killed and/or injured in U.S. airstrikes in Yemen. Less than a week after President Obama's NDU speech, Secretary of State John Kerry said: "We do not fire when we know there are children . . . we just don't do it."¹⁷ In four of the incidents documented in this report, two of which post-date the president's NDU speech, children were killed and/or injured.¹⁸

Fourth, the report raises questions about whether the United States is killing individuals when it is possible to capture them. President Obama said in his NDU speech that beyond the Afghan war theater, the U.S. "does not take strikes when we have the ability to capture individual terrorists; our preference is always to detain, interrogate, and prosecute."¹⁹ The White House added that outside of areas of active hostilities, "the policy of the United States is not to use lethal force when it is feasible to capture a terrorist suspect, because capturing a terrorist offers the best opportunity to gather meaningful intelligence and to mitigate and disrupt terrorist plots."²⁰ However, in at least two instances described in this report, it appears that alleged militants killed in U.S. airstrikes could have been arrested by the Yemeni government.²¹

Fifth, the report raises questions with respect to President Obama's claim in his NDU speech that beyond the Afghan war theater, America "act[s] against terrorists who pose a continuing and imminent threat to the American people."²² In none of the incidents documented here did the U.S. or the Yemeni government state that the individuals targeted and killed had posed a continuing and imminent threat to the American people. In at least one instance, analysts specifically questioned whether the threat presented by the alleged al-Qaeda target of a U.S. airstrike was actually directed towards the United States.²³ More generally, questions remain about whether the U.S. targets militants associated with the al-Qaeda insurgency in Yemen who are not plotting against the U.S.²⁴

Sixth, although the White House fact sheet issued on the same day as President Obama's NDU speech emphatically states with respect to areas outside active hostilities that "it is not the case that all military-aged males in the vicinity of a target are deemed to be combatants,"²⁵ several incidents raise questions as to who the U.S. counts as "combatants." Indeed, in five of the nine incidents civilians appear to have been killed while they were riding in the same car as alleged militants, either because they were relatives²⁶ or because one party had hitched a ride with the other.²⁷ It is common practice in Yemeni villages for people to share

rides with strangers. Being in the same car as an alleged militant does not render a person targetable under international law. However, had these civilians known that they were riding with wanted men, they might have avoided such proximity.²⁸

Seventh, local residents, survivors, and witnesses in the attacks documented here said that strikes which kill civilians are counterproductive and do not make Yemen or the United States safer. They blamed both the Yemeni government and the U.S. for the strikes. They said that such strikes would not solve the terrorism problem, but would only strengthen al-Qaeda by generating outrage and a desire for revenge. These testimonies support the views of General James E. Cartwright (Ret.), former vice chairman of the Joint Chiefs of Staff and a former adviser to President Obama, who said: "We're seeing that blowback...If you're trying to kill your way to a solution, no matter how precise you are, you're going to upset people even if they're not targeted."²⁹

Finally, none of the victims or other individuals interviewed for this report knew of any investigations being undertaken into civilian killings associated with the airstrikes. Nor is there a formal reparations system in place. In most cases, victims have not been adequately compensated for civilian harm caused by U.S. airstrikes.

In February 2013, then-White House counterterrorism chief John Brennan testified at his Senate confirmation hearing to become CIA director that the United States "need[s] to acknowledge . . . publicly" mistaken killings "in the interest of transparency."³⁰ In response to post-hearing questions, he added, "to the extent that U.S. national security interests can be protected, the U.S. Government should make public the overall numbers of civilian deaths resulting from U.S. strikes targeting al-Qa'ida."³¹ He also said that "[i]n those rare instances in which civilians have been killed, after-action reviews have been conducted to identify corrective actions and to minimize the risk of innocents being killed or injured in the future. Where possible, we also work with local governments to gather facts and, if appropriate, provide condolence payments to families of those killed."³²

But the U.S. does not publicly acknowledge mistaken killings or the overall numbers of civilian deaths. Moreover, the victims and other individuals interviewed for this report knew nothing of any "after-action reviews" or of any U.S. condolence payments in cases where civilians were killed.

In every incident documented in this report, the victims of U.S. airstrikes said they wanted justice. This report urges the U.S. and Yemeni governments to effectively investigate credible allegations of unlawful civilian casualties, publicly

acknowledge the identities and numbers of civilians killed or injured, and institute a formal mechanism to provide prompt and meaningful reparations for civilian harm associated with U.S. airstrikes in Yemen.

The findings of this report are relevant far beyond the U.S. and Yemen. Recent reports have implicated NATO and countries including Australia, Denmark, Djibouti, Germany, the Netherlands, New Zealand, Saudi Arabia, and the United Kingdom in U.S. targeted killings.³³ This report calls on all governments participating in U.S. targeted killings to publicly disclose their policies and practices and the legal basis for such participation, effectively investigate credible allegations of unlawful participation, and provide meaningful reparations for civilian harm where such participation occurred.

In addition, there is a danger that the proliferation of drones will enable states to increasingly resort to the use of lethal force in violation of international law. By dispensing with the need for boots on the ground and allowing states to kill remotely, drone technology makes it easier for states to use lethal force across national boundaries.

NATO has established a NATO Members User Group for MQ-9 Reaper drones³⁴ which reportedly provides a forum for new European Reaper drone operators to understand U.S. tactics, techniques, and procedures.³⁵ Britain, France, Italy, and the U.S. met under the auspices of this group in early 2015.³⁶ New NATO Reaper users are also expected to join the group.³⁷ At the time of writing, the U.S. had sold armed-capable drones to the U.K. in 2007 and to France in 2013.³⁸ In February 2015, the State Department announced that it had approved the sale of four armed-capable MQ-9 Reapers to the Netherlands.³⁹ In addition, Germany reportedly remains a potential customer.⁴⁰

Finally, in February 2015 the U.S. released a new policy for the export of U.S.-origin drones, as part of a broader effort to work with other countries to “shape international standards” for the use of drones while restricting recipient states “to use these systems in accordance with international law.”⁴¹ While the U.S. is to be commended for fostering international law, this report’s findings cast doubt on whether the U.S. is complying with its own policy guidance as well as with international law. Unless the U.S. reforms its own use of drones, there is a danger that other states will adopt problematic aspects of the U.S. model. Under these circumstances, the proliferation of U.S. drones could lead to a proliferation of civilian casualties of the kind described in this report.

Recommendations

To the Governments of the United States and Yemen:

1. Ensure that U.S. targeted killings in Yemen comply with international law.
2. Conduct effective investigations into all credible allegations of unlawful civilian casualties associated with U.S. airstrikes in Yemen, including those documented in this report, prosecute and impose disciplinary measures and/or other penalties where appropriate, and publicly disclose the findings.
3. Publicly acknowledge the numbers and identities of civilians killed and injured by U.S. airstrikes in Yemen as well as the criteria for determining civilian and non-civilian status.
4. Create a formal mechanism by which civilians can seek and obtain prompt and meaningful reparations for civilian harm caused by U.S. airstrikes.

To the United States Government:

1. Publicly disclose the full legal basis for U.S. targeted killings, including those documented in this report.
2. Publicly disclose the May 2013 Presidential Policy Guidance relating to targeted killings, and clarify where it applies, when it took effect, and how it is enforced.

To the other Governments that have participated in U.S. targeted killing operations:

1. Publicly disclose policies, practices, and full legal basis for participation in U.S. targeted killings, including but not limited to the context of intelligence sharing and hosting of U.S. bases supporting targeted killing operations.
2. Conduct effective investigations into credible allegations of unlawful participation in U.S. targeted killings, prosecute and impose disciplinary measures and/or other penalties where appropriate, and publicly disclose the findings of said investigations.
3. In cases where unlawful participation has occurred, provide prompt and meaningful reparations for civilian harm caused by U.S. targeted killings.



SECTION I

TERRORISM AND COUNTERTERRORISM IN YEMEN

"We are not affiliated to any armed groups.
We are poor farmers. Our sole interest and activity
is limited to our search for livelihood.
Was this the reason for America to attack us?"

I.A Background on Yemen

The modern Republic of Yemen was created in 1990 when North Yemen and communist South Yemen merged after years of conflict.⁴² Located on the Arabian Peninsula and home to 25 million people, Yemen is one of the poorest countries in the Arab world.⁴³ In 2012, 54.5% of the population lived below the poverty line.⁴⁴ Yemen is also one of the most food insecure countries in the world; approximately 45% of its population is food insecure, and Yemen's scarce water resources are far below the regional average.⁴⁵ Continued political unrest and conflict have contributed to an ongoing humanitarian crisis in Yemen.⁴⁶

In 2011, after months of Arab Spring protests, Yemeni President Ali Abdullah Saleh, who had been in power for more than 33 years, agreed to cede power to his Vice President, Abdu Rabbu Mansour al-Hadi.⁴⁷ The plan to cede power was brokered by the Gulf Cooperation Council with the support of the United States and other Western powers.⁴⁸ Hadi was formally elected president in February 2012.⁴⁹

Yemen has witnessed regional political movements in the north and the south. There is a secessionist movement in the South, which has been opposed to northern rule since the civil war between North and South Yemen in 1994.⁵⁰ Although the North won that war, the southern secessionist movement remains active today.⁵¹

In addition, while fighters associated with al-Qaeda have operated in Yemen since the early 1990s, al-Qaeda in the Arabian Peninsula (AQAP) was formed in 2009 when al-Qaeda's Yemeni and Saudi Arabian branches merged.⁵² It is not clear how many fighters AQAP currently possesses. Estimates have ranged from a few hundred to thousands of people.⁵³

AQAP has engaged in a campaign of violence in Yemen, while targeting security and government personnel.⁵⁴ The group has also killed foreigners in Yemen and has often bought foreigners kidnapped by other groups and held them for ransom.⁵⁵ In 2011, in the midst of the Arab spring protests, AQAP, together with local fighters, took over parts of Abyan, one of Yemen's provinces.⁵⁶ Taking the name Ansar al-Sharia, they started to implement sharia, in addition to providing basic services, including water and electricity, to civilians.⁵⁷ In May 2012, militants from Ansar al-Sharia claimed responsibility for a suicide bombing in the midst of a military parade rehearsal near the presidential palace in Sana'a.⁵⁸

AQAP has also claimed responsibility for attacks outside Yemen, such as the December 2009 failed attempt by a Nigerian man to detonate explosives in his underwear while on an airplane headed to Detroit.⁵⁹ More recently, AQAP claimed responsibility for the January 2015 attack on the Paris office of the French satirical magazine, *Charlie Hebdo*, which killed 12 people.⁶⁰

Recent events in Yemen have witnessed the Houthis, a Zaydi Shia rebel group based in northern Yemen, gain political power. Houthi armed fighters, who had been battling the Yemeni army since 2004, grew stronger during the chaos associated with the Arab Spring protests.⁶¹ In September 2014, the Houthis advanced on the capital, Sana'a, and signed a power-sharing agreement with the Hadi government.⁶² The Houthis' Sunni opponent, AQAP, responded to the Houthis' expanding territorial control by intensifying its campaign of bombings and assassinations.⁶³ In the meantime, the Yemeni central government led by President Hadi continued to weaken.⁶⁴

On January 22, 2015, the Yemeni government collapsed when the president, prime minister, and cabinet resigned in the face of pressure from Houthi rebels.⁶⁵

I.B U.S. Counterterrorism Cooperation with Yemen

The U.S. and Yemen have closely cooperated in countering terrorism since September 11, 2001.⁶⁶ In late 2001, then-President Saleh negotiated a \$400m aid package with the Bush administration that also entailed expanded U.S. military training of Yemeni government forces, and the creation of a "counterterrorism camp" in Yemen run by the CIA, Marines, and Special Forces that was supported by a U.S. naval base at Camp Lemonnier, Djibouti, which housed Predator drones.⁶⁷

According to a U.S. diplomatic cable leaked by Wikileaks, during a September 6, 2009, meeting with then-Deputy National Security Advisor John Brennan in Sana'a, Saleh pledged "unfettered access to Yemen's national territory for U.S. counterterrorism operations," and "insisted that Yemen's national territory is available for unilateral CT [counterterrorism] operations by the U.S."⁶⁸

In 2010, the U.S. State Department designated AQAP as a Foreign Terrorist Organization, and in 2012, amended that designation to include Ansar al-Sharia as an alias of AQAP.⁶⁹ During the 2011 Arab Spring protests, the United States suspended its counterterrorism training in Yemen.⁷⁰ After the political transition,

however, the United States resumed its collaboration on counterterrorism activities with the new government.

According to a recent Congressional report, over 2006-2014, Yemen was the largest recipient of U.S. Department of Defense funding to train and equip foreign military forces for counterterrorism and stability operations. Yemen received about \$400 million from the U.S. under this program over this period. As the single largest recipient of this funding in 2014, Yemen received a total of \$69 million, \$46.5 million of which was part of a program to provide an intelligence, surveillance, and reconnaissance (ISR) aircraft with precision strike capability, and \$17.5 million was for an unmanned aerial system.⁷¹

In June 2012, President Obama informed Congress that “[t]he U.S. military has also been working closely with the Yemeni government to operationally dismantle and ultimately eliminate the terrorist threat posed by al-Qa’ida in the Arabian Peninsula (AQAP), the most active and dangerous affiliate of al-Qa’ida today. Our joint efforts have resulted in direct action against a limited number of AQAP operatives and senior leaders in that country who posed a terrorist threat to the United States and our interests.”⁷²

The U.S. claims that it does not attack individuals in Yemen who do not pose a direct threat to the U.S. or its interests. In August 2012, then-Assistant to the President for Homeland Security and Counterterrorism John Brennan said: “So while we have aided Yemen, the Yemeni government, in building their capacity to deal with an AQAP insurgency that exists on the ground there, we’re not involved in working with the Yemeni government in terms of direct action or lethal action as part of that insurgency.”⁷³ However, a recent Congressional report notes that the U.S. has reportedly expanded the mission and scope of covert operations in Yemen, from the pursuit of a few high value targets to a broader counterinsurgency effort in Yemen’s remote provinces.⁷⁴



SECTION II

INTERNATIONAL LEGAL STANDARDS APPLICABLE TO TARGETED KILLINGS

"I want to know why my son was killed.
What was the crime that he committed?
My son was killed without guilt, without trial,
without any charge against him.
My son did not belong to any organization."

The term “targeted killing” refers to the premeditated, deliberate, and intentional use of lethal force against a person who has been previously identified.⁷⁵ A targeted killing may be conducted using drone strikes, conventional airstrikes, sniper rifles, or other means. The use of drones to conduct targeted killings is not per se illegal. The analysis of the legality of a particular targeted killing, whether conducted by a drone or other means, depends on whether the killing took place within the context of an armed conflict or outside such a context, and whether it was in compliance with the applicable law.⁷⁶ As set forth below, regardless of whether a killing takes place within an armed conflict or outside such a context, under international law, association with or membership in a terrorist organization alone does not render an individual targetable.

II.A Use of Lethal Force outside the Context of an Armed Conflict

Outside an armed conflict, international human rights law (IHRL) governs the use of lethal force. The right to life, and the associated prohibition on the arbitrary deprivation of life, is a fundamental right enshrined in numerous human rights treaties.⁷⁷ For example, Article 6 of the International Covenant on Civil and Political Rights (ICCPR), to which both the U.S. and Yemen are party,⁷⁸ provides: “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”⁷⁹ The United Nations Human Rights Committee has observed that, “[t]he right to life ... is the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation. ... It is a right which should not be interpreted narrowly.”⁸⁰ The prohibition against arbitrary deprivation of life is considered a peremptory norm of international law, as well as a rule of customary international law.⁸¹

International human rights law requires that any use of lethal force be both strictly proportionate and necessary.⁸² The United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provides guidance on the principles of necessity and proportionality.⁸³ The Basic Principles provide that the “international lethal use of firearms may only be made when *strictly unavoidable in order to protect life*.”⁸⁴ The Basic Principles prohibit law enforcement officials from “using firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to

prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, *and only when less extreme means are insufficient to achieve these objectives.*"⁸⁵

In addition, the Basic Principles provide that "[w]henver the lawful use of force and firearms is unavoidable, law enforcement officials shall: (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; and (b) Minimize damage and injury, and respect and preserve human life."⁸⁶

Human rights law also imposes obligations on states to take precautions at the planning and preparation stages of an operation to minimize recourse to the use of lethal force. In *McCann v U.K.*, a case relating to the United Kingdom's use of lethal force in an anti-terrorist operation, the European Court of Human Rights observed, in determining whether the force used was compatible with the right to life under Article 2 of the European Convention on Human Rights, that the Court "must scrutinise...whether the anti-terrorist operation was planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force."⁸⁷ Similarly, in *Ergi v. Turkey*, the European Court observed that Article 2 "may also be engaged where [state agents] fail to take all feasible precautions in the choice of means and methods of a security operation mounted against an opposing group with a view to avoiding, and in any event to minimising, incidental loss of civilian life."⁸⁸ Applying this test to a Turkish security force ambush operation that killed a civilian while apparently aiming to capture PKK (Workers Party of Kurdistan) members, the Court found that insufficient precautions had been taken to protect the lives of the civilian population.⁸⁹

Thus, under international human rights law, the use of lethal force is legal only if it is strictly necessary and proportionate, required to protect life, and there is no other means, such as capture or other forms of non-lethal incapacitation, of preventing that threat to life.⁹⁰ It follows that targeted killings "will rarely be lawful outside a situation of armed conflict, because only in the most exceptional of circumstances would it be permissible under international human rights law for killing to be the sole or primary objective of an operation."⁹¹ Significantly, association with or membership in a terrorist organization by itself does not render an individual targetable under international human rights law.

II.B Use of Lethal Force in the Context of an Armed Conflict

An armed conflict between two or more states is known as an “international armed conflict.” Where an armed conflict occurs between a state and a non-state armed group, or between two non-state armed groups on the territory of a state party to the Geneva Conventions, it is a “non-international armed conflict.”⁹² For a non-international armed conflict to exist, the parties must have a minimal level of organization, i.e., they must have an adequate command structure as well as the capacity to sustain military operations; and armed hostilities between these parties must be protracted, and reach a minimal level of intensity.⁹³ This is a fact-based standard and the subjective views of the parties are not determinative.⁹⁴

The use of lethal force in the context of an armed conflict is governed by international humanitarian law (IHL). It is well-established that human rights law also applies in the context of an armed conflict.⁹⁵ The sources of IHL are treaties including the Geneva Conventions of 1949, their two Additional Protocols and the 1907 Hague Regulations, and customary international law.⁹⁶

The United States has signed and ratified the four Geneva Conventions and has also signed but not ratified Additional Protocols I and II.⁹⁷ The United States is also bound by customary international law and is under an obligation not to act in a way that would defeat the object and purpose of any treaties that it has signed.⁹⁸ Yemen is also a party to the Geneva Conventions, as well as to Additional Protocols I and II.⁹⁹

If an armed conflict exists, IHL permits targeted killings, but only if the parties conducting these killings follow the principles of distinction, proportionality, precautionary measures, and humanity.

A cardinal principle of IHL is that the parties in an armed conflict must distinguish at all times between those individuals and objects that can and cannot be targeted.¹⁰⁰ As such, parties to an armed conflict are prohibited from deliberately attacking civilians or civilian objects.¹⁰¹

Civilians, however, lose their protected status and may be targeted during the period of time that they are directly participating in hostilities.¹⁰² According to the International Committee of the Red Cross’s (ICRC) Interpretive Guidance on direct participation in hostilities, civilians are “all persons who are not members

of State armed forces or organized armed groups of a party to the conflict.”¹⁰³ According to the ICRC, in a non-international armed conflict, “organized armed groups constitute the armed forces of a non-State party to the conflict and consist only of individuals whose continuous function it is to take a direct part in hostilities (‘continuous combat function’).”¹⁰⁴ These individuals lose protection against direct attack for as long as they assume their “continuous combat function.”¹⁰⁵ Moreover, where there is doubt as to whether a person is targetable, he or she must not be targeted.¹⁰⁶ Significantly, association with or membership in a terrorist organization alone does not render an individual targetable under IHL.

The principle of proportionality is another bedrock principle of IHL. This principle prohibits launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.¹⁰⁷

In addition, IHL also requires states to take constant care in the form of precautionary measures to spare civilians and civilian objects. All feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians, and damage to civilian objects.¹⁰⁸ These precautions require each party to (i) do everything feasible to verify that targets are military objectives;¹⁰⁹ (ii) take all feasible precautions in the choice of means and methods of warfare with a view to avoiding, and in any event minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects;¹¹⁰ (iii) do everything feasible to assess whether the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;¹¹¹ (iv) do everything feasible to cancel or suspend an attack if it becomes apparent that the target is not a military objective or that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;¹¹² (v) give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit;¹¹³ (vi) when a choice is possible between several military objectives for obtaining a similar military advantage, the option selected must be the one that is expected to cause the least danger to civilian lives and to civilian objects;¹¹⁴ (vii) take all feasible precautions to protect the civilian population and civilian objects under

their control against the effects of attacks;¹¹⁵ (viii) avoid, to the extent feasible, locating military objectives within or near densely populated areas;¹¹⁶ and (ix) remove, to the extent feasible, civilian persons and objects under its control from the vicinity of military objectives.¹¹⁷

Finally, the principle of humanity “forbids the infliction of suffering, injury or destruction not actually necessary for the accomplishment of legitimate military purposes.”¹¹⁸

II.C Obligation to Investigate and Provide Reparations

INTERNATIONAL HUMAN RIGHTS LAW

International human rights law obligates states to investigate a violation of the right to life. The ICCPR provides that all persons whose rights have been violated are entitled to “an effective remedy,” which must be “determined by competent judicial, administrative or legislative authorities.”¹¹⁹ The Human Rights Committee has interpreted these rights to impose a “general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.”¹²⁰ The investigation must be conducted with the purpose of “determin[ing] the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death.”¹²¹ Investigations should also be transparent and open to the public, which will “ensure a culture of accountability... as well as guaranteeing public confidence in the legal system and the rule of law.”¹²² The Human Rights Committee has noted that “a failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.”¹²³

Additionally, the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions require that “there shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances.”¹²⁴ The United Nations Basic Principles on the Use of Force in Firearms by Law Enforcement Officials also mandate that governments “shall ensure that an effective review process is available and

that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control."¹²⁵

Finally, it is well-established that states have an obligation to provide reparations for human rights violations.¹²⁶ Reparation entails appropriate compensation, and where appropriate, can involve restitution, rehabilitation, and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition, and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.¹²⁷

INTERNATIONAL HUMANITARIAN LAW

States must investigate credible allegations of war crimes (that is, serious IHL violations) committed by individuals subject to their jurisdiction with a view to prosecuting the suspects where appropriate.¹²⁸ This duty to investigate under IHL arises when there has been a credible accusation or reasonable suspicion of a war crime from any source, including private citizens or non-governmental organizations.¹²⁹ The report of the Turkel Commission, an expert group appointed by the Israeli Government in the aftermath of the 2010 Gaza flotilla raid, identifies five general principles applicable to investigations during armed conflict: independence, impartiality, effectiveness and thoroughness, promptness, and transparency.¹³⁰ According to the report, "the precise content of the general principles may vary according to the specific context and the prevailing conditions, but the fundamental obligation to undertake an investigation effectively cannot be waived."¹³¹ The report adds that "complying with the standard of transparency is indeed desirable, as it enhances public scrutiny and contributes to accountability."¹³² It states that "[t]he accountability via public scrutiny aspect of the requirement of transparency contributes to the realization of some of the purposes that are central to the duty provided in international humanitarian law, namely increasing compliance and deterring the commission of future violations."¹³³

The duty to investigate extends broadly to all IHL violations, not just to war crimes.¹³⁴ It has been recognized that human rights law requires states to take reasonable steps to effectively investigate alleged breaches of the right to life in

the context of an armed conflict.¹³⁵ Moreover, the Turkel Commission notes that “there is a legal duty to conduct an examination of all suspected violations of international humanitarian law that do not reach the threshold of a war crime.”¹³⁶ Indeed, “in the absence of a reasonable suspicion of a war crime there is still a duty to conduct a fact-finding assessment when the information is only partial or circumstantial, particularly where there has been an exceptional event or incident such as unanticipated civilian casualties.”¹³⁷ Since the U.S. position is that outside areas of active hostilities, “before any strike is taken, there must be near-certainty that no civilians will be killed or injured,”¹³⁸ this would imply that a fact-finding assessment is warranted in the event of a credible allegation of any civilian death or injury.

Moreover, Common Article 1 of the Geneva Conventions states that “[t]he High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.”¹³⁹ Additional Protocol I contains similar language and the duty to respect IHL is considered part of customary international law, applicable in international as well as in non-international armed conflicts.¹⁴⁰ Investigation of IHL violations is an indispensable means for ensuring such respect.¹⁴¹

In addition, the Geneva Conventions require that state parties “shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches.”¹⁴² The ICRC has interpreted this provision to “cover everything which can be done by a State to avoid acts contrary to the Convention being committed or repeated.”¹⁴³ Moreover, the authoritative Pictet Commentary to the Geneva Conventions makes clear that the drafters intended the general duty to investigate and prosecute to apply to all breaches of the conventions, not limited to grave breaches.¹⁴⁴ Accordingly, this provision must at a minimum require an effective examination of all suspected IHL violations.

The command responsibility doctrine, which requires military commanders to “prevent and, where necessary, to suppress and to report to competent authorities breaches of the Conventions,”¹⁴⁵ similarly implies that all IHL violations should be investigated. Indeed, Additional Protocol I expressly requires commanders “where appropriate, to initiate disciplinary or penal action against violators thereof.”¹⁴⁶

In addition, precautionary obligations under IHL similarly imply an obligation to investigate all IHL violations. Thus, Additional Protocol I requires “constant care to be taken to spare the civilian population,” and states to “take all feasible precautions in the choice of means and methods of an attack” to minimize civilian deaths and injury as well damage to civilian objects, obligations that are also part of customary international law.¹⁴⁷ These obligations also imply investigations of past incidents so as to ensure minimal civilian harm.

Finally, it is well-established that a state responsible for violations of international humanitarian law is required to make full reparation for the loss or injury caused.¹⁴⁸ This too implies an obligation to investigate IHL violations.

The Israeli Supreme Court has recognized an obligation to conduct independent investigations of targeted killing operations and pay compensation for civilian harm: “[A]fter an attack on a civilian suspected of taking an active part, at such time, in hostilities, a thorough investigation regarding the precision of the identification of the target and the circumstances of the attack upon him is to be performed (retroactively). That investigation must be independent. In appropriate cases compensation should be paid as a result of harm caused to an innocent civilian.”¹⁴⁹

Similarly, a recent European Parliament resolution on the use of armed drones states that, “in the event of allegations of civilian deaths as a result of drone strikes, states are under the obligation to conduct prompt, independent investigations and, if the allegations are proved correct, to proceed to public attribution of responsibility, punishment of those responsible and provision of access to redress, including payment of compensation to the families of victims.”¹⁵⁰

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has stated that “the principle of transparency should apply to the preliminary fact-finding inquiry required in any case where there are grounds to believe that civilians may have been killed or injured. Subject to redactions on grounds of national security, a full explanation should be made public in each case.”¹⁵¹ According to the Special Rapporteur, this obligation is an inherent part of the State’s legal obligations of accountability under international humanitarian law and international human rights law.¹⁵²



SECTION III

THE U.S. TARGETED KILLING PROGRAM

"The U.S. government should come to the region
to see what targets it has hit.

All of them were innocent and poor people
who had nothing to do with any terrorist group.
We had hoped that America would come to the region
with educational and development projects
and services, but it came instead with aircrafts
to kill our children."

III.A U.S. Position on Targeted Killings

Following the September 11, 2001 attacks, the United States commenced a targeted killing program as part of its counterterrorism efforts.¹⁵³ Since that time, the U.S. has conducted hundreds of aerial strikes beyond the traditional battlefields of Iraq and Afghanistan. U.S. targeted killings operations have been conducted in Yemen, Somalia, and Pakistan.¹⁵⁴ However, the U.S. did not acknowledge the existence of its targeted killing program until 2010, when it did so only in general terms.¹⁵⁵ The killings are conducted in secret. Despite numerous reports that innocent civilians have been killed in these operations, the United States refuses to publicly disclose information relating to the number and identities of civilians killed.

The United States claims authority under domestic and international law to conduct targeted killings against al-Qaeda, the Taliban, and their “associated forces.”¹⁵⁶ As a matter of domestic law, the U.S. claims authority under the Authorization for Use of Military Force (AUMF), a joint congressional resolution passed soon after September 11, 2001.¹⁵⁷ The AUMF authorizes the president to “to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.”¹⁵⁸

The United States further claims that it has the authority to conduct targeted killings under international law on two grounds: first, it claims it is engaged in an armed conflict with al-Qaeda, the Taliban, and “associated forces.”¹⁵⁹ Second, the U.S. claims the authority to use force consistent with its inherent right of national self-defense, against terrorists who pose an imminent threat.¹⁶⁰

There are serious questions about whether the U.S. is using an overbroad definition of who it may lawfully target. Such an overbroad definition would allow the U.S. to label civilians as lawful targets, thereby significantly increasing civilian casualties while also undercounting them. The U.S.’s claims relating to its authority to engage in targeted killings have been contested on numerous grounds. The International Committee of the Red Cross (ICRC), well-established as an authoritative interpreter of international humanitarian law, has rejected the view that there “is a . . . [transnational] armed conflict taking place across multiple states between Al Qaeda and its ‘affiliates’ and ‘adherents’ and the

United States,” and has expressly “reiterated that the ICRC does not share the view that a conflict of global dimensions is or has been taking place.”¹⁶¹ Similarly, the U.N. special rapporteur on extrajudicial executions and others have questioned the targeting of “associated forces,” *inter alia*, on the grounds that it is based on the concept of co-belligerency, which should not be applied to a non-international armed conflict.¹⁶² In addition, civil society organizations have expressed concern that the U.S. has failed to meaningfully define the organizational features or conduct that would lead a group to be classified as an “associated force” and that such failure results in an expansive scope of targeting authority.¹⁶³ Moreover, the reported U.S. practice of so-called “signature strikes”—which target individuals based on their patterns of behavior and other “signatures”—is of significant concern.¹⁶⁴ There is concern that the U.S. may be targeting individuals based on signatures that do not accurately reflect international legal criteria for targeting, namely that a particular individual poses an imminent threat, is directly participating in hostilities, or has assumed a continuous combat function.¹⁶⁵ The use of such signatures further exacerbates concerns that the U.S. may be targeting civilians while counting them as “combatants,” thereby resulting in the undercounting of civilian casualties.¹⁶⁶

Civil society groups have also expressed concerns that the U.S. regards an individual’s affiliation with a group as making him or her lawfully subject to direct attack, which would contravene the narrower standards for targeting established under international law.¹⁶⁷ With respect to the U.S. claim that individuals can be targeted with lethal force on grounds of national self-defense, these groups are concerned that the U.S. is conflating questions of sovereignty with the question of whether the use of force against a particular individual is lawful. In addition, these groups have expressed concerns that the U.S. is using an overly broad concept of “imminent threat.”¹⁶⁸

In May 2013, President Obama gave a speech at the National Defense University (NDU) in Washington D.C., describing the framework for taking lethal, targeted action, including through drones, against al-Qaeda and its associated forces. He said that beyond the Afghan war theater, the U.S. “act[s] against terrorists who pose a continuing and imminent threat to the American people,” and that “before any strike is taken, there must be near-certainty that no civilians will be killed or injured.”¹⁶⁹ Less than a week after President Obama’s speech, Secretary of State John Kerry said: “We do not fire when we know there are children or collateral—we just don’t do it.”¹⁷⁰

The policy standards described in the president's speech are further described in a White House fact sheet that applies "to the use of force in counterterrorism operations outside the United States and areas of active hostilities."¹⁷¹ The fact sheet does not define the term "outside...areas of active hostilities." Media reports suggest that the term includes Yemen and Somalia, as distinguished from Afghanistan.¹⁷² The fact sheet states that it "provides information regarding counterterrorism policy standards and procedures that are either already in place or will be transitioned into place over time."¹⁷³

The fact sheet summarizes a Presidential Policy Guidance that the president signed the day before his NDU speech, but which is not publicly available.¹⁷⁴ The fact sheet states, among other points, that lethal force will be used outside areas of active hostilities only when the following preconditions are met: First, "there must be a legal basis for using lethal force."¹⁷⁵ Second, "the United States will use lethal force only against a target that poses a continuing, imminent threat to U.S. persons."¹⁷⁶ Third, "the following criteria must be met before lethal action may be taken:

1. Near-certainty that the terrorist target is present;
2. Near-certainty that non-combatants will not be injured or killed;
3. An assessment that capture is not feasible at the time of the operation;
4. An assessment that the relevant governmental authorities in the country where action is contemplated cannot or will not effectively address the threat to U.S. persons; and
5. An assessment that no other reasonable alternatives exist to effectively address the threat to U.S. persons."¹⁷⁷

The fact sheet states that "[n]on-combatants are individuals who may not be made the object of attack under applicable international law. The term 'non-combatant' does not include an individual who is part of a belligerent party to an armed conflict, an individual who is taking a direct part in hostilities, or an individual who is targetable in the exercise of national self-defense."¹⁷⁸ It specifically notes that "it is not the case that all military-aged males in the vicinity of a target are deemed to be combatants."¹⁷⁹ However, the fact sheet also notes that "[t]hese new standards and procedures do not limit the President's authority to take action in extraordinary circumstances when doing so is both lawful and necessary to protect the United States and its allies."¹⁸⁰

The policies set forth in the fact sheet do not resolve many of the concerns relating to the Obama administration's targeted killing program. In stating that individuals are targetable in the exercise of self-defense, the fact sheet, like previous Obama administration statements on targeted killings, appears to improperly conflate the question of sovereignty with the question of whether use of force against a particular individual is lawful.¹⁸¹

Moreover, commentators have noted that the rules leave critical questions unanswered.¹⁸² Because the fact sheet does not define "areas of active hostilities," it is unclear where its policies apply. While the fact sheet states that all military-aged males in the vicinity of a target are not deemed to be combatants, there is no clarity about what actual patterns of behavior or "signatures" are used to determine who is and is not considered a combatant. It is unclear how the government determines when "capture is not feasible." And the fact sheet offers little clarity on the administration's broad concept of imminence, as well as its position that it can kill "associated forces" of al-Qaeda without adequately defining who these forces are.¹⁸³ Finally, the fact sheet states that the rules set forth in it do not apply under "extraordinary circumstances," without defining that term.¹⁸⁴

Civil society groups have expressed concerns about the lack of transparency and accountability associated with U.S. drone strikes and targeted killings.¹⁸⁵ They have noted that the full Presidential Policy Guidance remains classified and that the public does not know exactly how U.S. policy governing targeted killings is operating, under which legal authorities, and who exactly are its victims. With respect to President Obama's statement that the United States "acts against terrorists who pose a continuing and imminent threat to the American people," these groups have expressed concerns that the administration's concept of imminence is much broader than permitted under international law. With respect to his statement that "America does not take strikes when we have the ability to capture individual terrorists," the groups have urged his administration to elucidate how the feasibility of capture is defined and determined, and to explain why capture was not feasible in each instance.¹⁸⁶ They have also urged the administration to investigate credible reports of potentially unlawful deaths and civilian harm and to release the results to the public.¹⁸⁷

In February 2015, the U.S. released a new policy for the export of U.S.-origin drones.¹⁸⁸ The policy states that "[r]ecipients are to use these systems in accordance with international law, including international humanitarian law and

international human rights law, as applicable,” and “[a]rmed and other advanced UAS [unmanned aerial systems] are to be used in operations involving the use of force only when there is a lawful basis for use of force under international law, such as national self-defense.”¹⁸⁹ However, as noted above, there are serious concerns about the U.S.’s own interpretation of its international legal obligations with respect to the use of drones for targeted killings. The U.S.’s secrecy with respect to drone killings is also of significant concern. The export policy does not appear to impose clear transparency obligations and poses the risk that other states will adopt problematic aspects of the U.S. model of drone use.¹⁹⁰

In February 2013, then-White House counterterrorism chief, John Brennan, testified at his Senate confirmation hearing for CIA Director that the United States “need[s] to acknowledge . . . publicly” mistaken killings “in the interest of transparency.”¹⁹¹ In response to post-hearing questions, he added: “to the extent that U.S. national security interests can be protected, the U.S. Government should make public the overall numbers of civilian deaths resulting from U.S. strikes targeting al-Qa’ida.”¹⁹² He also said that “[i]n those rare instances in which civilians have been killed, after-action reviews have been conducted to identify corrective actions and to minimize the risk of innocents being killed or injured in the future. Where possible, we also work with local governments to gather facts and, if appropriate, provide condolence payments to families of those killed.”¹⁹³

But the U.S. does not publicly acknowledge mistaken killings or make public the overall numbers of civilian deaths resulting from U.S. strikes against al-Qaeda. The results of after-action reviews of civilian killings are not disclosed to victims’ families or to the public. Nor is information about any condolence payments publicly disclosed.

III.B U.S. Targeted Killings in Yemen

Since 2002, the U.S. has conducted secret targeted killings in Yemen through drone strikes as well as conventional airstrikes. Neither the Yemeni nor the U.S. government systematically discloses data relating to the number of U.S. targeted killings in Yemen or the identities and numbers of individuals killed. The U.S. has never publicly stated that it is party to an armed conflict that Yemen is engaged in with another party.¹⁹⁴

Public reports indicate that U.S. targeted killings in Yemen are carried out either by the Pentagon's Joint Special Operations Command or the CIA.¹⁹⁵ The Yemeni air force reportedly lacks the capacity to conduct precision airstrikes.¹⁹⁶ At the time of writing, according to the Long War Journal, which tracks U.S. conventional air and drone strikes in Yemen, reports show that there have been 111 U.S. strikes since 2002, with enemy deaths numbering 546 and civilian deaths numbering 105.¹⁹⁷

U.S. strikes in Yemen have occurred with the consent of the Yemeni government. In a September 2012, visit to Washington D.C., President Hadi praised U.S. drone strikes in Yemen. "They pinpoint the target and have zero margin of error, if you know what target you're aiming at," President Hadi commented.¹⁹⁸ He added that the United States "helped with their drones because the Yemeni Air Force cannot carry out missions at night. The electronic brain's precision is unmatched by the human brain."¹⁹⁹ President Hadi also stated that he personally approved every drone strike taking place in Yemen.²⁰⁰ In September 2013, Yemen's foreign minister Abu Bakr al-Qirbi described drone strikes as a "necessary evil" and a "very limited affair" that happens in coordination with the Yemeni government.²⁰¹ In March 2014, President Hadi again defended drone strikes, saying that they "have greatly helped in limiting al-Qaeda activities, despite some mistakes which we are sorry about."²⁰²

According to public reports, the first known targeted killing by a U.S. drone outside Afghanistan occurred in Yemen in 2002.²⁰³ The drone killed Abu Ali al-Harithi and five other alleged al-Qaeda terrorists, including one U.S. citizen, Abu Ahmad al-Hijazi.²⁰⁴

No known U.S. airstrikes were reported in Yemen for the next seven years until U.S. targeted killings resumed there in 2009. On December 17, 2009, a U.S. cruise missile loaded with cluster bombs hit the village of al-Majala, Abyan, killing (according to an investigation by Yemeni Parliament) 41 members of two families, including 17 women and 21 children.²⁰⁵ President Saleh had consented to this strike.²⁰⁶ On the same day, a strike in Arhab killed four people.²⁰⁷ On December 24, 2009, another cruise missile attack in Rafadh, in Shabwa Province, killed at least 30 people. According to another U.S. diplomatic cable leaked by Wikileaks, soon after these strikes, on January 2, 2010, former President Saleh told General David Petraeus, then-head of U.S. Central Command: "We'll continue saying the bombs are ours, not yours," prompting Yemeni Deputy Prime Minister Rashad al-Alimi to joke that he had just "lied" by telling

Parliament that the bombs in Arhab, Abyan, and Shabwa were American-made but deployed by the Yemeni government.²⁰⁸

Since 2009, U.S. air and drone strikes in Yemen have continued. On May 24, 2010, U.S. airstrikes killed Marib Province's Deputy Governor Jaber al-Shabwani while he was on a mediation mission to persuade al-Qaeda members to hand themselves over to the authorities.²⁰⁹ The May 2010 strike apparently provoked attacks by armed tribesmen on an oil pipeline, government offices, and the Republican Palace, and also generated anti-U.S. outrage.²¹⁰ Following the attack that killed al-Shabwani, U.S. airstrikes were suspended for months.²¹¹ The CIA and the United States military later resumed strikes using missiles fired from drone aircraft, including the strike on September 30, 2011, that killed the U.S. citizen and alleged militant cleric Anwar al-Awlaki, and Samir Khan, a U.S. citizen of Pakistani origin who was an editor of *Inspire*, al-Qaeda's English-language online magazine.²¹² Two weeks later, another U.S. drone strike killed Awlaki's 16 year-old son, Abdulrahman al-Awlaki, who was also a U.S. citizen. The same strike also killed the younger al-Awlaki's 17 year-old cousin along with seven others.²¹³

From about mid-2011 onwards, following the political instability associated with the Arab Spring protests, the U.S. drone program in Yemen was reportedly expanded to allow the CIA to operate armed drones, reflecting the view that drones operated by the military were not sufficient to counter AQAP.²¹⁴ Since that time, the rise in the number of U.S. drone strikes has been attributed to rising concern over AQAP's territorial expansion.²¹⁵ But the strikes have raised questions about whether the U.S. was targeting militants associated with the al-Qaeda insurgency in Yemen who were not suspected of plotting against the U.S.²¹⁶

In April 2012, President Obama reportedly approved the use of "signature strikes" in Yemen, allowing the CIA and JSOC (Joint Special Operations Command) to fire on targets based solely on their patterns of behavior, even when the identity of those targeted is not known. Such signature strikes were reportedly authorized for use in Yemen when there was "clear indication of the presence of an al-Qaeda leader or of plotting against targets in the United States or Americans overseas." The killing in April 2012 of an al-Qaeda operative near the border of Yemen's Marib Province was apparently among the first attacks carried out under the new authority.²¹⁷

It was not until May 2013 that the Obama administration acknowledged that it had previously killed four U.S. citizens. These were Anwar al-Awlaki, who the government said it had specifically targeted, and three others—Abdulrahman al-Awlaki, Samir Khan, and Jude Kenan Mohammad—who the U.S. government said it had not specifically targeted.²¹⁸

In July 2013, apparently after intercepting electronic communications between al-Qaeda leaders Ayman al-Zawahiri and Nasir al-Wuhaysi, in which they agreed they wanted to launch an attack on the Muslim holiday, Laylat al-Qadr, the Obama administration approved nine drone strikes in Yemen over a two-week period. The drone strikes were reportedly directed at lower level al-Qaeda operatives.²¹⁹ Indeed, U.S. officials reportedly said that there is no evidence any of those killed could be considered among al-Qaeda's leadership.²²⁰

On December 12, 2013, a U.S. drone struck a wedding convoy, killing 12 men and wounding at least 15 other people, including the bride.²²¹ While unnamed U.S. and Yemeni officials said that the dead were AQAP members, witnesses and relatives told Human Rights Watch that the dead included civilians.²²² The U.S. did not publicly acknowledge that civilians had been killed in this strike.²²³ However, it has been reported that the Yemeni government paid the families of those killed and injured in this strike more than \$1 million, raising questions about whether the U.S. had funded this compensation.²²⁴

Shortly after the wedding strike, Yemen's Parliament passed an almost unanimous but nonbinding resolution to prohibit the United States from continuing drone strikes in the country.²²⁵ In January 2014, Yemen's Minister for Human Rights, Houria Mashhour, protested U.S. drone policies in the *Washington Post*, describing a "wave of outrage [that] has swept the country" in the wake of the wedding convoy strike.²²⁶

On January 22, 2015, President Hadi, the prime minister and the cabinet resigned in the face of pressure from Houthi rebels.²²⁷ U.S. drone strikes in Yemen, however, continued at the time of writing.²²⁸

III.C Foreign Governments' Participation in U.S. Targeted Killings in Yemen and Other Countries

As noted above, U.S. targeted killings in Yemen have been conducted with the consent of the Yemeni government. A number of other governments have also reportedly collaborated with or been implicated in U.S. targeted killings in Yemen. Secrecy surrounds the extent and the nature of such collaboration, and neither the U.S. nor its partners in drone killings have provided meaningful public disclosure on the subject.

President Hadi reportedly told Human Rights Watch that a "joint operations room" including the United States, the United Kingdom, Yemen, and NATO "identifies in advance" the individuals who are "going to be targeted" in Yemen. When asked about the center, the U.S. and U.K. governments declined comment and NATO denied any participation.²²⁹

There have been numerous reports that Germany also plays a significant role in U.S. targeted killings by hosting a U.S. airbase in Ramstein, Germany. This airbase is reportedly essential for conducting targeted killing operations in Yemen, Somalia, and Pakistan.²³⁰ While the pilot who is controlling the drones is physically located in the United States, the data being relayed from the drone is transmitted via satellite to Ramstein and then sent via fiber optic cable back to the U.S. In addition, live pictures taken from the drone operations are analyzed and compared with intelligence in Ramstein. The United States Africa Command, based in Stuttgart, Germany, reportedly plays a substantial role in U.S. drone killings in Somalia.²³¹

It has also been reported that Germany provided the U.S. with intelligence on a German citizen, known as Bunyamin E. which the U.S. used to kill him in a drone strike in Pakistan in 2010.²³² While there were reports that Germany had subsequently restricted such intelligence sharing to ensure that it could not be used to conduct targeted killings, there has been no official acknowledgement of this fact.²³³ In June 2013, the German federal prosecutor general decided to discontinue investigatory proceedings related to this case, on the ground that Bunyamin E. was a member of an organized armed group in a non-international armed conflict, and was therefore not a protected person under international humanitarian law.²³⁴ Thus, questions remain about German policies and practices with respect to intelligence sharing that could lead to U.S. targeted killings, including in Yemen.

Like Germany, Djibouti also hosts a U.S. base, Camp Lemonnier, which reportedly plays a critical role in supporting U.S. drone strikes in Yemen and Somalia.²³⁵ U.S. drones take off and land at Camp Lemonnier, and orders to find, track or kill those targeted are delivered there.²³⁶ Saudi Arabia also hosts a CIA drone base that has been used to carry out U.S. strikes in Yemen.²³⁷

In March 2013, it was reported that the U.S. had established a “drone operation center” at a Royal Air Force (RAF) base in Lincolnshire, U.K., and that the center could be used to coordinate attacks in the Middle East and Africa.²³⁸ In May 2014, the Guardian reported that the U.K. Ministry of Defence had acknowledged that British liaison staff were embedded in at Camp Lemonnier, but denied that they were involved in drone operations. The presence of British officers in Djibouti heightened expectations that after the end of U.K. operations in Afghanistan, U.K. drones deployed there would be deployed elsewhere overseas.²³⁹ It has also been reported that the Government Communications Headquarters (GCHQ), the British government’s intelligence and security agency, has used telephone intercepts to provide the U.S. with “locational intelligence” about leading militants in Afghanistan and Pakistan for targeted killings by U.S. drones.²⁴⁰ This raises questions regarding the U.K.’s policies and practices regarding intelligence sharing, when such sharing could lead to a U.S. targeted killing, including in Yemen. When U.S. drone strikes killed Mohamed Sakr and Bilal al-Berjawi in Somalia after they had been stripped of their British citizenship, similar questions arose about the nature of the U.K. government’s involvement in U.S. drone strikes.²⁴¹

In December 2013, U.N. Special Rapporteur Ben Emmerson told a U.K. parliamentary meeting that it was “inevitable” that the U.K. has given the U.S. intelligence used to kill targets in drone strikes.²⁴² However, the British government has consistently refused to confirm or deny whether it engages in such intelligence sharing.²⁴³ Significantly, the former GCHQ director, Sir David Omand, has urged the foreign secretary to publish secret guidelines governing intelligence sharing that helps U.S. forces kill militants with drone strikes.²⁴⁴

It has also been reported that Australia’s Pine Gap satellite tracking station has played a key role in U.S. drone strikes involving the targeted killing of al-Qaeda and Taliban militants. The top-secret signals intelligence base is reportedly used to track the precise “geolocation” of radio signals, including hand-held radios and mobile phones, in the Eastern Hemisphere, from the Middle East across Asia to China, North Korea, and the Russian Far East. This information has been

used to identify the location of terrorist suspects, which then feeds into the U.S. drone strike program and other military operations.²⁴⁵

On November 19, 2013, two Australian nationals were killed in a drone strike on al-Qaeda militants traveling in a convoy of cars in Hadramout, in eastern Yemen.²⁴⁶ The Australian government denied involvement in, or prior awareness of, the operation.²⁴⁷ The passport of one of the victims, Christopher Harvard, was reportedly cancelled by the Australian government the preceding year while he was in Yemen, precluding his return to Australia.²⁴⁸ This raises questions about whether Australia stripped him of his citizenship with a view to diminishing its obligations towards him in the event he became the subject of a U.S. targeted killing.²⁴⁹ The other Australian killed in the strike, Muslim bin John, was a dual national of Australia and New Zealand, and reportedly was the subject of a New Zealand intelligence warrant.²⁵⁰ This raises questions about what New Zealand knew in relation to his killing, and whether it was involved.

In addition, Denmark's intelligence services were reportedly involved in a joint intelligence operation with the CIA to track Anwar al-Awlaki for the purpose of killing him in a drone strike.²⁵¹ This raises questions about Denmark's policies and practices with respect to collaborating with the U.S. in targeted killing operations in Yemen.

Finally, it has also been reported that the Netherlands intercepts vast amounts of Somali telephone traffic and shares it with the U.S., which in turn may possibly use the information to attack terrorist suspects with armed drones.²⁵² The Dutch defense minister has said that the Netherlands does not take part in drone attacks on terrorist suspects and there is no evidence that other countries involved in such attacks are using intelligence gleaned from Dutch intelligence sources.²⁵³ However, opposition members of parliament said the minister could not guarantee Dutch intelligence is not being used by the U.S. to kill targets.²⁵⁴

Although the full extent of foreign government collaboration with the U.S. targeted killing program is unknown, it appears that the U.S. airstrikes in Yemen have received some foreign government support. To the extent that foreign governments are assisting the U.S. in conducting airstrikes in Yemen, they share responsibility for the death of innocent civilians killed in these strikes.

The global impact of U.S. drone killings extends beyond instances in which foreign governments have participated in U.S. airstrikes. By eliminating the need for boots on the ground and allowing states to kill remotely, drone technology makes it easier for states to use lethal force across national boundaries. This ease, combined with the lower domestic political costs of using drones to kill, creates the risk that states will increasingly resort to the use of lethal force in violation of international law.

The U.S. has recently released a new policy for the export of U.S.-origin drones, which is part of a broader effort to work with other countries to “shape international standards” for the use of drones while restricting recipient states “to use these systems in accordance with international law.”²⁵⁵ In addition, NATO has established a NATO Members User Group for MQ-9 Reaper drones²⁵⁶ which reportedly provides a forum for new European Reaper drone operators to understand U.S. tactics, techniques, and procedures.²⁵⁷ Britain, France, Italy, and the U.S. met under the auspices of this group in early 2015.²⁵⁸ New NATO Reaper users are also expected to join the group.²⁵⁹ At the time of writing, the U.S. had sold armed-capable drones to the U.K. in 2007 and to France in 2013.²⁶⁰ In February 2015, the State Department announced that it had approved the sale of four armed-capable MQ-9 Reapers, to the Netherlands.²⁶¹ In addition, Germany reportedly remains a potential customer.²⁶²

As U.S. drones proliferate, there is a risk that other states will adopt problematic aspects of the U.S. model of drone killings.



SECTION IV

CASE STUDIES DOCUMENTING CIVILIAN HARM CAUSED BY U.S. TARGETED KILLINGS IN YEMEN

"They just kill.
They do not know what havoc
their missiles have caused.
They are unaware of the suffering
they create for our families."

Presented below are the results of nine case studies of civilian harm caused by U.S. airstrikes, all apparently conducted by drones, in al-Baidha, Sana'a, al-Jawf, Hadramout, Marib, and Dhamar Governorates.²⁶³ The case studies provide evidence of a total of 26 civilian killings and injuries to 13 civilians. All nine case studies raise serious questions about the extent to which the United States is complying with international law.

To the extent that the U.S. is not party to an armed conflict in Yemen, the killings documented in these case studies must be examined within the framework of international human rights law.²⁶⁴ Under this framework, there are serious questions regarding the legality of all of the civilian killings described in this report because there is no indication that these civilians presented an imminent threat to life. The civilian killings and/or injuries in all of the nine incidents also raise questions about the extent to which the U.S. took precautions to minimize recourse to lethal force and protect civilian life. These questions are especially serious with respect to the September 2, 2012 strike in Walad Rabei' District in which 12 civilians were killed and two civilians injured, as well as the January 23, 2013 attack on a civilian house in Silat al-Jarraah, in which five civilians were injured. In some instances, it appears that the targets could have been arrested instead of being killed, which would also render these killings unlawful.²⁶⁵ Finally, even if the targets did present an imminent threat and there were no other means of preventing this threat, questions remain as to whether the U.S. exercised sufficient restraint, acted in proportion to a legitimate objective to be achieved, and minimized damage and injury while preserving human life.

To the extent that the U.S. is party to an armed conflict in Yemen against AQAP, the case studies would have to be examined within the framework of international humanitarian law (IHL).²⁶⁶ Under this framework, all of the incidents documented in this report raise serious questions about the extent to which the U.S. complied with the IHL obligation to take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians, and damage to civilian objects. Questions about the legality of strikes are especially serious with respect to the September 2, 2012 strike in Walad Rabei' District in which 12 civilians were killed and two civilians injured, as well as the January 23, 2013 attack on a civilian house in Silat al-Jarraah, in which five civilians were injured. To the extent there was a military advantage anticipated from these two incidents, they also raise serious questions about the extent to which the U.S. complied with the IHL principle of proportionality.

More generally, there are serious questions about whether the U.S. is violating the IHL principle of distinction by using an overbroad definition of whom it may lawfully target.²⁶⁷ Such an overbroad definition would allow the U.S. to label civilians as lawful targets, leading to both civilian deaths and an undercounting of civilian harm.

CASE STUDY 1

DATE OF STRIKE

APRIL 19, 2014

LOCATION OF STRIKE

**STRIKE IN AL-SAWMA'AH
DISTRICT, AL-BAIDHA
GOVERNORATE**

RESULTING CASUALTIES

**FOUR CIVILIANS
KILLED AND
FIVE CIVILIANS INJURED**

PART OF THE VEHICLE DESTROYED IN THE APRIL 19, 2014 STRIKE IN AL-SAWMA'AH,
WHICH KILLED FOUR CIVILIANS AND INJURED FIVE OTHERS.



In this incident, a U.S. drone strike killed four civilians and injured five others while they were traveling in a car near a truck carrying alleged militants that was struck by missiles. Saba, a Yemeni government news agency website, confirmed that civilians were killed in this incident.²⁶⁸ The civilian deaths and injuries, which post-date President Obama's NDU speech, raise serious doubts about whether the "near-certainty" standard he set forth is being satisfied in its application. The victims and their families knew of no investigation into this incident. At the time of writing, the Yemeni government had only partially compensated the families.

On April 19, 2014, at about 6 a.m., **Hussein Ahmed Saleh Abu Bakr**, a 24 year-old laborer, and 11 other laborers were driving from al-Sawma'ah, a district in the al-Baidha Governorate in central Yemen, towards al-Baidha town. They were driving in a Toyota Hilux that belonged to Hussein's cousin Nasser, when their car was attacked by a drone.²⁶⁹ Four passengers were killed by the strike and five others were injured.

Hussein, who survived the attack, said that he and his fellow passengers were driving in front of a Toyota Land Cruiser carrying a group of armed men.²⁷⁰ In Yemen, it is customary for men to carry guns while going about their everyday lives, so it was not unusual that the men in the Land Cruiser were armed.²⁷¹

Hussein said: "The distance between our car and their car was about 20 to 30 meters. While we were chatting about work and its problems, we suddenly heard two explosions, one after another, and there were two aircrafts above us. The car behind us was struck. Shrapnel hit the rear tires of our car and it stopped."²⁷²

Another eyewitness to the attack confirms Hussein's account.²⁷³ While standing outside his house, he saw two small aircraft with long wings in the area. The first was white in color and the second was grey. He saw the Land Cruiser hit by a

missile and the Hilux, about 20 meters away, being hit by shrapnel. He recognized the passengers of the Hilux as workers from the neighboring village.²⁷⁴

Hussein managed to get out of the car and went to take cover in a culvert under the road. Two other passengers—Mohammed Abdullah and Abed Rabbo Hassan—who had been wounded by shrapnel, joined him there. After a few minutes, Hussein came out of the culvert to look for his 65 year-old father, **Ahmed Saleh Abu Bakr**, who had been sitting in the front of the car. He found his father lying beside the road, dead. He had been killed by shrapnel that hit him in the chest and head.²⁷⁵

Three other passengers, **Sanad Nasser Hussein al-Khushm**, **Abdullah Nasser Abu Bakr al-Khushm** (Hussein's uncle, who had been sitting in the front of the car), and **Yasser Ali Abed Rabbo al-Azzani**, who was sitting in the rear, were also killed.²⁷⁶ Sanad was lying in the middle of the road. Abdullah Nasser was badly wounded, and died when he reached the hospital. Yasser was lying about six meters in front of the car: his head was crushed completely, and Hussein recognized him only by his clothes.²⁷⁷

The five men injured in the attack were lying at different spots along the road.²⁷⁸ They included Abdulrahman Hussein al-Khushm (approximately 22 years old); Salem Nasser al-Khushm (approximately 40 years old), who sustained shrapnel wounds to his thigh;²⁷⁹ Najib Hassan Nayef (approximately 35 years old); Bassam Ahmed Salim Breim (approximately 20 years old); and Nasser Mohammed Nasser (approximately 35 years old), who broke both legs and also sustained shrapnel injuries to his abdomen in the attack.²⁸⁰

According to Hussein, all of the passengers in the Land Cruiser seemed to have been killed on the spot, and the car was on fire.²⁸¹ Field research was unable to verify their identities, but it appears that they were al-Qaeda members. Other armed men soon arrived in separate cars and started to remove the dead bodies from the Land Cruiser and take them away.²⁸²

A car came from the neighboring village, and Hussein and others transported the wounded and the dead bodies from the Toyota Hilux to al-Hayah Hospital in al-Baidha town.²⁸³ The hospital did not provide them with the needed care, so the wounded men were then transferred to al-Zahra Hospital. Later, after pressure from local tribes, ambulances transferred them to Aden.²⁸⁴

This study found no credible indication that any of the individuals in the Toyota Hilux were associated with any terrorist group. Ali Abdullah Hassan, a resident of al-Sawma'ah, said: "All of the Hilux-car victims from our village were civilians and workers. They had nothing to do with any organization or group. We do not know about those who were in the other car, except that what has been circulated by the media that declared that they were from al-Qaeda." ²⁸⁵

The government news agency's website, Saba, confirmed on April 19, 2014 that civilians had been killed in the strike.²⁸⁶ It stated that a spokesperson of the Supreme Security Committee had announced that a strike at 6 a.m. had killed 10 terrorists and injured one terrorist while they were traveling in a vehicle heading to al-Baidha town, al-Sawma'ah District. The strike occurred after the security authorities received intelligence information about a car carrying 11 terrorists who were planning to target vital military facilities in al-Baidha Governorate. The Saba report also stated that the strike led to the deaths of three civilians and injury to five others who were in a Hilux that abruptly appeared near the targeted car.²⁸⁷ *The New York Times* reported this strike as one of at least three strikes conducted in southern Yemen during that time against al-Qaeda fighters. U.S. officials reportedly said the airstrikes had been carried out by drones operated by the CIA, but an agency spokesman declined to comment.²⁸⁸

Hussein Nasser Abu Bakr al-Khushm, the father of Sanad Hussein and the cousin of Ahmed Saleh Abu Bakr, both of whom were killed in the attack, was devastated. He said he had said goodbye to Sanad just that morning, as Sanad was on his way to Saudi Arabia after managing to obtain a work visa. Hussein got news of the attack on the morning of April 19. He said: "The news fell on our ears like thunderbolt. I got motionless. Even when his body was brought to the village for burial I could not go to have a last look at him. Until this moment, I'm still unable to figure out what happened to my son. They were killed by an American drone."²⁸⁹

Hussein could not understand why his son and cousin were killed. He said: "The news of his death broke our hearts and doubled our sorrows. He was killed. Why? Why did they kill my son Sanad and my cousin Ahmed Saleh Abu Bakr? My son and my cousin did not belong to any organization. My son Sanad was married and had three children. His main concern was to secure their future and earn their upkeep."²⁹⁰

Sanad's wife said her husband was the only breadwinner for her and their children, the youngest of whom was two years old.²⁹¹ She said: "My children keep crying for their father: they look at his picture and weep."²⁹²

Fatima Hussein Abu Bakr al-Khushm, the wife of Ahmed Saleh Abu Bakr al-Khushm, who was killed in the attack, said that she fainted when she heard of her husband's death. She insisted on seeing her husband before burial. "He had wounds in his neck and hand. He was covered in blood, crushed. Then, relatives dragged me away from him."²⁹³ She said her husband supported four families.

Saleh Abdullah Abu Bakr al-Khushm, the son of Abdullah Nasser Abu Bakr al-Khushm, who was killed in the attack, was similarly heartbroken.²⁹⁴ His father had left behind four sons and four daughters, and was the breadwinner for the family.²⁹⁵ Saleh said his father had nothing to do with al-Qaeda, explaining that he was a peaceful man who spent most of his time working to provide for his family.²⁹⁶

Umm Sami, the wife of Saleem Nasser, who was wounded in the attack and taken to Aden for treatment, said her five year-old (the youngest of her five children) had been ill since the day of the incident, and keeps waking up at night, screaming for his father.²⁹⁷

Umm Nasser, the mother of Nasser Mohammed Nasser, who was taken to Aden for treatment for his injuries, said she had taken in his small family until he recovered.²⁹⁸ At the time research was conducted, his little son and daughter had not gone to school since the incident, and had been crying for their father.²⁹⁹

The victims' families are unaware of any investigation into the incident.³⁰⁰ According to a family member of one of the persons killed in the attack, there was a tribal arbitration between the Yemeni Ministry of Defense and tribal leaders from the region where the attack occurred.³⁰¹ Each of the dead or wounded victims had an entire family (and some of them several families) of dependents.³⁰² The tribal leaders ruled that the state should pay 30 million riyals (approximately US \$139,619) as compensation for each person who died, and 15 million riyals (approximately US \$69,810) for each person injured, in addition to paying the full cost of treatment.³⁰³ Ultimately, according to one family member of an individual killed in the attack, the Yemeni government paid a lump sum of 12 million riyals (approximately US \$55,848) and 30 Kalashnikovs that was divided between the families of the four dead.³⁰⁴ However, the families did not consider this as compensation—rather they viewed this amount as burial expenses.³⁰⁵ In addition, the Yemeni government initially paid for the cost of

urgent treatment for at least some of the wounded who received treatment in hospital.³⁰⁶ However, it appears that the government did not continue to pay for their treatment.³⁰⁷

Sanad Hussein's father said that he and other victims' families were contacted by the Yemeni Ministry of Defense and they met with the minister of defense in December 2014. In this meeting, he was informed that the Yemeni government had decided to pay six million riyals (US \$27,924) for each family member injured and 15 million (US \$69,810) for each family member killed.³⁰⁸ Hussein Alidarooos, one of the social leaders in al-Baidha and a mediator in the arbitration between the victims' families and the Yemeni government, confirmed this account.³⁰⁹ However, at the time of writing, compensation beyond the aforementioned 12 million riyals and 30 Kalashnikovs had not been paid to the victims' families.

The father of the wounded Nasser Mohammed Nasser said: "Can they bring back to life those who had been killed? This is a crime that deprived whole families of their breadwinners. We demand justice and compensation."³¹⁰ He added: "The Yemeni government bears responsibility for the incident because it is the government of our country, and we will not talk with anyone other than our government. The government knows the ones who killed our sons."³¹¹

Hussein Ahmed Saleh Abu Bakr, one of the men wounded in the attack, said: "None of us—all passengers of the car—had anything to do with al-Qaeda or any other organization. No committee has come to us to investigate the incident. The government did not do anything for the families of the victims, except for payment of the medical treatment expenses for the wounded."³¹² He added: "We demand justice and fair trial of those who committed this crime. We want fair compensation for us because we are poor families. We want the perpetrators of this crime to be held accountable for what they have done."³¹³

Nasser Mohammed Nasser's father explained: "My son and those who were with him had nothing to do with al-Qaeda. They were simply on their way to earn a living. Why then did the American aircraft strike them? If America had a problem with any organization, what did my son and those who were with him have to do with that?"³¹⁴ Noting that the Yemeni government also bore responsibility for the strikes, he added: "Such strikes scare us, do not contribute to security, and will not make Yemen or America safer than they are."³¹⁵

CASE STUDY 2

DATE OF STRIKE

AUGUST 7, 2013

LOCATION OF STRIKE

**STRIKE IN AL-MIL, MARIB
GOVERNORATE**

RESULTING CASUALTIES

**TWO CIVILIANS
(INCLUDING ONE CHILD)
KILLED**

In this incident, a U.S. drone strike killed two civilians, including one child, as they were traveling home with their brother in his car after a shopping trip. The incident post-dates President Obama's NDU speech and casts serious doubt on the "near-certainty" standard being satisfied in its application. Moreover, this incident also raises questions about whether the U.S. only targets "individuals who pose a continuing and imminent threat to Americans," as President Obama said in his NDU speech. The victims' family is aware of no investigation into this incident, nor have they been compensated for their loss. The family testimonies support the claim that drone strikes will not make Yemen and the United States safer, but will instead prove to be counterproductive by provoking a desire for revenge in the victims' communities.

It was the holiday of Eid al Fitr on August 7, 2013.³¹⁶ **Arafat Qa'id Salem Arfaj** had gone shopping in Marib city in central Yemen for new clothes and other items for the festival. He went with his three brothers, **Hussein**, **Hasan**, and **Abdullah**, ages 15, 18, and 25 years, respectively.³¹⁷

They were driving home to Aal Marwan in al-Jawf Governorate at night in two cars—Arafat in one, and his three brothers in the other car, which was just a few meters ahead of Arafat's car.³¹⁸ Around five kilometers away from the government complex of Marib city, in an area called "al-Mil," near the Air

WRECKAGE OF THE VEHICLE ATTACKED ON AUGUST 7, 2013, IN AL-MIL, MARIB GOVERNORATE, KILLING THREE BROTHERS, ONE OF WHOM WAS 15 YEARS-OLD.



Defense Brigade, a drone fired four missiles, one of which hit the rear of the car carrying Arafat's brothers.³¹⁹ The car, a red 1998 Suzuki Vitara, caught fire.

Arafat recounts: "I rushed to the car and saw the bodies of my brothers. The children's clothes and shoes and the Eid supplies were scattered all around. The body of Abdullah was about 10 meters away from the car. Hussein had turned into a burned body under the car. The body of Hasan was headless and charred, lying about two meters to the right of the car."³²⁰ Arafat could hear the aircraft still flying in the air.³²¹

Arafat said: "My brothers were never accused of any charge, and nobody had ever complained against them or accused them of assaulting anyone. If there was a person or entity with a claim against my brothers, why didn't such person or entity summon them legally and try them collectively or individually?"³²²

Umm Abdullah, the mother of the three brothers who were killed, learned what happened to her boys that same night.³²³ She explained: "Why did they bomb my children? A few minutes earlier my children were telling us 'Put Eid henna on your hands. We are on the way!'" [The Yemeni President] and his government want to boast of having my children killed by America under the pretext of terrorism! This is a lie. My sons were not terrorists. . . . They only lead a religious life, guided by the Quran. They never hurt anyone. All the tribe loved them and cried over their death."³²⁴

Her three sons were buried in the village of Aal Marwan.³²⁵ Umm Abdullah wanted to see her sons, even if they were in pieces, but was unable to see them before they were buried.

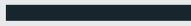
A spokesperson for Marib's governor reportedly said he did not know if the dead were al-Qaeda members.³²⁶ But the head of the province's investigation department said he believed that the brothers did have some association with militants, or else they would not have been targeted by a drone.³²⁷ According to the *Los Angeles Times*, however, Arafat denied his younger brothers Hussein and Hasan were terrorists, but said that Abdullah may have been a militant.³²⁸ Arafat however claimed that "the drone hit them . . . without any good reason."³²⁹

The *Los Angeles Times* reported that this strike (and others that occurred around the same time) may have been inconsistent with President Obama's NDU speech, in which he said that the U.S. would only target individuals who posed a "continuing and imminent threat to Americans."³³⁰ However, Gregory Johnsen, an expert on counterterrorism issues in Yemen said of the wave of attacks: "This looks like they are bombing and hoping. . . . It's not clear they know who they are hitting."³³¹

Conversations with local residents indicate that the 15 year-old Hussein and 18 year-old Hasan had no connection to al-Qaeda or any other militant group.³³² According to news reports, U.S. officials said that three separate drone strikes that occurred during approximately the same time as this attack had killed al-Qaeda militants, but that there was no evidence any of those killed could be considered among the al-Qaeda leadership.³³³ The wave of drone strikes that killed the three brothers was reportedly the result of the electronic interception of high-level al-Qaeda communications in the preceding week which suggested a terrorist plot.³³⁴

The victims' family is aware of no investigation into this incident.³³⁵ No compensation has been issued.³³⁶ Arafat said: "We demand an investigation into the incident, and fairness and justice administered to all those who had a hand in this attack, be they American or Yemenis. We want justice."³³⁷ He added: "Such strikes will not make Yemen or America safer. They only give birth to and fuel the idea of revenge, which will be bequeathed for generations to come."³³⁸

CASE STUDY 3



DATE OF STRIKE

AUGUST 1, 2013

LOCATION OF STRIKE

**STRIKE IN WADI SIR,
HADRAMOUT
GOVERNORATE**

RESULTING CASUALTIES

ONE CIVILIAN KILLED

In this incident, one civilian was killed when a U.S. drone struck a car in which he had hitched a ride. Yemeni government documents state that he was an innocent civilian. The victim's father said that his son did not know that the individuals who he hitched a ride with were wanted militants, or he would not have taken a ride with them. This incident, which post-dates President Obama's NDU speech, also casts serious doubt that the "near-certainty" standard he set forth in that speech is being satisfied in its application. The victim's family is aware of no investigation into this incident. Nor has his family been compensated for their loss. Local residents continue to live in fear about being killed in future strikes.

On August 1, 2013, two missiles hit a car traveling on a dirt road in Wadi Sir, about six kilometers west of Seiyoun city, in Hadramout Governorate. All four persons in the car were killed. One of them was **Saleh Yaslem Saeed bin Ishaq**, a 28 year-old man, who had gone to Wadi Sir market and had hitched a ride back home in the car. Local residents say that a drone hit the car.

This account is confirmed by a letter dated September 8, 2013 from the director general of the al-Qatan Directorate (and head of the local council there) to the deputy governor for Valley and Desert District Affairs (Hadramout Governorate), which states the following in relation to Saleh's death:

"The above-mentioned was killed by an airstrike of a drone in Hodab, Wadi Sir on 24 Ramadan 1434 AH corresponding to August 1, 2013, after he got onto the car of the target group as he did not avail of any personal means of transportation to shift him from Wadi Sir Highway to his home in Hadd Aal Ishaq Village in Wadi Sir. While innocent, he was killed at a quirk of fate during

the incident. Therefore, you are kindly requested to communicate with the competent authorities to compensate the family of the victim in question."³³⁹

The letter was given to Saleh's family when they went to meet with the director general to complain about and seek compensation for the killing of their son. They did not, however, receive any compensation.³⁴⁰ Another letter dated July 28, 2014, from the governor of Hadramout Governorate to the leader of the first military region states that Saleh Ishaq was a civilian who was killed by mistake.³⁴¹

Mohammed Awad bin Ishaq, a shopkeeper in the market, said that it was late, around 1:30 a.m., when he tried to convince Saleh to spend the night at his home, but then a car stopped at the market.³⁴² The car, a 2013 Toyota pick-up, was loaded with children's clothes for Eid, and there were three people in it.³⁴³ Saleh asked if he could hitch a ride with them, and they agreed. About half an hour later, Mohammed heard two loud explosions.³⁴⁴ When he subsequently received calls from the nearby villages that a drone had hit a Toyota vehicle, he realized that it was the car Saleh had hitched a ride in.³⁴⁵ Mohammed and other locals immediately went to the place of the explosion.³⁴⁶ They found the car on fire. Body parts and Eid children's clothing and shoes were scattered around the car.³⁴⁷ There were two holes in the ground. The aircraft could be heard still flying in the air but they were unable to see it in the dark.³⁴⁸

Referring to the August 1, 2013 strike as a "drone strike," the *New York Times* reported that local police stated that the other three men were wanted militants but that Saleh appeared to have been an innocent person whose presence in the car was accidental. U.S. officials, when asked by the *New York Times* about the strike, said they were aware only of the three militants killed. However, the details of Saleh's death, and an image of his identity card, which was found in the burned remnants of the vehicle, were published at the time in newspapers and on websites in Yemen.³⁴⁹

Saleh's father said that his son had a two year-old daughter and was looking for work to sustain his family. "He was absolutely peaceful and not involved in any activity or charged with any crime. He never engaged in any organization, and he had nothing to do with al-Qaeda," Saleh's father said.³⁵⁰

Saleh's mother said that her son left the house at about 8 p.m. after dinner to go shopping in Hadramout.³⁵¹ She said that after the dawn prayer (which usually occurs after 4 a.m.), she and Saleh's father were informed that their son had been killed in an airstrike.³⁵² She wanted to see him after his death but could not.³⁵³ His remains were buried in Nessais cemetery near their village.³⁵⁴ She has been in bad health since he died and has to visit the doctor almost every day.³⁵⁵

She explained the pain his death had caused: "His death has fallen as a calamity on the whole family. All my parents and siblings had died, but their deaths did not cause as much pain as I feel now. He had kissed me on the head before he went out. He was innocent. There is nobody in the world like him. . . . The incident has broken our hearts. When he went out of the house, he was sound and healthy. Even today, I cannot enter his room. . . ." ³⁵⁶

Saleh's family knows of no investigation into this incident.³⁵⁷ Nor has any compensation been issued.³⁵⁸ Saleh's father said: "There must be an investigation into this incident. We want to know why our son got killed, and we demand justice." ³⁵⁹

Saleh's father noted that there was no way for his son to have known that the men he hitched a ride with were wanted militants. He said: "We do not know the people who were in the car. There is no official circular or declaration that they were accused of anything or wanted by anyone; else he would not have used their car . . . How can we avoid suspected or wanted men so as not to get killed in the same way as my son?"³⁶⁰ He concluded: "They just kill. They do not know what havoc their missiles have caused. They are unaware of the suffering they create for our families."³⁶¹

CASE STUDY 4

DATE OF STRIKE

JUNE 9, 2013

LOCATION OF STRIKE

**STRIKE IN AL-SABIR AREA,
AL-MAHASHIMAH,
AL-JAWF GOVERNORATE**

RESULTING CASUALTIES

**ONE CHILD KILLED
AND ONE CHILD
INJURED**

ABDULAZIZ HASAN BIN SALEH BIN HARIDAN, THE 9 YEAR-OLD BOY
WHO WAS KILLED IN THE JUNE 9, 2013 ATTACK IN AL-JAWF.



In this incident, a U.S. drone strike killed an innocent civilian—a nine year-old boy named **Abdulaziz** —when it struck a car in which he was riding with his elder brother, an alleged militant named Saleh bin Hasan Haridan. Shrapnel from the attack seriously injured a civilian bystander, also a child. The strike occurred less than a month after President Obama stressed in his NDU speech that strikes were permitted only if there was a “near-certainty” that civilians would not be killed or injured, and that only those who presented a “continuing and imminent threat to the American people” would be targeted.”

Some analysts have questioned whether Haridan, the apparent target of the strike, while reported to have links with AQAP, actually presented a “continuing and imminent threat to the American people.” The victims’ families know of no investigation into this incident, and no compensation has been issued. Residents of the region and the surviving victims experience ongoing fear of being killed in future strikes. Local residents and victims’ families have stated that drone strikes only create a desire for revenge in the community.

At around 4 p.m. on the afternoon of June 9, 2013, Mansour Saleh al-Obaahah, a 15 year-old boy, was tending sheep in al-Sabir, in the Mahashimah region, in the al-Jawf Governorate, north-east of Sana’a. Mansour saw a slim aircraft, black aircraft with long wings.³⁶² The aircraft’s sound got louder and louder.³⁶³ Then, it fired four missiles in a row, one after another, separated by a few seconds.³⁶⁴

The first missile hit an SUV, a Hyundai Santa Fe, which contained seven people.³⁶⁵ Mansour, who was about 30 meters from the car at the time of the strike, recognized two of the people, because they were from Mansour’s village. They were Saleh bin Hasan Haridan, the owner of the car, who was in his 30’s, and his nine year-old brother, Abdulaziz.³⁶⁶

Saleh bin Hasan Haridan has been reported to have links to al-Qaeda.³⁶⁷ The Associated Press cited a Yemeni military official saying that the airstrike, thought to be a U.S. drone attack, had killed six suspected al-Qaeda militants in the eastern province of al-Jawf, bordering Saudi Arabia.³⁶⁸ While Haridan may have been a local AQAP leader, some analysts have questioned whether he presented a “continuing and imminent threat to the American people,” the targeting standard President Obama announced in his NDU speech.³⁶⁹ More generally, Gregory Johnson, an expert on Yemen, observed in relation to this incident that: “The number of U.S. drone strikes over the past two years suggests that the U.S. is going after many more targets than just the 10 to 15 individuals it says represent imminent threats to U.S. national security. It appears to be going after whomever it can hit whenever it can find them.”³⁷⁰ Johnson added that the new rules that President Obama alluded to in his NDU speech in the month preceding this incident, “either aren’t yet in effect in Yemen or are making no difference.”³⁷¹

Mansour saw Haridan crawling and taking cover behind a small tree, and another passenger trying to escape by crawling off in another direction. But other missiles hit them and killed both Haridan and the nine year-old boy, Abdulaziz.³⁷²

Mansour said, “I was watching what was happening. I was so scared and thought that Resurrection Day had come. Blood, body parts, explosions, and fire were all around. On the fourth explosion, I got shrapnel in my left eye and around it. At the moment, I felt as though I had lost half my face. I felt as though I was about to die. I fainted for a few seconds.”³⁷³

Fellow villagers took Mansour home on a motorcycle and he was admitted the next day to a private hospital in Sana’a.³⁷⁴ His family had to borrow money for treatment and surgeries to extract the shrapnel from his face.³⁷⁵ He still cannot see with his left eye.³⁷⁶

The moment he heard the news on the day that the strike occurred, Hasan bin Saleh bin Haridan, father of the nine year-old Abdulaziz and his elder brother Saleh, rushed with local residents to the scene. He found that his sons had turned into “charred bits and pieces.”³⁷⁷ The car was on fire, and there were four holes in the ground.³⁷⁸

Hasan said a drone had hit the car of his son Saleh and that Abdulaziz was in his elder brother’s car at the time. He said he did not know the five other men in the car.³⁷⁹ Hasan said: “Abdulaziz had nothing to do with al-Qaeda. If his brother

was accused of being an al-Qaeda member, what was the charge [against] Abdulaziz? Why was he killed?"³⁸⁰

A munitions expert examined the images of missile remnants and confirmed that the remnants are consistent with those from a Hellfire missile, a type of missile commonly fired by U.S. drones.³⁸¹ Local residents, who said they are able to distinguish between drones and conventional aircraft, said they had seen a drone flying over the region a few weeks before the strike.³⁸²

According to local residents and the victims of this incident, there has been no investigation into this incident by any party, nor was there any compensation.³⁸³ The *Los Angeles Times* reported that the CIA had not known that there was a young boy in the car, and later placed his age between six and 13. The CIA reportedly gave a classified briefing to Congress on the death of the boy, but has refused to acknowledge it publicly.³⁸⁴

Mansour, whose eye was injured by shrapnel in the attack, feels terrified every time he hears aircraft flying overhead.³⁸⁵ He fears for his family, friends, his cattle, and for his own life.³⁸⁶ Other residents in the region are similarly terrified.³⁸⁷

The killing of the nine year-old boy provoked widespread outrage in the region.³⁸⁸ A local sheikh said that "killing al-Qaeda is one thing, but the death of an innocent person is a crime that we cannot accept. ... What did Abdulaziz do? Was this child a member of al-Qaeda?"³⁸⁹

Mabkhoot bin Saleh Mohsin al-Obaahah, a tribal leader in the village, explained the local reaction to the strikes: "Such a strike has created terror in the hearts of people and provoked their anger. Locals consider such strikes as cowardly operations and they are threatening to take revenge. These strikes will not bring security to Yemen or to America, and do not serve the interest of anyone."³⁹⁰

Abdulaziz's father said: "We demand justice. . . . Both the American and Yemeni governments bear the responsibility for the attack. ...Our demand is . . . justice, equity and fair compensation. Such strikes do not contribute to securing America or Yemen. In fact, such strikes only fuel people's indignation and anger, especially among those who want to take revenge on both the governments."³⁹¹

CASE STUDY 5

DATE OF STRIKE

APRIL 17, 2013

LOCATION OF STRIKE

**STRIKE IN WESAB
AL-AALI DISTRICT,
DHAMAR
GOVERNORATE**

RESULTING CASUALTIES

**THREE CIVILIANS
KILLED**



In this incident, three civilians were killed when two missiles struck a car carrying them and **Hamid Mohammed Radman al-Radami**, who was rumored to have links with al-Qaeda. Two of the civilians had hitched a ride in the car, and the third was al-Radami's driver. One of the civilians was alive, screaming in pain and asking for help after the first missile hit the vehicle, but no one dared to come near him because the aircraft were still flying overhead. He was killed in a second missile strike minutes later. Local residents stated that they were never warned about Hamid al-Radami and that had they known he was a wanted man, they would have advised their children to avoid him. Analysts have questioned whether al-Radami had links with al-Qaeda. In addition, it appears that al-Radami could have been captured instead of being killed. No investigation is known to have been conducted into this incident, and no compensation issued.

On the evening of April 17, 2013, an airstrike hit a grey 1986 Toyota Saloon on a dirt road called Bab al-Sariah in the Wesab al-Aali District in Dhamar Governorate in central Yemen. The strike killed all four of the car's passengers, who were returning from the market to Madlab village.

WRECKAGE OF THE CAR ATTACKED ON APRIL 17, 2013, IN WESAB AL-AALI,
RESULTING IN THE DEATHS OF THREE CIVILIANS.

The four men were **Makram Ahmad Mahmoud al-Da'er** (aged approximately 20 years), **Ghazi Hamoud Ahmad al-Emad** (aged approximately 28), **Ismail Ahmed Mohammed al-Maqashi** (aged 25), and Hamid Mohammed Radman al-Radami (aged 35). They were buried the next day in the village cemetery. Interviews with local residents of Madlab village indicate that the first three of these individuals were not associated with al-Qaeda or any other militant group. It was rumored that Hamid Mohammed Radman al-Radami may have had links to al-Qaeda. However, Farea al-Muslimi, a prominent Yemeni journalist, has contested the depiction of al-Radami as an al-Qaeda commander.³⁹² In addition, several AQAP experts told Human Rights Watch that they were not aware of al-Radami playing a military operational role in AQAP.³⁹³ A Yemeni government official told Human Rights Watch on condition of anonymity that there were doubts about whether he had a military operational role, but that he openly recruited for AQAP.³⁹⁴

Local residents of Madlab village said that they had seen drones in the sky that day. Just before the strike, Najm-al-Din al-Ra'ei, a 20 year-old tailor from Madlab village, had got a ride with the four men as they were coming back from the market to the village. Al-Ra'ei said Hamid al-Radami owned the car, and was the only one carrying a Kalashnikov. Many villagers carry Kalashnikovs, which is a tribal tradition. Makram Ahmed Hamoud al-Da'er was driving the car. The two other men in the car, Ghazi Hamoud Ahmad al-Emad and Ismail Ahmed Mohammed al-Maqdashi, were hitching a ride from the market to the village.³⁹⁵ (It is common practice in Yemeni villages for people to hitch rides, and private cars are used as a means of public transportation). The car was struck just moments after it dropped off al-Ra'ei at his house. According to al-Ra'ei, a U.S. drone fired missiles at the car.³⁹⁶

He said: "I saw two huge flames. There was about a 10 minute interval between the first and second one. I saw the car at the moment it was hit, and it immediately caught fire. I went to the place and the car was burning. I saw charred bodies. They were the bodies of the people I had been with a couple of minutes before. It was a horrible scene. The car was devoured by the fire, and the four people had become more or less charred bodies."³⁹⁷

Makram Ahmad Mahmoud al-Da'er, one of the victims killed in the attack, was a secondary school graduate who had been married for a year.³⁹⁸ His father, Ahmed Hamoud al-Da'er, a laborer from Madlab village, was asleep in his house when he heard two big explosions. After a few minutes, he heard the screams of

a local resident who said that there was a car burning in Bab al-Sariah, just 500 meters away from the village.

Ahmed said: "I went to the place immediately, and approached the car. It was still burning . . . I knew at once it was the car of Hamid al-Radami, which my son Makram was in. The bodies were charred and there were body parts scattered around. Someone was still screaming—hanging in the rear of the car, and screaming out of pain. He was asking for help. No one had the guts to come close to the car to save him because the aircraft that attacked the car was still flying in the air. But he died later on the spot. They were four people, and no one dared to get close to the fire and rescue the injured person. I felt dizzy, and I almost fell on the ground because of the horror of the scene."³⁹⁹

The man that Ahmed heard screaming in pain in the burning car was Ghazi Hamoud Ahmad al-Emad, who was injured in the first strike; the second missile strike killed him.⁴⁰⁰ Witnesses at the scene saw large holes in the ground where the missiles had struck.⁴⁰¹

A munitions expert examined the images of missile remnants and confirmed that these remnants are consistent with those from a Hellfire missile, a type of missile commonly fired by U.S. drones.⁴⁰² The expert analyzed photographs of the craters and confirmed they are consistent with a missile strike. In addition, residents of Madlab village, when shown unlabeled photographs of drones and conventional aircraft, pointed to the photograph of a drone and said that they had seen it flying in that area a few days before the incident.

Makram's mother said that he had been working as a driver for eight months before he was killed in the strike.⁴⁰³ He wanted to study in Sana'a University, but was not accepted for study there, so he came to work for al-Radami.⁴⁰⁴ Her husband Ahmed added: "I want to know why my son was killed. What was the crime that he committed? My son was killed without guilt, without trial, without any charge against him. My son did not belong to any organization."⁴⁰⁵ Ahmed said that he was keen on his son's education despite having limited resources. "He was our dream, and his dream was to enter university and complete his education. But they killed him before he could realize that dream."⁴⁰⁶

Ahmed also said that local residents were never warned about Hamid al-Radami. If they had known he was a wanted man, they would have advised their children to avoid him. Moreover, he said, al-Radami was available if the government had wanted to arrest him.⁴⁰⁷

According to a Yemeni government official who spoke on condition of anonymity with Human Rights Watch about the strike, al-Radami's tribal ties were too strong and the Yemeni state too weak for him to be readily captured.⁴⁰⁸ But Yemeni journalist Farea al-Muslimi also said that al-Radami could easily have been arrested.⁴⁰⁹

Al-Radami's brother also said that al-Radami was available at all times in the village and added that if the U.S. or Yemen had something to accuse him of, they should have arrested and tried him. He added that it was only a rumor that his brother was an al-Qaeda member. However, he said the other three men in the car had nothing to do with al-Qaeda. He said that it was America who had killed the four men "because it is America that has such military capabilities and we know that America is carrying out these attacks in Yemen."⁴¹⁰

No investigation has been known to be conducted and no compensation has been issued in relation to this incident.⁴¹¹ The website of the Yemeni



THE GRAVE OF 21 YEAR-OLD MAKRAM AHMED MAHMOUD, WHO WAS KILLED IN THE APRIL 17, 2013 ATTACK IN WESAB AL-AALI.

Defense Ministry quoted a security official in Dhamar Governorate as saying that al-Radami had been targeted in a strike that had killed him and his four bodyguards, who included Makram Ali Ahmad Mahmoud al-Haj, Najm al-Din Ali Abdullah, Ghazi Hammoud al-Emad and Ismail Al-Maqashi.⁴¹² However, these names do not fully match the names of the dead as identified by research for this report. Moreover, interviews conducted for this report suggest that there were three (and not four) men riding in the car with al-Radami, none of whom were bodyguards. Indeed, Najm-al-Din al-Ra'ei was a tailor who had got out of the car before it was struck.⁴¹³

Ghazi Hamoud Ahmad al-Emad's mother said that her son used to work in the Police Relief Forces in Sana'a. He had a son and a daughter. He had taken leave to come to the village to see his disabled and ill father and to resolve a family dispute with his father-in-law and his wife. His wife had left his home and gone to her father's house. He had gone to file a complaint against his father-in-law in the police station in the market, but he was killed on the way back.⁴¹⁴

Another relative of Ghazi confirmed that he worked in the security forces in Sana'a, and added: "By killing him, they eliminated the breadwinner of the whole family. All the locals are surprised why America would kill Ghazi, for they knew him well and knew that he was not an enemy of America. They have killed him and that is it. We cannot have him back. But will they hold those who killed him accountable? Will they give his family fair compensation? . . . No one has come to investigate the incident, and they did not even bother to exert some effort to confirm the identity of their victims. They are only good at dissemination of death and fear amid the poor and vulnerable people like us."⁴¹⁵ Ghazi's relative said: "We want justice, we want fairness, we want to hold those who gave orders for the attack accountable, and we want fair compensation for his poor family."⁴¹⁶

Makram Ahmad Mahmoud al-Da'er had been married only about a year and had an infant son.⁴¹⁷ His father, Ahmed Hamoud al-Da'er said: "We just want justice. We want to hold those who have a role in the murder of my son accountable, whether American or Yemeni. We are innocent people, and it is not permissible to show such flagrant disregard for our lives. No one has come to investigate the incident. No action has been taken whatsoever."⁴¹⁸ Speaking of the ongoing effects of the attack, Ahmed added: "This incident sparked panic in the family and in the whole village. Children and women are afraid whenever they hear the sound of aircraft."⁴¹⁹

CASE STUDY 6

DATE OF STRIKE

JANUARY 23, 2013

LOCATION OF STRIKE

**STRIKE IN SILAT
AL-JARRAAH VILLAGE,
AL-BAIDHA
GOVERNORATE**

RESULTING CASUALTIES

**FIVE CIVILIANS
(INCLUDING TWO
CHILDREN)
INJURED**

FIFTEEN YEAR-OLD MUSA AHMED ALI AL-JARRAAH SHOWS THE SCAR FROM THE SHRAPNEL WOUND TO HIS ABDOMEN, WHICH HE SUSTAINED IN THE JANUARY 23, 2013 ATTACK IN SILAT AL-JARRAAH.



In this incident, an airstrike hit a house where 19 civilians lived. At the time of the strike, a group of about 30 civilians had gathered near the house to watch the only television in the village. The strike injured five civilians, inside and outside the house, including two children, and destroyed many parts of the house. Local residents fled the village for months and lost their livelihood during this time. Local residents experience fear about future attacks and believe that such strikes are counterproductive, and only serve al-Qaeda. It is unclear who the intended targets of this attack were, although it may have been two men on a motorcycle in the vicinity of the house at the time. The large number of civilians inside and outside the house raises especially serious questions about the extent to which the United States is complying with international law. No investigation is known to have been conducted into this incident and no compensation has been issued.

On January 23, 2013, at about 8 p.m., an aircraft fired two missiles, one of which hit a two-story house adjacent to the main road linking Silat al-Jarraah village to its neighboring villages. **Musa Ahmed Ali al-Jarraah**, a 15 year-old boy who was severely injured in the abdomen by shrapnel in the attack, said, "It was a U.S. drone. I saw it while I was on my way home. It flew so low I could view it easily. It had long wings in the rear, its size was not large and it had a head that looked like a camel's head."⁴²⁰

Residents had also seen drones flying over the village that afternoon, before the strike, as well as in the days preceding the attack.⁴²¹ A munitions expert examined the images of missile remnants and confirmed that these remnants are consistent with those from a Hellfire missile, a type of missile commonly fired by U.S. drones.⁴²²

Musa Ahmed Ali al-Jarraah said: "I was returning from the farm about 8 o'clock in the evening of Wednesday January 23, 2013. I heard a very loud sound of an aircraft flying in the air space of the village when I was on the way home. When I got close to our house, two huge explosions shook the whole place, hitting a house about 30 meters away from our house. I was hit with shrapnel in the abdomen. At that time, I fainted. I came to know of what had happened only later after I had been brought to a hospital in Rada' city."⁴²³

Women, children, and men—about nineteen individuals in total—lived together in the house struck by the missile.⁴²⁴ They were inside when the two explosions rocked the house and filled it with dust and smoke.⁴²⁵ The roof and many parts of the second floor were destroyed, and the house cracked in various parts.⁴²⁶ The glass windows of the house and the house owner's car outside were blown out.⁴²⁷ **Abdoh Mohammed al-Jarraah**, the owner of the house and car, said: "We do not know why America attacked us. There was no hostility between us and America so that they would attack us that way."⁴²⁸ The loud explosion damaged his mother's eardrum and caused hearing loss.⁴²⁹ **Iftikar Abdoh Mohammed**, a ten-year-old girl who lived in the house, was also hit in the head by shrapnel and sustained minor injury.⁴³⁰

The explosions also caused severe shrapnel injuries to two men, **Jabr Jobran al-Jarraah**, aged 24, and **Abdoh Jobran al-Jarraah**, aged 27, who were sitting outside the house among a group of about 30 individuals watching the only television in the village. They were taken to Al-Helal Hospital in Rada'a where they got first aid and then transferred to Sana'a for further treatment.⁴³¹

Jabr Jobran al-Jarraah was hit by shrapnel in the chin and throat.⁴³² He said: "Why did they attack us? What was our fault? We were all civilians. None of us in the village belonged to any armed organization. We reject all armed organizations of any kind in order to keep our village safe."⁴³³

Abdoh Jobran al-Jarraah, who was hit by shrapnel on the left shoulder and left thigh, said: "We are not affiliated to any armed groups. We are poor farmers. Our sole interest and activity is limited to our search for livelihood. Was this the reason for America to attack us?"⁴³⁴

According to some of the villagers, there were two unknown passers-by in the village at the time of the strike, whose motorcycle was overturned by the blast and who suffered minor injuries.⁴³⁵ Some survivors speculate that the motorcycle was the target of the strike. Jabr Jobran al-Jarraah, asked: "If this was true, why didn't the aircraft hit the motorcycle somewhere away from our place, which was then crowded with civilians? The road is long and not inhabited."⁴³⁶

After the attack, many of the villagers decided to flee, and stayed outside the village for three months, forced to abandon their farms, their only source of livelihood, for this duration.⁴³⁷ Their farms were ruined in their absence and required further investments to be rehabilitated.⁴³⁸ No investigation is known to have been conducted with respect to this incident, and no one was compensated for this attack.⁴³⁹

The villagers continue to live in fear of another attack and suffer psychological distress. Abdoh Mohammed al-Jarraah, the owner of the house that was attacked, said he constantly feels scared and cannot sleep at night and that "everyone feels scared—children, women, men. Everyone thinks they could be the next target."⁴⁴⁰ Musa Ahmed Ali al-Jarraah, the 15 year-old boy who was seriously injured by shrapnel, said: "When I hear aircraft flying in the air, it makes me panic and try to hide in any place. I constantly have nightmares of U.S. aircraft attacking us: such nightmares disturb me while asleep."⁴⁴¹

Another resident, Moqbel Abdullah Ali al-Jarraah, who also witnessed the attack, was full of fear: "This attack has terrorized us. We used to feel safe in our village and never expected to be the target of such an attack. We are poor, have no public services, and do not belong to any party or organization. . . . But fear still haunts everyone, and everyone gets more scared whenever we hear the sound of aircraft flying in the atmosphere. Everyone is afraid, men, women and children."⁴⁴² He added that some of the children have involuntary urination due to fear when they hear the sound of aircraft. These psychological effects are still suffered by people even today, he said.⁴⁴³

Umm Ayesh, another resident of Silat al-Jarraah village, said, "Now, we feel so scared when we hear the sound of aircraft. Upon hearing the sound of aircraft, children enter the house immediately. They have even become afraid of the sound of thunder."⁴⁴⁴

The victims of this incident believe that such strikes are counterproductive in countering terrorism, because the strikes only feed anger against the United

States and the Yemeni government. Moqbel Abdullah Ali al-Jarraah said: "I believe that America is testing its lethal inventions in our poor villages, because [it] cannot afford to do so at any place where human life has value. Here, we are without value."⁴⁴⁵ Mohammed Nasser al-Jarraah, another witness, who fled his village for three months after the strike, said: "Our villages are poor—no education, no hospitals, no roads, nor any services. Of all the progress and advances in the modern world, only these deadly missiles reached us."⁴⁴⁶ Echoing the commonly held view among residents that these strikes are counterproductive, he said: "Such strikes serve no one but al-Qaeda. They only invoke people's indignation of both the Yemeni government and America."⁴⁴⁷



SOME OF THE CHILDREN WHO WERE INSIDE THE HOUSE IN SILAT AL-JARRAAH VILLAGE WHEN THE HOUSE WAS ATTACKED ON JANUARY 23, 2013. THE HOLE IN THE WALL BEHIND THEM WAS CAUSED BY THE ATTACK.

CASE STUDY 7

DATE OF STRIKE

JANUARY 23, 2013

LOCATION OF STRIKE

**STRIKE NEAR
AL-MASNA'AH VILLAGE,
SANA'A GOVERNORATE**

RESULTING CASUALTIES

TWO CIVILIANS KILLED

THE CHILDREN OF ALI SALEH AL-QAWELI, THE YOUNGEST
HOLDING A PHOTOGRAPH OF THEIR FATHER, WHO WAS KILLED
IN A U.S. DRONE STRIKE ON JANUARY 23, 2013.



الأستاذ/عقيل عيسى ناصر الطاويش

عضو المجلس البلدي - مناصب - مناصب - مناصب

In this incident, two civilians were killed when a U.S. drone struck their car after Rabei' Lahib and Naji Sa'd, alleged AQAP operatives, hitched a ride with them. Yemeni government documents confirm that the two civilians were innocent. While the strike was reportedly directed at Lahib and Sa'd, there are questions about whether they could have been arrested instead of being killed. The victims' families knew of no investigation into this incident, and no compensation issued. They believe that such attacks are counterproductive and only generate outrage directed at the United States. Local residents continue to live in fear of future attacks.

On January 23, 2013, a U.S. missile struck a car near al-Masna'ah village on a dirt road between Jahana District and Sanhan District, a tribal area south of Sana'a. News reports cited Yemeni officials stating that the strike was conducted by a U.S. drone.⁴⁴⁸

Ali Saleh al-Qaweli, a 32 year-old school teacher, and **Saleem Hussein al-Qaweli**, a 27 year-old university student, both residents of Qawal village, were killed in the attack.⁴⁴⁹ Soon after the attack, at the request of their relatives, the Yemeni Interior Ministry issued a document which states that the two men were innocent, and were not linked to any terror organization.⁴⁵⁰ Rabei' Lahib and Naji Sa'd, alleged AQAP operatives, were also killed in the attack. It appears that there may have been about 4 or 5 additional passengers in the car, who were also killed but whose identities could not be verified.

Relatives of Ali Saleh al-Qaweli and Saleem Hussein al-Qaweli confirmed that the two men had gone to the Jahana marketplace on January 23, 2013, to buy qat and attend a qat session with their friends.⁴⁵¹ Saleem was approached there by six people who requested a ride to their village in the nearby Sanhan

District.⁴⁵² Saleem agreed and asked Ali to join him. Between 7:30 and 8 p.m., when they were on their way to Sanhan, and passing al-Masna'ah village, a U.S. aircraft attacked their car with four missiles.⁴⁵³ Local people in the vicinity of the attack heard four loud explosions.⁴⁵⁴

According to news reports, Rabei' Lahib and Naji Sa'd, alleged AQAP operatives, were the likely targets of the attack.⁴⁵⁵ Lahib had reportedly survived a drone strike two months previous to this incident.⁴⁵⁶ Swedish journalists who visited the scene in February 2013, relying on experts from the Stockholm International Peace Research Institute, identified the remnants of a Hellfire missile, the type commonly fired by U.S. drones.⁴⁵⁷ A munitions expert examined the images of missile remnants and confirmed that these remnants are consistent with those of a Hellfire missile.⁴⁵⁸

Soon after the strike, Ali's brother, Mohammad Ali al-Qaweli, who is a consultant at Yemen's Ministry of Education, received a call from a friend in Merhan village informing him of the aerial strike of a double-cab Hilux. The description of the car matched that of the car Saleem was driving, so after making some initial inquiries, Mohammed set out, reaching the site of the incident by around 9 p.m. the same night. He said:

The scene was awful and we could smell death. Body parts were scattered around, the car was ablaze, trees were broken, and the smell of charred flesh all around. We found the skull of one of them about 150 meters away from the car; the remains of the dead were scattered all around. There were 4 holes, about 1 meter wide and ½ meter deep. The remainders of the missiles were stuck inside those holes.⁴⁵⁹

Mohammed added that when he arrived on the scene, he saw officers from the Criminal Investigative Department trying to take the car's number plate. They did not try to extinguish the car or care for the dead bodies and the scattered remains; they just took down the plate number and left. The aircraft was still flying above, so no one dared to approach the car, he said.⁴⁶⁰

Mohammed and other locals who had gathered there collected the remains of the bodies in six bags and took them to the Jahana Public Hospital in order to arrange for a burial the next day. Mohammed recognized his brother Ali by his teeth. They recognized the body of the driver, Saleem, by remnants of his trousers.⁴⁶¹

The next morning, the victims' relatives and other residents of Qawal village went to the hospital to receive the bodies for burial, but were informed that the governor of Sana'a had ordered the bodies transferred to the military hospital in Sana'a for post-mortem. They contacted the governor and the military hospital, who refused to hand over the body parts, claiming that there were security directives preventing them from doing so. It was only after the residents of Qawal village blocked the Jahana-Marib highway in protest that the government sent mediators and released the bodies of Ali and Saleem.⁴⁶²

The drone strike occurred when the car was about 500 meters away from a military checkpoint, raising the question of why the passengers in the car could not have been arrested instead of being killed.⁴⁶³

It has been reported that the drone strike intended to target Rabei' Lahib and Naji Sa'd.⁴⁶⁴ However, the brother of Rabei' Lahib, while denying that Lahib was part of al-Qaeda or any armed organization, said: "My brother Rabei' was available and could have been summoned to any police station or any court or any other agency. He would have attended and would have proven his innocence against any charges. But the American officials decided to convict and kill him without any legal process. . . .When Rabei' was killed, he was only a few meters away from the military checkpoint: why didn't they arrest him if there was any charge against him?"⁴⁶⁵

Similarly, Naji Sa'd's brother said that Sa'd was not affiliated with al-Qaeda, but was a soldier in the army, and a bodyguard of a senior leader in the army, Ali Mohsen al-Ahmar. Naji's brother asked: "Why didn't the state arrest [Naji] or summon him through the military headquarters he was affiliated to if he were [an al-Qaeda member?]"⁴⁶⁶

The *Washington Post* also notes that Lahib and Sa'd were "hardly fugitives," and states "why they were not detained is unclear."⁴⁶⁷ According to local residents, Lahib, a local councilman and an active supporter of al-Qaeda, and Sa'd, a powerful general's bodyguard, were well-known members of former President Saleh's tribe and residents of his hometown.⁴⁶⁸ They passed regularly through checkpoints, including on the night on which they were killed.⁴⁶⁹ The *Post* noted that some in their community believed that they had become drone targets because they had turned against Saleh in the 2011 uprising.⁴⁷⁰

Ali Saleh al-Qaweli's brother described the effect of Ali's death on his family: "My brother, Ali, left behind two sons and a daughter. They have lost their father

in a terrible way. We do not know how to explain to them what happened to their father. Our lives have changed since the day of the incident. The life of the entire family has been affected. I haven't gone back to my work in the police since then. My other brother has dedicated all his time to follow up the case so as to hold the culprits accountable....⁴⁷¹

Saleem Hussein al-Qaweli's father said: "Our lives have ended with the murder of our son. His murder has turned our life upside down, and affected it morally and materially. . . . Saleem used to sustain all of us, his seven siblings, his grandmother and grandfather, and his mother and I. [His brother] Mohammed is trying to carry through this task, but we are always afraid that he might get killed just as his brother was killed without a reason."⁴⁷²

Despite the losses suffered, the victims' families know of no investigation into this incident, and no compensation has been issued.⁴⁷³ Since the incident, villagers have been extremely fearful of another attack. Ali Saleh al-Qaweli's brother said: "People have now become scared at the passage of any aircraft, and drivers refuse to take passengers to neighboring villages. People are filled with fear."⁴⁷⁴

Saleem Hussein al-Qaweli's cousin, who owned the car that was attacked, said: "Since the incident, we have been very apprehensive about what might happen to us. We are the vulnerable victims of an immoral, unwarranted war."⁴⁷⁵ He added: "America bears responsibility for what had happened because our government is weak and America is the one that carries out these attacks with its aircraft and arms. It is as if America wants to tell people in our villages and areas that it is killing them because they are Muslims."⁴⁷⁶

One brother of Ali Saleh al-Qaweli said: "These random operations will not secure Yemen or America, but will aggravate the situation instead and generate anti-America sentiments among people in a wide scale."⁴⁷⁷ His other brother said: "These strikes targeting innocent people do not serve Yemen and America. They only incite larger numbers of people to hate America, and confirm that America does not target militants who pose a threat to its security, but attacks the innocents..."⁴⁷⁸

CASE STUDY 8

DATE OF STRIKE

SEPTEMBER 2, 2012

LOCATION OF STRIKE

**STRIKE IN WALAD RABEI'
DISTRICT, AL-BAIDHA
GOVERNORATE**

RESULTING CASUALTIES

**12 CIVILIANS
(INCLUDING THREE
CHILDREN AND A
PREGNANT WOMAN)
KILLED AND TWO
CIVILIANS INJURED**

A POSTER SHOWING 17 YEAR-OLD SADDAM HUSSEIN, ONE OF THE 12 CIVILIANS
KILLED IN THE STRIKE IN WALAD RABEI' DISTRICT. THE PRINTED TEXT READS:
"THE MARTYR SADDAM AL-SABOOLI, MARTYRED ON AL-SABOOL ROAD IN A STRIKE ON SUNDAY,
SEPTEMBER 2, 2012." THE HANDWRITTEN TEXT ADDS: "AT THE HAND OF AMERICA."

الشهيد اصدام الصبولى



عليه الصلاة والسلام

توفي في خط الصبول بغاره جويه

يوم الاحد الموافق 2012/9/2م

In this incident, a U.S. drone killed twelve civilians (including three children and a pregnant woman) and injured two civilians when a missile struck their truck while they were driving home after selling their wares in the market that day. No alleged militants were killed in this attack. The large number of civilians killed in this incident raises especially serious questions about the extent to which the United States is complying with international law. The victims and their families knew of no investigation into this case. While the Yemeni government paid compensation in 2014 to the families of individuals killed and injured in this attack, at least one of the victims' families viewed the amount as insufficient. Local residents live in constant fear of future attacks. The victims' families believe that these attacks are counterproductive and only serve to strengthen al-Qaeda.

On the afternoon of September 2, 2012, between 4 and 4:30 p.m., a U.S. missile struck a truck at a junction on the main road to Walad Rabei' District, about 15 kilometers from Rada'a city, in al-Baidha Governorate.

The truck was carrying 14 passengers. Twelve of them, including **Rasilah Ali al-Faqih**, who was pregnant at the time, and her 10 year-old daughter, **Dawlah Nasser Salah**, were from the village of al-Sabool, about 20 kilometers from Rada'a city; and the two others, including one child, were from the village of al-Humaidhah. Rasilah had been sick, so her husband, Nasser Salah, had taken her and her daughter Dawlah to Rada'a city for treatment that day.⁴⁷⁹ The remaining adult male passengers were qat sellers who were returning home after selling qat and buying other household supplies like flour and sugar in the market that day.⁴⁸⁰

Residents of al-Sabool village said that drones had been flying over the region on a daily basis since late May 2012. They described the drones as mosquito-shaped, with a nose similar to that of a falcon and wings further back in the rear. They said the drones came in two colors—white and black. Ali Mohammed el-Maati, director general of Walad Rabei' District, confirmed that the aircraft that conducted the attack on September 2, 2012 was a drone.⁴⁸¹

The strike killed 11 individuals—including the pregnant Rasilah Ali al-Faqih and her 10-year-old daughter, Dawlah Nasser Salah; and two other children, **Mabrouk Moqbel Ali Salah** (age 15) and **Saddam Hussein** (age 17)—on the spot.⁴⁸² Others who died on the spot include **Massoud Ali Moqbel** (age 45), **Ismail Mabkhout** (age 25), **Abdulghani Ahmed Mabkhout** (age 18), **Nasser Salah** (age 45), **Abdullah Ahmed Abdraboo** (age 27), **Abdullah Mohammed Mohammed** (age 23), and **Jamal Mohammed Obad**. A twelfth victim, **Mohammed Abdo Jarallah**, succumbed to his injuries three weeks later in Cairo, Egypt, where he had been taken for treatment. Two other civilians—**Nasser Mabkhout** (the driver, himself a qat vendor) and **Sultan Ahmed Mohammed Sarhan**—were severely burned in the attack.

Nasser Mabkhout, who was driving the truck when the drone attacked it, described the incident:

On Sunday, September 2, 2012, we were on our way back from Rada'a market, and we heard an aircraft flying in the air. We thought that it was just flying as usual. . . . 10 minutes before the explosion, we noticed that the sound of aircraft got louder. The sound became very loud. Before we arrived at the junction that leads to the unpaved road of the village, two aircraft approached the front of the car, one white and the other black, as far as I can remember. They approached us more closely, and we started to exchange humor that they would attack us, and we laughed. Our laughter was cut off by two shells. The first fell directly behind the car less than two meters away, and the second I don't know where it fell. There were only seconds between the first and second strikes. It was the black aircraft that fired the shells. I saw a big explosion immediately after the aircraft launched the shells...I saw the dead bodies scattered in and around the car, some of them beheaded. I couldn't differentiate between the bodies of the dead. Sugar, rice and wheat flour were strewn all over their bodies. The car was burning.⁴⁸³

There is no indication that any of the individuals killed in the attack were anything other than innocent civilians. Nasser said no one from al-Qaeda or any other militant group was around or near the car when the strike happened.⁴⁸⁴ He escaped from the car while it was still burning. He said that a dozen cars passed by, but refused to stop, likely fearing the aircraft that were still flying overhead.⁴⁸⁵ He added: "Those inside the car were all civilians, but such aircrafts are blind and do not discriminate. These are stupid aircrafts; else they would not have killed those innocent people in this hideous way. The car's load, the victim's clothes, and women and children who were inside the car show that they were civilians. The U.S. aircrafts attacked them, though."⁴⁸⁶

The uncle of Mohammed Abdo Jarrallah, who was killed by the attack, said: "We were all shocked by the incident. A group of qat vendors and farmers, including a woman and child, who had nothing to do with any [militant] group were killed. Everyone in the area knew them, and so did everyone in Rada'a market. They were coming home carrying home necessities and food for their families. Why did America kill them? What was their crime? Was it their fault that they were poor and they were from a poor and remote village? What is the crime of the victims' children so that they lose their breadwinner in this horrible way?"⁴⁸⁷

Yemeni government officials initially said that its jets had carried out the attack.⁴⁸⁸ But according to the *Washington Post*, U.S. officials in Washington D.C. speaking on condition of anonymity said in December 2012 that it was a Defense Department aircraft, "either a drone or a fixed-wing warplane," that fired on the vehicle.⁴⁸⁹ Moreover, although the Yemeni government initially said that those killed were al-Qaeda militants, Yemeni officials and tribal officials later admitted that all the victims were civilians.⁴⁹⁰

According to initial news reports following the incident, the strike was intended to target Abdulraouf al-Dahab, an alleged local al-Qaeda leader from the village of al-Manasseh, about 35 kilometers from Rada'a city, but failed to kill him because it was based on faulty intelligence that the truck's passengers were al-Qaeda members.⁴⁹¹ Abdulraouf al-Dahab was the brother of Tareq al-Dahab, who reportedly led Islamic militants to seize the town of Rada'a in January 2012, only to withdraw from the town about eleven days later in exchange for the formation of a council to govern it and the release of several jailed fellow militants.⁴⁹² Following those events, Rada'a and its surrounding region became subject to drone strikes, including the one at issue here.

No ambulances came after the September 2 strike to collect the victims. Indeed, such services are rare in Yemen. Instead, the victims' friends and families came to find them. They found a burning car, charred bodies, and a big hole in the ground that had been caused by the attack.⁴⁹³ They carried the charred bodies to nearby hospitals in private cars, only to be stopped for about an hour at an army checkpoint at the northern entrance of Rada'a city. Although they were allowed into the city, several private hospitals as well as the only public hospital in Rada'a city refused to admit the injured and dead bodies, citing a lack of capacity. After several attempts, Rada'a Model Hospital accepted the injured and provided first aid to them before transferring them to Sana'a.⁴⁹⁴

But no hospital would accept the dead bodies, prompting the victims' families to put the bodies out on the main road of Rada'a city and block the road until the evening of September 3, when Sanan Jeron, the local deputy governor, gave instructions to transfer the bodies to Thamar General Hospital. It was only then that the dead bodies could be buried.⁴⁹⁵ Eleven of the bodies were buried in a cemetery opposite Thamar General Hospital.⁴⁹⁶ As of May 2013, the corpse of Mohammed Abdo Jarallah was still in the mortuary of the Science and Technology University in Cairo due to his family's inability to pay mortuary charges.⁴⁹⁷

Many of the victims' families lost their breadwinners. Mohammed Abdo Jarallah, who was killed in the attack, supported a family of 25.⁴⁹⁸ Massoud Ali Moqbel, who was also killed in the strike, had four sons and five daughters, all of whom were forced to leave school and go to work in their father's farm after his death.⁴⁹⁹ Umm Moosa, the wife of Massoud Ali, said: "All my kids are still children. The eldest is 12 years old. For a whole week, my child kept asking, 'Where is my father?' and we told him that his father had gone to God. Moreover, my mother-in-law has been sick since her son's death."⁵⁰⁰

The victims and their families know of no investigation into this incident.⁵⁰¹ A few days after the attack, the Yemeni government resorted to tribal arbitration, giving one million Yemeni riyals (approximately US \$4,654) in burial expenses to each victim's family. The government also presented a total of 101 Kalashnikovs in arbitration to the victims' families. According to a few of the victims' families, President Hadi expressed his condolences in the media and declared the dead as martyrs. Although Hadi initially said there would be an investigation,⁵⁰² the victims and their families said that no such investigation took place.



NASSER MABKHOUT, DISPLAYING THE BURNS HE SUSTAINED IN THE SEPTEMBER 2, 2012 DRONE ATTACK ON HIS TRUCK IN WALAD RABEI' DISTRICT, IN WHICH 12 CIVILIANS DIED, INCLUDING THREE CHILDREN.

It appears additional compensation was eventually paid to the families of victims.⁵⁰³ According to Nasser Ahmed Abdorabo, whose brother was killed in the strike, in August 2014—nearly two years after the incident—the victims' families received 7 million riyals (approximately US \$32,578) for each family member killed, and 3 million riyals (approximately US \$13,962) for each family member injured.⁵⁰⁴ Nasser viewed these amounts as insufficient in light of the magnitude of the loss.⁵⁰⁵

Since the attack, there is an atmosphere of intense fear in the village. An uncle of one of the deceased said: "Since the incident, my family and I as well as the villagers live in constant fear. The horror increases with the constant over-flights of the U.S. aircrafts. We go to our farms in fear, our children are afraid to go to school, and at bedtime, women remain in constant fear."⁵⁰⁶ Another victim's relative said: "After this incident, which destroyed a number of families by killing their breadwinners, we live in constant fear. There is no assurance that we would not be the next targets, just as our innocent relatives were."⁵⁰⁷

Many of the victims' relatives blamed the Yemeni and U.S. governments and said that such strikes would drive the entire population of the region to fight against the Yemeni government and the U.S.⁵⁰⁸ One relative said: "These operations serve neither Yemen nor America, but they serve the groups that oppose the governments of Yemen and America, such as al-Qaeda."⁵⁰⁹ The brother of one of the men who was killed in the attack said: "The U.S. government should come to the region to see what targets it has hit. All of them were innocent and poor people who had nothing to do with any terrorist group. We had hoped that America would come to the region with educational and development projects and services, but it came instead with aircrafts to kill our children."⁵¹⁰

Nasser Mabkhout, displaying the burns he sustained in the September 2, 2012 drone attack on his truck in Walad Rabei' District, in which 12 civilians died, including three children.

A poster showing 17 year-old Saddam Hussein, one of the 12 civilians killed in the strike in Walad Rabei' District. The printed text reads: "The martyr Saddam al-Sabooli, martyred on al-Sabool road in a strike on Sunday, September 2, 2012." The handwritten text adds: "At the hand of America."

CASE STUDY 9

DATE OF STRIKE

MAY 17, 2012

LOCATION OF STRIKE

**STRIKE IN
AL-MASEELAH VILLAGE,
SEIYOUN, HADRAMOUT
GOVERNORATE**

RESULTING CASUALTIES

ONE CIVILIAN KILLED

BURNED REMNANTS OF A CAR ATTACKED ON MAY 17, 2012
IN AL-MASEELAH VILLAGE, SEIYOUN, KILLING A 33 YEAR-OLD CIVILIAN.



On May 17, 2012, one civilian was killed in a U.S. drone strike reportedly intended to target an alleged militant. Yemeni government documents confirm that the dead civilian, **Moteei Mohsin Bel-Ala**, was innocent. The victim's family knew of no investigation into this case. Nor has compensation been provided.

On or about May 17, 2012, two or three individuals were killed in an airstrike on a road in al-Maseelah village in Hadramout Governorate in eastern Yemen. One of those killed in the strike was a nearby innocent civilian: a 33-year-old man, Moteei Mohsin Bel-Ala, a car dealer from the village of Wadi Hashoosh in Shepam District, who happened to be close to the car that was targeted.

Yemeni government documents confirm that Moteei was a civilian.⁵¹¹ A letter dated November 25, 2013 from the head of the local council of Shepam District to the undersecretary of Hadramout Governorate states that Moteei was killed by a drone while he was coming from a place called Bohaira, and that he was accidentally killed with one of the suspects. The letter was issued in response to a request from Moteei's family, who thought such a letter would assist in their obtaining compensation for their loss. They did not, however, receive any compensation.

Another letter dated July 28, 2014 from the governor of Hadramout Governorate to the leader of the first military region states that Moteei Mohsin Bel-Ala was a civilian who was killed by mistake. This letter too was issued in response to a request from Moteei's family, in relation to their quest for compensation for their loss. According to Abdullah Makaram, a Yemeni journalist and editor of the Seiyoun press website, who investigated this incident, Moteei was a civilian who was on his way home and happened to be close to a car that was hit in a drone strike.⁵¹²

Moteei's uncle, Hakim Saleh Salem bin Shaaban, said that Moteei was on his way home when a drone hit a 2010 Toyota Hilux owned by a man called Bin Talib, who was rumored to be an al-Qaeda member.⁵¹³ Hakim Saleh did not know whether Moteei was inside the car or next to it.⁵¹⁴ He received phone calls around 10 p.m. from his relatives, and immediately rushed to the location of the strike in al-Maseelah.⁵¹⁵

He said: "When we got there, the car was ablaze and body parts were scattered around all over the place. I found his amputated head 20 meters away from the car: the features of Moteei's head were not affected very much and so we were able to recognize it. The other person who is said to be al-Qaeda member was Obaid Saleh bin Talib. We were shocked and unable to believe what we were looking at. Some of the people who had gathered around the car informed us that they had seen a drone fire three missiles at the car. Actually, there were three close pits in that place."⁵¹⁶

At about 6 a.m. the next day, police officers came to take a look at the scene, and went away without doing anything.⁵¹⁷ Hakim Saleh and other locals at the scene extinguished the burning car, picked up the body parts, and then buried them in al-Hota Cemetery.⁵¹⁸

According to a news report, the Defense Ministry said two of the dead were local AQAP leaders, Zeid bin Taleb and Mutii Bilalafi.⁵¹⁹ However, the research for this report found no credible information to indicate that Moteei was associated with any terrorist group. To the contrary, his uncle Hakem Saleh said, "Nobody told us why Moteei was killed. He was a person known to work as a car dealer and had no link with any party or organization. He was a peaceful person and everyone knows that. If anyone wanted to arrest him, he was very much available and unarmed."⁵²⁰ As noted above, Yemeni government documents confirm that Moteei was a civilian.

Moteei's 27-year-old wife was told that morning by her uncle that her husband had died in an attack by an American aircraft.⁵²¹ She did not see Moteei after his death—neither she, nor his mother were allowed to see the body.⁵²² She added, "My son creates a lot of heartache for me. He keeps asking, "Where is my father?"⁵²³

As the eldest son in the family, Moteei used to support the extended family in addition to supporting his wife and his two young children—a six year-old boy and a nine year-old girl. His family lost its breadwinner.⁵²⁴ However, Moteei's family is unaware of any investigation into this incident and no compensation has been issued.⁵²⁵

Hakim Saleh said: "We demand justice. We want to know why they have killed Moteei. We want the culprits to be held accountable for what they did. People's lives are not so cheap these criminals can toy with us in this way. Where then is the law and where are human rights?"⁵²⁶



SECTION V

EFFECTIVENESS OF U.S. TARGETED KILLINGS IN YEMEN

“Such strikes will not make Yemen
or America safer.”

In 2012, John Brennan, then-Assistant to the President for Homeland Security and Counterterrorism, said: "Targeted strikes are wise."⁵²⁷ He later added that "contrary to conventional wisdom," there is "little evidence that [U.S. direct action in Yemen is] . . . generating widespread anti-American sentiment or recruits for AQAP."⁵²⁸ Brennan asserted that "Yemeni partners are more eager to work with [the United States]" and "Yemeni citizens who have been freed from the hellish grip of AQAP are more eager, not less, to work with the Yemeni government. In short, targeted strikes against the most senior and most dangerous AQAP terrorists are not the problem, they are part of the solution."⁵²⁹

In contrast, General James E. Cartwright (Ret.), former vice chairman of the Joint Chiefs of Staff and a former adviser to President Obama, expressed concern that the aggressive campaign of U.S. drone strikes could be counterproductive in combating terrorism: "We're seeing that blowback...If you're trying to kill your way to a solution, no matter how precise you are, you're going to upset people even if they're not targeted."⁵³⁰

In addition, General Stanley McChrystal (Ret.), who led coalition forces in Afghanistan and was the head of the U.S. Joint Special Operations Command, has stated that drone strikes create "a perception of arrogance... a perception of helpless people in an area being shot at like thunderbolts from the sky by an entity that is acting as though they have omniscience and omnipotence."⁵³¹ General McChrystal acknowledged that "a tremendous amount of resentment inside populations" can be created, "not [just among] the people that are themselves being targeted, but around, because of the way it appears and feels."⁵³² General McChrystal has also observed that "[t]he resentment created by American use of unmanned strikes . . . is much greater than the average American appreciates. They are hated on a visceral level, even by people who've never seen one or seen the effects of one."⁵³³

The case studies in this report support the observations of General Cartwright and General McChrystal. Bereaved family members interviewed for this report believed that the U.S. has no concern for innocent civilians it kills in Yemen. Yaslem Saeed bin Ishaq, whose son was killed in an August 1, 2013 strike said: "They just kill. They do not know what havoc their missiles have caused. They are unaware of the suffering they create for our families."⁵³⁴ The brother of one of the men killed in a September 2, 2012 attack in which only civilians were killed, said: "The U.S. government should come to the region to see what targets it has hit. All of them were innocent and poor people who had nothing

to do with any terrorist group. We had hoped that America would come to the region with educational and development projects and services, but it came instead with aircrafts to kill our children."⁵³⁵

Interviewees believed that their lives were of little value to the U.S. Moqbel Abdullah Ali al-Jarraah, a villager from Silat al-Jarraah, where a January 23, 2013 U.S. airstrike struck a civilian house, said: "I believe that America is testing its lethal inventions in our poor villages, because [it] cannot afford to do so at any place where human life has value. Here, we are without value."⁵³⁶

Local residents, survivors and witnesses of U.S. airstrikes interviewed for this report said that these strikes are counterproductive and make neither Yemen nor the United States safer. They blamed both the Yemeni government and the U.S. for the strikes. They said that such strikes would not solve the terrorism problem, but would only strengthen al-Qaeda by generating outrage and a desire for revenge against the U.S. and Yemeni governments.

Consistent with the interviews documented here, Gregory Johnsen, an expert on Yemen, has observed that despite years of U.S. airstrikes in Yemen, AQAP has continued to grow and gain new members.⁵³⁷ He has said: "The men the U.S. is killing in Yemen are tied to . . . local society. The United States can target and kill someone as a terrorist, only to have Yemenis take up arms to defend him as a tribesman."⁵³⁸

The case studies documented in this report show that the outrage and desire for revenge are acute when civilians are killed or injured by U.S. airstrikes. As Farea al-Muslimi, a prominent Yemeni journalist testified before a subcommittee of the U.S. Senate Judiciary Committee: "Every time an innocent civilian is killed or maimed by a U.S. drone strike or another targeted killing, it is felt by Yemenis across the country. These strikes often cause animosity towards the United States and create a backlash that undermines the national security goals of the United States."⁵³⁹

Conclusion

“*We want the perpetrators of this crime to be held accountable for what they have done.*”

Despite pervasive government secrecy, the case studies documented in this report provide credible evidence that U.S. drone strikes have killed and injured civilians in Yemen. They cast doubt on the U.S. and Yemeni governments' claims about the precision of drone strikes, while raising serious questions about the extent to which the U.S. is complying with international law. They also cast doubt on the extent to which the U.S. is complying with its own policy guidance, including the “near-certainty” standard set forth by President Obama in his May 2013 National Defense University speech.

More generally, this report provides insight into the devastating loss endured by innocent victims of U.S. airstrikes. This loss is real and it is ongoing. But the world rarely hears the accounts of victims, due to government secrecy associated with these strikes. And because they remain unheard, civilian victims have little influence on the U.S. targeted killing program that wreaked havoc with their lives.

It is critical for U.S. and Yemeni authorities to take heed of these accounts. In every incident documented in this report, the victims of U.S. airstrikes said they wanted justice. That the U.S. killed innocent individuals without even acknowledging that it killed them defies basic notions of justice. Unsurprisingly, individuals interviewed for this report believe that the U.S. kills because it can, and without any regard for the value of Yemeni lives.

The testimonies documented in this report also provide insight into the effectiveness of U.S. drone strikes. Victims of the nine U.S. airstrikes blamed both the Yemeni government and the U.S. for their loss. They said that such strikes would not solve the terrorism problem, but would only help al-Qaeda by generating outrage and a desire for revenge directed against the U.S. and Yemeni governments. This is consistent with what General James E. Cartwright (Ret.), former vice chairman of the Joint Chiefs of Staff, said: “We’re seeing that blowback...If you’re trying to kill your way to a solution, no matter how precise you are, you’re going to upset people even if they’re not targeted.”⁵⁴⁰

In February 2013, then-White House counterterrorism chief John Brennan said that the United States “need[s] to acknowledge . . . publicly” mistaken killings “in the interest of transparency”⁵⁴¹ and that “the U.S. Government should make public the overall numbers of civilian deaths resulting from U.S. strikes targeting al-Qa’ida.”⁵⁴² But the U.S. has neither publicly acknowledged mistaken killings nor made the number of civilian deaths public.

The U.S. has an obligation to effectively investigate credible allegations of unlawful civilian casualties and injuries associated with targeted killings in Yemen, and to make appropriate reparations. Given these obligations, it is striking that none of the surviving victims of the nine strikes are aware of any investigation into these incidents. Moreover, there is no formal reparations system in place. In most cases, civilian victims have not been adequately compensated for their losses.

Effective investigations, public acknowledgement, and appropriate reparations by the U.S., Yemen, and other governments participating in U.S. targeted killings are essential elements of a just response to the horrific losses suffered by the civilian victims of U.S. airstrikes in Yemen. The testimonies in this report suggest that these measures may also be essential for mitigating the counterproductive effects of these strikes.

Finally, the findings of this report are relevant beyond the U.S., Yemen, and other governments that participate in U.S. airstrikes. In February 2015, the U.S. released a new policy for the export of U.S.-origin drones, which is part of a broader effort to work with other countries to “shape international standards” for the use of drones while restricting recipient states “to use these systems in accordance with international law.”⁵⁴³ But this report’s findings cast doubt on whether the U.S. is complying with its own policy guidance as well as with international law. Unless the U.S. reforms its own use of drones, there is a danger that other states will adopt problematic aspects of the U.S. model, and civilian casualties akin to those described in this report will proliferate.

Endnotes

- 1 Shuaib Almosawa and Rod Nordland, "U.S. Fears Chaos as Government of Yemen Falls," *New York Times*, Jan. 22, 2015, <http://www.nytimes.com/2015/01/23/world/middleeast/yemen-houthi-crisis-sana.html>.
- 2 See <http://www.thebureauinvestigates.com/2015/01/26/yemen-reported-us-covert-actions-2015/>.
- 3 To the extent that any of the strikes were conducted by conventional aircraft instead of drones, this would not materially alter this report's concerns about the civilian harm associated with these strikes.
- 4 Under international human rights law, an individual may be subjected to lethal force only if it is strictly necessary and proportionate, the individual presents an imminent threat to life, and there is no other means to prevent that threat from materializing. Under international humanitarian law, a party to an armed conflict may use lethal force against civilians directly participating in hostilities only for the duration of such participation or against civilians who have assumed a continuous combat function. Moreover, where there is doubt as to whether a person is targetable, he or she must not be targeted. See Section II of this report.
- 5 Although the term "civilian" has a specific legal meaning under international humanitarian law—where it is used in contrast to the concept of "combatant"—the term "civilian" in this report refers to individuals who may not be targeted with lethal force by the United States, whether under international human rights law or international humanitarian law. Under international human rights law, an individual may be subjected to lethal force only if it is strictly necessary and proportionate, the individual presents an imminent threat to life, and there is no other means to prevent that threat from materializing. Under international humanitarian law, a party to an armed conflict may use lethal force against civilians directly participating in hostilities only for the duration of such participation, or against civilians who have assumed a continuous combat function. Moreover, where there is doubt as to whether a person is targetable, he or she must not be targeted. See Section II of this report. The term "civilian harm" in this report includes deaths and injury, property damage, economic effects such as the loss of income, as well as associated social and psychological effects.
- 6 Scott Shane, "Yemen's Leader Praises U.S. Drone Strikes," *New York Times*, Sep. 29, 2012, <http://www.nytimes.com/2012/09/29/world/middleeast/yemens-leader-president-hadi-praises-us-drone-strikes.html>.
- 7 Transcript of Remarks by John O. Brennan, Assistant to the President for Homeland Security and Counterterrorism, "The Ethics and Efficacy of the President's Counterterrorism Strategy," Apr. 30, 2012, <http://www.wilsoncenter.org/event/the-ethics-and-ethics-us-counterterrorism-strategy> ("It's this surgical precision, the ability, with laser-like focus, to eliminate the cancerous tumor called an al-Qaida terrorist while limiting damage to the tissue around it, that makes this counterterrorism tool so essential.").
- 8 Brian Anderson, "The US Drone War's Unlikely Critic," *Motherboard*, Jan. 22, 2014, <http://motherboard.vice.com/blog/the-us-drone-wars-unlikely-critic>.
- 9 Interview with Yaslem Saeed bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 10 Interview with Moqbel Abdullah Ali al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 11 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, April 24, 2014.
- 12 Interview with Mohammed Nasser al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 13 Interview with Ahmed Ali Ahmed Moqbel, al-Sabool, May 26, 2013.
- 14 "Remarks by the President at the National Defense University," May 23, 2013, <http://www.whitehouse.gov/the-press-office/2013/05/23/remarks-president-national-defense-university>.
- 15 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013, <http://www.whitehouse.gov/the-press-office/2013/05/23/fact-sheet-us-policy-standards-and-procedures-use-force-counterterrorism>.
- 16 Ken Dilanian, "Obama administration eases policy on preventing civilian casualties in Iraq, Syria," Oct. 1, 2014, <http://www.pbs.org/newshour/rundown/civilian-casualty-standard-eased-iraq-syria/>. The White House has stated that this standard was either already in place at the time of the speech, or was to be transitioned into place over time. The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.

-
- 17 John Kerry, "Remarks at Youth Connect: Addis Ababa Featured by BBC's Hardtalk," May 26, 2013, <http://www.state.gov/secretary/remarks/2013/05/210012.htm>.
 - 18 See Aug. 7, 2013 incident, June 9, 2013 incident, January 23, 2013 incident in Silat al-Jarraah village, and September 2, 2012 incident.
 - 19 "Remarks by the President at the National Defense University," May 23, 2013.
 - 20 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.
 - 21 See April 17, 2013 incident and January 23, 2013 incident near al-Masna'ah village.
 - 22 "Remarks by the President at the National Defense University," May 23, 2013. (Emphasis added.) The White House fact sheet states that outside areas of active hostilities, "the United States will use lethal force only against a target that poses a continuing, imminent threat to U.S. persons." The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.
 - 23 See June 9, 2013 incident.
 - 24 Greg Miller, "U.S. drone targets in Yemen raise questions," *Washington Post*, June 2, 2012, http://www.washingtonpost.com/world/national-security/us-drone-targets-in-yemen-raise-questions/2012/06/02/gJQAP0jz9U_story.html; Jeremy Sharp, "Yemen: Background and U.S. Relations," Congressional Research Service, p. 10, Nov. 19, 2014, <http://fpc.state.gov/documents/organization/235011.pdf> (citing "U.S. Expands Yemen Drone Plan," *Wall Street Journal*, Apr. 26, 2012); Scott Shane, "Election Spurred a Move to Codify U.S. Drone Policy," *New York Times*, Nov. 24, 2012, <http://www.nytimes.com/2012/11/25/world/white-house-presses-for-drone-rule-book.html?pagewanted=all>.
 - 25 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.
 - 26 See August 7, 2013 incident and June 9, 2013 incident.
 - 27 See August 1, 2013 incident, April 17, 2013 incident, and January 23, 2013 incident near al Masna'ah village.
 - 28 See August 1, 2013 incident and April 17, 2013 incident.
 - 29 Mark Mazzetti and Scott Shane, "As New Drone Policy Is Weighed, Few Practical Effects Are Seen," *New York Times*, Mar. 21, 2013, <http://www.nytimes.com/2013/03/22/us/influential-ex-aide-to-obama-voices-concern-on-drone-strikes.html?pagewanted=all&r=0>.
 - 30 United States Senate Select Committee on Intelligence Washington, D.C., Open Hearing on the Nomination of John O. Brennan to be Director of the Central Intelligence Agency, Feb. 7, 2013, <http://www.intelligence.senate.gov/130207/transcript.pdf>.
 - 31 U.S. Senate Select Committee on Intelligence, Nomination of John O. Brennan to be the Director of the Central Intelligence Agency, Responses to Post-Hearing Questions, Feb. 16, 2013, <http://www.intelligence.senate.gov/130207/posthearing.pdf>.
 - 32 U.S. Senate Select Committee on Intelligence, Nomination of John O. Brennan to be the Director of the Central Intelligence Agency, Responses to Post-Hearing Questions, Feb. 16, 2013.
 - 33 See Section III.C. of this report.
 - 34 The U.S. Air Force website states that "[t]he MQ-9 Reaper is an armed, multi-mission, medium-altitude, long-endurance remotely piloted aircraft that is employed primarily as an intelligence-collection asset and secondarily against dynamic execution targets. Given its significant loiter time, wide-range sensors, multi-mode communications suite, and precision weapons--it provides a unique capability to perform strike, coordination, and reconnaissance against high-value, fleeting, and time-sensitive targets." U.S. Airforce, "MQ-9 Reaper," Aug. 18, 2010, <http://www.af.mil/AboutUs/FactSheets/Display/tabid/224/Article/104470/mq-9-reaper.aspx>.
 - 35 "NATO User Group for Reapers Established," Oct. 13, 2014, [http://www.uasvision.com/2014/10/13/nato-user-group-for-reapers-established/?utm_source=feedburner&utm_medium=twitter&utm_campaign=Feed:+UasVision+\(UAS+VISION\)#sthash.Yua31Xvj.dpuf](http://www.uasvision.com/2014/10/13/nato-user-group-for-reapers-established/?utm_source=feedburner&utm_medium=twitter&utm_campaign=Feed:+UasVision+(UAS+VISION)#sthash.Yua31Xvj.dpuf).
 - 36 "NATO's MQ-9 Reaper Users Group Meets," <http://drone-rss.com/2015/02/natos-mq-9-reaper-users-group-meets/>.

-
- 37 Pierre Tran, Andrew Chuter and Tom Kington, "NATO Reaper Users Cooperate To Cut Costs," Jan. 25, 2015, <http://www.defensenews.com/story/defense/air-space/isr/2015/01/25/reaper-users-group/22166359/>.
 - 38 Micah Zenko, "The Great Drone Contradiction," *Foreign Policy*, Feb. 19, 2015, <http://foreignpolicy.com/2015/02/19/the-great-drone-contradiction-unmanned-aircraft-systems/>.
 - 39 Defense Security Cooperation Agency News Release, "The Netherlands, MQ-9 Reapers," Feb. 6, 2015, <http://www.dsca.mil/major-arms-sales/netherlands-mq-9-reapers>.
 - 40 "NATO User Group for Reapers Established," Oct. 13, 2014, [http://www.uasvision.com/2014/10/13/nato-user-group-for-reapers-established/?utm_source=feedburner&utm_medium=twitter&utm_campaign=Feed:+UasVision+\(UAS+VISION\)#sthash.Yua31Xvj.dpuf](http://www.uasvision.com/2014/10/13/nato-user-group-for-reapers-established/?utm_source=feedburner&utm_medium=twitter&utm_campaign=Feed:+UasVision+(UAS+VISION)#sthash.Yua31Xvj.dpuf).
 - 41 U.S. Dep't of State, U.S. Export Policy for Military Unmanned Aerial Systems, Feb. 17, 2015, <http://www.state.gov/r/pa/prs/ps/2015/02/237541.htm>.
 - 42 Yemen Profile, BBC, <http://www.bbc.com/news/world-middle-east-14704852>.
 - 43 Yemen Profile, BBC; The World Bank, Yemen Overview, <http://www.worldbank.org/en/country/yemen/overview>.
 - 44 The World Bank, Yemen Overview.
 - 45 The World Bank, Yemen Overview.
 - 46 "Half of Yemenis live below poverty line," Jan. 6, 2014, <http://www.al-monitor.com/pulse/security/2014/01/yemen-poverty-conflict-food-insecurity.html>.
 - 47 Robert Worth, "Yemen, Hailed as Model, Struggles for Stability," *New York Times*, Feb. 18, 2013, <http://www.nytimes.com/2013/02/19/world/middleeast/yemen-hailed-as-a-model-struggles-for-stability.html?pagewanted=all>; Laura Kasinof, "Yemen's President Cedes Authority With Election, but Hopes to Retain Influence," *New York Times*, Feb. 20, 2012, <http://www.nytimes.com/2012/02/21/world/middleeast/saleh-cedes-authority-in-yemen-but-hopes-to-retain-influence.html>.
 - 48 Robert Worth, "Yemen, Hailed as Model, Struggles for Stability," *New York Times*, Feb. 18, 2013; Laura Kasinof, "Yemen's President Cedes Authority With Election, but Hopes to Retain Influence," *New York Times*, Feb. 20, 2012.
 - 49 Laura Kasinof, "Yemen's President Cedes Authority With Election, but Hopes to Retain Influence," *New York Times*, Feb. 20 2012.
 - 50 Jane Ferguson, "Making Sense of Yemen's Feuding Factions," *Al Jazeera*, June 6, 2012, <http://www.aljazeera.com/indepth/features/2012/06/20126511458732202.html>.
 - 51 Jane Ferguson, "Making Sense of Yemen's Feuding Factions," June 6, 2012.
 - 52 Gregory D. Johnsen, *The Last Refuge: Yemen, al-Qaeda, and America's War in Arabia* (2013), p. 235. AQAP has had several predecessors in Yemen since the 1990s. These include a militant group known as Islamic Jihad in Yemen (1990-94) which consisted of fighters who had trained under bin Laden in Afghanistan, the Army of Aden Abyan (1994-98) and al-Qaeda in Yemen (AQY) (1998-2003). See Jonathan Masters and Zachary Laub, "Al-Qaeda in the Arabian Peninsula (AQAP)," Council on Foreign Relations, Aug. 22, 2013, <http://www.cfr.org/yemen/al-qaeda-arabian-peninsula-aqap/p9369>.
 - 53 Gregory Johnsen, "Nothing Says 'Sorry Our Drones Hit Your Wedding Party' Like \$800,000 And Some Guns," *Buzzfeed*, Aug. 7, 2014, <http://www.buzzfeed.com/gregoryjohnsen/wedding-party-drone-strike>. See also Alistair Harris, "Exploiting Grievances: Al-Qaeda in the Arabian Peninsula," Carnegie Endowment for International Peace, May 2010, p. 7, http://carnegieendowment.org/files/exploiting_grievances.pdf.
 - 54 Katherine Zimmerman, "Yemen's Pivotal Moment," Feb. 2014, p. 10, <http://www.criticalthreats.org/yemen/zimmerman-yemens-pivotal-moment-february-12-2014>.
 - 55 Farea al-Muslimi, "In Yemen, kidnapping is a growing business," *Executive*, Mar. 31, 2014, <http://www.executive-magazine.com/opinion/comment/yemen-kidnapping-growing-business>.
 - 56 Gregory D. Johnsen, *The Last Refuge: Yemen, al-Qaeda, and America's War in Arabia*, p. 278; Jonathan Masters and Zachary Laub, "al-Qaeda in the Arabian Peninsula (AQAP)," Council on Foreign Relations, Aug. 22, 2013.
 - 57 Gregory D. Johnsen, *The Last Refuge: Yemen, al-Qaeda, and America's War in Arabia*, p. 279; Jonathan Masters and Zachary Laub, "al-Qaeda in the Arabian Peninsula (AQAP)," Council on Foreign Relations, Aug. 22, 2013.

- 58 Robert Worth and Eric Schmitt, "Qaeda Link Seen in Deadly Blast in Yemen Capital," *New York Times*, May 21, 2012, <http://www.nytimes.com/2012/05/22/world/middleeast/suicide-attack-in-yemen.html>.
- 59 Gregory D. Johnsen, *The Last Refuge: Yemen, al-Qaeda, and America's War in Arabia*, p. 257-259; Yemen Profile, Timeline, BBC, <http://www.bbc.com/news/world-middle-east-14704951>.
- 60 Eric Schmitt, Mark Mazzetti and Rukmini Callimachi, "Disputed Claims Over Qaeda Role in Paris Attacks," *New York Times*, Jan. 14, 2013, <http://www.nytimes.com/2015/01/15/world/europe/al-qaeda-in-the-arabian-peninsula-charlie-hebdo.html>.
- 61 Jane Ferguson, "Making Sense of Feuding Factions," June 6, 2012, <http://www.aljazeera.com/indepth/features/2012/06/20126511458732202.html>.
- 62 Yemen Profile, Timeline, BBC, <http://www.bbc.com/news/world-middle-east-14704951>.
- 63 Shuaib Almosawa and Kareem Fahim, "Car Bombing Kills Dozens at Yemeni Police Academy," *New York Times*, Jan. 7, 2015, <http://www.nytimes.com/2015/01/08/world/middleeast/sana-yemen-car-bomb.html?smid=nytcare-iphone-share&smprod=nytcare-iphone&r=0>.
- 64 Maria Abi-Habib, "Yemen Exposes Difficulties in U.S. Strategy to Combat Extremist Militants," *Wall Street Journal*, Dec. 3, 2014, <http://www.wsj.com/articles/yemen-exposes-difficulties-in-u-s-strategy-to-combat-extremist-militants-1417654170>.
- 65 Shoab Almosawa and Rod Nordland, "U.S. Fears Chaos as Government of Yemen Falls," *New York Times*, Jan. 22, 2015, <http://www.nytimes.com/2015/01/23/world/middleeast/yemen-houthi-crisis-sana.html>.
- 66 Gregory D. Johnsen, *The Last Refuge: Yemen, al-Qaeda, and America's War in Arabia*, p. 179; Jonathan Masters and Zachary Laub, "al-Qaeda in the Arabian Peninsula (AQAP)," Council on Foreign Relations, Aug. 22, 2013.
- 67 Jeremy Scahill, "The Dangerous US Game in Yemen," *The Nation*, Apr. 18, 2011, <http://www.thenation.com/article/159578/dangerous-us-game-yemen?page=0,1>.
- 68 Robert Booth and Ian Black, "WikiLeaks cables: Yemen offered US 'open door' to attack al-Qaida on its soil," *The Guardian*, Dec. 3, 2010, <http://www.theguardian.com/world/2010/dec/03/wikileaks-yemen-us-attack-al-qaeda>; Cable re Brennan-Saleh meeting, Sep. 15, 2009, <http://www.theguardian.com/world/us-embassy-cables-documents/225085>.
- 69 United States Department of State, Press Statement by Philip J. Crowley, Assistant Secretary, Bureau of Public Affairs, "Designations of al-Qa'ida in the Arabian Peninsula (AQAP) and Senior Leaders," Jan. 19, 2010, <http://www.state.gov/r/pa/prs/ps/2010/01/135364.htm>; United States Department of State, "Terrorist Designations of Ansar al-Sharia as an Alias for al-Qaida in the Arabian Peninsula," Oct. 4, 2012, <http://www.state.gov/r/pa/prs/ps/2012/10/198659.htm>.
- 70 Eric Schmitt, "U.S. Teaming with New Yemen Government on Strategy to Combat Al Qaeda," *New York Times*, Feb. 26, 2012, <http://www.nytimes.com/2012/02/27/world/middleeast/us-teaming-with-yemens-new-government-to-combat-al-qaeda.html>.
- 71 Nina M. Serafano, "Security Assistance Reform: 'Section 1206' Background and Issues for Congress," Congressional Research Service, Dec. 8, 2014, p. 6, <http://fas.org/sgp/crs/natsec/RS22855.pdf>.
- 72 The White House, Office of the Press Secretary, Presidential Letter—2012 War Powers Resolution 6-Month Report, June 15, 2012, <http://www.whitehouse.gov/the-press-office/2012/06/15/presidential-letter-2012-war-powers-resolution-6-month-report>. This message was repeated in 2013 and 2014. See The White House, Office of the Press Secretary, "Message to the Congress—Report Consistent with War Powers Resolution," Dec. 13, 2013, <http://www.whitehouse.gov/the-press-office/2013/12/13/message-congress-report-consistent-war-powers-resolution>; Letter from the President—War Powers Resolution, June 12, 2014, <http://www.whitehouse.gov/the-press-office/2014/06/12/letter-president-war-powers-resolution>.
- 73 Transcript of John Brennan's Remarks, "U.S. Policy Toward Yemen," Council on Foreign Relations, Washington D.C., Aug. 8, 2012, <http://www.cfr.org/united-states/us-policy-toward-yemen/p28794>.
- 74 Jeremy Sharp, "Yemen: Background and U.S. Relations," Congressional Research Service, Nov. 19, 2014, p. 10, <http://fpc.state.gov/documents/organization/235011.pdf> (citing "U.S. Expands Yemen Drone Plan," *Wall Street Journal*, Apr. 26, 2012).
- 75 See Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, U.N. Doc. A/HRC/14/24/Add.6, May 28, 2010, para. 9, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>.

- 76 This section does not address *jus ad bellum*, the body of international law regulating when a state may resort to the use of force in the territory of another state. For further discussion of this subject, see Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, U.N. Doc. A/HRC/14/24/Add.6, May 28, 2010, paras. 34-45.
- 77 International Covenant on Civil and Political Rights (ICCPR) (Article 6(1): "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."); American Convention on Human Rights (ACHR) (Article 4(1): "Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life."); African Convention on Human and Peoples' Rights (ACHPR) (Article 4: "Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right."); European Convention on Human Rights and Fundamental Freedoms (ECHR) (Article 2: "1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law. 2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary: (a) in defence of any person from unlawful violence; (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; (c) in action lawfully taken for the purpose of quelling a riot or insurrection.")
- 78 The United States signed the International Covenant on Civil and Political Rights on October 5, 1977 and ratified it on June 8, 1992. Yemen acceded to the International Covenant on Civil and Political Rights on February 9, 1987.
- 79 ICCPR, art. 6.
- 80 See ICCPR, arts. 4(2), 6; U.N. Human Rights Committee, General Comment No. 6: Article 6 (The right to life), April 30, 1982, para. 1. The ACHPR has no derogation clause, thus Article 4 cannot be derogated from. ECHR, Article 15(2) permits "No derogation from Article 2, except in respect of deaths resulting from lawful acts of war."
- 81 U.N. Human Rights Committee, "General Comment 24: Issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under Article 41 of the Covenant," U.N. Doc. CCPR/C/21/Rev.1/Add.6 (Nov. 11, 1994), para. 10 ("And some non-derogable rights, which in any event cannot be reserved because of their status as peremptory norms, are also of this character - the prohibition of torture and arbitrary deprivation of life are examples."); See also Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, UN Doc. A /68/382, (Sep. 13, 2013), para. 30 ("The right against the arbitrary deprivation of life has been described as a rule of customary international law, in addition to a general principle of international law and a rule of *jus cogens*.") http://www.un.org/ga/search/view_doc.asp?symbol=A%2F68%2F382&Submit=Search&Lang=E.
- 82 U.N. Human Rights Committee, General Comment No. 6, HRI/GEN/1/Rev.6 (1982), para. 3; Inter-American Commission of Human Rights, Report on Terrorism and Human Rights, Oct. 22, 2002, OEA/Ser.L/V/II.116, Doc. 5 rev. 1 corr.
- 83 United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990 UN Doc. A/CONF.144/28/Rev.1 at 112 (1990), ("Basic Principles").
- 84 Basic Principles, principle 9. (Emphasis added.)
- 85 Basic Principles, principle 9. (Emphasis added.)
- 86 Basic Principles, principle 5 (a) & (b).
- 87 *McCann v. United Kingdom*, ECtHR, Judgment of 27 September 1995, para. 193.
- 88 *Ergi v. Turkey*, ECtHR, Judgment of 28 July 1998, para. 79. See also *Isayeva v. Russia*, ECtHR, Judgment of 24 February 2005, paras. 181-183; *Gaggio v. Italy*, ECtHR, Judgment of 24 March 2011, para. 209 ("The primary duty on the State to secure the right to life entails, in particular, putting in place an appropriate legal and administrative framework defining the limited circumstances in which law enforcement officials may use force and firearms, in the light of the relevant international standards.")
- 89 *Ergi v. Turkey*, ECtHR, Judgment of 28 July 1998, para. 81.

- 90 Report of the U.N. Special Rapporteur on promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, U.N. Doc. A/HRC/25/59, Feb. 28, 2014, para. 60, <http://justsecurity.org/wp-content/uploads/2014/02/Special-Rapporteur-Rapporteur-Emmerson-Drones-2014.pdf>; see also Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, UN Doc. A /68/382, Sep. 13, 2013, paras 32-39, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>
- 91 Report of the U.N. Special Rapporteur on promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, U.N. doc A/HRC/25/59, Feb. 28, 2014, para. 60.
- 92 "How is the Term 'Armed Conflict' Defined in International Humanitarian Law?," International Committee of the Red Cross (ICRC), Opinion Paper, March 2008, <https://www.icrc.org/eng/assets/files/other/opinion-paper-armed-conflict.pdf>.
- 93 Geneva Conventions I to IV, Common Art. 3; 7 International Tribunal for the Former Yugoslavia, *Prosecutor v. Duško Tadić*, decision on the defence motion for interlocutory appeal on jurisdiction, case No. ICTY-94-1, 2 October 1995, para. 70, <http://www.icty.org/x/cases/tadic/acdec/en/51002.htm>; *Prosecutor v. Duško Tadić*, case No. IT-94-1-T, trial judgment of 7 May 1997, para. 562, <http://www.icty.org/x/cases/tadic/tjug/en/tad-ts70507JT2-e.pdf>; "How is the Term 'Armed Conflict' Defined in International Humanitarian Law?," International Committee of the Red Cross (ICRC), Opinion Paper, March 2008.
- 94 "How is the Term "Armed Conflict" Defined in International Humanitarian Law?," International Committee of the Red Cross (ICRC), Opinion Paper, March 2008.
- 95 See e.g., ICJ, *Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion)* [1996] ICJ rep. 226, para 25 (Nuclear Weapons), <http://www.icj-cij.org/docket/files/95/7495.pdf>; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion)* [2004] I.C.J. Rep. (Wall Opinion) para. 106, <http://www.icj-cij.org/docket/files/131/1671.pdf> ; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, [2005] I.C.J. Rep., para. 216 (Armed Activities), <http://www.icj-cij.org/docket/files/116/10455.pdf> .
- 96 Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 6 U.S.T. 3114, 75 U.N.T.S. 31 (Aug. 12, 1949) ("Geneva Convention I"); Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 6 U.S.T. 3217, 75 U.N.T.S. 85 (Aug. 12, 1949) ("Geneva Convention II"); Geneva Convention (III) Relative to the Treatment of Prisoners of War, 6 U.S.T. 3316, 75 U.N.T.S. 135 (Aug. 12, 1949) ("Geneva Convention III"); Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 6 U.S.T. 3516, 75 U.N.T.S. 287 (Aug. 12, 1949) ("Geneva Convention IV"). Protocol additional to the 1949 Geneva conventions and relating to the protection of victims of international armed conflicts, 1125 U.N.T.S. 3 (June 8, 1977) ("Additional Protocol I"). Protocol additional to the 1949 Geneva conventions and relating to the protection of victims of non-international armed conflicts, 1125 U.N.T.S. 609; 16 I.L.M. 1442 (June 8, 1977) ("Additional Protocol II"). Regulations Respecting the Laws and Customs of War on Land, annex to Hague Convention Respecting the Laws and Customs of War on Land, Oct. 18, 1907, 36 Stat. 2277, 1 Bevans 631 ("Hague Regulations").
- 97 The United States signed and ratified the Geneva Conventions on August 2, 1955 and signed the Additional Protocols on December 12, 1977. See ICRC, "Treaties and States Parties to Such Treaties," http://www.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=US.
- 98 As a signatory to the Additional Protocols, the United States is obligated to refrain from acts that would "defeat the object and purpose" of the treaty. Vienna Convention on the Law of Treaties art. 18, May 23, 1969, 1155 U.N.T.S. 331. Additionally, some parts of both Additional Protocols constitute customary international law, which is also applicable to the United States.
- 99 Yemen signed the Geneva Conventions on July 16, 1970 and the Additional Protocols on April 17, 1990. See ICRC, "Treaties and States Parties to Such Treaties," http://www.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=YE.
- 100 See ICRC, *Customary International Humanitarian Law*, Rule 1, Jean-Marie Henckaerts and Louise Doswald-Beck, (Cambridge University Press: 2009) ("ICRC CIHL") (citing Additional Protocol I, arts. 48, 51(2), 52(2)); Rule 5 ("State practice establishes this rule as a norm of customary international law applicable in international armed conflicts. It also applies to non-international armed conflicts, although practice is ambiguous as to whether members of armed opposition groups are considered members of

- armed forces or civilians.") Rule 7 also states: "The parties of the conflict must at all times distinguish between civilian objects and military objectives. Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects."
- 101 ICRC CIHL, Rule 1. ICRC CIHL Rule 7 also states: "The parties of the conflict must at all times distinguish between civilian objects and military objectives. Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects." See also Statute of the International Criminal Court, art. 8(2)(3)(i) (Noting that "intentionally directing attacks against the civilian population as such, or against individual civilians not taking direct part in hostilities" constitutes a war crime in non-international armed conflicts); International Court of Justice (ICJ), *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, paras. 78-9 (holding that the principle of distinction is one of the "cardinal principles" of IHL and one of the "intransgressible principles of international customary law.")
- 102 ICRC CIHL, Rule 6. See also Additional Protocol II, arts. 4 ("All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices.") and 13(3) ("Civilians shall enjoy the protection afforded by this Part, unless and for such time as they take a direct part in hostilities.")
- 103 Nils Melzer, "Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law," *90 International Review of the Red Cross* 991-1047 (2008), p. 995, <https://www.icrc.org/eng/assets/files/other/irrc-872-reports-documents.pdf>.
- 104 Nils Melzer, "Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law," *90 International Review of the Red Cross* 991-1047 (2008), p. 995.
- 105 Nils Melzer, "Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law," *90 International Review of the Red Cross* 991-1047 (2008), p. 996. To the extent that the U.S. practices signature strikes without sufficient information to determine whether targeted persons are directly participating in hostilities or engaging in a continuous combat function, these strikes are clearly unlawful. See Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, UN Doc. A /68/382, (Sep. 13, 2013), para 72.
- 106 Nils Melzer, "Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law," *90 International Review of the Red Cross* 991-1047 (2008), p. 1037.
- 107 Additional Protocol I, arts. 51(5)(b), 57; ICRC CIHL, Rule 14.
- 108 Additional Protocol I, art. 57 and Additional Protocol II, art. 13(1); ICRC CIHL, Rule 15.
- 109 ICRC CIHL, Rule 16.
- 110 ICRC CIHL, Rule 17.
- 111 ICRC CIHL, Rule 18.
- 112 ICRC CIHL, Rule 19.
- 113 ICRC CIHL, Rule 20.
- 114 ICRC CIHL, Rule 21.
- 115 ICRC CIHL, Rule 22.
- 116 ICRC CIHL, Rule 23.
- 117 ICRC CIHL, Rule 24.
- 118 Nils Melzer, "Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law," *90 International Review of the Red Cross* 991-1047 (2008), p. 1042.
- 119 ICCPR, Article 2(3).
- 120 U.N. Human Rights Committee, "General Comment 31, Nature of the General Legal Obligation Imposed on State Parties to the Covenant," UN Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 15. If the established procedures for investigating extrajudicial killing are inadequate, the state must "pursue investigations through an independent commission of inquiry or similar procedure." UNESCO, *Resolution 1989/65: Effective prevention and investigation of extra-legal, arbitrary and Summary Executions*, principle 11.
- 121 UNESCO, *Resolution 1989/65: Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*, principle 9.

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- 122 The Public Commission to Examine the Maritime Incident of 31 May 2010 Second Report – The Turkel Commission, “Israel’s Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law” (Feb. 2013), p. 134 (“The Turkel Commission Report II”).
- 123 U.N. Human Rights Committee, General Comment 31, para. 15.
- 124 UNESCO, *Resolution 1989/65: Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*, U.N. Doc. E/1989/89 (1989), principle 9. The key criteria for an effective investigation pursuant to resolution 1989/65 are set out in the *Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* (“Minnesota Protocol”), U.N. Doc. E/ST/CSDHA/12, 1991, <http://www1.umn.edu/humanrts/instree/executioninvestigation-91.html>.
- 125 United Nations Basic Principles on the Use of Force in Firearms by Law Enforcement Officials, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, para. 22.
- 126 See U.N. Human Rights Committee, General Comment 31, para 16. See also UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, paras 15 to 23; International Law Commission, Responsibility of States for internationally wrongful acts, annexed to UN General Assembly Resolution 56/83, Articles 31 and 33.
- 127 See U.N. Human Rights Committee, General Comment 31, para 16.
- 128 ICRC CIHL, Rules, 156, 158. This duty to investigate also applies to non-international armed conflicts. The Public Commission to Examine the Maritime Incident of 31 May 2010 Second Report – The Turkel Commission, “Israel’s Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law” (Feb. 2013), p. 80. (“The Turkel Commission Report II”).
- 129 The Turkel Commission Report II, p. 100.
- 130 See Turkel Commission Report II, p. 140-145, 148-49. “The precise content of the general principles may vary according to the specific context and the prevailing conditions, but the fundamental obligation to undertake an investigation effectively cannot be waived. Where needed, a fact-finding assessment must be conducted in a manner that achieves its purpose.” The Turkel Commission Report II, p. 149.
- 131 The Turkel Commission Report II, p. 150.
- 132 The Turkel Commission Report II, p. 145.
- 133 The Turkel Commission Report II, p. 145.
- 134 See generally, Amichai Cohen and Yuval Shany, “Beyond the Grave Breaches Regime: The Duty to Investigate Alleged Violations of International Law Governing Armed Conflicts,” 14 *Yearbook of International Humanitarian Law* 37, 42 (2011).
- 135 Case of *Al Skeini v. The United Kingdom*, ECtHR (GC), Judgement of July 7, 2011, paras. 164-167; *Jaloud v. The Netherlands*, ECtHR (GC), Judgement of Nov. 20, 2014, para. 186.
- 136 The Turkel Commission Report II, p. 149.
- 137 The Turkel Commission Report II, p. 149.
- 138 Remarks by the President at the National Defense University, May 23, 2013, <http://www.whitehouse.gov/the-press-office/2013/05/23/remarks-president-national-defense-university>; “U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities,” http://www.whitehouse.gov/sites/default/files/uploads/2013.05.23_fact_sheet_on_ppg.pdf.
- 139 Geneva Conventions I-IV, art. 1.
- 140 Additional Protocol I, art. 80 (1) (“The High Contracting Parties and the Parties to the conflict shall without delay take all necessary measures for the execution of their obligations under the Conventions and this Protocol.”); ICRC CIHL, Rule 139.
- 141 See Judgement of the International Military Tribunal at Nuremberg, 30 September- 1 October, 1946, I Trial of the Major War Criminals before the International Military Tribunal (1947), 223, <http://www.loc>.

- gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf (“Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced.”)
- 142 Geneva Convention I, art. 49; Geneva Convention II, art. 50; Geneva Convention III, art. 129; Geneva Convention IV, art. 146. Acts amounting to grave breaches are listed in Geneva Convention I, art. 50; Geneva Convention II, art. 51; Geneva Convention III, art. 130; Geneva Convention IV, art. 147.
- 143 ICRC Commentary on Geneva Convention IV, art. 146, <https://www.icrc.org/ihl/COM/380-600168?OpenDocument>.
- 144 Jean S. Pictet ed., *Commentary on the Geneva Conventions of 12 August 1949 for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* vol. I at pp 367-68 (1952); see generally, Amichai Cohen and Yuval Shany, “Beyond the Grave Breaches Regime: The Duty to Investigate Alleged Violations of International Law Governing Armed Conflicts,” 14 *Yearbook of International Humanitarian Law* 37, 42 (2011).
- 145 Additional Protocol I, art. 87(1). The doctrine is also part of customary international law. See ICRC CIHL, Rule 53.
- 146 Additional Protocol I, art. 87(3).
- 147 Additional Protocol I, arts. 57(1), 57(2); ICRC CIHL, Rules 15, 17.
- 148 ICRC CIHL, Rule 150. This is a norm of customary international law applicable in both international and non-international armed conflicts.
- 149 *The Public Committee Against Torture in Israel v. Gov’t of Israel*, Judgement of Dec. 14, 2006, H.C.J. 769/02, para 40. http://elyon1.court.gov.il/Files_ENG/02/690/007/a34/02007690.a34.htm.
- 150 European Parliament resolution of 27 February 2014 on the use of armed drones (2014/2567(RSP)), <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2014-0172&language=EN&ring=P7-RC-2014-0201>.
- 151 Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, U.N. Doc. A/68/389, Sep. 18, 2013, para. 45. <http://justsecurity.org/wp-content/uploads/2013/10/2013EmmersonSpecialRapporteurReportDrones.pdf>.
- 152 Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, U.N. Doc. A/68/389, Sep. 18, 2013, para. 45.
- 153 The term “targeted killing” refers to the intentional and deliberate use of lethal force against a person who has been previously identified. See Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, A/HRC/14/24/Add.6, May 28, 2010, para. 9.
- 154 Jonathan Masters, “Targeted Killings,” May 23, 2013, <http://www.cfr.org/counterterrorism/targeted-killings/p9627>.
- 155 “Legal Adviser Koh’s Speech on the Obama Administration and International Law,” Mar. 25, 2010, Annual Meeting of the American Society of International Law, , <http://www.cfr.org/international-law/legal-adviser-kohs-speech-obama-administration-international-law-march-2010/p22300>. (“What I can say is that it is the considered view of this Administration . . . that U.S. targeting practices, including lethal operations conducted with the use of unmanned aerial vehicles, comply with all applicable law, including the laws of war.”)
- 156 “Remarks by the President at the National Defense University,” May 23, 2013, <http://www.whitehouse.gov/the-press-office/2013/05/23/remarks-president-national-defense-university>. (“Moreover, America’s actions are legal. We were attacked on 9/11. Within a week, Congress overwhelmingly authorized the use of force. Under domestic law, and international law, the United States is at war with al Qaeda, the Taliban, and their associated forces.”) Former administration officials have further elaborated on the concept of associated forces. Jeh Johnson, Speech at Yale Law School: “National security law, lawyers and lawyering in the Obama Administration,” Feb. 22, 2012, <http://www.lawfareblog.com/2012/02/jeh-johnson-speech-at-yale-law-school/>. (“An “associated force,” as we interpret the phrase, has two characteristics to it: (1) an organized, armed group that has entered the fight alongside al Qaeda, and (2) is a co-belligerent with al Qaeda in hostilities against the United States or its coalition partners. In other words, the group must not only be aligned with al Qaeda. It must have also entered the fight against the United States or its coalition partners.”); see also Harold Hongju Koh, “Speech at

- Oxford Union: How to End the Forever War?," May 7, 2013, <http://www.lawfareblog.com/wp-content/uploads/2013/05/2013-5-7-corrected-koh-oxford-union-speech-as-delivered.pdf> ("the U.S. Government has made clear that an 'associated force' must be (1) an organized, armed group that (2) has actually entered the fight alongside al Qaeda against the United States, thereby becoming (3) a co-belligerent with al Qaeda in its hostilities against America.")
- 157 Brennan's Speech on Counterterrorism, April 2012, <http://www.cfr.org/counterterrorism/brennans-speech-counterterrorism-april-2012/p28100> ("The Authorization for Use of Military Force—the AUMF—passed by Congress after the September 11th attacks authorizes the president 'to use all necessary and appropriate force' against those nations, organizations and individuals responsible for 9/11. There is nothing in the AUMF that restricts the use of military force against al-Qa'ida to Afghanistan."); Jeh C. Johnson, General Counsel, Department of Defense, "National Security Law, Lawyers and Lawyering in the Obama administration, Address at Yale Law School," Feb. 22, 2012, <http://www.cfr.org/national-security-and-defense/jeh-johnsons-speech-national-security-law-lawyers-lawyering-obama-administration/p27448> ("Second: in the conflict against al Qaeda and associated forces, the bedrock of the military's domestic legal authority continues to be the Authorization for the Use of Military Force passed by the Congress one week after 9/11"); "Legal Adviser Koh's Speech on the Obama Administration and International Law," Annual Meeting of the American Society of International Law, Mar. 25, 2010, <http://www.cfr.org/international-law/legal-adviser-kohs-speech-obama-administration-international-law-march-2010/p22300> ("In the same way, in all of our operations involving the use of force, including those in the armed conflict with al-Qaeda, the Taliban and associated forces, the Obama Administration is committed by word and deed to conducting ourselves in accordance with all applicable law. . . . As a matter of domestic law, Congress authorized the use of all necessary and appropriate force through the 2001 Authorization for Use of Military Force (AUMF).")
- 158 Authorization for Use of Military Force, Pub. L. No. 107-40, 115 Stat. 224 (2001).
- 159 Brennan's Speech on Counterterrorism, April 2012, <http://www.cfr.org/counterterrorism/brennans-speech-counterterrorism-april-2012/p28100> ("As a matter of international law, the United States is in an armed conflict with al-Qa'ida, the Taliban, and associated forces, in response to the 9/11 attacks, and we may also use force consistent with our inherent right of national self-defense.") "Remarks by the President at the National Defense University," May 23, 2013, <http://www.whitehouse.gov/the-press-office/2013/05/23/remarks-president-national-defense-university> ("Moreover, America's actions are legal. . . . Under domestic law, and international law, the United States is at war with al Qaeda, the Taliban, and their associated forces."); "Legal Adviser Koh's Speech on the Obama Administration and International Law," Annual Meeting of the American Society of International Law, Mar. 25, 2010, <http://www.cfr.org/international-law/legal-adviser-kohs-speech-obama-administration-international-law-march-2010/p22300> ("[T]he United States is in an armed conflict with al-Qaeda, as well as the Taliban and associated forces, in response to the horrific 9/11 attacks, and may use force consistent with its inherent right to self-defense under international law.")
- 160 Brennan's Speech on Counterterrorism, April 2012, <http://www.cfr.org/counterterrorism/brennans-speech-counterterrorism-april-2012/p28100> ("As a matter of international law, the United States is in an armed conflict with al-Qa'ida, the Taliban, and associated forces, in response to the 9/11 attacks, and we may also use force consistent with our inherent right of national self-defense."); "Legal Adviser Koh's Speech on the Obama Administration and International Law," Annual Meeting of the American Society of International Law, Mar. 25, 2010, <http://www.cfr.org/international-law/legal-adviser-kohs-speech-obama-administration-international-law-march-2010/p22300> ("[T]he United States is in an armed conflict with al-Qaeda, as well as the Taliban and associated forces, in response to the horrific 9/11 attacks, and may use force consistent with its inherent right to self-defense under international law.")
- 161 ICRC, "International Humanitarian Law and the challenges of contemporary armed conflicts," document 31IC/11/5.1.2 (Oct. 2011), pp. 10-11, <https://www.icrc.org/eng/assets/files/red-cross-crescent-movement/31st-international-conference/31-int-conference-ihl-challenges-report-11-5-1-2-en.pdf>.
- 162 Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, UN Doc. A/68/382, Sep. 13, 2013, paras. 61-62; Gabor Rona, "Gabor Rona on Targeted Killing: A Response to Michael Lewis," July 30, 2012, <http://opiniojuris.org/2012/07/30/gabor-rona-on-targeted-killing-a-response-to-michael-lewis/>.
- 163 See e.g., Joint letter to President Obama from Civil Society Organizations re Shared Concerns Regarding U.S. Drone Strikes and Targeted Killings, Apr. 11, 2013, <http://www.hrw.org/sites/default/>

- files/related_material/4-11-13_US_LetterToPresidentObamaOnTargetedKillings.pdf (including as signatory Open Society Foundations).
- 164 See Joint letter to President Obama from Civil Society Organizations re Shared Concerns Regarding U.S. Drone Strikes and Targeted Killings, Apr. 11, 2013.
- 165 Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, UN Doc. A /68/382, Sep. 13, 2013, para. 72; Cora Currier and Justin Elliott, "The Drone War Doctrine We Still Know Nothing About," ProPublica, Feb. 26, 2013, <http://www.propublica.org/article/drone-war-doctrine-we-know-nothing-about>. See also Section II.
- 166 See Joint letter to President Obama from Civil Society Organizations re Shared Concerns Regarding U.S. Drone Strikes and Targeted Killings, Apr. 11, 2013.
- 167 See Section II of this report.
- 168 See e.g., Joint letter to President Obama from Civil Society Organizations re Shared Concerns Regarding U.S. Drone Strikes and Targeted Killings, Apr. 11, 2013.
- 169 "Remarks by the President at the National Defense University," May 23, 2013, <http://www.whitehouse.gov/the-press-office/2013/05/23/remarks-president-national-defense-university>.
- 170 John Kerry's Remarks at Youth Connect: Addis Ababa Featured by BBC's Hardtalk, May 26, 2013, <http://www.state.gov/secretary/remarks/2013/05/210012.htm>.
- 171 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013, <http://www.whitehouse.gov/the-press-office/2013/05/23/fact-sheet-us-policy-standards-and-procedures-use-force-counterterrorism>.
- 172 See Ken Dilanian, "Obama administration eases policy on preventing civilian casualties in Iraq, Syria," Oct. 1, 2014, <http://www.pbs.org/newshour/rundown/civilian-casualty-standard-eased-iraq-syria/>.
- 173 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.
- 174 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.
- 175 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.
- 176 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.
- 177 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.
- 178 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.
- 179 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.
- 180 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013.
- 181 Gleider Hernandez, "Obama's Counter-Terrorism Speech: A Turning Point or More of the Same?," May 27, 2013, <http://www.ejiltalk.org/obamas-counter-terrorism-speech-a-turning-point-or-more-of-the-same/> ("It seems that once again the [Presidential Policy] Guidance conflates jus ad bellum with jus in bello"); Joint letter to President Obama from Civil Society Organizations re Shared Concerns Regarding U.S. Drone Strikes and Targeted Killings, Apr. 11, 2013.
- 182 Ryan Goodman and Sarah Knuckey, "What Obama's New Targeted Killing Rules Don't Tell You," Esquire Blog, May 24, 2013, <http://www.esquire.com/blogs/politics/obama-counterterrorism-speech-questions-052413?click=news>.
- 183 Ryan Goodman and Sarah Knuckey, "What Obama's New Targeted Killing Rules Don't Tell You," Esquire Blog, May 24, 2013.

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- 184 The White House, "Fact Sheet: U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities," May 23, 2013. In June 2014, in response to a federal appeals court order, the Obama administration disclosed portions of a Department of Justice memo authorizing the 2011 killing of U.S. citizen Anwar al-Awlaki in Yemen. U.S. Department of Justice, Office of Legal Counsel, "Memorandum for the Attorney General Re: Applicability of Federal Criminal laws and the Constitution to Contemplated Lethal Operations Against Shaykh Anwar al-Aulaqi," July 16, 2010, <http://www.nytimes.com/interactive/2014/06/23/us/23awlaki-memo.html>. See also Charlie Savage, "Court Releases Large Parts of Memo Approving Killing of American in Yemen," *New York Times* June 23, 2014, <http://www.nytimes.com/2014/06/24/us/justice-department-found-it-lawful-to-target-anwar-al-awlaki.html>. The memo addresses the narrow question of the whether it was lawful to target a U.S. citizen, leaving unclear, *inter alia*, what rules apply to non-U.S. citizens, what constitutes a "continued and imminent threat," how "feasibility of capture" is defined, and which groups qualify as an "associated force" of al-Qaeda. Jennifer Daskal, "Reflections on What the Drone Memo Does and Doesn't Say," *Just Security*, June 24, 2014, <http://justsecurity.org/12104/reflections-drone-memo/>.
- 185 Joint Letter to President Obama Re: Shared Concerns Regarding U.S. Drone Strikes and Targeted Killings, Dec. 5, 2013 (including as signatory Open Society Foundations), <http://www.hrw.org/news/2013/12/05/joint-letter-president-obama-drone-strikes-and-targeted-killings>.
- 186 Joint Letter to President Obama Re: Shared Concerns Regarding U.S. Drone Strikes and Targeted Killings, Dec. 5, 2013.
- 187 Joint Letter to President Obama Re: Shared Concerns Regarding U.S. Drone Strikes and Targeted Killings, Dec. 5, 2013.
- 188 U.S. Dep't of State, U.S. Export Policy for Military Unmanned Aerial Systems, Feb. 17, 2015, <http://www.state.gov/r/pa/prs/ps/2015/02/237541.htm>.
- 189 U.S. Dep't of State, U.S. Export Policy for Military Unmanned Aerial Systems, Feb. 17, 2015.
- 190 Sarah Knuckey, "Washington's New Drone Sales Policy Could Export US-Style Drone War," *Just Security*, Feb. 20, 2015, <http://justsecurity.org/20223/washingtons-drone-export-policy-expand-us-style-drone-warfare/>.
- 191 United States Senate Select Committee on Intelligence Washington, D.C., Open Hearing on the Nomination of John O. Brennan to be Director of the Central Intelligence Agency, Feb. 7, 2013, <http://www.intelligence.senate.gov/130207/transcript.pdf>
- 192 U.S. Senate Select Committee on Intelligence, Nomination of John O. Brennan to be the Director of the Central Intelligence Agency, Responses to Post-Hearing Questions, Feb. 16, 2013, <http://www.intelligence.senate.gov/130207/posthearing.pdf>.
- 193 U.S. Senate Select Committee on Intelligence, Nomination of John O. Brennan to be the Director of the Central Intelligence Agency, Responses to Post-Hearing Questions, Feb. 16, 2013.
- 194 As set forth in Section II of this report, for an armed conflict to exist between a state and a non-state armed group, the parties must have a minimal level of organization, and armed hostilities between these parties must be protracted, and reach a minimal level of intensity.
- 195 Ken Dilanian, "Debate grows over proposal for CIA to turn over drones to Pentagon," *Los Angeles Times*, May 11, 2014, <http://www.latimes.com/world/middleeast/la-fg-yemen-drones-20140511-story.html>.
- 196 Jack Serle, "Yemen's 'barely functional' air force points to US involvement in strikes," Mar. 29, 2012, <http://www.thebureauinvestigates.com/2012/03/29/barely-functional-why-us-is-likely-to-be-behind-yemens-precision-airstrikes/>.
- 197 Charting the data for US air strikes in Yemen, 2002 – 2014, *The Long War Journal*, <http://www.longwarjournal.org/multimedia/Yemen/code/Yemen-strike.php> (as of Feb. 21, 2015).
- 198 Scott Shane, "Yemen's Leader Praises U.S. Drone Strikes," *New York Times*, Sep. 29, 2012, <http://www.nytimes.com/2012/09/29/world/middleeast/yemens-leader-president-hadi-praises-us-drone-strikes.html>.
- 199 Scott Shane, "Yemen's Leader Praises U.S. Drone Strikes," *New York Times*, Sep. 29, 2012.

- 200 Greg Miller, "Yemeni president acknowledges approving U.S. drone strikes," *Washington Post*, Sep. 29 2012, http://www.washingtonpost.com/world/national-security/yemeni-president-acknowledges-approving-us-drone-strikes/2012/09/29/09bec2ae-0a56-11e2-aff-d6c7f20a83bf_story.html. See also Report of the U.N. Special Rapporteur on promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, U.N. doc A/HRC/25/59, Feb. 28, 2014, para. 29 ("The Government of Yemen has informed the Special Rapporteur that the United States routinely seeks prior consent, on a case-by-case basis, for lethal remotely piloted aircraft operations on its territory through recognized channels, and that where consent is withheld, a strike will not go ahead.")
- 201 "Yemeni parliament in non-binding vote against drone attacks," *Reuters*, Dec. 13, 2013, <http://www.reuters.com/article/2013/12/15/us-yemen-drones-idUSBRE9BE0EN20131215>.
- 202 "Blast kills suspected al-Qaeda militants in Yemen," *BBC News*, Apr. 19, 2014, <http://www.bbc.com/news/world-middle-east-27086757>.
- 203 Yemen: reported US covert actions 2001-2011, <http://www.thebureauinvestigates.com/2012/03/29/yemen-reported-us-covert-actions-since-2001/>. The first known CIA drone strike reportedly occurred in Pakhtia Province in Afghanistan on February 4, 2002, and the intended target of the strike was apparently Osama bin Laden. See John Sifton, "A Brief History of Drones," *The Nation*, Feb. 27, 2012, <http://www.thenation.com/article/166124/brief-history-drones>.
- 204 Yemen: reported US covert actions 2001-2011, <http://www.thebureauinvestigates.com/2012/03/29/yemen-reported-us-covert-actions-since-2001/>
- 205 Jeremy Scahill, "The Dangerous US Game in Yemen," *The Nation*, Mar. 30, 2011, <http://www.thenation.com/article/159578/dangerous-us-game-yemen?page=0,2>. See generally, Yemen: reported US covert actions 2001-2011, <http://www.thebureauinvestigates.com/2012/03/29/yemen-reported-us-covert-actions-since-2001/>.
- 206 Scott Shane, Mark Mazzetti, and Robert Worth, "Secret Assault on Terrorism Widens on Two Continents," *New York Times*, Aug. 14, 2010, http://www.nytimes.com/2010/08/15/world/15shadowwar.html?_r=1
- 207 Jeremy Scahill, "The Dangerous US Game in Yemen," *The Nation*, Mar. 30, 2011, <http://www.thenation.com/article/159578/dangerous-us-game-yemen?page=0,2>. This source does not specify whether this was a drone strike or a conventional air strike. See also, Yemen: reported US covert actions 2001-2011, <http://www.thebureauinvestigates.com/2012/03/29/yemen-reported-us-covert-actions-since-2001/>.
- 208 Robert Booth and Ian Black, "WikiLeaks cables: Yemen offered US 'open door' to attack al-Qaida on its soil." See also "US embassy cables: Yemeni president Saleh rejects US ground presence," *The Guardian*, Dec. 3, 2010, Cable re General Petraeus' Meeting With Saleh on Security, Jan. 4, 2010, <http://www.theguardian.com/world/us-embassy-cables-documents/242380>.
- 209 Mohamed al-Asaadi and Michael Slackman, "Kidnapped U.S. Tourists Are Released in Yemen," *New York Times*, May 25, 2010, <http://www.nytimes.com/2010/05/26/world/middleeast/26yemen.html>.
- 210 Mohamed al-Asaadi and Michael Slackman, "Kidnapped U.S. Tourists Are Released in Yemen," *New York Times*, May 25, 2010; Scott Shane, Mark Mazzetti, and Robert Worth, "Secret Assault on Terrorism Widens on Two Continents," *New York Times*, Aug. 14, 2010. http://www.nytimes.com/2010/08/15/world/15shadowwar.html?_r=1.
- 211 Scott Shane, "Yemen's Leader Praises U.S. Drone Strikes," *New York Times*, Sep. 29, 2012, <http://www.nytimes.com/2012/09/29/world/middleeast/yemens-leader-president-hadi-praises-us-drone-strikes.html>.
- 212 Scott Shane, "Yemen's Leader Praises U.S. Drone Strikes," *New York Times*, Sep. 29, 2012; Mark Mazzetti, Eric Schmitt and Robert Worth, "Two-Year Manhunt Led to Killing of Awlaki in Yemen," *New York Times*, Sep. 30, 2011, <http://www.nytimes.com/2011/10/01/world/middleeast/anwar-al-awlaki-is-killed-in-yemen.html>.
- 213 Peter Finn and Greg Miller, "Anwar al-Awlaki's family speaks out against his, son's deaths," *Washington Post*, Oct. 17, 2011, http://www.washingtonpost.com/world/national-security/anwar-al-awlakis-family-speaks-out-against-his-sons-deaths/2011/10/17/gIQA8kFssL_story.html.
- 214 Greg Miller, "CIA to operate drones over Yemen," June 14, 2011, *Washington Post*, http://www.washingtonpost.com/national/national-security/cia-to-operate-drones-over-yemen/2011/06/13/AG7VyyTH_story.html.

- 215 Greg Miller, "U.S. drone targets in Yemen raise questions," *Washington Post*, June 2, 2012, http://www.washingtonpost.com/world/national-security/us-drone-targets-in-yemen-raise-questions/2012/06/02/gJQAP0jz9U_story.html.
- 216 Greg Miller, "U.S. drone targets in Yemen raise questions," *Washington Post*, June 2, 2012; see also Scott Shane, "Election Spurred a Move to Codify U.S. Drone Policy," *New York Times*, Nov. 24, 2012, <http://www.nytimes.com/2012/11/25/world/white-house-presses-for-drone-rule-book.html?pagewanted=all>.
- 217 Greg Miller, "White House approves broader Yemen drone campaign," *Washington Post*, Apr. 25, 2012, http://www.washingtonpost.com/world/national-security/white-house-approves-broader-yemen-drone-campaign/2012/04/25/gIQA82U6hT_story.html.
- 218 Kenan was reportedly killed in Pakistan in 2011. Riaz Khan, Jude Kenan Mohammad, "U.S. Man Killed By Drone, Arrested In Pakistan But Escaped," May 23, 2013, http://www.huffingtonpost.com/2013/05/23/jude-kenan-mohammad-arrested-by-pakistan_n_3325869.html. In May 2013, in a letter to Congress, Attorney General Eric Holder formally acknowledged that "[s]ince 2009, the United States, in the conduct of counterterrorism operations against al-Qaeda and its associated forces outside of areas of active hostilities, has specifically targeted and killed one U.S. citizen, Anwar al-Aulaqi." He also acknowledged that that three other U.S. citizens, Abd al-Rahman Anwar al-Aulaqi, Samir Khan, and Jude Kenan Mohammad, had been "killed in such U.S. counterterrorism operations over that same period," but that "these individuals were not specifically targeted by the United States." Letter from Eric Holder to Senator Patrick Leahy, May 22, 2013, <http://s3.documentcloud.org/documents/703181/ag-letter-5-22-13.pdf>; Charlie Savage and Peter Baker, "Obama, in a Shift, to Limit Targets of Drone Strikes," *New York Times*, May 23, 2013, http://www.nytimes.com/2013/05/23/us/us-acknowledges-killing-4-americans-in-drone-strikes.html?_r=0.
- 219 Matthew Cole, Richard Esposito, Jim Miklaszewski, "Why the White House blessed the recent Yemen drone strikes," Aug. 16, 2013, <http://www.nbcnews.com/news/other/why-white-house-blessed-recent-yemen-drone-strikes-f6C10936036>.
- 220 Jim Miklaszewski, Courtney Kube and Daniel Arkin, "Three drone strikes hit al-Qaeda targets, US officials say," Aug. 8, 2013, <http://www.nbcnews.com/news/other/three-drone-strikes-hit-al-qaeda-targets-us-officials-say-f6C10874553>.
- 221 Human Rights Watch, *A Wedding that Became a Funeral*, 2014.
- 222 Human Rights Watch, *A Wedding that Became a Funeral*, 2014.
- 223 Lucy Draper, "The Wedding That Became a Funeral: U.S. Still Silent One Year on From Deadly Yemen Drone Strike," *Newsweek*, Dec. 12, 2014, <http://www.newsweek.com/wedding-became-funeral-us-still-silent-one-year-deadly-yemen-drone-strike-291403>.
- 224 Lucy Draper, "The Wedding That Became a Funeral: U.S. Still Silent One Year on From Deadly Yemen Drone Strike," Dec. 12, 2014, *Newsweek*.
- 225 Hakim Almasmari, "Drone strikes must end, Yemen's parliament says," *CNN*, Dec. 15, 2013, <http://www.cnn.com/2013/12/15/world/meast/yemen-drones/>.
- 226 Houria Mashhour, "The United States' bloody messes in Yemen," *Washington Post*, Jan. 14, 2014, http://www.washingtonpost.com/opinions/houria-mashhour-the-united-states-bloody-messes-in-yemen/2014/01/14/c21dfcec-7653-11e3-b1c5-739e63e9c9a7_story.html.
- 227 Shoab Almosawa and Rod Nordland, "U.S. Fears Chaos as Government of Yemen Falls," *New York Times*, Jan. 22, 2015, <http://www.nytimes.com/2015/01/23/world/middleeast/yemen-houthi-crisis-sana.html>.
- 228 See <https://www.thebureauinvestigates.com/2015/01/26/yemen-reported-us-covert-actions-2015/#YEM182>.
- 229 Human Rights Watch, *A Wedding that Became a Funeral*, 2014, p. 7.
- 230 "US drone attacks controlled from military bases in Germany," June 3, 2013, <http://transmissionsmedia.com/us-drone-attacks-controlled-from-military-bases-in-germany/>; "US Operates Global Drone War from German Base – Ex-Pilot," Apr. 6, 2014, <http://whatsupic.com/news-politics-usa/1396767187.html>. <http://www.dw.de/berlin-powerless-to-challenge-us-drone-operations-at-ramstein-air-base/a-17545327>.
- 231 "Germany shies away from comment on possible role in US drone war," *Deutsche Welle*, June 1, 2013, <http://www.dw.de/germany-shies-away-from-comment-on-possible-role-in-us-drone-war/a-16852606>.

- 232 Holger Stark, "Drone Killing Debate: Germany Limits Information Exchange with US Intelligence," May 17, 2011, <http://www.spiegel.de/international/germany/drone-killing-debate-germany-limits-information-exchange-with-us-intelligence-a-762873.html>.
- 233 Holger Stark, "Drone Killing Debate: Germany Limits Information Exchange with US Intelligence," May 17, 2011.
- 234 See Drones, Expert opinion, <http://www.ecchr.de/drones.html>.
- 235 Craig Whitlock, "Remote U.S. base at core of secret operations," Oct. 25, 2012, *Washington Post*, http://www.washingtonpost.com/world/national-security/remote-us-base-at-core-of-secret-operations/2012/10/25/a26a9392-197a-11e2-bd10-5ff056538b7c_story.html.
- 236 Craig Whitlock, "Remote U.S. base at core of secret operations," Oct. 25, 2012, *Washington Post*.
- 237 Helene Cooper and Mona el-Naggar, "U.S. Drone Kills 3 Qaeda Operatives in Yemen, Continuing Policy on Strikes," *New York Times*, Jan. 26, 2015; Robert Worth, Mark Mazzetti and Scott Shane, "Drone Strikes' Risks to Get Rare Moment in the Public Eye," *New York Times*, Feb. 5, 2013, <http://www.nytimes.com/2013/02/06/world/middleeast/with-brennan-pick-a-light-on-drone-strikes-hazards.html?pagewanted=all>.
- 238 Robert Verkaik, "US Drones bombing Africa operated from RAF bases in the heart of the Lincolnshire countryside," *The Daily Mail*, Mar. 9, 2013, <http://www.dailymail.co.uk/news/article-2290842/US-Drones-bombing-Africa-operated-RAF-bases-heart-Lincolnshire-countryside.html>.
- 239 Owen Bowcott, "UK troops working with US military at base for Yemen drone operations," *Guardian*, May 12, 2014.
- 240 David Leppard, "GCHQ finds al-Qaeda for American strikes," July 25, 2010, *Sunday Times*, http://www.thesundaytimes.co.uk/sto/news/uk_news/Defence/article353492.ece.
- 241 Chris Woods, "Parents of British man killed by US drone blame UK government," Mar. 15, 2013, <http://www.thebureauinvestigates.com/2013/03/15/parents-of-british-man-killed-by-us-drone-blame-uk-government/>.
- 242 Jack Serle, "UK complicity in US drone strikes is 'inevitable', Emmerson tells parliament," Dec. 5, 2013, <http://www.thebureauinvestigates.com/2013/12/05/uk-complicity-in-us-drone-strikes-is-inevitable-emmerson-tells-parliament/>.
- 243 Jack Serle, "UK complicity in US drone strikes is 'inevitable', Emmerson tells parliament," Dec. 5, 2013, <http://www.thebureauinvestigates.com/2013/12/05/uk-complicity-in-us-drone-strikes-is-inevitable-emmerson-tells-parliament/>.
- 244 Kiran Stacey, "Publish guidance on lethal drone strikes, says former GCHQ chief," *Financial Times*, Nov. 26, 2014, <http://www.ft.com/intl/cms/s/0/c9a38848-73ea-11e4-92bc-00144feabdc0.html#axzz3Lo3EFzd9>.
- 245 Philip Dorling, "Pine Gap drives US drone kills," July 21, 2013, *Sydney Morning Herald*, <http://www.smh.com.au/national/pine-gap-drives-us-drone-kills-20130720-2qbsa.html>.
- 246 "Australian extremists killed in US Predator drone strike in Yemen," Apr. 16, 2014, <http://www.news.com.au/national/australian-extremists-killed-in-us-predator-drone-strike-in-yemen/story-fcynjr2-1226885956482>.
- 247 "Australian extremists killed in US Predator drone strike in Yemen," Apr. 16, 2014.
- 248 "Yemen drone strike: parents of Australian killed demand answers," *Guardian*, June 13, 2014, <http://www.theguardian.com/world/2014/jun/04/yemen-drone-strike-parents-of-australian-killed-demand-answers>.
- 249 See Emily Howie, "Australia's collateral damage in the US drone program," Aug. 28, 2014, <http://justsecurity.org/14400/australias-collateral-damage-drone-pine-gap/>.
- 250 Rebecca Howard, "Australian, New Zealand Men Killed in November Yemen Drone Strike," *Wall Street Journal*, Apr. 16, 2014, <http://www.wsj.com/articles/SB10001424052702303663604579504600323599792>.
- 251 Paul Cruickshank and Tim Lister, "Fallout so far from Danish spy's dramatic revelations," *CNN*, Sep. 19, 2014, <http://www.cnn.com/2014/09/17/world/agent-morten-storm/>.
- 252 Steven Derix and Huib Modderkolk, "The secret role of the Dutch in the American war on terror," Mar. 5, 2014, <http://www.nrc.nl/nieuws/2014/03/05/the-secret-role-of-the-dutch-in-the-american-war-on-terror/>.

-
- 253 See "Dutch do not take part in armed drone attacks, minister says," Apr. 24, 2014, http://www.dutchnews.nl/news/archives/2014/04/dutch_do_not_take_part_in_arme.
- 254 See "Dutch do not take part in armed drone attacks, minister says," Apr. 24, 2014, http://www.dutchnews.nl/news/archives/2014/04/dutch_do_not_take_part_in_arme.
- 255 U.S. Dep't of State, U.S. Export Policy for Military Unmanned Aerial Systems, Feb. 17, 2015, <http://www.state.gov/r/pa/prs/ps/2015/02/237541.htm>.
- 256 The U.S. Air Force website states that "[t]he MQ-9 Reaper is an armed, multi-mission, medium-altitude, long-endurance remotely piloted aircraft that is employed primarily as an intelligence-collection asset and secondarily against dynamic execution targets. Given its significant loiter time, wide-range sensors, multi-mode communications suite, and precision weapons--it provides a unique capability to perform strike, coordination, and reconnaissance against high-value, fleeting, and time-sensitive targets." U.S. Airforce, "MQ-9 Reaper," Aug. 18, 2010, <http://www.af.mil/AboutUs/FactSheets/Display/tabid/224/Article/104470/mq-9-reaper.aspx>.
- 257 "NATO User Group for Reapers Established," Oct. 13, 2014, [http://www.uasvision.com/2014/10/13/nato-user-group-for-reapers-established/?utm_source=feedburner&utm_medium=twitter&utm_campaign=Feed:+UasVision+\(UAS+VISION\)#sthash.Yua31Xvj.dpuf](http://www.uasvision.com/2014/10/13/nato-user-group-for-reapers-established/?utm_source=feedburner&utm_medium=twitter&utm_campaign=Feed:+UasVision+(UAS+VISION)#sthash.Yua31Xvj.dpuf).
- 258 NATO's MQ-9 Reaper Users Group Meets, <http://drone-rss.com/2015/02/natos-mq-9-reaper-users-group-meets/>.
- 259 Pierre Tran, Andrew Chuter and Tom Kington, "NATO Reaper Users Cooperate To Cut Costs," Jan. 25, 2015, <http://www.defensenews.com/story/defense/air-space/isr/2015/01/25/reaper-users-group/22166359/>.
- 260 Micah Zenko, "The Great Drone Contradiction," *Foreign Policy*, Feb. 19, 2015, <http://foreignpolicy.com/2015/02/19/the-great-drone-contradiction-unmanned-aircraft-systems/>.
- 261 Defense Security Cooperation Agency News Release, "The Netherlands, MQ-9 Reapers," Feb. 6, 2015, <http://www.dsca.mil/major-arms-sales/netherlands-mq-9-reapers>.
- 262 "NATO User Group for Reapers Established," Oct. 13, 2014, [http://www.uasvision.com/2014/10/13/nato-user-group-for-reapers-established/?utm_source=feedburner&utm_medium=twitter&utm_campaign=Feed:+UasVision+\(UAS+VISION\)#sthash.Yua31Xvj.dpuf](http://www.uasvision.com/2014/10/13/nato-user-group-for-reapers-established/?utm_source=feedburner&utm_medium=twitter&utm_campaign=Feed:+UasVision+(UAS+VISION)#sthash.Yua31Xvj.dpuf).
- 263 If any of these strikes were conducted by conventional U.S. aircraft instead of drones, this would not materially alter this report's concerns about the civilian harm associated with these strikes.
- 264 See Section II.
- 265 See April 17, 2013, incident and January 23, 2013, incident near al-Masna'ah village.
- 266 See Section II.
- 267 See Section III A.
- 268 <http://www.sabanews.net/ar/news349585.htm>.
- 269 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 270 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 271 Tik Root, "Gun Control, Yemen-Style," Feb. 12, 2013, <http://www.theatlantic.com/international/archive/2013/02/gun-control-yemen-style/273058/> ("According to a 2007 Small Arms Survey report, the rate of gun ownership in Yemen exceeds one weapon per every two citizens. Though no trivial statistic for the Arab world's poorest nation, the number fails to capture the comparatively public, casual, and engrained nature of Yemeni gun culture....")
- 272 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 273 Interview with witness in Yemen, April 2014.
- 274 Interview with witness in Yemen, April 2014.
- 275 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 276 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 277 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 278 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 279 Interview with Umm Sami, al-Sawma'ah, Apr. 24, 2014.

- 280 Interview with Mohammed Nasser Abu Bakr al-Khushm, al-Sawma'ah, Apr. 24, 2014.
- 281 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 282 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 283 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 284 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014. Staff from al-Hayah Hospital and al-Zahra hospitals later confirmed the arrival of the wounded, as well as the fact that they were transferred to Aden.
- 285 Interview with Ali Abdullah Hassan, al-Sawma'ah, Apr. 24, 2014.
- 286 <http://www.sabanews.net/ar/news349585.htm>.
- 287 <http://www.sabanews.net/ar/news349585.htm>.
- 288 Eric Schmitt, "U.S. Drones and Yemeni Forces Kill Qaeda-Linked Fighters, Officials Say," *New York Times*, Apr. 21, 2014, http://www.nytimes.com/2014/04/22/world/middleeast/us-drones-and-yemeni-forces-kill-qaeda-linked-fighters-officials-say.html?_r=0.
- 289 Interview with Hussein Nasser Abu Bakr al-Khushm, al-Sawma'ah, Apr. 24, 2014.
- 290 Interview with Hussein Nasser Abu Bakr al-Khushm, al-Sawma'ah, Apr. 24, 2014.
- 291 Interview with Sanad's wife, al-Sawma'ah, Apr. 24, 2014.
- 292 Interview with Sanad's wife, al-Sawma'ah, Apr. 24, 2014.
- 293 Interview with Fatima Hussein Abu Bakr al-Khushm, al-Baidha, Apr. 24, 2014.
- 294 Interview with Saleh Abdullah Abu Bakr al-Khushm, al-Sawma'ah, Apr. 24, 2014.
- 295 Interview with Saleh Abdullah Abu Bakr al-Khushm, al-Sawma'ah, Apr. 24, 2014.
- 296 Interview with Saleh Abdullah Abu Bakr al-Khushm, al-Sawma'ah, Apr. 24, 2014.
- 297 Interview with Umm Sami, al-Sawma'ah, Apr. 24, 2014.
- 298 Interview with Umm Nasser, al-Sawma'ah, Apr. 24, 2014.
- 299 Interview with Umm Nasser, al-Sawma'ah, Apr. 24, 2014.
- 300 Interview with Saleh Abdullah Abu Bakr al-Khushm, al-Sawma'ah, Apr. 24, 2014.
- 301 Interview with Hussein Nasser Abu Bakr al-Khushm, Nov. 1, 2014.
- 302 Interview with Hussein Nasser Abu Bakr al-Khushm, al-Sawma'ah, Apr. 24, 2014.
- 303 Interview with Hussein Nasser Abu Bakr al-Khushm, Nov. 1, 2014. All currency conversions from Yemeni riyals to U.S. dollars for this report used an exchange rate of 214.87 Yemeni Riyals to 1 U.S. dollar, the prevailing official exchange rate published by the Central Bank of Yemen on February 19, 2015. See <http://www.centralbank.gov.ye/ReportExchange.aspx?KeyID=50&pid=46&lang=1&cattype=6>.
- 304 Interview with Saleh Abdullah Abu Bakr al-Khushm, Oct. 29, 2014.
- 305 Interview with Saleh Abdullah Abu Bakr al-Khushm, Oct. 29, 2014.
- 306 Interview with Hussein Nasser Abu Bakr al-Khushm, al-Sawma'ah, Apr. 24, 2014.
- 307 Interview with Saleh Abdullah Abu Bakr al-Khushm, al-Sawma'ah, Oct. 29, 2014; Interview with Hussein Ahmed Saleh Abu Bakr al-Khushm, al-Sawma'ah, Oct. 31, 2014.
- 308 Interview with Hussain Nasser Abu Bakr al-Khushm, Dec. 28, 2014.
- 309 Interview with Hussain Alidaros, Sana'a, Jan. 11, 2015.
- 310 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 311 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 312 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 313 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 314 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 315 Interview with Hussein Ahmed Saleh Abu Bakr, al-Sawma'ah, Apr. 24, 2014.
- 316 Eid al Fitr is an important Islamic holiday marking the end of Ramadan.
- 317 Interview with Arafat Qa'id Salem Arfaj, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 318 Interview with Arafat Qa'id Salem Arfaj, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 319 Interview with Arafat Qa'id Salem Arfaj, Aal Marwan, al-Jawf, Nov. 22, 2013.

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- 320 Interview with Arafat Qa'id Salem Arfaj, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 321 Interview with Arafat Qa'id Salem Arfaj, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 322 Interview with Arafat Qa'id Salem Arfaj, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 323 Interview with Umm Abdullah, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 324 Interview with Umm Abdullah, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 325 Interview with Umm Abdullah, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 326 Shuaib Almosawa, "Teenagers are Droned and a Family Cries Out," *Foreign Policy*, Nov. 4, 2013, <http://foreignpolicy.com/2013/11/04/teenagers-are-droned-and-a-family-cries-out/>.
- 327 Shuaib Almosawa, "Teenagers are droned and a family cries out," *Foreign Policy*, Nov. 4, 2013.
- 328 Ken Dilanian, "Drone strike campaign in Yemen shows U.S. standards are elastic," *Los Angeles Times*, Aug. 17, 2013, <http://articles.latimes.com/2013/aug/17/world/la-fg-us-yemen-20130818>. The *Los Angeles Times* identifies Arafat as Arfag Marwani.
- 329 Ken Dilanian, "Drone strike campaign in Yemen shows U.S. standards are elastic," *Los Angeles Times*, Aug. 17, 2013.
- 330 Ken Dilanian, "Drone strike campaign in Yemen shows U.S. standards are elastic," *Los Angeles Times*, Aug. 17, 2013.
- 331 Ken Dilanian, "Drone strike campaign in Yemen shows U.S. standards are elastic," *Los Angeles Times*, Aug. 17, 2013.
- 332 The research for this report was unable to confirm the same for 25 year-old Abdullah.
- 333 Jim Miklaszewski, Courtney Kube and Daniel Arkin, "Three drone strikes hit al-Qaeda targets, US officials say," Aug. 8, 2013, <http://www.nbcnews.com/news/other/three-drone-strikes-hit-al-qaeda-targets-us-officials-say-f6C10874553>.
- 334 Jim Miklaszewski, Courtney Kube and Daniel Arkin, "Three drone strikes kill al-Qeda targets, US officials say," Aug. 8, 2013.
- 335 Interview with Arafat Qa'id Salem Arfaj, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 336 Interview with Arafat Qa'id Salem Arfaj, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 337 Interview with Arafat Qa'id Salem Arfaj, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 338 Interview with Arafat Qa'id Salem Arfaj, Aal Marwan, al-Jawf, Nov. 22, 2013.
- 339 Letter from the Director General of the al-Qatan Directorate (and head of the local council there) to the Deputy Governor for Valley and Desert District Affairs (Hadramout Government).
- 340 A copy of this letter is on file with the Mwatana Organization for Human Rights and the Open Society Justice Initiative.
- 341 A copy of this letter is on file with the Mwatana Organization for Human Rights and the Open Society Justice Initiative.
- 342 Interview with Mohammed Awad bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 343 Interview with Mohammed Awad bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 344 Interview with Mohammed Awad bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 345 Interview with Mohammed Awad bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 346 Interview with Mohammed Awad bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 347 Interview with Mohammed Awad bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 348 Interview with Mohammed Awad bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 349 Mark Mazzetti and Robert Worth, "Yemen Deaths Test Claims of New Drone Policy," *New York Times*, Dec. 20, 2013, <http://www.nytimes.com/2013/12/21/world/middleeast/yemen-deaths-raise-questions-on-new-drone-policy.html?pagewanted=all>.
- 350 Interview with Yaslem Saeed bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 351 Interview with Fayza Salem Ishaq, Wadi Sir, Nov. 6, 2013.
- 352 Interview with Fayza Salem Ishaq, Wadi Sir, Nov. 6, 2013.
- 353 Interview with Fayza Salem Ishaq, Wadi Sir, Nov. 6, 2013.
- 354 Interview with Fayza Salem Ishaq, Wadi Sir, Nov. 6, 2013.

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- 355 Interview with Fayza Salem Ishaq, Wadi Sir, Nov. 6, 2013.
- 356 Interview with Fayza Salem Ishaq, Wadi Sir, Nov. 6, 2013.
- 357 Interview with Yaslem Saeed bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 358 Interview with Yaslem Saeed bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 359 Interview with Yaslem Saeed bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 360 Interview with Yaslem Saeed bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 361 Interview with Yaslem Saeed bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 362 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 363 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 364 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 365 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 366 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 367 Adam Baron, "Boy's death highlights anger some Yemenis feel over U.S. drone strikes," June 20, 2013, <http://www.mcclatchydc.com/2013/06/20/194542/boys-death-highlights-anger-some.html>.
- 368 "World Digest: Maliki visits north in bid to mend ties with Kurds," *Washington Post*, June 9, 2013, http://www.washingtonpost.com/world/world-digest-maliki-visits-north-in-bid-to-mend-ties-with-kurds/2013/06/09/17483c10-d108-11e2-8cbe-1bcbee06f8f8_story.html.
- 369 Adam Baron, "Boy's death highlights anger some Yemenis feel over U.S. drone strikes," June 20, 2013.
- 370 Adam Baron, "Boy's death highlights anger some Yemenis feel over U.S. drone strikes," June 20, 2013.
- 371 Adam Baron, "Boy's death highlights anger some Yemenis feel over U.S. drone strikes," June 20, 2013.
- 372 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 373 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 374 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 375 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013. The hospital confirmed that he had had an operation to remove shrapnel from his left eye.
- 376 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 377 Interview with Hasan bin Saleh bin Haridan, al-Mahashimah, Nov. 21, 2013.
- 378 Interview with Hasan bin Saleh bin Haridan, al-Mahashimah, Nov. 21, 2013.
- 379 Interview with Hasan bin Saleh bin Haridan, al-Mahashimah, Nov. 21, 2013.
- 380 Interview with Hasan bin Saleh bin Haridan, al-Mahashimah, Nov. 21, 2013.
- 381 These images are on file with the Mwatana Organization for Human Rights and the Open Society Justice Initiative.
- 382 Interview with Mabkhoot bin Saleh Mohsin al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 383 Interview with Mabkhoot bin Saleh Mohsin al-Obaahah, al-Mahashimah, Nov. 21, 2013; Interview with Hasan bin Saleh bin Haridan, al-Mahashimah, Nov. 21, 2013; Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 384 Ken Dilanian, "Fewer U.S. drone strikes seen," *Los Angeles Times*, Nov. 13, 2013, <http://touch.latimes.com/#section/-1/article/p2p-79012550/>. See also Sarah Knuckey, "Anonymous US Officials Admit CIA Accidentally Killed a Yemeni Child in a Drone Strike," Nov. 18, 2013, <http://justsecurity.org/3342/anonymous-officials-admit-cia-accidentally-killed-yemeni-child-drone-strike/>.
- 385 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 386 Interview with Mansour Saleh al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 387 Interview with Mabkhoot bin Saleh Mohsin al-Obaahah, al-Mahashimah, Nov. 21, 2013.
- 388 Adam Baron, "Boy's death highlights anger some Yemenis feel over U.S. drone strikes," McClatchy, June 20, 2013, <http://www.mcclatchydc.com/2013/06/20/194542/boys-death-highlights-anger-some.html>.
- 389 Adam Baron, "Boy's death highlights anger some Yemenis feel over U.S. drone strikes," McClatchy, June 20, 2013.
- 390 Interview with Mabkhoot bin Saleh Mohsin al-Obaahah, al-Mahashimah, Nov. 21, 2013.

- 391 Interview with Hasan bin Saleh bin Haridan, al-Mahashimah, Nov. 21, 2013.
- 392 See <https://twitter.com/almuslimi/status/325005912391680000>; see also Farea al-Muslimi, "My Village Was Attacked by US Drones in Yemen," Feb. 3, 2013, <http://www.al-monitor.com/pulse/originals/2013/04/yemen-village-drone-attack-wessab.html#>.
- 393 See Human Rights Watch, *Between a Drone and al-Qaeda*, p. 35 (2013), http://www.hrw.org/sites/default/files/reports/yemen1013_ForUpload_1.pdf.
- 394 See Human Rights Watch, *Between a Drone and al-Qaeda*, p. 36 (2013).
- 395 Interview with Najm-al-Din Ali al-Ra'ei, Madlab village, July 5, 2013.
- 396 Interview with Najm-al-Din Ali al-Ra'ei, Madlab village, July 5, 2013.
- 397 Interview with Najm-al-Din Ali al-Ra'ei, Madlab village, July 5, 2013.
- 398 Interview with Umm Makram, Madlab village, July 5, 2013.
- 399 Interview with Ahmad Hamoud al-Da'er, Madlab village, July 5, 2013.
- 400 Interview with Ali Mohammed Radman, Wesab al-Aali, July 5, 2013.
- 401 Interview with Ali Mohammed Radman, Wesab al-Aali, July 5, 2013.
- 402 These images are on file with the Mwatana Organization for Human Rights and the Open Society Justice Initiative.
- 403 While al-Radami was linked to AQAP, it is not evident that he played a role in military operations that would have made him a valid military target. See Human Rights Watch, *Between a Drone and al-Qaeda*, p. 4, 36 (2013). Nonetheless, even if al-Radami was targetable, Makram's status as his driver by itself would not make him targetable under either international human rights law or international humanitarian law. There is no indication that he presented an imminent threat to life. Nor is there any indication that he was directly participating in hostilities at the time of attack or had assumed a continuous combatant function. See Section II. See also Nils Melzer, "Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law," *90 International Review of the Red Cross* 991-1047 (2008), p.1008 ("Individuals who continuously accompany or support an organized armed group but whose function does not involve direct participation in hostilities are not members of that group within the meaning of IHL. Instead they remain civilians assuming support functions. Thus recruiters, trainers, financiers and propagandists may continuously contribute to the general war effort of a non-state party, but they are not members of an organized armed group belonging to the party unless their function additionally includes activities amounting to direct participation in hostilities.")
- 404 Interview with Umm Makram, Madlab village, July 5, 2013.
- 405 Interview with Ahmad Hamoud al-Da'er, Madlab village, July 5, 2013.
- 406 Interview with Ahmad Hamoud al-Da'er, Madlab village, July 5, 2013.
- 407 Interview with Ahmad Hamoud al-Da'er, Madlab village, July 5, 2013.
- 408 Human Rights Watch, *Between a Drone and al-Qaeda*, p. 33 (2013).
- 409 See Farea al-Muslimi, "My Village Was Attacked by US Drones in Yemen," *Al Monitor*, Feb. 3, 2013, <http://www.al-monitor.com/pulse/originals/2013/04/yemen-village-drone-attack-wessab.html#>.
- 410 Interview with Ali Mohammed Radman, Wesab al-Aali, July 5, 2013.
- 411 Interview with Umm Makram, Madlab village, July 5, 2013; Interview with Ali Mohammed Radman, Wesab al-Aali, July 5, 2013.
- 412 http://26sep.net/news_details.php?lng=arabic&sid=90813, Apr. 17, 2013.
- 413 Human Rights Watch, while acknowledging doubts regarding whether al-Radami had an operational military role in al-Qaeda, refers to Ghazi El-Emad and Ismail al-Magdishi as his bodyguards. See Human Rights Watch, *Between a Drone and al-Qaeda*, p. 29-37 (2013). However, as noted above, according to our research, these two men were not bodyguards, but had hitched a ride with al-Radami on the day of the attack.
- 414 Interview with Zahra Hassan Ghalib Kahlan, Mikhlaf Dj'ar village, Wesab al-Aali, July 5, 2013.
- 415 Interview with Sinan Ahmed al-Emad, Mikhlaf Dj'ar village, July 5, 2013.
- 416 Interview with Sinan Ahmed al-Emad, Mikhlaf Dj'ar village, July 5, 2013.
- 417 Interview with Umm Makram, Madlab village, July 5, 2013.

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- 418 Interview with Ahmad Hamoud al-Da'er, Madlab village, July 5, 2013.
- 419 Interview with Ahmad Hamoud al-Da'er, Madlab village, July 5, 2013.
- 420 Interview with Musa Ahmed Ali al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 421 Interview with Jabr Jobran al-Jarraah, Silat al-Jarraah village, May 25, 2013.
- 422 These images are on file with the Mwatana Organization for Human Rights and the Open Society Justice Initiative.
- 423 Musa was later transferred to Sana'a and was treated there. Interview with Musa Ahmed Ali al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 424 Interview with Abdoh Mohammed al-Jarraah, May 25, 2013.
- 425 Interview with Abdoh Mohammed al-Jarraah, May 25, 2013.
- 426 Interview with Abdoh Mohammed al-Jarraah, May 25, 2013.
- 427 Interview with Abdoh Mohammed al-Jarraah, May 25, 2013.
- 428 Interview with Abdoh Mohammed al-Jarraah, May 25, 2013.
- 429 Interview with Umm Abdoh Mohammed, Silat al-Jarraah village, May 31, 2013.
- 430 Interview with Umm Abdoh Mohammed, Silat al-Jarraah village, May 31, 2013.
- 431 Medical reports confirm their treatment at that hospital. These reports are on file with the Mwatana Organization for Human Rights and the Open Society Justice Initiative.
- 432 Interview with Jabr Jobran al-Jarraah, Silat al-Jarraah village, May 25, 2013.
- 433 Interview with Jabr Jobran al-Jarraah, Silat al-Jarraah village, May 25, 2013.
- 434 Interview with Abdoh Jobran al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 435 Interview with Ahmed Ali Ahmed al-Jarraah, Silat al-Jarraah village, May 31, 2013; Interview with Jabr Jobran al-Jarraah, Silat al-Jarraah village, May 25, 2013.
- 436 Interview with Jabr Jobran al-Jarraah, Silat al-Jarraah village, May 25, 2013.
- 437 Interview with Abdoh Mohammed al-Jarraah, May 25, 2013; Interview with Jabr Jobran al-Jarraah, Silat al-Jarraah village, May 25, 2013.
- 438 Interview with Abdoh Mohammed al-Jarraah, May 25, 2013; Interview with Jabr Jobran al-Jarraah, Silat al-Jarraah village, May 25, 2013.
- 439 Interview with Mohammed Nasser al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 440 Interview with Abdoh Mohammed al-Jarraah, Silat al-Jarraah village, May 25, 2013.
- 441 Interview with Musa Ahmed Ali al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 442 Interview with Moqbel Abdullah Ali al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 443 Interview with Moqbel Abdullah Ali al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 444 Interview with Umm Ayesh, Silat al-Jarraah village, May 31, 2013.
- 445 Interview with Moqbel Abdullah Ali al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 446 Interview with Mohammed Nasser al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 447 Interview with Mohammed Nasser al-Jarraah, Silat al-Jarraah village, May 31, 2013. See also Interview with Jabr Jobran al-Jarraah, Silat al-Jarraah village, May 25, 2013.
- 448 "US drone strike in Yemen kills 7 suspected militants," Associated Press, Jan. 23, 2013, <http://www.foxnews.com/world/2013/01/23/us-drone-strike-in-yemen-kills-7-suspected-militants/>.
- 449 Interview with Hussein Ahmed Jamil al-Qaweli, Qawal village, June 21, 2013.
- 450 The document is on file with the Mwatana Organization for Human Rights and the Open Society Justice Initiative. See also "Innocent people are killed in US drone attacks," Mar. 22, 2003, <http://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=5481640>.
- 451 Interview with Nasser Ali Saleh al-Qaweli, Qawal village, June 21, 2013; Interview with Hussein Ahmed Jamil al-Qaweli, Qawal village, June 21, 2013. Qat is a mildly narcotic leaf that is one of Yemen's primary cash crops.
- 452 Interview with Nasser Ali Saleh al-Qaweli, Qawal village, June 21, 2013; Interview with Hussein Ahmed Jamil al-Qaweli, Qawal village, June 21, 2013.
- 453 Interview with Nasser Ali Saleh al-Qaweli, Qawal village, June 21, 2013.

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- 454 Interview with Nasser Ali Saleh al-Qaweli, Qawal village, June 21, 2013.
- 455 See Innocent people are killed in US drone attacks, Mar. 22, 2003, <http://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=5481640>.
- 456 Gregory Johnsen, "Did an 8-Year-Old Spy for America?" *The Atlantic*, Aug. 14, 2013, <http://www.theatlantic.com/magazine/archive/2013/09/did-an-8-year-old-spy-for-america/309429/4/>.
- 457 See "Innocent people are killed in US drone attacks," Mar. 22, 2003, <http://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=5481640>.
- 458 These images are on file with the Mwatana Organization for Human Rights and the Open Society Justice Initiative.
- 459 Interview with Mohammed Ali al-Qaweli, Qawal village, June 21, 2013.
- 460 Interview with Mohammed Ali al-Qaweli, Qawal village, June 21, 2013.
- 461 Interview with Mohammed Ali al-Qaweli, Qawal village, June 21, 2013.
- 462 Interview with Mohammed Ali al-Qaweli, Qawal village, June 21, 2013.
- 463 Interview with Mohammed Ali al-Qaweli, Qawal village, June 21, 2013.
- 464 See "Innocent people are killed in US drone attacks," Mar. 22, 2003, <http://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=5481640>.
- 465 Interview with Khalil Hammoud Lahib, al-Sarrein village, June 22, 2003.
- 466 Interview with Ismail Ali Sa'd, al-Serrein village, June 22, 2013.
- 467 Abigail Hauslohner, "In Yemen, questions and anger over U.S. drone targets after civilian deaths," *Washington Post*, Feb. 8, 2014, http://www.washingtonpost.com/world/middle_east/in-yemen-questions-and-anger-over-us-drone-targets/2014/02/07/ecbde2fe-8de2-11e3-99e7-de22c4311986_story.html.
- 468 Abigail Hauslohner, "In Yemen, questions and anger over U.S. drone targets after civilian deaths," *Washington Post*, Feb. 8, 2014.
- 469 Abigail Hauslohner, "In Yemen, questions and anger over U.S. drone targets after civilian deaths," *Washington Post*, Feb. 8, 2014.
- 470 Abigail Hauslohner, "In Yemen, questions and anger over U.S. drone targets after civilian deaths," *Washington Post*, Feb. 8, 2014.
- 471 Interview with Nasser Ali Saleh al-Qaweli, Qawal village, June 21, 2013.
- 472 Interview with Hussein Ahmed Jamil al-Qaweli, Qawal village, June 21, 2013.
- 473 Interview with Nasser Ali Saleh al-Qaweli, Qawal village, June 21, 2013; Interview with Mohammed Ali al-Qaweli, Qawal village, June 21, 2013.
- 474 Interview with Mohammed Ali al-Qaweli, Qawal village, June 21, 2013.
- 475 Interview with Mohsin Mohammed Jamil, Qawal village, June 21, 2013,
- 476 Interview with Mohsin Mohammed Jamil, Qawal village, June 21, 2013,
- 477 Interview with Nasser Ali Saleh al-Qaweli, Qawal village, June 21, 2013.
- 478 Interview with Mohammed Ali al-Qaweli, Qawal village, June 21, 2013.
- 479 Interview with Mohammed Nasser Saleh, son of Rasilah Ali al-Faqih, near al-Sabool village, May 28, 2013.
- 480 Interview with Ahmed Ali Ahmed Moqbel, al-Sabool, May 26, 2013.
- 481 Interview with Ali Mohammed El-Maati, in the vicinity of his office, Rada'a city, June 2012.
- 482 The Convention on the Rights of the Child presumptively defines children as persons up to the age of 18 years. Convention on the Rights of the Child, G.A. Res. 44/25, U.N. GAOR, 44th Sess., Supp. No. 49, Art. 1, U.N. Doc. A/44/49 (1989).
- 483 Interview with Nasser Mabkhout, al-Sabool, May 27, 2013.
- 484 Interview with Nasser Mabkhout, al-Sabool, May 27, 2013.
- 485 Interview with Nasser Mabkhout, al-Sabool, May 27, 2013.
- 486 Interview with Nasser Mabkhout, al-Sabool, May 27, 2013.
- 487 Interview with Abdulelah Jarallah, al-Sabool, May 26, 2013.

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- 488 Sudarsan Raghavan, "When U.S. drones kill civilians, Yemen's government tries to conceal it," *Washington Post*, Dec. 24, 2012, http://www.washingtonpost.com/world/middle_east/when-us-drones-kill-civilians-yemens-government-tries-to-conceal-it/2012/12/24/bd4d7ac2-486d-11e2-8af9-9b50cb4605a7_story.html.
- 489 Sudarsan Raghavan, "When U.S. drones kill civilians, Yemen's government tries to conceal it," *Washington Post*, Dec. 24, 2012.
- 490 Sudarsan Raghavan, "When U.S. drones kill civilians, Yemen's government tries to conceal it," *Washington Post*, Dec. 24, 2012.
- 491 "Deaths in US drone strike in Yemen," Sep. 2, 2012, *Al Jazeera*, <http://www.aljazeera.com/news/middleeast/2012/09/201292165153495957.html>.
- 492 "Islamist militants quit captured Yemeni town," Jan. 25, 2012, [CNN, Feb. 16, 2012, <http://www.cnn.com/2012/02/16/world/meast/yemen-al-qaeda-killing>. Tareq al-Dahab was reportedly killed in February 2012 by his elder brother Hizam al-Thahab who feared that his brother's involvement in the assassinations of the elections officials would bring reprisal killings against the powerful al-Dahab tribe. Hakim Almasari, "Al Qaeda cell leader killed in family dispute," *CNN*, Feb. 16, 2012.](http://www.reuters.com/article/2012/01/25/us-yemen-militants-idUSTRE800K020120125?feedType=RSS&feedName=worldNews&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+reuters%2FworldNews+%28News+%2F+US+%2F+International%29; Hakim Almasari,)
- 493 Interview with Ahmed Ali Ahmed Moqbel, al-Sabool, May 26, 2013.
- 494 Interview with Ahmed Ali Ahmed Moqbel, al-Sabool, May 26, 2013. Interviews with hospital staff confirm that three of the victims from this incident were admitted with burns that day before being transferred to Sana'a. Interview with Dr. Abdullah al-Wosabi, Rada'a Model Hospital, May 30, 2013.
- 495 Interview with Ahmed Ali Ahmed Moqbel, al-Sabool, May 26, 2013.
- 496 Interview with Dr. Samir Ghalib, Assistant Director-General of Rada'a General Hospital, May 30, 2013.
- 497 Interview with Umm Mohammed, Mother of Mohammed Abdo Jarallah, al-Sabool, May 27, 2013.
- 498 Interview with Umm Mohammed, Mother of Mohammed Abdo Jarallah, al-Sabool, May 27, 2013.
- 499 Interview with Ahmed Ali Ahmed Moqbel, al-Sabool, May 26, 2013.
- 500 Interview with Umm Moosa, al-Sabool, May 27, 2013.
- 501 Interview with Nasser Mabkhout, al-Sabool, May 27, 2013; Interview with Ahmed Ali Ahmed Moqbel, al-Sabool, May 26, 2013; Interview with Sarhan Mabkhout, al-Sabool, May 27, 2013; Interview with Mohammed Nasser Salah, al-Sabool, May 28, 2013.
- 502 "President Hadi directs to investigate over Baidah incident," *Saba News*, Sep. 5, 2012, <http://www.sabanews.net/en/news279858.htm>.
- 503 Interview with Adel Fadh al-Asbahi, Jan. 11, 2015. While Mr. Asbahi confirmed that compensation had been paid in this incident, he did not know the amount.
- 504 Interview with Nasser Ahmed Abdorabo, Jan. 12, 2015. There are conflicting accounts of the amount of compensation paid. See Human Rights Watch, *Between a Drone and al-Qaeda*, p. 59 (2013).
- 505 Interview with Abdullah Ahmed Abdorabo, Jan. 12, 2015.
- 506 Interview with Abdulelah Jarallah, al-Sabool, May 26, 2013.
- 507 Interview with Ahmed Ali Ahmed Moqbel, al-Sabool, May 26, 2013.
- 508 Interview with Ahmed Ali Ahmed Moqbel, al-Sabool, May 26, 2013.
- 509 Interview with Mohammed Nasser Shah, near al-Sabool, May 28, 2013.
- 510 Interview with Ahmed Ali Ahmed Moqbel, al-Sabool, May 26, 2013.
- 511 These documents are on file with the Mwatana Organization for Human Rights and the Open Society Justice Initiative.
- 512 Phone Interview with Abdullah Makaram, Seiyoun, Jan. 15, 2014.
- 513 Interview with Hakim Saleh Salem bin Shaaban, al-Maseelah, Hadramout, Nov. 7, 2013.
- 514 Interview with Hakim Saleh Salem bin Shaaban, al-Maseelah, Hadramout, Nov. 7, 2013.
- 515 Interview with Hakim Saleh Salem bin Shaaban, al-Maseelah, Hadramout, Nov. 7, 2013.

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- 516 Interview with Hakim Saleh Salem bin Shaaban, al-Maseelah, Hadramout, Nov. 7, 2013.
- 517 Interview with Hakim Saleh Salem bin Shaaban, al-Maseelah, Hadramout, Nov. 7, 2013.
- 518 Interview with Hakim Saleh Salem bin Shaaban, al-Maseelah, Hadramout, Nov. 7, 2013.
- 519 <http://www.news24.com/World/News/Yemen-army-says-Qaeda-routed-from-town-20120517>.
- 520 Interview with Hakim Saleh Salem bin Shaaban, al-Maseelah, Hadramout, Nov. 7, 2013.
- 521 Interview with Reina Abdulhakim, Wadi Hashoosh, Nov. 7, 2013
- 522 Interview with Reina Abdulhakim, Wadi Hashoosh, Nov. 7, 2013
- 523 Interview with Reina Abdulhakim, Wadi Hashoosh, Nov. 7, 2013
- 524 Interview with Hakim Saleh Salem bin Shaaban, al-Maseelah, Hadramout, Nov. 7, 2013; Interview with Reina Abdulhakim, Wadi Hashoosh, Nov. 7, 2013.
- 525 Interview with Hakim Saleh Salem bin Shaaban, al-Maseelah, Hadramout, Nov. 7, 2013.
- 526 Interview with Hakim Saleh Salem bin Shaaban, al-Maseelah, Hadramout, Nov. 7, 2013.
- 527 Transcript of Remarks by John O. Brennan, Assistant to the President for Homeland Security and Counterterrorism, "The Ethics and Efficacy of the President's Counterterrorism Strategy," Apr. 30, 2012, <http://www.wilsoncenter.org/event/the-ethicacy-and-ethics-us-counterterrorism-strategy>
- 528 Transcript of Remarks by John O. Brennan, Assistant to the President for Homeland Security and Counterterrorism, "U.S. Policy Toward Yemen," Council on Foreign Relations, Washington D.C., Aug. 9, 2012, <http://www.cfr.org/united-states/us-policy-toward-yemen/p28794>.
- 529 Transcript of Remarks by John O. Brennan, Assistant to the President for Homeland Security and Counterterrorism, "U.S. Policy Toward Yemen," Council on Foreign Relations, Washington D.C., Aug. 9, 2012.
- 530 Mark Mazzetti and Scott Shane, "As New Drone Policy Is Weighed, Few Practical Effects Are Seen," *New York Times*, Mar. 21, 2013, <http://www.nytimes.com/2013/03/22/us/influential-ex-aide-to-obama-voices-concern-on-drone-strikes.html?pagewanted=all&r=0>.
- 531 Brian Anderson, "The US Drone War's Unlikely Critic," *Motherboard*, Jan. 22, 2014, <http://motherboard.vice.com/blog/the-us-drone-wars-unlikely-critic>.
- 532 Brian Anderson, "The US Drone War's Unlikely Critic," *Motherboard*, Jan. 22, 2014.
- 533 David Alexander, "Retired general cautions against overuse of 'hated' drones," Reuters, Jan. 7, 2013, <http://www.reuters.com/article/2013/01/07/us-usa-afghanistan-mcchrysal-idUSBRE90608O20130107>.
- 534 Interview with Yaslem Saeed bin Ishaq, Wadi Sir, Nov. 6, 2013.
- 535 Interview with Ahmed Ali Ahmed Moqbel, al-Sabool, May 26, 2013.
- 536 Interview with Moqbel Abdullah Ali al-Jarraah, Silat al-Jarraah village, May 31, 2013.
- 537 Gregory Johnsen, "How We Lost Yemen," *Foreign Policy*, Aug. 6, 2013, <http://foreignpolicy.com/2013/08/06/how-we-lost-yemen/>.
- 538 Gregory Johnsen, "How We Lost Yemen," *Foreign Policy*, Aug. 6, 2013.
- 539 Statement of Farea al-Muslimi, "Drone Wars: The Constitutional and Counterterrorism Implications of Targeted Killing," United States Senate Judiciary Committee, Subcommittee on the Constitution, Civil Rights and Human Rights, Apr. 23, 2013, <http://www.judiciary.senate.gov/download/testimony-of-al-muslimi-pdf&download=1>.
- 540 Mark Mazzetti and Scott Shane, "As New Drone Policy Is Weighed, Few Practical Effects Are Seen," *New York Times*, Mar. 21, 2013, <http://www.nytimes.com/2013/03/22/us/influential-ex-aide-to-obama-voices-concern-on-drone-strikes.html?pagewanted=all&r=0>.
- 541 United States Senate Select Committee on Intelligence Washington, D.C., Open Hearing on the Nomination of John O. Brennan to be Director of the Central Intelligence Agency, Feb. 7, 2013, <http://www.intelligence.senate.gov/130207/transcript.pdf>.
- 542 U.S. Senate Select Committee on Intelligence, Nomination of John O. Brennan to be the Director of the Central Intelligence Agency, Responses to Post-Hearing Questions, Feb. 16, 2013, <http://www.intelligence.senate.gov/130207/posthearing.pdf>.
- 543 U.S. Dep't of State, U.S. Export Policy for Military Unmanned Aerial Systems, Feb. 17, 2015, <http://www.state.gov/r/pa/prs/ps/2015/02/237541.htm>.

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Mwatana Organization for Human Rights is an independent Yemeni nongovernmental organization involved in defending and protecting human rights. It operates through field investigations and research to produce accurate and objective accounts of human rights violations. It attempts to provide support and justice to victims and hold accountable those who violate human rights. The organization addresses a number of issues, including extrajudicial killings, enforced disappearances, arbitrary arrests, torture, freedom of expression, and the death penalty.

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In 2013, President Obama promised that before any U.S. drone strike, “there must be near-certainty that no civilians will be killed or injured.”

Death by Drone questions whether he has kept that promise.

The report casts serious doubt on whether the United States’ “near-certainty” standard is being met on the ground, and whether the U.S. is complying with international law. The nine case studies documented in this report provide credible evidence that U.S. airstrikes have killed and injured Yemeni civilians. These incidents include a drone strike that killed 12 people, including a pregnant woman and three children, and another in which the U.S. struck a house containing 19 people, including women and children.

The U.S. has not officially acknowledged any of these strikes or the resulting civilian casualties. None of the victims are aware of any investigation into the strikes, and in most cases did not receive meaningful compensation. Many survivors argue that the strikes are counterproductive, pushing Yemenis into the arms of al-Qaeda.

Despite the U.S. government’s best efforts to keep the strikes secret, this report exposes the suffering of civilians directly affected by U.S. airstrikes: innocent people burned alive, parents who saw their children killed, families that lost breadwinners, and traumatized communities that continue to live under the threat of drones.

Based on the testimonies of eyewitnesses and survivors, this report provides a first-hand, in-depth account of civilian harm caused by U.S. airstrikes.