

Death Falling from the Sky

Civilian Harm from the United States' Use of Lethal Force in Yemen

January 2017- January 2019



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March, 2021

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I. Executive Summary

Is it possible that the United States killed my son?
What crime did he commit to be killed in this manner?
—A mother after a 2018 strike in Al Bayda governorate killed her son

The United States has been using lethal force in Yemen for nearly two decades.

These operations, in which people are targeted and killed, began under the Bush Administration, dramatically expanded during the Obama Administration, and expanded yet further during the Trump Administration.

Regardless of which president or party has controlled the White House, the United States has never fully investigated the civilian cost of its operations in Yemen, has never taken sufficient steps to review the efficacy of these operations, and has never provided civilian victims the acknowledgment, apology, and reparations they are owed.

Twenty years after the US began its secret and unaccountable killings in Yemen, the Biden Administration should, at long last, change towards a rights-respecting course.

Key findings

This report provides detailed information regarding 12 operations carried out by the United States in Yemen between January 2017 and January 2019.

At least 38 Yemeni civilians, including 13 children, six women and 19 men, were killed in these operations. At least seven civilians, including six children, five of whom were under the age of ten, and one man, were injured. Civilians were going about their everyday lives—driving to visit friends, bringing food to their families, sleeping in their homes—when killed or injured.

These US operations also caused other forms of deep and long-lasting civilian harm. The incidents led to adverse economic effects, killing primary breadwinners whose families relied on their incomes, and damaging and destroying important civilian property, including vehicles, homes, and livestock. The operations also caused significant social and psychological harm. In a few cases, surviving members of families left their homes following US operations, saying they felt unsafe and worried about future strikes.

The 12 incidents in this report include ten airstrikes, all apparently conducted with unmanned aerial vehicles (drones), and two ground raids in five Yemeni governorates—Abyan, Al Bayda, Shabwah, Hadramawt and Ma'rib.

In only one of the documented incidents has the US so far acknowledged any resulting civilian harm.

This report raises serious concerns about the extent to which the United States is complying with international law in its use of lethal force in Yemen. It finds that the United States is failing to investigate credible allegations of violations, to hold individuals responsible for violations to account, and to provide prompt and adequate reparations.

Methodology

Mwatana for Human Rights has documented the civilian impact of the United States' use of drones and other lethal force in Yemen for nearly a decade.⁽¹⁾ Mwatana's researchers—women and men dedicated to working towards peace and justice in Yemen—use rigorous and peer-reviewed investigation methods to investigate alleged incidents. They visit strike sites; interview survivors, family members, and witnesses; photograph weapons remnants; collect photographs and videos from relatives and community members; and examine documents that relate to witness accounts, including death certificates, birth certificates, medical reports, government and military statements, and other documents detailing where victims worked and studied, as well as the extent of harm they faced in these incidents. The significant body of evidence that informs this report was collected over a nearly four-year period.

Context

The voices of the victims of US operations have been largely drowned out by media coverage focused on the broader war in Yemen. There are many armed actors in Yemen, and all sides have committed abuses against civilians. Since the Ansar Allah (Houthi) armed group took over the country's capital in 2014 and a coalition of forces led by Saudi Arabia and the United Arab Emirates intervened in that conflict in 2015, civilians in Yemen have suffered indiscriminate and disproportionate airstrikes and ground shelling, the use of weapons such as cluster munitions and landmines, and the widespread use of enforced disappearance, arbitrary detention and torture, among

(1) See, e.g., *Death by Drone: Civilian Harm Caused by US Targeted Killings in Yemen*, Open Society Justice Initiative & Mwatana for Human Rights (April 2015), <http://mwatana.org/en/death-by-drones/>.

other abuses.⁽²⁾

The United States has militarily supported Saudi/UAE-led coalition operations, providing intelligence, logistical support, training, and aerial refueling to the coalition at various points since 2015.⁽³⁾ The United States has also continued to arm Saudi Arabia, the UAE and other coalition members. In a 2018 report, the US government acknowledged that “many of the[] defense articles and defenses services [provided by the United States to Saudi Arabia, the UAE and other members of the Coalition] have been used in the conflict in Yemen.”⁽⁴⁾ Mwatana has repeatedly documented the use of US-manufactured weapons in indiscriminate and disproportionate coalition airstrikes, some of which may amount to war crimes.⁽⁵⁾

In addition to its support to the Saudi/UAE-led coalition, the United States has also carried out direct attacks in Yemen as part of its “counterterrorism” operations.

In the name of national security, the Obama Administration dramatically expanded the use of armed unmanned aerial vehicles (drones) across the globe, including in Yemen. In 2017, during President Trump’s first year in office, the rate of US air strikes in Yemen soared,⁽⁶⁾ and then fell to around the same rate seen in the last years of the Obama Administration.⁽⁷⁾

(2) See, e.g., Chapters from Hell: Violations of International Human Rights Law in the Armed Ground Conflict in Taiz, Mwatana for Human Rights (November 6, 2016), <https://mwatana.org/en/chapters-from-hell/>; Press in Yemen Faces Extinction: Journalists Need Support, Mwatana for Human Rights (June 23, 2017), <https://mwatana.org/en/press-in-yemen-faces-extinction/>; Day of Judgment: Role of the US and Europe in Civilian Death, Destruction and Trauma in Yemen, Mwatana for Human Rights, PAX, and the University Network for Human Rights (March 6, 2019), <https://mwatana.org/en/day-of-judgment/>; Concealed Killer: Fall of civilians by the landmines laid by the Ansar Allah Armed Group (the Houthis) and Saleh Forces, Mwatana for Human Rights (April 2017), <https://mwatana.org/wp-content/uploads/201710//Concealed-Killer-Report-En.pdf>.

(3) The United States’ military support to the Saudi/UAE-led coalition in their ongoing military operations is examined in more detail in other Mwatana publications. See, e.g., Day of Judgment, supra note 2; In the Darkness: Abusive Detention, Disappearance and Torture in Yemen’s Unofficial Prisons, Mwatana for Human Rights (June 2020), <https://mwatana.org/wp-content/uploads/202006//In-the-Darkness.pdf>.

(4) 2018 Report on the Legal and Policy Frameworks Guiding the United States’ Use of Military Force and Related National Security Operations, The White House (October 2019) at p. 6, <https://www.state.gov/wp-content/uploads/201910//Report-to-Congress-on-legal-and-policy-frameworks-guiding-use-of-military-force-.pdf>.

(5) “Day of Judgment,” supra note 2 at p. 15.

(6) The US launched an estimated 127 airstrikes in Yemen in 2017. “US Strikes in Yemen, 2002 to Present,” The Bureau of Investigative Journalism, https://docs.google.com/spreadsheets/d/1lb1hEYJ_oml8lSe33izwS2a2lbiygs0hTp2AL_Kz5KQ/edit#gid=323032473.

(7) The US conducted about three dozen airstrikes in 2018, which is comparable to the number carried out in 2015 and 2016 (23 and 44, respectively). “US Airstrikes in the Long War,” The Long War Journal, <https://www.longwarjournal.org/us-airstrikes-in-the-long-war>; “Yemen: Reported US covert actions 2018,” The Bureau of Investigative Journalism, <https://www.thebureauinvestigates.com/drone-war/data/yemen-reported-us-covert-actions-2018>; “Reported US covert actions 2019,” The Bureau of Investigative Journalism, <https://www.thebureauinvestigates.com/drone-war/data/yemen-reported-us-covert-actions-2019>.

The Trump Administration also authorized ground raids in Yemen, two of which are described in this report and resulted in at least two dozen civilian casualties.⁽⁸⁾ Both the US military and the Central Intelligence Agency (CIA) have used lethal force in Yemen.

In February 2021, the US announced it would cease all support for Saudi/UAE-led coalition “offensive operations” in Yemen, as well as suspend “relevant” arms sales. US officials said the announcement did not affect US operations against Al Qaeda in the Arabia Peninsula (AQAP), noting these were “actions that we undertake in service of protecting the homeland and protecting American interests in the region and our allies and partners.”⁽⁹⁾

In their approach to “counterterrorism,” successive US Administrations have sought to collapse the distinction between war time and peace time, and the associated international rules on the use of lethal force.⁽¹⁰⁾ The US government has sought to expand the “legal” circumstances under which it can use lethal force internationally, risking damage to long-existing protections of international law.

Throughout, civilians have continued to be killed, wounded and otherwise harmed, very often with no acknowledgement, accountability or reparation to speak of.

Civilian harm

US lethal operations have killed and injured civilians in Yemen, and have caused other types of deep and long-lasting civilian harm.

Those killed by the 12 US operations described in this report played important roles in their families and their communities. Two of the men killed were teachers. One was described as “beloved” by his students. The other kept teaching even after civil servant salaries in Yemen stopped.⁽¹¹⁾ Others killed by US operations included university students, beekeepers, fishermen, drivers, laborers and housewives.

(8) See Section IV, Civilian Harm from May 23, 2017 Raid on Marib; Section IV, Civilian Harm from January 29, 2017 Raid on Al Bayda, Yemen.

(9) Rebecca Kheel, “Biden announces end to US support for offensive operations in Yemen,” The Hill (February 4, 2021), <https://thehill.com/policy/defense/537346-biden-to-announce-end-to-us-support-for-offensive-operations-in-yemen>.

(10) See, e.g., The Late Show with Stephen Colbert, “President Obama Reflects On The Drone Program And “The Illusion That It Is Not War,” YouTube (December 1, 2020). But note the established international legal framework for the use of force—international human rights law, international humanitarian law and inter-State force—provides the correct framework.

(11) See Section VI, Civilian Harm from January 26/2018, 27/ Air Strike on Shabwah, Yemen; Section VI, Civilian Harm from March 4, 2017 Air Strike on Abyan, Yemen.

People sometimes spoke of the stolen potential of those who were killed who were young. A poor family had “high hopes” for their 12-year-old boy, his teacher said. He was a “very very good child.” He was killed in a US strike.⁽¹²⁾

Family members described grief at the loss of their loved ones. A grandmother fainted after seeing the body of her 17-year-old grandson.⁽¹³⁾ A 40-year-old man collapsed after learning his two brothers had been killed.⁽¹⁴⁾ An adult son gathered his mother’s remains, while a husband rushed to get his pregnant wife to the hospital, watching her die, accompanied by their nine-year-old son.⁽¹⁵⁾ A mother was found dead, clutching her child.⁽¹⁶⁾ Another mother found her 14-year-old son’s body on fire. His father could “not forget [the boy’s] younger sisters screaming at the sight.”⁽¹⁷⁾

US operations take a psychological toll on survivors and on impacted communities.⁽¹⁸⁾ A survivor told Mwatana that, while he had recovered physically, he continued to feel helpless and depressed a year and a half after a US strike injured him and killed his younger cousin.⁽¹⁹⁾ A parent explained how children have continuing anxiety after US attacks and can be afraid to be alone: “My six-year-old son wanted to go to the bathroom but then returned without going. When I asked him the reason, he said, ‘I don’t want you all to die without me if the drone hits.’”⁽²⁰⁾ Others drew links between family members’ trauma and the deterioration of their physical health.⁽²¹⁾

Yemeni residents, particularly in certain areas of the country, have been forced to live with US strikes and the possibility that these strikes may kill civilians, including themselves or their family members, for many years.⁽²²⁾ People referred to the fear provoked by the persistent buzzing of drones overhead. One man told Mwatana that he and his neighbors were worried after noticing an unusually heavy presence of drones in the sky. Three days later, in August 2017, a US strike killed a young man and a boy resting under a tree in the afternoon heat. “The drones have a black record of

(12) See Section VI, Civilian Harm from March 5, 2018 Air Strike on Hadramawt, Yemen.

(13) See Section VI, Civilian Harm from May 25, 2018 Air Strike on Shabwah, Yemen.

(14) See Section VI, Civilian Harm from January 26/2018, 27/ Air Strike on Shabwah, Yemen.

(15) See Section VI, Civilian Harm from December 14 or 15, 2017 Air Strike on Al Bayda, Yemen.

(16) See Section VI, Civilian Harm from January 29, 2017 Raid on Al Bayda, Yemen.

(17) See Section VI, Civilian Harm from November 23, 2017 Air Strike on Al Bayda, Yemen.

(18) See Section VI, Civilian Harm from January 21 or 22, 2019 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from March 5, 2018 Air Strike on Hadramawt, Yemen; Section VI, Civilian Harm from May 23, 2017 Raid on Marib, Yemen; Section VI, Civilian Harm from January 29, 2017 Raid on Al Bayda, Yemen.

(19) See Section VI, Civilian Harm from March 5, 2018 Air Strike on Hadramawt, Yemen.

(20) See Section VI, Civilian Harm from May 23, 2017 Raid on Marib, Yemen.

(21) See Section VI, Civilian Harm from January 21 or 22, 2019 Air Strike on Al Bayda, Yemen.

(22) See, e.g. Abdulrasheed Al-Faqih, “Civilian Casualties and Effectiveness of US Drone Strikes in Yemen,” Just Security (April 3, 2018), <https://www.justsecurity.org/54464/civilian-casualties-effectiveness-u-s-drone-strikes-yemen-part/>; Abdulrasheed Al-Faqih and Kristine Beckerle, “US Fails to Acknowledge Killing Yemeni Civilians,” Just Security (May 15, 2020), <https://www.justsecurity.org/70151/u-s-fails-to-acknowledge-killing-yemeni-civilians/>; Death by Drone, *supra* note 1; Section VI, Civilian Harm from August 13, 2017 Air Strike on Abyan, Yemen; Section VI, Civilian Harm from December 14 or 15, 2017 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from March 5, 2018 Air Strike on Hadramawt, Yemen; Section VI, Civilian Harm from March 29, 2018 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from May 25, 2018 Air Strike on Shabwah, Yemen.

killings," he said.⁽²³⁾

Certain areas of Yemen have been particularly impacted by US operations. Half of the operations documented in this report took place in the central Yemeni governorate of Al Bayda, and a third in or near Yakla village—a small, isolated mountainous part of Al Bayda governorate that lacks most basic services. People living in areas frequently targeted by US operations said that, despite US government claims of drone strikes' precision, people had grown to expect that drones were likely to strike and otherwise impact civilians, particularly in areas which had an AQAP presence.

The US operations described in this report led to significant adverse economic effects for families. In many cases, civilian men killed by US strikes left behind large families that relied on their incomes.⁽²⁴⁾ A few of the men killed in the incidents described in this report were expatriate workers, and the money they sent home was an important source of income for their families.⁽²⁵⁾ After a US strike killed a man who had worked painting houses in Saudi Arabia, his family reported struggling to make ends meet.⁽²⁶⁾

In almost all of the operations included in this report, the US destroyed important civilian property, including vehicles, homes, and livestock.⁽²⁷⁾ A 2018 US strike destroyed the only vehicle that a displaced family owned. The family had used the vehicle to transport water, food, fuel and other essential goods.⁽²⁸⁾ Another US strike hit a man's vehicle while he was transporting food intended to assist some families in a small, mountainous village. The man was killed and the vehicle destroyed.⁽²⁹⁾ Two men who worked in the honey trade, for which Yemen is famous, owned dozens of beehives. Both men's families relied on the income from the honey they sold. A US airstrike in 2017 killed the two men, burned most of their beehives, and scattered the

(23) See Section VI, civilian harm from August 13, 2017 Air Strike on Abyan, Yemen.

(24) See, Section VI, Civilian Harm from January 21 or 22, 2019 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from March 29, 2018 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from December 22, 2017 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from November 23, 2017 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from August 13, 2017 Air Strike on Abyan, Yemen; Section VI, Civilian Harm from March 4, 2017 Air Strike on Abyan, Yemen.

(25) These strikes also raise significant law and policy concerns, including regarding the alleged preference to capture individuals over killing them. See Section VI, Civilian Harm from November 23, 2017 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from January 21 or 22, 2019 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from March 29, 2018 Air Strike on Al Bayda, Yemen.

(26) See Section VI, Civilian Harm from November 23, 2017 Air Strike on Al Bayda, Yemen.

(27) See, Section VI, Civilian Harm from January 21 or 22, 2019 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from May 25, 2018 Air Strike on Shabwah, Yemen; Section VI, Civilian Harm from March 5, 2018 Air Strike on Hadramawt, Yemen; Section VI, Civilian Harm from January 26/2018, 27/ Air Strike on Shabwah, Yemen; Section VI, Civilian Harm from December 22, 2017 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from December 14 or 15, 2017 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from November 23, 2017 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from August 13, 2017 Air Strike on Abyan, Yemen; Section VI, Civilian Harm from May 23, 2017 Raid on Marib, Yemen; Section VI, Civilian Harm from March 4, 2017 Air Strike on Abyan, Yemen; Section VI, Civilian Harm from January 29, 2017 Raid on Al Bayda, Yemen.

(28) See Section VI, Civilian Harm from March 5, 2018 Air Strike on Hadramawt, Yemen.

(29) See Section VI, Civilian Harm from December 22, 2017 Air Strike on Al Bayda, Yemen.

rest.⁽³⁰⁾

In a few cases, families left their homes after US operations, saying they felt unsafe and worried about future strikes.⁽³¹⁾ One father, who lost his son in a US strike in Al Bayda in 2017, said he moved his family to another governorate afterwards “to protect the rest of my children.”⁽³²⁾ After two men were killed by a US strike in Abyan, their families decided to leave the village. A relative asked, “How is it that a drone known for its accuracy targeted people who had no connection to any terrorist group?!”⁽³³⁾ Another US strike in Abyan in 2017 killed another two civilian men. Their families also left their homes. One of the men’s fathers said, “We tried more than once to make our voice heard... asking them [the US] to come and check... but nobody wanted to hear us. I hope that our voices will be heard. We have lost a lot and do not want to lose more.”⁽³⁴⁾

Witnesses from different parts of Yemen said that the continued civilian harm had caused anger towards the US. In a few cases, local communities organized public protests after attacks.⁽³⁵⁾ People told Mwatana that continued US strikes on civilians increased their frustration and diminished their sense of safety, and left them with the impression that the US was indifferent toward civilian lives. After a US strike killed two women in Al Bayda, one of whom was pregnant, a relative said, “We, as well as our women and children, have become an easy target for the American drone strikes while the international community stands idly by and nobody seems to care.”⁽³⁶⁾ After a 2019 strike killed a civilian man, family members told Mwatana, “We are desperate in trying to get our voices heard. We are being killed in cold blood.”⁽³⁷⁾

Witnesses also expressed anger at the Yemeni government for failing to stop these attacks. As one man whose three brothers were killed in a strike said, “Our lives and the lives of our children and women have come to be in constant danger from these repeated wrongful attacks on innocents. If our silence continues, the air strikes will occur repeatedly and continue in this form, particularly with the failure of the Yemeni government [to stop them].”⁽³⁸⁾

While Yemeni government officials have occasionally criticized US operations, there is no evidence that the government of Yemen has taken meaningful action to protect

(30) See Section VI, Civilian Harm from August 13, 2017 Air Strike on Abyan, Yemen.

(31) See Section VI, Civilian Harm from March 4, 2017 Air Strike on Abyan, Yemen; Section VI, Civilian Harm from November 23, 2017 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from August 13, 2017 Air Strike on Abyan, Yemen.

(32) See Section VI, Civilian Harm from March 29, 2018 Air Strike on Al Bayda, Yemen.

(33) See Section VI, Civilian Harm from August 13, 2017 Air Strike on Abyan, Yemen.

(34) See Section VI, Civilian Harm from March 29, 2017 Air Strike on Al Bayda Yemen.

(35) See Section VI, Civilian Harm from January 21 or 22, 2019 Air Strike on Al Bayda, Yemen; Section VI, Civilian Harm from January 26/2018 ,27/ Air Strike on Shabwah, Yemen; Section VI, Civilian Harm from May 23, 2017 Raid on Marib, Yemen.

(36) See Section VI, Civilian Harm from December 14 or 15, 2017 Air Strike on Al Bayda, Yemen.

(37) See Section VI, Civilian Harm from January 21 or 22, 2019 Air Strike on Al Bayda, Yemen.

(38) See Section VI, Civilian Harm from March 8, 2018 Air Strike on Hadramawt, Yemen.

the lives of its citizens from the impact of US operations. Despite a mounting civilian toll, the US has repeatedly claimed it is conducting these operations with the Yemeni government's consent. A few months after a US raid killed or injured at least 20 Yemeni civilians, the US carried out another raid in Yemen in May 2017. The US described the second raid as a "Yemen authorized operation."⁽³⁹⁾ Mwatana found the second raid killed at least five people, including two civilians and two members of the US-aligned Yemeni army, and wounded another four—two more civilians and two more Yemeni army soldiers.⁽⁴⁰⁾

Law and Policy Concerns

The incidents described in this report raise serious concerns about the extent to which the United States is complying with international human rights law and international humanitarian law, where applicable, in Yemen, particularly regarding precautionary measures, distinction, military necessity, and proportionality.

The cases in this report raise concerns about who the US deems targetable, and what precautionary measures the US is taking to protect civilians, including to verify that a person is in fact a lawful target.

In the vast majority of operations documented in this report, the US killed and wounded men and boys, often in areas frequently targeted by US operations. While Mwatana found that some of the areas where the US carried out the documented operations had an AQAP presence at the time of the attack or before it, Mwatana also repeatedly found that the individuals the US was killing and wounding were civilians.⁽⁴¹⁾ The civilian men and boys that were killed left behind brothers, sisters, wives, children, siblings and friends.

Residents expressed shock at the apparent targets of US strikes. After a US strike killed a 45-year-old man in 2017 in Al Bayda, a local resident said, "He is a man who sells and buys food and poultry. He was targeted by an American drone for no reason at all."⁽⁴²⁾ After a 2018 US strike, a resident said that a child was killed while "returning from the market to his house. That's it. He went to the market to buy some groceries and was killed on his way. He wasn't guilty [of anything]."⁽⁴³⁾

(39) See Section VI, Civilian Harm from May 23, 2017 Raid on Marib, Yemen.

(40) See Section VI, Civilian Harm from May 23, 2017 Raid on Marib, Yemen.

(41) See Section III, "Methodology" on how Mwatana chooses to investigate strikes, and how Mwatana classifies individuals as civilians.

(42) See Section VI, Civilian Harm from December 22, 2017 Air Strike on Al Bayda, Yemen.

(43) See Section VI, Civilian Harm from May 25, 2018 Air Strike on Shabwah, Yemen.

Eight of the 10 documented air strikes were carried out against people traveling in vehicles—cars and motorcycles. In some of these cases, the vehicle belonged to someone else, or had been recently bought or found by those using it at the time of the strike.

The report also raises serious concerns regarding the types of people the US is targeting, including whether these people posed any form of threat—imminent or otherwise—to the United States or US persons. In 2018, the US killed a 12-year-old boy and severely wounded his 17-year-old cousin. US Central Command seemed to imply to Mwatana that a child was, or children were, harmed in the strike, noting that “Al Qaeda exploits children,” but claimed the strike “impacted the intended Al Qaeda target with no harm to civilians or civilian objects.”⁽⁴⁴⁾ The US military did not explain what, if any, specific threat a 12-year-old or 17-year-old boy in a remote part of Yemen posed to the United States or to US persons.⁽⁴⁵⁾

This strike, as well as others in the report, also raises concerns that the US is killing individuals when it would be feasible to capture them.⁽⁴⁶⁾ The 17-year-old boy who was wounded in the strike regularly went to and from a military camp as part of his job. The military camp was under the control of the US-allied Yemeni government. If he was the intended target, why was he killed in a strike rather than arrested at the camp? In other operations discussed in this report, the US killed or wounded additional members of the US-aligned Yemeni military, or conducted operations in areas within reach of US allies on the ground.⁽⁴⁷⁾

The United States is failing to meet its obligations to investigate credible allegations of international law violations, to hold individuals who are responsible for violations to account, and to provide prompt and adequate reparations.

The US has consistently denied and undercounted the number of civilians killed, injured and otherwise harmed in its operations in Yemen.

To date, the US has acknowledged civilian harm resulting from only one of the incidents documented in this report—the January 2017 raid in Al Bayda governorate, which Mwatana found killed at least 15 civilians, including ten children under the age of ten, four women and an adult man, and wounded at least five civilians—all children. Even in this case, the US undercounted the true civilian toll.⁽⁴⁸⁾ Later, the US blamed an “administrative mistake” when it forgot its own admission that up to 12 Yemeni

(44) See Annex B., “Response Letter from the US Department of Defense to Mwatana for Human Rights and Columbia Law School’s Human Rights Clinic” (March 18, 2020).

(45) See Section VI, Civilian Harm from March 5, 2018 Air Strike on Hadramawt, Yemen.

(46) See Section VI, Civilian Harm from March 5, 2018 Air Strike on Hadramawt, Yemen.

(47) See Section VI, Civilian Harm from May 23, 2017 Raid on Marib, Yemen; Section VI, Civilian Harm from January 26/2018, 27/ Air Strike on Shabwah, Yemen; Section VI, Civilian Harm from March 4, 2017 Air Strike on Abyan, Yemen.

(48) See Section VI, Civilian Harm from January 29, 2017 Raid on Al Bayda, Yemen.

civilians had been killed in the raid.⁽⁴⁹⁾

In statements made in the aftermath of its operations, the United States has repeatedly failed to account for civilian casualties, or mislabeled civilians as lawful targets. In 11 of the 12 US operations documented in this report, the US has yet to acknowledge any resulting civilian harm. The US claimed these operations killed AQAP or Islamic State in Yemen (IS-Y) fighters, and that the US had killed “terrorists.”

After a May 2017 raid in Ma’rib, the US claimed it raided an AQAP “compound,” that there were no civilian casualties, and that the strike killed seven AQAP “militants.”⁽⁵⁰⁾ Mwatana visited the small village. The raid had killed at least two civilians, including a 72-year-old former shepherd who could not see or stand properly, and wounded another two civilians, including a young boy. After the raid, the shepherd was found dead, lying next to a just finished small mosque, whose building he had overseen.⁽⁵¹⁾

As part of Mwatana’s efforts to seek transparency, truth, and accountability, it, together with the Columbia Law School Human Rights Clinic, reported in detail the civilian harm documented in this report to the US military.⁽⁵²⁾ These submissions, totaling more than 150 pages, were delivered in December 2019 and November 2020 to US Central Command. Mwatana and the Clinic made significant efforts to seek a response from the military, including whether they could explain the strikes, and whether they would acknowledge civilian harm and provide reparation, compensation or other amends to civilians affected. US Central Command’s response to the December 2019 submission—in which the US denied any civilian harm in the reported strike—is included as an annex to this report. The US had not yet sent a formal response to the November 2020 submission at time of writing.

For Yemenis who have been directly affected by US lethal operations, it is nearly impossible to report civilian harm.

While surviving relatives called for accountability, including reparations, none of the individuals interviewed for this report knew of any US investigations into civilian harm in Yemen, nor had they been contacted by the United States in regards what had happened to them. None of the civilian victims reported having received compensation, condolence payments or other forms of amends.

(49) See “US military blames “administrative mistake” after forgetting its troops killed Yemeni civilians,” *Airwars*, March 2, 2021, <https://airwars.org/news-and-investigations/us-military-blames-administrative-mistake-after-forgetting-its-troops-killed-yemeni-civilians/>.

(50) See Section VI, Civilian Harm from May 23, 2017 Raid on Marib, Yemen.

(51) See Section VI, Civilian Harm from May 23, 2017 Raid on Marib, Yemen.

(52) See Annexes.

Key Recommendations

There are a number of steps the United States should take to re-set towards a rights-respecting approach to Yemen, beginning with conducting more thorough and transparent investigations into claims of civilian harm and moving all the way through to ensuring the US is abiding with all applicable international law, including that constraining the use of force and protecting the right to life, and ensuring accountability and reparations for violations.

After years of reporting, advocacy and litigation by survivors of US attacks and civil society groups, the Obama Administration announced in 2013 a set of policies and procedures meant to guide the United States' use of lethal force abroad. While these guidelines marginally increased transparency and contained a few important measures, including that there be "near certainty" civilians not be killed or injured in operations taken outside areas of active hostilities, civilians continued to be harmed in US operations abroad. Put in place by the then-president, executive branch power to determine when, if and how lethal force was used across the globe remained expansive and entrenched. After his inauguration in 2017, President Trump's administration began to change some of these policies and procedures, including reportedly loosening restraints related to targeting policy and reporting.

Throughout, transparency has remained woefully lacking. The US Department of Defense has acknowledged carrying out lethal operations in Yemen, and in some cases provides the date, governorate and intended target or objective of operations. It has very rarely acknowledged civilian deaths caused by the United States in Yemen, and its disclosures on civilian harm beyond deaths are minimal to non-existent. The CIA does not even acknowledge the lethal operations it carries out.

In 2021, after entering the White House, the new Biden Administration began to review what rules the US should apply to these operations. The United States should do far more than simply reverse regressive changes introduced by the Trump Administration. The status quo that existed in 2016 was flawed, unaccountable, and resulted in repeated international law violations.

To ensure a full and meaningful transformation of US policy on Yemen that protects the right to life, including Yemenis' right to life, the US should conduct a full review regarding the impact of its operations in Yemen. This review should examine the lawfulness and civilian impact of each operation undertaken since the United States began using lethal force in Yemen nearly two decades ago, and take a hard look at whether these operations have been at all effective in making anyone safer. After this review, the US should acknowledge each instance of civilian harm and the wider

impact on the communities subjected to these operations, work to provide reparations, condolence payments, and other forms of amends, and ensure accountability where required.

Acknowledgment of civilian harm, paired with reparations and accountability, can go a long way towards disrupting cycles of violence. For years, the US has contributed to fueling and furthering conflict in Yemen. It is entirely possible to change course. If the Biden Administration were to adopt the recommendations outlined in this report, it would constitute a significant step towards transforming the United States' relationship to Yemen. In the end, the best approach the US can take towards Yemen is beginning to listen, heed and support the many Yemenis already working to build a country that centers rights respect, peace and justice.

II. Recommendations

To the United States

- Abide by all applicable international law requirements, including those that constrain the use of force and protect the right to life.
- Adhere to the rule that, in the context of armed conflict, where there is doubt whether a person is a civilian, that person must be considered a civilian.
- Conduct a full review regarding the impact of US operations in Yemen, including an examination of the lawfulness and civilian impact of each US operation undertaken since the US began using lethal force in Yemen nearly two decades ago. Assessments of the lawfulness of operations should consider all applicable international law requirements, including those that constrain the use of force and protect the right to life.
- Robustly investigate all credible reports and allegations of unlawful civilian harm associated with the United States' use of lethal force in Yemen, including those documented in this report, as well as where US forces participated in others' unlawful attacks. Carefully consider external sources, including reports by civil society, witnesses, family members and survivors, prosecute and impose disciplinary actions and other penalties where appropriate, and publicly disclose the results.
- Implement an effective and accessible process for survivors, family members and civil society, including local civil society, to submit claims, information and evidence regarding civilian harm resulting from the United States' use of lethal force in Yemen. Provide clear, accessible and up-to-date information, including in Arabic, regarding how to submit information, as well as on any alleged violations found, any investigations and prosecutions undertaken, and any remedies provided. Ensure appropriate resources, including staff, are dedicated to these efforts.
- Acknowledge each instance of the United States' use of lethal force in Yemen, including those undertaken by the Central Intelligence Agency, and include the number of people killed and wounded, broken down by location, date, age, and gender, the number categorized by the US as "civilians" and "combatants," and the criteria used to determine such statuses.
- Apologize to survivors and victims' families for civilian harm caused by the United States in Yemen.
- Provide prompt and meaningful reparations, condolence payments and other forms of amends, as appropriate, to civilians harmed by the United States in Yemen.
- Publicly disclose the guidelines, policies and legal frameworks the US is applying to its operations in Yemen, including those targeting AQAP and IS-Y and whether and when parts of Yemen have been designated areas of active hostilities. Disclose civilian harm mitigation procedures and all guidance on standards for investigations, including deeming civilian casualty reports credible.

- Cooperate with investigations, including those conducted by the UN Group of Independent Experts and relevant UN special procedures mandate holders, into all credible reports and allegations of unlawful civilian harm associated with the United States' use of lethal force in Yemen, including those documented in this report.

To Yemen

- Condition consent for US action in Yemen on the United States' compliance with all applicable international law requirements, including those that constrain the use of force and protect the right to life, and on the US implementing the above recommendations, including to undertake effective investigations, provide credible reparations and ensure accountability.
- Where the government consents to the United States' use of force in Yemen, do so openly and clearly, and state any conditions attached to this consent.
- Publicly disclose the type and magnitude of cooperation with the United States and any other relevant government in operations against AQAP and IS-Y, and the role Yemen has and currently plays in these operations, including which Yemeni government agencies and institutions are involved.
- Publicly disclose any agreements between the Yemeni government and the United States, as well as between the Yemeni government and other governments, regarding the use of lethal force in Yemen and relating to the status of foreign forces in Yemen.
- In cases where Yemeni forces have been credibly implicated in international law violations, including international crimes, prosecute and impose disciplinary actions and other penalties where appropriate.
- Support efforts towards credible transitional justice, including during the peace process, and including supporting a means for seeking truth regarding those killed and wounded by the United States' use of lethal force in Yemen, and memorializing civilian victims.
- Raise specific cases of civilian harm with the US government, including those documented in this report, and advocate for accountability and prompt and meaningful reparations, condolence payments, and other forms of amends for civilians harmed.
- Cooperate with investigations, including those conducted by the UN Group of Eminent Experts and relevant UN special procedures mandate holders, into all credible reports and allegations of unlawful civilian harm in Yemen, including those associated with the United States' use of lethal force in Yemen, including those documented in this report.
- Extend an invitation to relevant UN entities, including the UN Group of Eminent Experts and UN special procedures mandate holders, including the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, to visit Yemen, and cooperate with these entities.

To the UN Group of Eminent International and Regional Experts on Yemen

- Continue investigating the United States' use of lethal force in Yemen and preserve the information from these investigations for future use, including efforts towards accountability and reparation.

III. Methodology

This report documents the civilian harm caused by 12 instances of the United States' use of lethal force in Yemen in the Abyan, Al Bayda, Shabwah, Hadramawt and Ma'rib governorates between January 2017 and January 2019. The incidents described in this report were selected after research confirmed initial accounts of civilian harm. This report lists the cases in reverse chronological order.

The incidents described in this report include ten air strikes, all apparently conducted by unmanned aerial vehicles (drones), and two ground raids. The US publicly acknowledged both ground raids and conducting strikes in the same three-day window and the same governorate in nine of the ten air strikes documented. The one remaining strike occurred in Yakla area in Al Bayda governorate, frequently targeted by US operations. Before the strike, witnesses said they heard the familiar sound of drones buzzing overhead. In some cases, weapons experts also identified remnants from an AGM-114 Hellfire missile, an air-to-surface missile commonly released by US drones.

Mwatana is an independent Yemeni organization that advocates for human rights through the documentation of civilian harm, the provision of legal support to victims and through advocacy and legal action. Mwatana has worked extensively to document civilian harm caused by all warring parties in Yemen, including by publishing reports on the Ansar Allah (Houthi) armed group, the Saudi/UAE-led coalition, and Yemeni government forces.⁽⁵³⁾ Mwatana chooses cases to investigate based on the existence of civilian harm and regardless of the party that conducted the attack. This report follows a 2015 Mwatana-Open Society Justice Initiative report, *Death by Drone: Civilian Harm Caused by US Targeted Killings in Yemen*, which described the civilian harm resulting from nine US air strikes in Yemen between 2012 and 2014.⁽⁵⁴⁾

Mwatana uses rigorous and peer-reviewed investigation methods to investigate alleged incidents. Mwatana investigated the 12 incidents detailed in this report by collecting witness statements first-hand and documenting physical evidence found at sites, including by taking or collecting photographs of the surrounding areas and weapons remnants. In the majority of cases, Mwatana researchers conducted site visits, usually soon after attacks. An independent munitions expert provided analysis of munitions remnants found at attack sites.

Mwatana conducted 69 interviews across Yemen. Mwatana interviewed survivors, family members, witnesses and local community leaders. Interviews were conducted in person where security conditions permitted. Where they did not, interviews or follow-up interviews were conducted by telephone. All interviews were conducted in Arabic. Interviewees were informed of the purpose of the interview and asked if they

(53) See, e.g. *Withering Life: The Human Rights Situation in Yemen in 2018*, Mwatana for Human Rights (July 16, 2019), <https://mwatana.org/en/withering-life2018/>; *Chapters from Hell*, supra note 2; *Press in Yemen Faces Extinction*, supra note 2; *Day of Judgment*, supra note 2; *Concealed Killer*, supra note 2.

(54) See *Death by Drone*, supra note 1.

consented to their identities being disclosed in this report. In many cases, the report does not provide identifying information in the interests of individuals' security and privacy. No financial or other incentives were offered to the interviewees for speaking with researchers. In many of the cases in this report, Mwatana conducted follow-up interviews by phone or during additional site visits to gather further information. A description of the sources of information gathered for each incident are included in each case summary below.

In addition, Mwatana examined documents that related to witness accounts, including death certificates, birth certificates, medical reports, government and military statements, and other documents detailing where victims worked and studied, as well as the extent of harm they faced in these incidents.

Research was conducted in the context of several ongoing armed conflicts in Yemen, pervasive government secrecy concerning operations against AQAP and IS-Y, and extremely difficult security situations in many of the areas where attacks took place—including repeated drone strikes and the proliferation of armed groups, as well as local communities' fear of reprisals.

This report does not purport to provide a comprehensive account of all civilian harm associated with US military operations in Yemen. Civilian harm associated with the United States' military support to Saudi/UAE-led coalition operations in Yemen is examined in more detail, for example, in other Mwatana publications, with associated recommendations provided.⁽⁵⁵⁾

This report also does not purport to provide a comprehensive account of all US "counterterrorism" operations against AQAP and IS-Y in Yemen. The aim of this report is to document the civilian harm caused by 12 specific incidents of the United States' use of lethal force in Yemen.

Students from the Columbia Law School Human Rights Clinic compiled US government statements that publicly acknowledged incidents, or appeared to do so, as well as statements from Yemeni government officials and public reporting around incidents. Mwatana also examined official statements and public reports, including statements and claims made by the US Department of Defense and US Central Command (CENTCOM), regarding the purported target of attacks.

(55) See, e.g., *Day of Judgment*, supra note 2; *In the Darkness*, supra note 3.

As part of Mwatana's efforts to seek transparency, truth, and accountability, it, together with the Columbia Law School Human Rights Clinic, reported in detail the civilian harm documented in this report to the US military. These submissions, totaling more than 150 pages, were delivered in December 2019 and November 2020 to US Central Command. Mwatana and the Clinic made significant efforts to seek a response from the military, including whether they could explain the strikes, and whether they would acknowledge civilian harm and provide reparation, compensation or other amends to civilians affected. US Central Command's response to the December 2019 submission—in which the US denied any civilian harm in the reported strike—is included as an annex to this report. The US had not yet sent a formal response to the November 2020 submission at time of writing.

Additional Notes on Methodology

The term “civilian harm” in this report includes deaths, injuries, damage to property, economic effects such as the loss of income, and social and psychological harms on civilians resulting from instances of the United States' use of lethal force in Yemen.

This report adopts a conservative approach in that it only counts people as civilians in instances where Mwatana found no credible indication of any association with an armed group or armed force. Mwatana found that some of those killed or wounded were members of the US-aligned Yemeni military—these individuals are clearly indicated in the text, and are not counted as civilians. In three cases, people provided information on certain individuals' potential association with AQAP. As Mwatana was unable to obtain specific information about the nature, duration and extent of these individuals' alleged participation or association with AQAP, these individuals are referred to in the text as those for whom Mwatana was unable to determine their status, and are not counted as civilians. Association or affiliation with AQAP or IS-Y would not alone render a person targetable under international law.⁽⁵⁶⁾ As such, the report likely undercounts the true number of civilians killed in the 12 documented incidents.

Ages used in Yemen are often approximate. Particularly in rural areas, it is not uncommon to find people with different dates of birth recorded on different official documents. The ages used in this report are based on interviews and, where available, official documents. Particularly when a person killed or wounded was described as a child, Mwatana worked to corroborate the person's age through interviews with the person (if surviving), with their relatives or through examination of any available documents.

(56) In the context of an armed conflict, a person is only targetable if a member of a state's armed forces, while serving a continuous combat function in an organized armed group of a party to the conflict, or for such time as they are directly participating in hostilities. Outside of an armed conflict, lethal operations are rarely lawful.

The vast majority of strikes happened in extremely remote areas of Yemen. In a few cases, other reporting, including that by Airwars or in CENTCOM acknowledgments of strikes, indicates an operation may have occurred a day before or a day after that reported by interviewees to Mwatana. Where relevant, Mwatana includes this information.

IV. International Legal Standards

This report raises serious concerns about the extent to which the United States is complying with international law when using lethal force in Yemen.

Context

A non-international armed conflict between the forces of Yemeni President Abd Rabboh Mansour Hadi and the Ansar Allah (Houthi) armed group began in 2014. This conflict escalated in 2015 when members of the Saudi/UAE-led coalition intervened in support of President Hadi's forces. The United States, which has provided significant military support to the Saudi/UAE-led coalition, including intelligence and logistics support and aerial refueling, became a party to this conflict in 2015. The US also supported parties to the conflict with arms transfers. In early 2021, the US announced it would cease all support for Saudi/UAE-led coalition offensive operations in Yemen, but would continue to support Saudi Arabia to defend its territory from attack. A US official said the decision would not affect US operations against AQAP because these were "actions that we undertake in service of protecting the homeland and protecting American interests in the region and our allies and partners."⁽⁵⁷⁾

In almost all of the incidents documented by Mwatana in this report, the US claimed to be targeting AQAP.

Various sources have claimed a non-international armed conflict exists between the Yemeni government and AQAP, to which the US is a party.⁽⁵⁸⁾ According to the Geneva Academy of International Humanitarian Law and Human Rights, as part of their Rule of Law in Armed Conflicts (RULAC) project which systematically qualifies situations of armed violence and identifies parties to armed conflicts, there has been a sufficient level of intensity of violence, and, "among the key armed groups [in Yemen], both the Houthis and al-Qaeda in the Arabian Peninsula undoubtedly have a sufficient degree of organization."⁽⁵⁹⁾

(57) Kheel, *supra* note 9.

(58) See, e.g., The Geneva Academy of International Humanitarian Law and Human Rights, Rule of Law in Armed Conflicts (RULAC) project, which has analyzed the US to be a party to the armed conflict between Yemen and AQAP, "Yemen," The Geneva Academy, <http://www.rulac.org/browse/conflicts/non-international-armed-conflicts-in-yemen#collapse2accord>; See also Human Rights Council, Situation of human rights in Yemen, including violations and abuses since September 2014: Report of the Group of Eminent International and Regional Experts on Yemen, UN Doc. A/HRC/45/6/ (September 28, 2020) at para. 25, <https://www.ohchr.org/Documents/HRBodies/HRCouncil/GEE-Yemen/202009--09-report.pdf> (finding there was a non-international armed conflict between the Yemeni government and AQAP); North Rhine-Westphalia Higher Administrative Court, Judgment from 194—2019/3/ A 136115/, translation prepared for the European Center for Constitutional and Human Rights (ECCHR), https://www.ecchr.eu/fileadmin/Juristische_Dokumente/OVG_Muenster_oral_declaration_of_judgment_19_March_2019_EN.pdf ("The armed conflict between Al-Qaida in the Arabian Peninsula on the one side and, on the other side, the Yemeni government, which had requested support in this respect and is supported by the USA among others, has up to recent times had a level of intensity such that a non-international armed conflict is given, including in the view of the Security Council.")

(59) See, e.g., The Geneva Academy, *ibid.*

AQAP has controlled territory in Yemen at various points, including the city of Mukalla. The group left the city following a US-supported Saudi/UAE-led coalition and Yemeni government push in 2016. AQAP has also carried out sustained military operations and, since 2014, intermittently engaged in the wider fighting, including carrying out attacks on Ansar Allah and southern forces. The US has carried out air strikes targeting AQAP for many years, and ground raids in recent years. The US has claimed its operations against AQAP are “with the consent of the Government of Yemen in the context of the armed conflict against AQAP and in furtherance of US national self-defense.”⁽⁶⁰⁾ At times, the US has carried out operations on AQAP with or in support of the UAE and Saudi Arabia.⁽⁶¹⁾ While the Saudi/UAE-led coalition has carried out attacks on AQAP, it has also reportedly fought alongside and supported AQAP elements in efforts against Ansar Allah.⁽⁶²⁾

“AQAP” is much more complex than the entity often described by the United States and other governments claiming to target the group. As just one example, in a 2017 paper, two Yemen experts attempted to “peel[] back some of the layers of deliberate obfuscation and misunderstanding that have pervaded orthodox thinking on AQAP” for years. They distinguished between AQAP’s rhetoric and its measurable actions, focusing not on the group’s media output but on its actual acts of violence inside Yemen against Yemeni targets. The experts concluded AQAP had, at times, been utilized “as a kinetic security enforcer on behalf of the state [in Sana’a],” rather than operating as an insurgent group challenging that state.⁽⁶³⁾ More broadly, membership in particular groups in Yemen is often fluid. Individuals occasionally “switch sides,” maintain multiple loyalties, or join different fighting forces for a salary or for other more immediate needs and local aims.

In one incident in this report, the US claimed to be targeting IS-Y.⁽⁶⁴⁾

It is unclear whether an armed conflict exists with respect to IS-Y, including whether IS-Y has the requisite degree of organization, or that the requisite levels of violence are present. The RULAC project has not taken a position on whether an armed conflict

(60) Whether or not an armed conflict exists under international law is a factual question. The subjective views of possible parties to a conflict may be considered as one of many indicators, but are not determinative. See also 2016 Report on the Legal and Policy Frameworks Guiding the United States’ Use of Military Force and Related National Security Operations, The White House (December 2016), p. 23 https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/Legal_Policy_Report.pdf.

(61) The White House, *supra* note 4 at p. 2 (“A small number” of US military personnel deployed to Yemen to conduct operations against AQAP and IS-Y, the US was working “closely with the Government of Yemen and regional partner forces” against AQAP and IS-Y, including carrying out air strikes against “AQAP operatives and facilities” and “supporting UAE and Yemen-led operations” against AQAP in Shabwah).

(62) “Al Qaeda in the Arabian Peninsula: From Global Insurgent to State Enforcer,” Martin Jerrett and Mohammed al-Haddar, *Hate Speech International* (March 2017), <https://www.hate-speech.org/wp-content/uploads/201703/From-Global-Insurgent-to-State-Enforcer.pdf>.

(63) *Ibid.*

(64) In none of the incidents documented in this report has the US claimed it targeted Ansar Al Shariah. As such, Mwatana does not address the legal framework that might apply to US actions against the group.

exists.⁽⁶⁵⁾ IS-Y is small and fragmented, and the group's flag has at times been used as an opportunistic tool. In 2017, the UN Security Council Panel of Experts found that IS-Y was much smaller than AQAP and, while "capable of carrying out coordinated large-scale attacks,"⁽⁶⁶⁾ that IS-Y had "suffered from the collapse of... the so-called caliphate in Iraq and the Syrian Arab Republic," that there was no evidence of an influx of IS fighters into Yemen, and that "instead the opposite appears to be happening" with "low-level" IS-Y fighters appearing to defect to AQAP.⁽⁶⁷⁾ The US announced its first direct strike on IS-Y in late 2017, and claimed in 2018 and 2019 that it continued to target the group.⁽⁶⁸⁾ According to Airwars, which did an analysis of open source data related to strikes in Yemen, almost all US strikes against IS-Y appeared to have occurred in late 2017, and these constituted a small fraction of overall US strikes, most of which appeared directed at AQAP.⁽⁶⁹⁾

International Human Rights Law

Outside the context of an armed conflict, international human rights law governs the use of lethal force. International human rights law also continues to apply during situations of armed conflict, complementing international humanitarian law.⁽⁷⁰⁾

The right to life, and the associated prohibition on the arbitrary deprivation of life, is a fundamental right enshrined in numerous human rights treaties.⁽⁷¹⁾ For example,

(65) See generally, The Geneva Academy, *supra* note 58.

(66) Security Council, "Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council," UN Doc. S/2018594/ (January 26, 2018), at para. -76, <http://www.undocs.org/en/S/2018594/>.

(67) *Ibid.*

(68) The Trump Administration argued that strikes against IS were "conducted with the consent of the Government of Yemen in the context of its armed conflict against ISIS and also in furtherance of US national defense." Whether or not an armed conflict exists under international law is a factual question. The subjective views of possible parties to a conflict may be considered as one of many indicators, but are not determinative. See, e.g. The White House, *supra* note 4 at p. 6; 2019 Annual Report on Civilian Casualties in Connection with United States Military Operations, Department of Defense (May 2020) at p. 13.

(69) *Eroding Transparency: US counterterrorism actions in Yemen under President Donald Trump*, Airwars (October 2020), <https://airwars.org/wp-content/uploads/202010//Eroding-Transparency-Trump-in-Yemen.-Airwars-October-2020.pdf>.

(70) See "General Comment No. 36: Article 6 (The Right to Life)," Human Rights Committee (October 30, 2018) at para 64.

(71) See, e.g., 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"); 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").

Article 6 of the International Covenant on Civil and Political Rights (ICCPR), to which both the US and Yemen are party,⁽⁷²⁾ 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."⁽⁷³⁾ In general, the use of lethal force consistent with IHL is not arbitrary. However, as the Human Rights Committee has explained, States parties to the ICCPR should:

Disclose the criteria for attacking with lethal force individuals or objects whose targeting is expected to result in deprivation of life, including the legal basis for specific attacks, the process of identification of military targets and combatants or persons taking a direct part in hostilities, the circumstances in which relevant means and methods of warfare have been used, [269] and whether less harmful alternatives were considered. They must also investigate alleged or suspected violations of article 6 in situations of armed conflict in accordance with the relevant international standards.⁽⁷⁴⁾

States parties to the ICCPR have the obligation to respect and ensure Article 6 rights to all persons, including those outside their territory, "over whose enjoyment of the right to life it exercises power or effective control," including where that right is "impacted by its military activities in a direct and reasonably foreseeable manner."⁽⁷⁵⁾ In concluding observations to the US, the Human Rights Committee specifically commented on drone strikes, stating that parties must "ensure that any use of armed drones complies fully with its obligations under article 6 of the Covenant, including, in particular, with respect to the principles of precaution, distinction and proportionality in the context of an armed conflict."⁽⁷⁶⁾

International human rights law also obligates States to investigate a violation of the right to life, and states have an obligation to provide effective remedies, including reparations.⁽⁷⁷⁾ Regarding the obligation to investigate, the Human Rights Committee has stated that the protection of the right to life requires, "States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate

(72) 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.

(73) ICCPR, Article 6 (Arbitrariness is interpreted to include "elements of inappropriateness, injustice, lack of predictability, and due process of law as well as elements of reasonableness, necessity and proportionality"). Human Rights Committee, *supra* note 70, at para. 12.

(74) Human Rights Committee, *supra* note 70, at para. 63.

(75) Human Rights Committee, *supra* note 70, at para. 63.

(76) "Concluding observations on the fourth periodic report of the United States of America," Human Rights Committee (April 23, 2014), at para. 9.

(77) *Factory At Chorzów, Germany v. Poland* (Permanent Court of International Justice 1928); Universal Declaration of Human Rights, Article 8 ("Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law"); ICCPR, Article 2(3) (Section (a) states that "Each State Party to the present Covenant undertakes... To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.").

and, where appropriate, prosecute the perpetrators of such incidents.”⁽⁷⁸⁾ These investigations must be “independent, impartial, prompt, thorough, effective, credible and transparent,” and where violations are found, full reparations must be provided.⁽⁷⁹⁾

Reparations can take the form of appropriate compensation, 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.⁽⁸⁰⁾ The duty to provide reparations applies both to violations of international humanitarian law and to international human rights law.⁽⁸¹⁾

Outside the context of an armed conflict, international human rights law governs the use of lethal force. 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.”⁽⁸²⁾ 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.⁽⁸³⁾ It follows that an operation aimed at killing a person

“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.”⁽⁸⁴⁾

(78) Human Rights Committee, *supra* note 70, at para. 27.

(79) Human Rights Committee, *supra* note 70, at para. 28; see also United Nations General Assembly, 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, Resolution 60/147/, (December 16, 2005) at para. 15.

(80) See Office of the High Commissioner for Human Rights, *The Minnesota Protocol on the Investigation of Potentially Unlawful Death* (2016), at 4; see also *Death by Drone*, *supra* note 1.

(81) United Nations General Assembly, *supra* note 79 at para. 15.

(82) See ICCPR, articles 4(2) and 6; Human Rights Committee, *supra* note 70, at 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.”

(83) Ben Emmerson, “Report of the U.N. Special Rapporteur on promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. doc A/HRC/2559/ (February 28, 2014), at para. 60, <http://justsecurity.org/wp-content/uploads/201402//Special-Rapporteur-Rapporteur-Emmerson-Drones-2014.pdf>; see also Christof Heyns, “Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, UN Doc. A /68382/ (September 13, 2013), at paras. 3239–, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>.

(84) Emmerson, *ibid*.

International Humanitarian Law

All parties to a conflict, including states and non-state armed groups, are obliged to adhere to international humanitarian law (IHL). Applicable law during a non-international armed conflict includes Common Article 3 to the Geneva Conventions of 1949, Additional Protocol (II) to the Geneva Conventions of 1977, and customary international humanitarian law. International human rights law (IHRL) continues to apply during armed conflict, complementing international humanitarian law.

International humanitarian law prohibits attacks that fail to comply with the principles of distinction, proportionality, precautionary measures, military necessity, and humanity.⁽⁸⁵⁾

Parties to a conflict must distinguish at all times between those individuals and objects that can and cannot be targeted.⁽⁸⁶⁾ Parties are prohibited from deliberately attacking civilians or civilian objects.⁽⁸⁷⁾

According to the International Committee of the Red Cross's (ICRC) interpretative guidance on direct participation in hostilities, in a non-international armed conflict, civilians are "all persons who are not members of State armed forces or organized armed groups of a party to the conflict."⁽⁸⁸⁾ The ICRC explains that only those people whose "continuous function" is to take a direct part in hostilities, known as "continuous combat function," would constitute members of an organized armed group. They also note that for the purposes of distinction, "membership in such groups cannot depend on abstract affiliation, family ties, or other criteria prone to error, arbitrariness or abuse."⁽⁸⁹⁾

(85) The United States has ratified the four Geneva Conventions and signed but not ratified Additional Protocol II. The United States is bound by customary international law and is under an obligation not to act in a way that would defeat the object and purpose of treaties it has signed. Yemen is a party to the Geneva Conventions, as well as to the Additional Protocols. See generally The Geneva Conventions, their Additional Protocols, and the ICRC's commentary on Customary International Humanitarian Law.

(86) See, e.g., Jean-Marie Henckaerts et al., International Committee of the Red Cross, Customary International Humanitarian Law, v. 1, Rule 1 (2009) [hereinafter ICRC, Customary IHL]; Additional Protocol II, Article 13(2).

(87) Ibid.

(88) Interpretive Guidance on the Notion of Direct Participation in Hostilities Under International Humanitarian Law: Recommendation II, International Committee of the Red Cross (May 2009), at p. 16.

(89) Ibid.

When members of organized armed groups cease to assume their continuous combat function, they regain full civilian protection against direct attack, although they may be prosecuted for any violations of domestic and international law committed.⁽⁹⁰⁾ When a member of state's armed forces disengages from active duty and re-integrates into civilian life, for example through a full discharge from duty or as a deactivated reservist, they also regain the protection afforded to civilians under international humanitarian law.⁽⁹¹⁾

Civilians are entitled to protection against direct attack unless and for such a time as they take a direct part in hostilities. Conduct only amounts to direct participation in hostilities, according to the ICRC, if it meets three "cumulative criteria," including: (i) likely to adversely affect the military operations or military capacity of a warring party or to inflict death, injury, or destruction on persons or objects protected against direct attack, (ii) there is a direct causal link between the act and the harm likely to result, and (iii) specifically designed to directly cause the required threshold of harm in support of a warring party and to the detriment of another.⁽⁹²⁾

Where there is doubt as to whether or not a person is targetable, that person must be presumed to be protected against direct attack.⁽⁹³⁾

International humanitarian law requires warring parties to minimize harm to civilians. A party to a conflict may not carry out attacks that would cause disproportionate harm to civilians,⁽⁹⁴⁾ and must take constant care, in the form of precautionary measures, to avoid, and to minimize, incidental loss of civilian life, injury to civilians, and damage to civilian objects.⁽⁹⁵⁾ These precautions require each party, amongst other obligations, to do everything feasible to verify that targets are military objectives, to assess whether the attack may be expected to cause disproportionate harm, 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 disproportionate harm, and to give effective advance warning, unless circumstances do not permit.⁽⁹⁶⁾

(90) Ibid., "Recommendation X" at p. 17.

(91) Ibid. at p. 25.

(92) Ibid., "Recommendation V" at p. 16.

(93) Ibid., "Recommendation VIII" at p. 17.

(94) ICRC, Customary IHL Rule 14.

(95) ICRC, Customary IHL Rule 15; Additional Protocol II, Article 13(1).

(96) Ibid; ICRC, Customary IHL, *supra* note 86, at Rules 1624-.

States have an obligation to investigate credible allegations of serious violations of international humanitarian law committed by members of their armed forces and other persons within their jurisdiction and, if appropriate, to prosecute them.⁽⁹⁷⁾ The command responsibility doctrine, the obligation to take precautionary measures, Common Article 1, and international human rights law also imply other international humanitarian law violations should be investigated.⁽⁹⁸⁾

States responsible for international humanitarian law violations have an obligation to make full reparation for loss and damage caused.⁽⁹⁹⁾

(97) ICRC, Customary IHL Rules 156158-.

(98) For more on this obligation, see *Death by Drone*, supra note 1.

(99) ICRC, Customary IHL Rule 150; see also Emanuela-Chiara Gillard, *Reparation for violations of international humanitarian law*, *International Review of the Red Cross*, Vol. 85 (September 2003) at pp. 53031- ("It is a general principle of public international law that any wrongful act — i.e. any violation of an obligation under international law — gives rise to an obligation to make reparation."); "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," United Nations General Assembly Resolution 60147/ (December 2005) (calling for "adequate, effective and prompt" reparations to be made where there have been "gross violations of international human rights law or serious violations of international humanitarian law"); Rome Statute, Articles 75 and 79.

V. The United States' Use of Lethal Force in Yemen

**The United States of America is killing us and
the world is watching without lifting a finger.
—A resident of Al Bayda after a 2017 strike killed
another civilian man in the governorate**

For nearly two decades, the United States has been conducting secret and unaccountable killings abroad.⁽¹⁰⁰⁾ The United States' use of lethal force continues to cause frequent civilian harm, including in Yemen.

While the US eventually began to acknowledge certain strikes and operations in Yemen, transparency remains woefully lacking. The US Department of Defense has acknowledged carrying out lethal operations in Yemen, and in some cases provides the date, governorate and intended target or objective of operations. It has very rarely acknowledged civilian deaths caused by the United States in Yemen, and its disclosures on civilian harm beyond deaths are minimal to non-existent. The CIA does not even acknowledge lethal operations it carries out.

It is often unclear when and where relevant US policies on the use of force apply. Administrations have kept important standards they themselves have adopted to constrain the use of lethal force secret, sometimes only releasing crucial documents in response to litigation. This significant lack of transparency makes it extremely difficult for external observers, including civil society, to independently assess how well either the Obama or Trump Administrations complied with their own guidelines on the use of lethal force abroad.

For example, in 2013, the Obama Administration announced the “near certainty” standard that non-combatants not be killed or injured in lethal operations taken outside areas of active hostilities.⁽¹⁰¹⁾ But, between 2012 and 2014, Mwatana and OSJI collected evidence of nine US air strikes that killed at least 26 civilians, wounded an additional 13, and caused other forms of civilian harm in Yemen. In this report, Mwatana describes 12 US operations that killed at least 38 Yemeni civilians, injured at least seven civilians, and caused significant civilian harm. It seems likely the “near certainty” standard applied to some, if not many, of these operations.⁽¹⁰²⁾ But, given the

(100) See *Death by Drone*, supra note 1.

(101) See *Death by Drone*, supra note 1.

(102) See, e.g., “Fact Sheet: US Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities,” White House Office of the Press Secretary (May 23, 2013), <https://obamawhitehouse.archives.gov/the-press-office/2013/05/23/fact-sheet-us-policy-standards-and-procedures-use-force-counterterrorism> (“This document provides information regarding counterterrorism policy standards and procedures that are either already in place or will be transitioned into place over time”).

White House does not disclose when, where and if parts of Yemen were designated outside areas of active hostilities, it is unclear which incidents those might be.⁽¹⁰³⁾

US Law and Policy

The Obama and Trump Administrations both argued that the 2001 Authorization for the Use of Military Force (AUMF) provided legal authorization for strikes against AQAP and the Islamic State.⁽¹⁰⁴⁾ The AUMF, which Congress passed in the wake of the September 11, 2001 attacks, authorizes the executive branch to use military force against groups directly connected to the attacks—al-Qaeda and the Taliban. Successive administrations, however, have interpreted the statute to authorize the use of lethal force across the globe, from Yemen to Somalia, and against disparate groups, including those that did not exist in September 2001 and some expressly at odds with al-Qaeda. These excessively broad interpretations have been critiqued from a factual and legal perspective elsewhere.⁽¹⁰⁵⁾ Yet, after the United States' carried out its first strikes on the Islamic State in Yemen in late 2017, the Trump Administration once again cited the 2001 AUMF as providing domestic legal authorization.⁽¹⁰⁶⁾

Targeting Policy

Near the end of the Obama Administration, in 2013, the White House released a fact sheet summarizing a Presidential Policy Guidance on counterterrorism operations outside areas of active hostilities.⁽¹⁰⁷⁾ Under the Procedures for Approving Direct Action Against Terrorist Targets Located Outside the United States and Areas of Active Hostilities (PPG)⁽¹⁰⁸⁾—a redacted version of which the Obama Administration released in response to litigation—lethal action such as a drone strike may only be taken outside areas of active hostilities against an individual posing “a continuous, imminent threat to US persons”⁽¹⁰⁹⁾ where there is a legal basis for that action and when certain preconditions have been met, including:

- Near certainty that an identified [high-value terrorist] is present;

(103) This also applies to the preference for capture announced in the 2013 guidelines. Ibid.

(104) Authorization for Use of Military Force, Pub. L. No. 107-115, 40- Stat. 224 (2001). See, e.g. The White House, *supra* note 60; The White House, *supra* note 4 at p. 6.

(105) See, for example, Brett Max Kaufman, “Why the US War in ISIS is Illegal,” ACLU (February 9, 2018), <https://www.aclu.org/blog/national-security/why-us-war-isis-illegal>.

(106) The Obama administration first articulated their belief that the “2001 AUMF continues to apply to ISIL because of their decade-long relationship with al Qaeda, their continuing ties to al Qaeda; because they have continued to employ the kind of heinous tactics that they previously employed when their name was al Qaeda in Iraq; and finally, because they continue to have the same kind of ambition and aspiration that they articulated under the previous name.” This justification has remained the same for Islamic State militants in Syria, and in Yemen, and has been widely critiqued. The White House, *supra* note 4 at p. 6.

(107) White House Office of the Press Secretary, *supra* note 102.

(108) “PSP FOIA Request,” ACLU (October 30, 2017), <https://www.aclu.org/legal-document/psp-foia-request>.

(109) “Procedures for Approving Direct Action Against Terrorist Targets Located Outside the United States and Areas of Active Hostilities,” Executive Office of the President (May 22, 2013) (redacted) (“PPG”) at p. 1, https://www.justice.gov/oip/foia-library/procedures_for_approving_direct_action_against_terrorist_targets/download.

- Near certainty that non-combatants⁽¹¹⁰⁾ will not be injured or killed;
- An assessment that capture is not feasible at the time of the operation;
- An assessment that relevant governmental authorities in the country where the action is contemplated cannot or will not effectively address the threat to US persons; and
- An assessment that no other reasonable alternatives to lethal action exist to effectively address the threat to US persons.⁽¹¹¹⁾

However, the PPG did not restrict the US to carrying out lethal operations under these circumstances. It allowed the president to authorize a strike that does not meet the above preconditions in “extraordinary cases,” such as when there is a “fleeting opportunity” or the individual “poses a continuing, imminent threat to another country’s persons.”⁽¹¹²⁾

President Trump appears to have replaced Obama’s 2013 PPG with a new Principles, Standards, and Procedures (PSP) document that reportedly further loosened targeting rules.⁽¹¹³⁾ This document was not publicly released, despite an October 2017 Freedom of Information Act (FOIA) request by the ACLU, and a subsequent lawsuit when the FOIA request went unanswered.⁽¹¹⁴⁾ A federal court ruled in favor of the ACLU on September 29, 2020, deciding that “the government cannot keep the existence of its new killing rules a secret,” but the government did not release the requested information. Reported changes from the PPG included:

- Expanding the targets of armed strikes by eliminating the requirement that the person pose an ‘imminent threat,’
- Loosening the requirement of ‘near certainty’ that the target is present at the time of the strike to a ‘reasonable certainty,’ and
- Revising the process through which strike determinations are made by reducing senior policy maker involvement and oversight in such decisions and delegating more authority to operational commanders.⁽¹¹⁵⁾

(110) Under the PPG the term “non-combatant” “does not include an individual who is targetable as 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.” Ibid.

(111) Ibid. at p. 11.

(112) Ibid.

(113) Charlie Savage and Eric Schmitt, “Trump Poised to Drop Some Limits on Drone Strikes and Commando Raids,” *The New York Times* (September 21, 2017), <https://www.nytimes.com/2017/21/09/us/politics/trump-drone-strikes-commando-raids-rules.html>.

(114) “ACLU v. DOD-FOIA Case Seeking Trump Administration’s Secret Rules for Lethal Strikes Abroad,” ACLU (October 6, 2020), <https://www.aclu.org/cases/aclu-v-dod-foia-case-seeking-trump-administrations-secret-rules-lethal-strikes-abroad>.

(115) Rachel Stohl, “An Action Plan on US Drone Policy: Recommendations for the Trump Administration,” Stimson Center (June 2018) at p. 15, <https://www.stimson.org/content/action-plan-us-drone-policy-recommendations-trump-administration>; Luke Hartig, “Trump’s New Drone Strike Policy: What’s Any Different? Why it Matters,” *Just Security* (September 22, 2017), <https://www.justsecurity.org/45227/trumps-drone-strike-policy-different-matters/>.

The requirement of “near certainty” that there will be no civilian casualties was reportedly kept in the PSP.⁽¹¹⁶⁾ It is unclear whether other PPG requirements, such as an assessment that capture is not feasible, were maintained.⁽¹¹⁷⁾ The New York Times reported that the Trump Administration broadened the range of potential drone strike targets to “include foot-soldier jihadists with no special skills or leadership roles,” rather than only “high-level militants deemed to pose a ‘continuing and imminent threat’ to Americans.”⁽¹¹⁸⁾ However, as others have identified, in practice, the Obama Administration also targeted both high-level operatives and “low-level fighters and local commanders,”⁽¹¹⁹⁾ and even “unidentified people engaged in activities that [bore] the ‘signature’ of terrorist activity.”⁽¹²⁰⁾

(116) Stohl, *ibid.*

(117) ACLU, *supra* note 108.

(118) Savage and Schmitt, *supra* note 113.

(119) Bill Roggio, “US Drones Strike Again in Yemen, Kill 3 AQAP Operatives,” *The Long War Journal* (July 30, 2013), https://www.longwarjournal.org/archives/201307//us_drones_strike_aga_8.php.

(120) Rebecca Gordon, “Forget ‘America First’—Donald Trump’s Policy is Drones First,” *The Nation* (May 25, 2018), <https://www.thenation.com/article/forget-america-first-donald-trumps-policy-is-drones-first/>.

With the announcement of the PPG in 2013, whether or not the US considers a particular geographic area an “area of active hostilities” became an important question guiding which US standards apply to operations.⁽¹²¹⁾ The designation “area of active hostilities” is used by the US government to identify where its own guidelines on the use of force outside these areas does or does not apply at any given time.⁽¹²²⁾ From public disclosures, it appears that Yemen was not designated an “area of active hostilities” at different points during the Obama Administration,⁽¹²³⁾ which would mean the PPG and its more restrictive targeting rules were meant to guide lethal action against AQAP. By March 2017, President Trump had reportedly granted a Pentagon request to designate three provinces in Yemen⁽¹²⁴⁾—possibly Abyan, Shabwah, and Al Bayda⁽¹²⁵⁾ “areas of active hostilities,” which would mean the PPG and later PSP guidelines would not constrain US targeting decisions in these areas.⁽¹²⁶⁾

It is unclear if the designation of parts of Yemen as “areas of active hostilities” persists. In its 2018 and 2019 annual reports on civilian casualties, the Department of Defense stated that, for the purposes of that report, Yemen would be considered a “declared theater of active armed conflict.”⁽¹²⁷⁾ The Department noted that this term, which appears in the legislation calling for the annual report, is “not defined in relevant DoD doctrine.” The Department did not state what, if any, overlap existed between areas it considered “declared theaters of active armed conflict” and “areas of active hostilities.”⁽¹²⁸⁾

(121) It is important to note that US designations as to where there are areas of active hostilities do not determine whether an armed conflict exists under international law. Where an armed conflict does not exist, international human rights law’s robust protections regarding the right to life apply. Where an armed conflict does exist, international humanitarian law and international human rights law apply.

(122) Robert Chesney, ““Areas of Active Hostilities” and Authority to Authorize Attacks without White House Involvement,” *Lawfare* (May 18, 2017), <https://www.lawfareblog.com/areas-active-hostilities-and-authority-authorize-attacks-without-white-house-involvement>.

(123) Given public disclosures only provide snapshots of designations at a particular time, it is unclear if Yemen or parts of Yemen were in fact designated as “areas of active hostilities” at various points after the policy was introduced and through the end of the Obama Administration. “Summary of Information Regarding US Counterterrorism Strikes Outside Areas of Active Hostilities,” United States Office of the Director of National Intelligence (January 19, 2017), <https://www.dni.gov/files/documents/Newsroom/Summary-of-2016-Information-Regarding-United-States-Counterterrorism-Strikes-Outside-Areas-of-Active-Hostilities.pdf>; The White House, *supra* note 60.

(124) Charlie Savage and Eric Schmitt, “Trump Administration is Said to be Working to Loosen Counterterrorism Rules,” *New York Times* (March 12, 2017), https://www.nytimes.com/2017/12/03/us/politics/trump-loosen-counterterrorism-rules.html?rref=collection%252Fnewseventcollection%252Fdonald-trump-white-house&r=0&referrer=https://amp-theguardian-com.cdn.ampproject.org/v/s/amp.theguardian.com/us-news/2017/mar/13/pentagon-military-commanders-temporary-battlefields-white-house%3famp_js_v=9.

(125) Gregory Johnsen, “Trump and Counterterrorism in Yemen: The First Two Years,” *Sana’a Center for Strategic Studies* (February 2019), <http://sanaacenter.org/publications/analysis/7105>.

(126) Steve Niva, “Trump’s Drone Surge,” *Middle East Research and Information Project* (Summer 2017), <https://merip.org/201802/trumps-drone-surge/>.

(127) Department of Defense, *supra* note 68; 2018 Annual Report on Civilian Casualties in Connection with United States Military Operations, Department of Defense (May 2019), <https://media.defense.gov/2019/May/021/-1/-1/2002126767//ANNUAL-REPORT-CIVILIAN-CASUALTIES-IN-CONNECTION-WITH-US-MILITARY-OPERATIONS.PDF>.

(128) *Ibid.*

In 2017, the US began targeting the Islamic State in Yemen. General Joseph Votel approved a drone strike against two alleged IS training camps in October 2017, “under existing counterterrorism authorities.”⁽¹²⁹⁾ The Trump Administration cited the 2001 AUMF as providing domestic legal authorization.⁽¹³⁰⁾

Reporting Requirements

In July 2016, President Obama released an Executive Order on Pre-and Post-Strike Measures to Address Civilian Casualties in US Operations Involving the Use of Force (Executive Order No. 13732), which required the administration to issue an annual public report on the number of US strikes taken outside areas of active hostilities and to assess the number of non-combatant deaths resulting from those strikes. The order also directed the administration to investigate reports of civilian casualties resulting from lethal force—and to consider credible NGO information in its investigations—and to acknowledge and offer condolence payments for civilian casualties.⁽¹³¹⁾

The first such report was released by the Director of National Intelligence in July 2016 and covered the period between January 20, 2009 and December 31, 2015. In three pages, the report briefly summarized information on US counterterror strikes conducted outside of areas of active hostilities. The Director of National Intelligence assessed that there had been 473 strikes, causing between 2372-2581 combatant deaths, and between 64-116 non-combatant deaths.⁽¹³²⁾ The report received substantial criticism from civil society groups who argued that the number given for non-combatants killed was “dramatically lower than those documented by independent journalists and human rights groups,” and that the report did not break the numbers down by country, so readers could not assess how many strikes and deaths were in Yemen, for example.⁽¹³³⁾ The Bureau of Investigative Journalism recorded between 384-807 civilian deaths in Pakistan, Somalia and Yemen during the

(129) Barbara Starr and Zachary Cohen, “First US Airstrike Targeting ISIS in Yemen Kills Dozens,” CNN (October 17, 2017), <https://edition.cnn.com/2017/16/10/politics/us-isis-training-camp-strike-yemen/index.html>.

(130) The White House, *supra* note 4 at p.6.

(131) Office of the Press Secretary, “Executive Order: United States Policy on Pre- and Post-Strike Measures to Address Civilian Casualties in US Operations Involving the Use of Force,” The White House (July 1, 2016), <https://obamawhitehouse.archives.gov/the-press-office/2016/01/07/executive-order-united-states-policy-pre-and-post-strike-measures>; Stohl, *supra* note 115.

(132) United States Office of the Director of National Intelligence, *supra* note 123.

(133) See, e.g., Out of the Shadows, Sana’a Center and Columbia Law School (June 13, 2017) at pp. 6267-, <https://sanaacenter.org/publications/main-publications/4448>; Brett Max Kaufman, “President Obama’s New, Long-Promised Drone ‘Transparency’ Is Not Nearly Enough,” ACLU (July 1, 2016), <https://www.aclu.org/blog/national-security/targeted-killing/president-obamas-new-long-promised-drone-transparency-not>.

same period.⁽¹³⁴⁾ Still others criticized the absence of an acknowledgement of civilian injuries and other forms of civilian harm.⁽¹³⁵⁾

On March 6, 2019, President Trump issued an executive order revoking part of Obama's Executive Order 13732.⁽¹³⁶⁾ Trump argued the reporting requirement was superfluous now that the National Defense Authorization Act (NDAA), passed in 2018, required the Department of Defense to report on all "military operations" each year.⁽¹³⁷⁾ Civilian harm caused by Central Intelligence Agency (CIA) drone strikes, however, are not included in this reporting.⁽¹³⁸⁾

President Trump apparently expanded the authority of the CIA to carry out drone strikes.⁽¹³⁹⁾ Airwars, which analyzed local and global media regarding US action in Yemen throughout the Trump Administration against US military declarations, identified "likely and effectively confirmed CIA and undeclared Special Forces operations in Yemen" and found "from mid-2019 onwards, covert and clandestine actions in Yemen appear to have dominated US engagements, with troubling implications for civilian harm accountability."⁽¹⁴⁰⁾

(134) Jessica Purkiss and Jack Serle, "Obama's Covert Drone War in Numbers: Ten Times More Strikes than Bush," The Bureau of Investigative Journalism (January 17, 2017), <https://www.thebureauinvestigates.com/stories/201717-01-obamas-covert-drone-war-in-numbers-ten-times-more-strikes-than-bush>. The government's report claimed the difference could be explained due to their "use [of] information that is generally unavailable to non-governmental organizations," and that identification of non-combatant deaths "may be further complicated by the deliberate spread of misinformation by some actors." Some critics noted that this explanation essentially boiled down to "trust us," and that without providing "data on a strike-by-strike basis...it is difficult to reconcile the discrepancies." United States Office of the Director of National Intelligence, *supra* note 123; Sarah Knuckey, "The Good and Bad in the US Government's Civilian Casualty Announcement," Just Security (July 2, 2016), <https://www.justsecurity.org/31785/good-bad-governments-civilian-casualties-announcement/>; Kaufman, *ibid.*; Bill Roggio, "US Government Releases Data on 'Counterterrorism Strikes Outside Areas of Active Hostilities,'" Long War Journal (July 1, 2016), <https://www.longwarjournal.org/archives/201607/us-government-releases-data-on-counterterrorism-strikes-outside-areas-of-active-hostilities.php>.

(135) Knuckey, *ibid.*

(136) President Donald Trump, "Executive Order on Revocation of Reporting Requirement," The White House (March 6, 2019), <https://www.whitehouse.gov/presidential-actions/executive-order-revocation-reporting-requirement/>. President Trump did not rescind the entire Executive Order. The mandate to take actions to prevent civilian casualties and the acknowledgment of US "responsibility to make ex gratia payments for the families of non-combatants killed in strikes, [and the call] for consultation with non-governmental organizations and other experts outside of the US government in assessing civilian impact" remain in place. Luke Hartig, "I Helped Write the Exec Order on Public Reporting of Lethal Operations. Here's What Trump Has Undone," Just Security (March 8, 2019), <https://www.justsecurity.org/63130/helped-write-exec-order-required-public-reporting-u-s-lethal-operations-heres-trump-undone/>.

(137) National Defense Authorization Act for Fiscal Year 2018, H.R. 2810, 115th Cong. (2018), §1057.

(138) Rita Siemion, "Trump's Revocation of Reporting on Lethal Strikes: All Eyes on Congress, Now," Just Security (March 8, 2019), <https://www.justsecurity.org/63123/trumps-revocation-reporting-lethal-strikes-eyes-congress/>.

(139) Gordon Lubold and Shane Harris, "Trump Broadens CIA Powers, Allows Deadly Drone Strikes," The Wall Street Journal (March 13, 2017), <https://www.wsj.com/articles/trump-gave-cia-power-to-launch-drone-strikes-1489444374>; Brett Max Kaufman, "Trump is Unshackling America's Drones Thanks to Obama's Weakness," The Guardian (September 17, 2018), <https://www.theguardian.com/commentisfree/2018/sep/17/the-cia-is-back-in-the-drone-business-trump-is-unshackling-americas-drones-thanks-to-obamas-weakness>.

(140) "Eroding Transparency: US counterterrorism actions in Yemen under President Donald Trump," Airwars (October 2020), <https://airwars.org/wp-content/uploads/202010/Eroding-Transparency-Trump-in-Yemen.-Airwars-October-2020.pdf>.

Significant Hurdles Reporting “Credible” Harm

The US has consistently denied and undercounted the number of civilians killed, wounded and otherwise harmed in its operations abroad.

Pursuant to the NDAA, the US Department of Defense (DoD) has released annual reports on civilian casualties from US military operations for the past few years.⁽¹⁴¹⁾ The 2017 DoD report included an assessment that there had been approximately 499 civilians killed and 169 injured as a result of US military actions in Iraq, Syria, Afghanistan and Yemen.⁽¹⁴²⁾ The report said the Department of Defense assessed “there were credible reports of civilian casualties” in Yemen as a result of US operations against AQAP and IS-Y, but did not provide the estimated number of civilian casualties assessed, the ages and genders of these civilians, or the dates and locations where these civilian casualties were assessed to have occurred.⁽¹⁴³⁾ Mwatana documented at least 26 civilians, including 11 children and six women, killed by US operations in Yemen in 2017, and at least seven civilians, including six children, injured. Mwatana documented this civilian harm resulting from only seven US operations—which is by no means exhaustive. These seven operations also caused other types of long-lasting civilian harm.

Information on Yemen operations decreased in the 2018 report. Whereas the 2017 report had provided the dates, intended targets and governorates for a handful of specific US operations, the 2018 report merely stated that “US forces conducted 36 air strikes against AQAP and ISIS operatives and facilities in Yemen,” and repeated that the US was supporting UAE and Yemen-led efforts against AQAP in Shabwah.⁽¹⁴⁴⁾ The report went on to note that the DoD had “no credible reports of civilian casualties from US military operations in Yemen in 2018.”⁽¹⁴⁵⁾ Mwatana documented the deaths of 11 civilians, including two children, and other civilian harm resulting from four US strikes in Yemen in 2018. Again, this is by no means exhaustive.

Details in the Yemen section again decreased in the 2019 DoD report, which stated only that the US “conducted counter-terrorism air strikes in Yemen” that “targeted AQAP and ISIS operatives.” There was no information on the number of strikes, their dates, or the governorates in which they were conducted. The DoD once again wrote that it had “no credible reports of civilian casualties resulting from US military actions

(141) As noted above, these reports do not include strikes conducted by the CIA.

(142) 2017 Annual Report on Civilian Casualties in Connection with United States Military Operations, Department of Defense (May 2018) at p. 4. <https://fas.org/man/eprint/civcas2018.pdf>.

(143) Ibid. at p. 7.

(144) Department of Defense, *supra* note 127.

(145) Ibid. at p.5

in Yemen.”⁽¹⁴⁶⁾ Mwatana documented a US air strike in 2019 that killed a civilian man.

Civil society groups, including Mwatana, have raised concerns that several key factors contribute to the significant discrepancies between US assessments and independent reporting, including whether the US applies an overbroad definition of who it may lawfully target, departing from norms set out under IHRL and IHL,⁽¹⁴⁷⁾ and how the US investigates and assesses harm, including the sources of information the US military gathers and reviews in the aftermath of strikes and other operations, and the way in which it engages with civil society.

As part of Mwatana's efforts to seek transparency, truth, and accountability, on December 17, 2019, Mwatana and the Columbia Law School Human Rights Clinic wrote to the US Department of Defense, presenting significant evidence that Mwatana had gathered in Yemen regarding a strike that killed a 12-year-old civilian boy and wounded his 17-year-old cousin, who was a member of the US-aligned Yemeni military.⁽¹⁴⁸⁾

On March 18, 2020, US Central Command (CENTCOM), which assesses civilian harm allegations for Yemen, sent a short, four paragraph response.⁽¹⁴⁹⁾ The letter said that CENTCOM had provided the information “for review and consideration by the appropriate commander” as part of the “standard civilian casualty assessment process.” The letter asserted that CENTCOM “determined that the strike did not result in civilian casualties.” By way of explanation for the discrepancy, the letter offered, “It is not unusual to have inconsistencies between civilian casualty information that is reported to civil society organizations in conflict zones and the classified information that is available to US forces.”⁽¹⁵⁰⁾

(146) Department of Defense, *supra* note 68.

(147) For example, the reported US practice of so-called “signature strikes”—which target individuals based on their patterns of behavior and other “signatures”—raised significant questions as to whether the US was 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. The US also may be targeting individuals based on their affiliation with AQAP or IS-Y, rather than the narrower standards for targeting established under international law. The US is also using a broad concept of “imminence” to justify its use of force in self-defense, beyond the constraints traditionally imposed by international law.

(148) See Section VI, Civilian Harm from March 5, 2018 Air Strike on Hadramawt, Yemen; Annex A., “Letter from Mwatana for Human Rights and Columbia Law School’s Human Rights Clinic to the US Department of Defense” (December 17, 2019).

(149) Senior US officials told Airwars in mid-2020 that civilian casualty claims for Yemen are reviewed on an ad hoc basis, and that there is no formally constituted civilian casualty assessment cell at Tampa. In August 2020, Airwars presented CENTCOM with its findings on recently claimed civilian harm from US actions in Yemen. By October 20, 2020, Airwars had not received a response. “Eroding Transparency: US counterterrorism actions in Yemen under President Donald Trump,” Airwars (October 2020), <https://airwars.org/wp-content/uploads/202010//Eroding-Transparency-Trump-in-Yemen.-Airwars-October-2020.pdf>.

(150) Annex B., “Response Letter from the US Department of Defense to Mwatana for Human Rights and Columbia Law School’s Human Rights Clinic” (March 18, 2020).

While the military has access to information that civil society groups do not, civil society groups also collect information that the military does not. For example, civil society groups often visit sites in the aftermath of attacks, speak with survivors, witnesses and family members of those killed, wounded, and otherwise harmed, and build necessary trust with local communities to collect in-depth testimonies and other relevant materials like documents, photos and videos. In this specific case, Mwatana had conducted two site visits, including one about ten days after the strike, and had interviewed five people, including Hassan, the child who survived the attack, the teacher of Amer, the 12-year-old boy who was killed, and three relatives, including Amer's mother, and gathered relevant documents, including Amer's school certificate.

On May 22, 2020, Mwatana and the Columbia Clinic sent another letter asking a series of follow-up questions, including whether the US at least acknowledged killing a child and wounding another child.⁽¹⁵¹⁾ On August 3, 2020, CENTCOM responded. The letter acknowledged the US conducted the March 5, 2018 strike, and that the strike killed one person and wounded another, but did not disclose their identities, genders or ages, or if they corresponded to the information presented. The letter seemed to acknowledge that a child, or children, were harmed in the attack, noting that "Al Qaeda exploits children," but claimed the strike "impacted the intended Al Qaeda target with no harm to civilians or civilian objects." The letter did not respond to a series of questions posed by Mwatana and the Columbia Clinic, including on what basis either boy was deemed targetable and if capture was deemed not feasible, particularly given one of the boys regularly went to an army camp under the control of a US ally.⁽¹⁵²⁾

On November 4, 2020, Mwatana and the Columbia Clinic sent another formal submission to CENTCOM presenting significant evidence of the civilian harm resulting from the 11 other instances of the United States' use of lethal force in Yemen described in this report.⁽¹⁵³⁾ Mwatana and the Clinic requested specific information about each incident, including CENTCOM's assessment of the number of people killed and injured in each operation, how many of these people the US military classified as civilians and combatants, how many of these people the US acknowledged were women and children, and what steps were taken before and during an incident to mitigate civilian harm, among other questions. Mwatana and the Columbia Clinic recommended that the US investigate, acknowledge and apologize for civilian harm, provide accountability and amends, and review more broadly how the United States is conducting operations in Yemen. The US had not yet sent a formal response to the November 2020 submission at time of writing.

(151) Annex C., "Follow-up Letter from Mwatana for Human Rights and Columbia Law School's Human Rights Clinic to the US Department of Defense" (May 22, 2020).

(152) Annex D. "Response Letter from the US Department of Defense to Mwatana for Human Rights and Columbia Law School's Human Rights Clinic" (August 3, 2020).

(153) Annex E, "Letter from Mwatana for Human Rights and Columbia Law School's Human Rights Clinic to the US Department of Defense" (November 4, 2020).

For Yemenis who have been directly affected by US lethal operations, it is nearly impossible to report civilian harm. US strikes and ground raids often take place in remote areas in Yemen which are difficult to reach and often lack basic services. Across Yemen, internet communication is often spotty to non-existent. Some of the areas where the operations described in this report occurred lack reliable telephone coverage. None of the individuals with whom Mwatana spoke were aware of any investigations into civilian harm, nor had any of them heard of or received any form of reparations or condolence payments. They knew of no way to report what had happened to them.

The United States has not done enough to facilitate civilian harm reporting. After noting in a press release that the US military goes to “extraordinary lengths” to protect civilians, the Department of Defense announced it had launched a “web page” in October 2020 to report civilian harm. The web page consists of a map and six email addresses, all in English. There do not appear to be any materials available in Arabic explaining how to report civilian harm.⁽¹⁵⁴⁾

Even where a person or NGO can report harm, how the US determines what meets the credibility threshold proves an additional hurdle, as does what the US would consider sufficient information to prompt it to change or amend its own early determinations that the person or people the US killed, wounded or otherwise harmed were in fact targetable.⁽¹⁵⁵⁾ Mwatana, with assistance from the US-based Columbia Law School Human Rights Clinic, provided more than 150 pages of information on 12 instances of the United States use of lethal force in Yemen based on site visits, dozens of witness testimonies and documents and other information collected across Yemen over a period of nearly four years. These submissions included significant information on the civilian status of the vast majority of people harmed in the 12 operations. At the time of writing, the US had not made any further acknowledgments of civilian harm resulting from these operations, let alone taken steps towards providing reparations or other amends, and ensuring accountability where merited. After extensive efforts to present weighty, convincing and substantial information, it remains unclear to Mwatana what standards would need to be met in order for an allegation to be deemed sufficiently credible, and what information would be sufficient to convince the US it had, in fact, gotten it wrong.⁽¹⁵⁶⁾

(154) Jim Garamome, “DOD Posts Webpage to Aid in Reporting Civilian Casualties,” DoD News (October 23, 2020), <https://www.defense.gov/Explore/News/Article/Article/2392724/dod-posts-webpage-to-aid-in-reporting-civilian-casualties>; See also Al-Faqih and Beckerle, *supra* note 22.

(155) Daniel R. Mahanty and Rita Siemion, “Grading DODs Annual Civilian Casualties Report: “Incomplete,”” *Just Security* (May 7, 2020) (“Among other challenges analyzed recently by CIVIC and Columbia Law School Human Rights Institute, the source of a report must be deemed “credible,” report details must correlate with internal military records (which may be incomplete or inaccurate), and explanations of why certain reports are deemed non-credible are rare.”), citing *In Search of Answers: US Military Investigations and Civilian Harm*, Center for Civilians in Conflict and Columbia Law School (February 13, 2020).

(156) Al-Faqih and Beckerle, *supra* note 22.

Mwatana is aware of only two instances in which the US has so far acknowledged civilian harm resulting from its use of lethal force in Yemen over the last four years. First, after significant public outcry and the death of a US soldier, the US admitted civilian deaths as a result of a US ground raid in Al Bayda governorate in January 2017.⁽¹⁵⁷⁾ Second, on November 5, 2020, Airwars published a response received from CENTCOM acknowledging that a September 2020 US strike resulted in the injury of two civilians.⁽¹⁵⁸⁾

Other Governments' Participation

While Yemeni government officials have occasionally criticized certain US operations and acknowledged resulting civilian harm, there is no evidence that the government of Yemen has taken meaningful action to protect the lives of its citizens. Despite a mounting civilian toll, the US has repeatedly claimed it is conducting operations against AQAP and IS-Y in Yemen with the consent, cooperation, and in support of the Yemeni government.⁽¹⁵⁹⁾

A few months after a January 2017 raid killed or injured at least 20 Yemeni civilians, the US carried out another raid in Yemen in May 2017, which the US described as a "Yemen authorized operation."⁽¹⁶⁰⁾ Mwatana found the May 2017 raid in Ma'rib killed at least five people, including two civilians and two members of the US-aligned Yemeni army, and wounded another four people, including two more civilians and two more Yemeni army soldiers. In a press release, the US said the raid "had the support and cooperation of the Yemen government, and was done in conjunction with US partners."⁽¹⁶¹⁾

(157) See Section VI, Civilian Harm from January 29, 2017 Raid on Al Bayda, Yemen.

(158) Airwars, "Just in: A week after our report on US strikes in Yemen under Donald Trump, @Centcom admits a fresh civilian harm event – now conceding it injured two civilians in a Sept 14th 2017 event. Twenty three other incidents classed by Airwars as likely are rejected," Twitter (November 5, 2020), <https://twitter.com/airwars/status/1324467359982194689/photo/1>.

(159) See, e.g., The White House, *supra* note 60 at p. 18 ("In 2016, the US claimed it was "working closely with the Government of Yemen to dismantle operationally and ultimately eliminate the terrorist threat posed by AQAP," conducting "counterterrorism operations against AQAP in Yemen with the consent of the Government of Yemen in the context of the armed conflict against AQAP and in furtherance of US national self-defense," and had deployed US military personnel to Yemen "to support operations against AQAP, including support for operations to capture AQAP leaders and key personnel"); The White House, *supra* note 4 ("In 2018, the White House stated that "a small number" of US military personnel were deployed to Yemen to conduct operations against AQAP and IS-Y, that the US was working "closely with the Government of Yemen and regional partner forces" against AQAP and IS-Y, including carrying out air strikes against "AQAP operatives and facilities" and "supporting UAE and Yemen-led operations" against AQAP in Shabwah, and that operations against IS-Y were conducted with the consent of the Yemeni government "in the contexts of its armed conflict against ISIS and also in furtherance of US national self-defense").

(160) On February 9, 2017, a little over a week after the Yakla area raid detailed below, the Embassy of the Republic of Yemen stated: "Yemen will continue to cooperate and coordinate with the international community, including the United States of America, in carrying out counterterrorism operations in Yemen against all terrorist organizations, especially Al-Qaeda in the Arabian Peninsula (AQAP)." @YemenEmbassy_DC, Twitter (Feb. 8, 2017, 10:51 PM), https://twitter.com/YemenEmbassy_DC/status/829432490347618305.

(161) See Section VI, Civilian Harm from May 23, 2017 Raid on Marib, Yemen.

Although the full extent of foreign government support to US operations in Yemen is unknown, it appears US operations have received some support from other countries. Countries that assisted the US in conducting unlawful attacks in Yemen may share responsibility in violations of international humanitarian law and international human rights law. Assisting countries also hold the responsibility of ensuring that the United States is taking steps to adequately mitigate civilian harm in its operations.⁽¹⁶²⁾

The US appears to have conducted some operations against AQAP and IS-Y in cooperation with Coalition members, particularly Saudi Arabia and the UAE. The US has long relied on its bases in Saudi Arabia to launch air strikes in Yemen.⁽¹⁶³⁾ While Saudi Arabia has generally not taken an active public role in US-led strikes and raids on AQAP, it did reportedly receive some support from US forces in a June 2019 raid to capture an IS-Y leader.⁽¹⁶⁴⁾

The UAE has had a much more active role. UAE-backed forces played a prominent role in the efforts to push AQAP out of the port city of Mukalla, with substantial support from the United States,⁽¹⁶⁵⁾ and UAE forces reportedly participated in the January 2017 US raid in Yakla.⁽¹⁶⁶⁾

(162) Geneva Conventions I-IV, art. 1 ("Common Article 1") states that "[t]he High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances;" International Committee of the Red Cross, Customary International Humanitarian Law, v. 1, Rule 144 (2009) [hereinafter ICRC, Customary IHL] also considers this duty to be customary international law in both international and non-international armed conflicts.

(163) The Bureau of Investigative Journalism (2019), *supra* note 7.

(164) Kareem Fahim and Missy Ryan, "Saudi Arabia Announces Capture of an ISIS Leader in Yemen in US-Backed Raid," Washington Post (June 25, 2019), https://www.washingtonpost.com/world/saudi-arabia-announces-capture-of-islamic-state-leader-in-yemen-in-us-backed-raid-backed/201979734/25/06/ca2976-a-11e99-a16-dc551ea5a43b_story.html.

(165) Eleonora Ardemagni, "The UAE's Security-Economic Nexus in Yemen," Carnegie Endowment for International Peace (July 19, 2018), <https://carnegieendowment.org/sada/76876>.

(166) Eric Schmitt and David E. Sanger, "Raid in Yemen: Risky from the Start and Costly in the End," The New York Times (February 1, 2017), <https://www.nytimes.com/201701/02/world/middleeast/donald-trump-yemen-commando-raid-questions.html>.

In 2017 and 2018 reports, the US Department of Defense acknowledged its support of "United Arab Emirates-and Yemen-led efforts to clear AQAP from Shabwah governorate."⁽¹⁶⁷⁾ The UAE and UAE proxy forces have also carried out raids and detention campaigns in southern and eastern Yemen allegedly aimed at capturing AQAP and IS members. Mwatana, as well as Human Rights Watch, the UN and others have documented these forces carrying out arbitrary detentions, disappearances and torture.⁽¹⁶⁸⁾ In 2017, US officials acknowledged participating in interrogations of detainees in Yemen, providing questions for others to ask and receiving transcripts of interrogations from Emirati allies, but denied US forces had been present at the time of any abuse.⁽¹⁶⁹⁾

A number of other governments have also reportedly collaborated with or been implicated in the United States' use of lethal force abroad.

While the nature of such collaboration is shrouded in secrecy, Edward Snowden's 2013 exposure of information internal to the National Security Agency (NSA) showed that several European countries, including Germany, the Netherlands, the UK, and Italy, have provided significant support to the US drone program, according to Amnesty International.⁽¹⁷⁰⁾ This support included "providing intelligence, operational and logistical support to the US lethal drone programme, as well as in providing broader assistance to US surveillance and intelligence operations that may support that programme."⁽¹⁷¹⁾ Neither the US or its partners have provided meaningful public disclosure on the subject.

In Australia, human rights activists called for a probe into Australia's role in US drone operations.⁽¹⁷²⁾ News reports and documents leaked by Edward Snowden suggested that the Joint Defence Facility Pine Gap, located in central Australia, is an important station for controlling US spy satellites, monitoring wireless communication, and geolocating potential targets for drone strikes.⁽¹⁷³⁾ In 2013, former Australian Defence Minister Stephen Smith told Parliament "all activities at Pine Gap take place with the

(167) Department of Defense, *supra* note 142 at pg. 14; Department of Defense, *supra* note 127 at p. 7, <https://fas.org/man/eprint/civcas2018.pdf>.

(168) "Yemen: UAE Backs Abusive Local Forces," Human Rights Watch (June 22, 2017), <https://www.hrw.org/news/2017/22/06/yemen-uae-backs-abusive-local-forces>;

(169) Kristine Beckerle, "United States, Gulf Allies, Must Own Up to Their Role in Yemen's Human Rights Abuses," *The Progressive* (June 29, 2017), <https://progressive.org/dispatches/united-states-gulf-allies-must-own-up-to-their-role-in-yemen/>.

(170) *Deadly Assistance: The Role of European States in US Drone Strikes*, Amnesty International (2018), <https://www.amnesty.org/dwnload/Documents/ACT3081512018ENGLISH.PDF>.

(171) *Ibid.* at p. 5.

(172) "UN Urged to Probe Australia about its Role in Deadly US Drone Strikes," Human Rights Law Center (May 27, 2014), <https://www.hrlc.org.au/human-rights-law-centre-2014/un-urged-to-probe-australia-about-its-role-in-deadly-us-drone-strikes?rq=drone>.

(173) Philip Dorling, "Pine Gap Drives US Drone Kills," *The Sydney Morning Herald* (July 21, 2013), <https://www.smh.com.au/national/pine-gap-drives-us-drone-kills-201307202-qbsa.html>; Ryan Gallagher, "The US Spy Hub in the Heart of Australia," *The Intercept* (August 20, 2017), <https://theintercept.com/2017/19/08/nsa-spy-hub-cia-pine-gap-australia/>.

full knowledge and concurrence of the Australian government.”⁽¹⁷⁴⁾

Information on allied countries' cooperation with the US in Yemen, specifically, is even less clear. In 2016, UK Foreign and Commonwealth Office spokespeople admitted that prior to 2015, the UK “provided counter-terrorism capacity building support to the Yemeni security services,”⁽¹⁷⁵⁾ and now “continue[s] to work with regional and international partners to tackle the threat posed by terrorist organisations including AQAP and Daesh-Yemen.”⁽¹⁷⁶⁾

For Germany, the satellite communication relay station at Ramstein Air Base is essential to US drone operations in Yemen.⁽¹⁷⁷⁾ In early 2019, a Higher Administrative Court in Germany noted that “at least in some cases [US drone strikes in Yemen] violate international law,” and found that while the use of Ramstein may not be per se unlawful, Germany has an obligation to further investigate the lawfulness of operations from the base.⁽¹⁷⁸⁾ In the words of one of the plaintiffs in the case, “When a German court found in my favor last year, it looked like we might finally be able to bring some accountability to the US drone program.” In November 2020, the German Federal Administrative Court overturned the ruling. The plaintiff wrote, “I have become accustomed to setbacks, but this loss was particularly devastating. It has left me wondering if anyone will ever be held responsible for the damage US drone strikes are inflicting on Yemen.”⁽¹⁷⁹⁾

In addition to the US's own drone strikes in Yemen, it has also manufactured and sold unmanned aerial vehicles to other countries. In December 2020, the US Senate failed to block a \$23 billion sale of arms to the UAE, including unmanned aerial vehicles.⁽¹⁸⁰⁾

(174) Stephen Smith, Ministerial Statement, Parliament of Australia (June 26, 2013), <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22chamber/hansardr/4d60a662-a5384-e48-b2d8-9a97b8276c7722%0016/;src1=sm1>.

(175) Namir Shabibi and Jack Watling, “Britain’s Covert War in Yemen: A VICE News Investigation,” VICE News (April 7, 2016), https://www.vice.com/en_us/article/8x3enb/britains-covert-war-in-yemen-a-vice-news-investigation?utm_source=vicenewstwitter.

(176) Counter Terrorism Department, Foreign and Commonwealth Office, Freedom of Information Act 2000—Request Ref: 066516- (September 5, 2016), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/629175/FOI_066516-.pdf.

(177) Drone operators, generally located in the American Southwest, send commands via transatlantic fiber optic cables to Germany, where the relay station then bounces the signal to a satellite that communicates with the drones flying over Yemen. Jeremy Scahill, “Germany is the Tell-Tale Heart of America’s Drone War,” The Intercept (April 17, 2015), <https://theintercept.com/201517/04//ramstein/>.

(178) North Rhine-Westphalia Higher Administrative Court, Judgment from 194—2019/3/ A 136115/, translation prepared for the European Center for Constitutional and Human Rights (ECCHR), https://www.ecchr.eu/fileadmin/Juristische_Dokumente/OVG_Muenster_oral_declaration_of_judgment_19_March_2019_EN.pdf.

(179) See generally, Faisal Bin Ali Jaber, “Germany Could Have Delivered Justice for Civilian Drone Strike Victims. It Failed,” Foreign Policy (December 8, 2020), <https://foreignpolicy.com/202008/12//germany-could-have-delivered-justice-for-civilian-drone-strike-victims-it-failed/>.

(180) “US Senate backs massive arms sales to UAE after Trump veto threat,” Al Jazeera (December 10, 2020), <https://www.aljazeera.com/news/202010/12//us-senate-backs-massive-arms-sales-to-uae-after-trump-veto-threat>.

VI. Civilian Harm Caused by the United States' Use of Lethal Force in Yemen

We tried more than once to make our voice heard, saying that there are no terrorists in our village and asking them [the US] to come and check... but nobody wanted to hear us. I hope that our voices will be heard. We have lost a lot and do not lose more. —A father after a 2017 US strike in Abyan governorate killed his son and his brother

This report provides detailed information regarding 12 operations carried out by the United States in Yemen between January 2017 and January 2019 in the Abyan, Al Bayda, Shabwah, Hadramawt and Ma'rib governorates, all in central and southeastern Yemen.

The incidents described in this report include ten air strikes, all apparently conducted by unmanned aerial vehicles (drones), and two ground raids. The US acknowledged both ground raids, and acknowledged conducting strikes in the same three-day window and the same governorate in nine of the ten air strikes.

At least 38 Yemeni civilians, including 13 children, six women, and 19 men, were killed in these operations. At least seven civilians, including six children, five of whom were under the age of ten, and one man, were injured. Civilians were going about their everyday lives—driving to visit friends, bringing food to their families, sleeping in their homes—when killed or injured.

The US operations described in this report caused other types of deep and long-lasting civilian harm. The incidents led to adverse economic effects, killing primary breadwinners whose families relied on their incomes, and damaging and destroying important civilian property, like vehicles, homes, and livestock. The operations also caused significant social and psychological harm to survivors, those who lost loved ones, and wider impacted communities. In a few cases, surviving members of families left their homes after US operations, saying they felt unsafe and worried about future strikes.

Eight of the 10 documented air strikes were carried out against people traveling in vehicles—cars and motorcycles. In some of these cases, the vehicle belonged to someone else, or had been recently bought or found by those using it at the time of the strike.

Four members of the Yemeni army, to which the US is currently aligned, were also killed in the documented incidents, and two men and a child who were part of the Yemeni army injured.

The incidents documented in this report raise serious concerns about the extent to which the United States is complying with international law, as well its own policies and guidelines, when using lethal force in Yemen.

While surviving relatives called for accountability, including reparations, none of the individuals interviewed by Mwatana for this report knew of any US investigations into civilian harm in Yemen, nor had they been contacted by the United States in regards what had happened to them. None of the civilian victims reported having received compensation, condolence payments or other forms of amends.

Civilian Harm from January 21 or 22, 2019 Air Strike on Al Bayda, Yemen

On January 21 or 22, 2019, a US air strike⁽¹⁸¹⁾ killed Saleh Ahmed Mohamed Al Qaisi, a 67-year-old civilian man in Al Bayda governorate, Yemen.

Mwatana visited the area on April 9, 2019 and conducted in-depth interviews with three of Saleh's relatives and two people who were close to the site at the time of the strike. Mwatana also collected photos, including photos of weapon remnants found at the site, of a protest organized by local residents after the strike, of Saleh's passport, and of his car after the strike.

According to interviews, Saleh had been visiting family. He was an expatriate worker in Saudi Arabia, where he worked as a building painter. He had returned to Yemen seven months prior to the attack to spend time with his family. Saleh had five adult sons and a 19-year-old daughter.

During his time at home, family members said, he would usually eat his breakfast early, around six in the morning. Then, he would go out onto the land he owned in a nearby valley, where he farmed vegetables and fruits, including peaches, figs, tomatoes, leeks, and legumes.

People from the area described Saleh as a beloved person with good manners. He was known as a person without political or military affiliations. He was killed by a US air strike at around 3:30 in the afternoon.

The strike that killed Saleh hit the vehicle he was driving near the local health center in Jaeir village, Al Sawma'ah district, Al Bayda governorate. Jaeir village is in an extremely remote area of Yemen, where services like water and electricity are limited or nonexistent. The village is small—home to approximately 13 houses and surrounded by mountains.

On the day of the strike, Saleh had driven his wife and three of his children to his wife's family house for lunch in Al Sharja village. He had lunch, then left his wife and children in the house and headed back home to Jaeir village to chew qat in his house. The strike occurred while Saleh was driving back. His car was about ten meters away from the then-empty village health center, and a few hundred meters from the closest house.

According to a person who was nearby, an aircraft—which the person called a drone—

(181) In interviews, individuals reported the strike took place on January 22, 2019, at about 3:30h. However, several open source reports indicate the strike may have occurred a day earlier, on January 21, 2019.

launched a munition at Saleh's vehicle. Another person said that he had spoken to Saleh right before the strike: "I had been on my bike when I met Uncle Saleh; we chatted a bit and he reminded me of some funny anecdotes while we were working in Saudi Arabia. Then he continued on his way and I headed in the opposite direction. Suddenly, I heard an aircraft hitting his car."⁽¹⁸²⁾

Although people were in the area and had wanted to reach Saleh, witnesses said that the aircraft remained close by in the sky, preventing a quick response due to fear of another strike. People in the area told Mwatana that another munition hit about seven minutes later.

One witness told Mwatana that after the second strike, he and his son took Saleh out of his car and drove him to Al Mayfaa health clinic—about four kilometers west of where the strike had occurred. He said, "We couldn't take him to the closer health center because it had no equipment."⁽¹⁸³⁾ A doctor at the Al Mayfaa clinic examined Saleh and confirmed his death. Saleh was buried that afternoon in the Jaeir cemetery.

Saleh's death had a significant impact on his family and local residents. Saleh was the family's primary breadwinner. His car, which they relied on and Saleh purchased for the equivalent of about 11,000 Saudi Rials, was completely destroyed. Saleh's wife was traumatized by her husband's death, and began to suffer health problems, the family said.

After the strike, the community organized a gathering in protest of this strike and other attacks on civilians. People told Mwatana that the strike increased their frustration and diminished their sense of safety, saying that the US air strike on Saleh—a civilian not affiliated with extremist groups—indicated US indifference toward civilian lives. "We are desperate in trying to get our voices heard. We are being killed in cold blood," a family member told Mwatana.⁽¹⁸⁴⁾

While Ansar Al Shariah, an armed group distinct from, but linked to, Al Qaeda, has a presence in the areas surrounding Jaeir village, Mwatana did not identify any military sites or camps in Jaeir village itself during a site visit. Village residents said they had become accustomed to the sound of drones flying overhead and that they can clearly recognize the sound. During Mwatana's site visit, local UAE-backed Yemeni tribal forces were preparing to make an advance into the area and the road to access Jaeir village from central Bayda had multiple checkpoints, including those under the

(182) Interview with "Fahd," a local resident on April 9, 2019 about January 21 or 22, 2019 strike in Al Bayda, Yemen, on file with Mwatana for Human Rights.

(183) Interview with a local resident on April 19, 2019 about January 21 or 22, 2019 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(184) Interview with a family member on April 2, 2019 about January 21 or 22, 2019 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

control of coalition-aligned Salafi groups, UAE-aligned Bayda tribes, Ansar Allah and Ansar Al Shariah.

Mwatana found no credible indication that Saleh was directly participating in hostilities with AQAP or IS-Y or that he was in any way associated with these groups.

A weapons expert Mwatana consulted identified photos of weapons remnants found at the site as likely from a R9X/AGM-114R Hellfire missile.⁽¹⁸⁵⁾ In April 2019, the US acknowledged carrying out a strike in Al Bayda governorate in January, but did not provide the date on which the strike occurred or any information on resulting harm. The US claimed that all strikes mentioned in the release had targeted AQAP.⁽¹⁸⁶⁾ The US later told New America that it carried out a strike in Al Bayda on January 21, 2019.⁽¹⁸⁷⁾ In its annual report on civilian casualties, the Department of Defense reported having “no credible reports of civilian casualties resulting from US military actions in Yemen during 2019.”⁽¹⁸⁸⁾

On November 4, 2020, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic sent a letter to United States Central Command regarding this strike and other US operations in Yemen. The letter presented the significant evidence Mwatana had gathered, and recommended the US investigate, acknowledge and apologize for civilian harm caused and offer reparations or other amends to civilian victims, as well as review more broadly how the United States is conducting operations in Yemen in order to mitigate civilian harm. The US had not yet sent a formal response to the November 2020 submission at time of writing.

(185) An arms expert consulted by Mwatana on September 29, 2020.

(186) On April 1, 2019, US CENTCOM issued a press release stating that the command had carried out “two air strikes in January and six air strikes in March.” It went on to specify that the two January strikes “took place in Marib and Al Bayda Governorates respectively,” and that the earlier strike on January 1 targeted Jamal Al Badawi in the Marib governorate. “CENTCOM Yemen Strike Summary Jan. 1 – Apr. 1, 2019,” US Central Command (April 1, 2019), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1801674/centcom-yemen-strike-summary-jan-1-apr-12019-/>.

(187) See “Airwars Civilian Casualty Assessment: USYEMTr186-C,” Airwars, <https://airwars.org/civilian-casualties/usyemtr186-c-january-212019-/>.

(188) Department of Defense, *supra* note 68; but see, Al-Faqih and Beckerle, *supra* note 22.

Weapon remnants found after the attack, which a weapons expert identified as being from an AGM-114 Hellfire missile. Photo received from a relative.



Weapon remnants found after the attack, which a weapons expert identified as being from an AGM-114 Hellfire missile. Photo received from a relative.



Weapon remnants found after the attack, which a weapons expert identified as being from an AGM-114 Hellfire missile. Photo received from a relative.



Protest organized by the community in the village after the attack. Photo received from a relative.



Informal translation:

"We condemn and denounce the American aggression for killing the innocent citizen...

Saleh Ahmed Al Qaisi in Jaeir"

Protest organized by the community in the village after the attack. Photo received from a relative.



Saleh's car after the strike. Photo received from a relative.



Saleh's car after the strike. Photo received from a relative.



Civilian Harm from May 25, 2018 Air Strike on Shabwah, Yemen

On the evening of May 25, 2018, the United States conducted an air strike near the Khourah village of the Merkhah As Sufla district in Shabwah governorate, killing Mohdar Hussein Mohammed El Hajj, a 17-year-old civilian child.

Mwatana visited the area on June 3, 2018, nine days after the strike. Mwatana again visited the area on March 1, 2020. Mwatana conducted seven in-depth interviews with relatives and local residents in June, May and December of 2018, including with Mohdar's parents and a relative who was near the site at the time of the strike. Mwatana also collected photos of Mohdar and of his birth certificate.⁽¹⁸⁹⁾

Mohdar had recently finished the 10th grade, and was set to go the 11th grade. An area resident and Mohdar's cousin described him as a "diligent and passionate student."

Mohdar's daily routine included going to school every day in the morning, coming home at noon and helping his father at a nearby farm or doing other chores until about 4 p.m. He would then go play football, and come home around 6 p.m.

A few months before the strike, Mohdar had bought a motorcycle. When not in school, he had been making money transporting food and other goods to people in the village, as well as to a few other nearby areas.

The strike occurred on a Friday, which is a weekend day in Yemen. Mohdar left his family's home around 5:30 p.m. in the evening to buy food at the market in Khourah village for his family's iftar, the evening meal that breaks the day's fast during Ramadan.

As he was driving on his motorcycle back to the family's home on the outskirts of Khourah village, the strike occurred. It left an impact on the road according to those who visited the site immediately after the attack. 17-year-old Mohdar was found dead. A relative gathered Mohdar's remains and took them to his family home.

Mohdar's cousin said that Mohdar "was killed while returning from the market to his house. That's it. He went to the market to buy some groceries and was killed on his way."⁽¹⁹⁰⁾ Another resident who was near the site at the time said, "A drone bombed a motorbike that the child [was driving].... He went to the market to buy some vegetables

(189) Mohdar's relatives, including his mother and father, said Mohdar was 17 years old at the time of the strike. Mohdar lacked identification documents, and the family had a birth certificate issued posthumously. The date of birth on the certificate shows Mohdar as being 17 years old at the time of the strike.

(190) Interview with Mohdar's cousin on June 3, 2019 about May 25, 2018 strike on Shabwah, Yemen, on file with Mwatana for Human Rights.

and fruits... [and] when he was near his house, a drone targeted him.”⁽¹⁹¹⁾ The resident said he recognized the sound of the drone before the attack, and that repeated strikes on civilians in the area had spread panic amongst the population.

Residents of Khourah told Mwatana that people in the village had become familiar with the sound of drones because they continuously flew overhead in the area and had repeatedly struck vehicles and people, including civilians. A resident said that after the strike they saw an aircraft in the sky near Mohdar’s home.

Family members said that Mohdar’s death had a significant impact on the family. Mohdar had four younger siblings: one sister, who was about seven years old, and three brothers who were nine, 11 and 12 years old. He was the oldest son, and had been helping the family do chores, including helping on the farm. His work transporting goods on his motorcycle had also provided financial help to his family.

Family members said that his grandmother was the first to see Mohdar’s body when it was brought home, and that she fainted. His relationship with his grandmother had been very strong.

In its investigation, Mwatana found no credible information to suggest that Mohdar was directly participating in hostilities in support of AQAP or IS-Y, or that he was in any way associated with these groups.

The motorcycle Mohdar was driving was destroyed. According to a relative, Mohdar bought the motorcycle a few months earlier for about 350,000 Yemeni Rial.

A press release issued by US Central Command on August 30, 2018 said the US had carried out “air strikes May 25, two air strikes June 23 and 30, two air strikes July 22 and 24, and one Aug 14” in Yemen, that “these air strikes took place in Shabwah, Hadramawt and Al Bayda governorates” and that they had targeted AQAP.⁽¹⁹²⁾ Airwars treats this strike as declared.⁽¹⁹³⁾ According to Airwars, “In a press release, US Central Command stated that a strike had been conducted on that day citing three possible provinces. Since there were no other known reports in Yemen of a US strike on this date, this incident is treated as declared.”⁽¹⁹⁴⁾ In its annual report on civilian casualties connected to US military operations, the Department of Defense claimed that there

(191) Interview with “Amr,” a local resident on June 3, 2019 about May 25, 2018 strike on Shabwah, Yemen, on file with Mwatana for Human Rights.

(192) “CENTCOM updates counterterrorism strikes in Yemen [Press Release],” US Central Command (August 30, 2018), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1617275/centcom-updates-counterterrorism-strikes-in-yemen/>.

(193) See “Airwars Civilian Casualty Assessment: USYEMTr168-C,” Airwars, <https://airwars.org/civilian-casualties/usyemtr168-c-may-252018-> (In a later press release, US Central Command stated that a strike had been conducted on that day, citing three possible provinces. Since there were no other known reports in Yemen of a US strike on this date, this incident is treated as declared).

(194) Ibid.

were “no credible reports of civilian casualties resulting from US military actions in Yemen during 2018.”⁽¹⁹⁵⁾

During a follow-up interview by telephone in May of 2019, Mohdar’s relative said no one had contacted them regarding the strike, nor were they aware of any investigation into the incident.⁽¹⁹⁶⁾

On November 4, 2020, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic sent a letter to United States Central Command regarding this strike and other US operations in Yemen. The letter presented the significant evidence Mwatana had gathered, and recommended the US investigate, acknowledge and apologize for civilian harm caused and offer reparations or other amends to civilian victims, as well as review more broadly how the United States is conducting operations in Yemen in order to mitigate civilian harm. The US had not yet sent a formal response to the November 2020 submission at time of writing.



Mohdar Hussein Mohammad El Hajj, 17, killed on May 25, 2018 in Shabwah governorate, Yemen. Photo received from a relative.

(195) Department of Defense, *supra* note 127.

(196) Interview by phone with Mohdar’s relative in May, 2019 about May 25, 2018 strike on Shabwah, Yemen.

Civilian Harm from March 29, 2018 Air Strike on Al Bayda, Yemen

On March 29, 2018, at about 1:30 p.m., a US air strike in As Sawma'ah district in Al Bayda governorate hit a four-wheel drive vehicle. The strike killed four civilian men. A fifth man, whose status Mwatana was unable to determine based on the facts available, was wounded.

Mwatana visited the site on June 7, 2018, and again on March 10, 2020, interviewing four people, including three relatives of those killed. Mwatana also conducted two follow-up interviews with relatives by phone on April 30, 2019 and May 20, 2020, and collected photographs and documents related to the strike, including two of the men's death certificates as well as the military identification card for one of the men, who was a retired member of the Yemeni army.

The four civilian men—Abdullah, Salem, Nasser, and Mohammed—were all from the Al Manzari family. Abdallah Saleh Ahmad Al Manzari, 43 years old, worked painting walls in Saudi Arabia. He had returned home to visit family for vacation at the time of the strike. Nasser Ahmed Omar Al Manzari, 35 years old, was a sheikh who helped solve village disputes for a living, as is common in Yemen. Salem Mohammad Saleh Al Manzari, 50 years old, was the head of a transport syndicate of drivers in Aden. He had returned to As Sawma'ah area, his hometown, at the time of the strike to help in resolving a local family dispute. Mohammad Saleh Mohammed Al Manzari, 51 years old, was a retired member of the Yemeni army. According to interviews, Mohammad was working as a security guard at a nearby petrol station. He had retired from the army about a decade before the strike.

The four men had been on their way to Al Aakla area in As Sawma'ah district to help resolve a family dispute, according to interviews. They were hoping to discuss the dispute with a local sheikh, who would act as a mediator to help resolve the issue.⁽¹⁹⁷⁾ They asked another man, who taxied people in his vehicle, to drive them to Al Aakla area.

The strike occurred when the men were about a kilometer from their destination. Relatives went to the site to see if they could help the men. One relative said, "The sight was very saddening, I took them in my car and three of them [Mohammed, Abdullah

(197) It is common for Yemenis to settle disputes by choosing a tribal leader (Sheikh) to issue a decision, which they accept. Yemeni law also allows for the decision to be legitimized by a nearby court. Sheikhs enjoy a certain level of influence in their areas and they are typically large landowners whose duties involve solving disputes between individuals.

and Salem] died instantly.”⁽¹⁹⁸⁾ Nasser, who was badly wounded, was transported to the village hospital. The village hospital suggested he be transferred to Sana’a for further treatment, which he was. He died of his wounds one week later.

The only survivor of the attack was the driver, whose status Mwatana could not determine based on the facts available. He was wounded in the strike, and owned the four-wheel-drive vehicle which the strike destroyed. He had used it as a taxi to drive people to and from the village for a fee.

A mother of one of the civilian men who was killed told Mwatana: “My son left the house quickly after lunch to go to the As Sawma’ah area...Half an hour after he left the house, I received a call that he had been targeted by a drone. I couldn’t believe it. Is it possible that the United States killed my son? What crime did he commit to be killed in this manner? I still can’t believe that one of my sons will not return... His image never leaves my mind and sorrow engulfs me. I don’t know who will make up the loss of my son for me.”⁽¹⁹⁹⁾

Interviewees told Mwatana that the families of the four civilian men killed had relied on their incomes. The family of Mohammed, for example, said he had been working in the local petrol station to support his mother, his pregnant wife, and their three children.

As Sawma’ah district has been heavily affected by US drone strikes, witnesses said, and the strike increased fear and anger in the community. Various armed groups were active in the area at the time of the strike, including Ansar Al Sharia, and Salafist fighters aligned with the Yemeni government and commonly known as the Salafist Front. Ansar Allah maintained a military checkpoint about seven kilometers to the west of the site.

CENTCOM acknowledged the March 29 strike in Al Bayda, noting later it was “aware of reports of alleged civilian casualties following the March 29 air strike against AQAP in Al Bayda governorate. A credibility assessment is being conducted.”⁽²⁰⁰⁾ CENTCOM does not appear to have released any further updates on the credibility assessment, and in its annual report on civilian casualties, the Department of Defense claimed there were “no credible reports of civilian casualties resulting from US military actions in Yemen during 2018.”⁽²⁰¹⁾

(198) Interview with “Sam,” a relative, on March 10, 2020 about March 29, 2018 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(199) Interview with “Mariam” on June 6, 2018 whose son was killed in the March 29, 2018 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(200) “CENTCOM updates counterterrorism strikes in Yemen [Press Release],” US Central Command (May 16, 2018), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1523709/centcom-updates-counterterrorism-strikes-in-yemen/>.

(201) Department of Defense, *supra* note 127.

Mwatana found no credible information to suggest any of the four men killed in the strike were directly participating in hostilities in support of AQAP or IS-Y, or associated with these groups. Mwatana was unable to determine the status of the driver, who owned the vehicle hit in the strike, and was the strike's sole survivor.

In a follow-up interview on April 30, 2019, a relative of one of the civilian men killed said that no one had contacted them regarding a possible investigation, or compensation or other forms of amends.⁽²⁰²⁾

On November 4, 2020, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic sent a letter to United States Central Command regarding this strike and other US operations in Yemen. The letter presented the significant evidence Mwatana had gathered, and recommended the US investigate, acknowledge and apologize for civilian harm caused and offer reparations or other amends to civilian victims, as well as review more broadly how the United States is conducting operations in Yemen in order to mitigate civilian harm. The US had not yet sent a formal response to the November 2020 submission at time of writing.

(202) Interview by phone with a relative on April 30, 2019 about March 29, 2018 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

Civilian Harm from March 5, 2018 Air Strike on Hadramawt, Yemen

A US air strike on March 5, 2018 in Al Abr district in Hadramawt governorate killed one civilian child, Amer Ali Mohammad Al Saqra', who was 12 years old, and wounded another child, Hassan Saleh Hassan Al Huraidan, who was 17 years old. Hassan was a member of the Yemeni military, to which the US is aligned.

Mwatana conducted two visits to the area, one on March 15, 2018—about ten days after the strike—and another on October 16, 2019. Mwatana interviewed five people: Hassan (the boy who was wounded), three relatives of the boys, and the teacher of Amer, the 12-year-old boy who was killed.⁽²⁰³⁾ In some cases, Mwatana conducted follow-up interviews to gather further information. Mwatana collected photos of Amer and Hassan and a school certificate for Amer.

Both Amer and Hassan were from the Al Huraidan family. Before the strike, the two boys had been displaced from Al Jawf with their families to Al Ruwayk, a vast desert area in Ma'rib governorate—bordering Al Jawf and Hadramawt governorates—where large gatherings of displaced people settled during the current conflict. The boys and their families were displaced after the Ansar Allah (Houthi) armed group took control of their home district, and clashes broke out between Ansar Allah and forces loyal to President Hadi, and Saudi/UAE-led coalition air strikes started.

In the months before the strike, Amer was in school, in the fifth grade. Amer's teacher told Mwatana that Amer was a "very very good child" and that his family had "high hopes for him." The teacher said Amer's family was poor, and had "nothing," but that Amer was good to his mother.⁽²⁰⁴⁾ Amer's mother said Amer would go to school and then come home to help her with chores. She told Mwatana, "He would spend his day going to school at 8:00 am then returning to work with me to take care of our camels. We are Bedouin, our life consists of only those simple acts and my son has never joined a group or a party. He was never interested. He was either at school or taking care of errands."⁽²⁰⁵⁾

Hassan, a 17-year-old child, served in the border guards of the Yemeni military, had a rotation of about 30 days working in a Yemeni government military base, and then

(203) Amer's mother said Amer was 12 and in the fifth grade at the time of the strike. Amer's teacher also confirmed in an interview that Amer was 12 years old and in the fifth grade at the time of the strike. A school certificate which Mwatana collected shows Amer in school in 2012 and 2013.

(204) Interview with Amer's teacher on October 16, 2019 about March 5, 2018 strike on Hadramawt, Yemen, on file with Mwatana for Human Rights.

(205) Interview with Amer's mother on October 16, 2019 whose son was killed in the March 5, 2018 strike on Hadramawt, Yemen, on file with Mwatana for Human Rights.

about 15 days at home, as part of his job.⁽²⁰⁶⁾ The strike occurred during Hassan's regular 15-day-vacation, where he returned home from the military base and spent his days helping the family with chores.

During Hassan's breaks, he often met Amer after school to complete further chores, like bringing the family water.

Hassan told Mwatana that on the day of the strike he and Amer had driven women in their family to a funeral, and decided on their way home that they wanted to purchase some qat. They purchased qat from Al Abr market, and continued on their way home.

At about 4:00 in the afternoon, the strike hit the pick-up truck Hassan was driving, at the front of the truck. According to Hassan, nothing notable was around them or the vehicle at the time of the strike. He said only he and Amer, as well as some petrol and flour, were in the truck. At the time of the strike, the boys were about 20 kilometers south of Al Ruwayk market and about 60 kilometers away from the internally displaced persons' camp where their family had settled. They were near Abr road, west of the Ghwayraban area.

Based on Mwatana's site visits, the area where the strike occurred is under the control of the 23rd Brigade of the Yemeni government's armed forces, who are aligned with the United States. At the time, there was a military checkpoint under the control of the 23rd Brigade about ten kilometers south of the attack, and another about 15 kilometers north. The area is largely desert and is sparsely inhabited.

The strike killed 12-year-old Amer and destroyed the pick-up truck. Hassan said that he was hit with fragments in different parts of his body, including his head, his stomach, and his arm, thigh, and leg on the right side of his body.

Hassan lost consciousness and was taken to Karaa Hospital in Ma'rib governorate by a woman and an old man who had driven past Hassan and Amer after the attack. Hassan said he woke up in the hospital. The hospital treated his wounds, which included a few operations to remove the shrapnel from his body and to treat the wounds in his legs and hands. He stayed in the hospital for about a month and then stayed at home in recovery for a few months.

The Huraidan family's vehicle—a Helix four-wheeler pick-up truck, which Hassan was

(206) Hassan's civilian identification card, which he shared with Mwatana, shows his age as 17 at the time of the strike. Hassan had engaged in hostilities against Ansar Allah, as part of the Yemeni military which is allied to the US government. According to interviews, Hassan did not engage in any fighting against the US government. Hassan had military identification, participated in trainings with the Yemeni military and was receiving a monthly salary. Hassan told Mwatana he had joined the military in Al Jawf and, before the attack, would regularly spend a month in the military camp, and about 15 days at home.

driving—was destroyed. The vehicle was the only one the Huraidan family owned. They used it to transport water, food, fuel and other essential goods, according to a family member. It was valued at approximately 73,000 Saudi Rial, the family member said. Hassan said the vehicle was registered in the name of his uncle.⁽²⁰⁷⁾

A year and a half after the attack, Hassan said he has recovered physically but that he is still psychologically impacted—feeling helpless and depressed—by what happened to him and his cousin.

In interviews, family members expressed shock about why Amer was killed and Hassan wounded, and worry that civilians would continue to be killed if strikes like this one were not appropriately addressed. One relative said, “If we keep silent about this crime, the number of similar strikes against innocent people will increase. We do not know yet why they were targeted and killed by a US drone and why the [Yemeni] government is silent about this terrible crime that robbed us of our young children.”⁽²⁰⁸⁾

A local resident Mwatana interviewed said the strike “killed Amer instantly and tore his body to pieces, while Hassan was seriously wounded. These children are innocent and are not affiliated with Al Qaeda or ISIS.”⁽²⁰⁹⁾

In its investigation, Mwatana found no credible information to suggest that either Hassan or Amer were directly participating in hostilities in support of AQAP or IS-Y, or in any way associated with these groups. Hassan was a member of the US-allied Yemeni military and Amer, a 12-year-old, was a civilian.

Hassan and another relative said that the families hoped for reparations and an apology from the United States. They said that US strikes regularly occur in the area, and that they are very familiar with the buzzing sound of drones.

A Yemeni governmental body claimed both Amer and Hassan “had nothing to do with any terrorist organizations”⁽²¹⁰⁾ and a Yemeni minister condemned the “extrajudicial killings” on Twitter.⁽²¹¹⁾ After the strike, the US continued to claim it was carrying out

(207) Hassan’s uncle was a soldier in the Yemeni army and died in May 2018 due to a landmine explosion in Al Jawf front while engaged in hostilities against the Ansar Allah (Houthi) armed group, according to Hassan. The various documents related to the car were in the vehicle at the time of the strike, he said.

(208) Interview with “Ebrahim,” a relative, on March 15, 2018 about March 5, 2018 strike on Hadramawt, Yemen, on file with Mwatana for Human Rights.

(209) Interview with “Waleed,” local resident on March 15, 2018 about March 5, 2018 strike on Hadramawt, Yemen, on file with Mwatana for Human Rights.

(210) Sixth Report: The Work of the National Commission to Investigate Alleged Violations to Human Rights (NCIAVHR) in Yemen, From 12018/8/ to 312019/1/, The National Commission to Investigate Alleged Violations to Human Rights, at p. 43.

(211) Shuaib Mosawa and Maryam Saleh, “A 13-year-old boy and other Yemeni civilians were killed in US drone strikes this month,” The Intercept (March 26, 2018), <https://theintercept.com/201826/03//yemen-drone-strike-civilians-war-on-terror/>.

operations with the consent of the Yemeni government.⁽²¹²⁾

The US acknowledged carrying out a strike on March 5, 2018 in Hadramawt governorate.⁽²¹³⁾ Later, a US spokesperson told the Bureau of Investigative Journalism, after a “thorough review of the facts and circumstances,” the reports of civilian casualties “were assessed to be non-credible.” The spokesperson noted that a finding of non-credible in many cases indicates a lack of evidence and is not intended to deny the possibility that a civilian casualty incident occurred.⁽²¹⁴⁾

On December 17, 2019, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic wrote to the Department of Defense, presenting significant evidence Mwatana had gathered regarding the strike and recommending the US investigate, acknowledge and apologize for civilian harm and offer reparations or other amends, as well as review more broadly how the US is conducting operations in Yemen in order to mitigate civilian harm.⁽²¹⁵⁾

On March 18, 2020, US Central Command sent a short, four-paragraph response. The letter said that CENTCOM had provided the information “for review and consideration by the appropriate commander” as part of the “standard civilian casualty assessment process.”⁽²¹⁶⁾ The letter asserted that “the strike did not result in civilian casualties.”⁽²¹⁷⁾ By way of explanation, the letter offered, “It is not unusual to have inconsistencies between civilian casualty information that is reported to civil society organizations in conflict zones and the classified information that is available to US forces.”⁽²¹⁸⁾

(212) The White House, *supra* note 4 (In the 2018 Report, the White House states that “US Armed Forces continue to work closely with the Government of Yemen” in operations, and notes that “If a particular item or topic area from the original report is not covered in this update or its classified annex, it remains unchanged from the original report.” In the 2016 Report, the White House stated that “the United States has conducted counterterrorism operations against AQAP in Yemen with the consent of the Government of Yemen in the context of the armed conflict against AQAP and in furtherance of US national self-defense); see also US Central Command, *supra* note 192, which states “US forces continue sustained counterterrorism operations against AQAP and ISIS-Y in coordination with the government of Yemen”).

(213) In a May 2018 press release, US Central Command acknowledged conducting 17 air strikes over the previous three months in the Al Bayda, Hadramawt, Zamakh [sic], and Shabwah governorates. Zamakh is not a Yemeni governorate. In an email to the Bureau of Investigative Journalism, a US spokesperson reportedly confirmed that one of those strikes was on March 5, 2018 in Hadramawt. US Central Command, *supra* note 200. (214) The Bureau of Investigative Journalism, *supra* note 7.

(215) Annex A., “Letter from Mwatana for Human Rights and Columbia Law School’s Human Rights Clinic to the US Department of Defense” (December 17, 2019).

(216) Annex B., “Response Letter from the US Department of Defense to Mwatana for Human Rights and Columbia Law School’s Human Rights Clinic” (March 18, 2020).

(217) *Ibid.*

(218) *Ibid.*

On May 22, 2020 Mwatana and the Columbia Clinic sent another letter asking a series of follow-up questions, including whether the US acknowledged killing a child and wounding another child.⁽²¹⁹⁾ On August 3, 2020, CENTCOM responded, acknowledging that the US conducted the March 5, 2018 strike and that the strike killed one person and wounded another.⁽²²⁰⁾ CENTCOM did not disclose the identities, genders or ages of these two people, or any information regarding whether this information matched that presented by Mwatana. The letter seemed to acknowledge that a child—or children—were harmed in the strike, noting that “Al Qaeda exploits children,” but claimed the strike “impacted the intended Al Qaeda target with no harm to civilians or civilian objects.”⁽²²¹⁾ The letter did not respond to a series of questions posed by Mwatana and the Columbia Clinic, including on what basis either boy was deemed targetable and if capture was deemed not feasible. As noted, Hassan was a member of the US-allied Yemeni military who traveled to a US-ally-controlled military camp regularly. He was wounded in a strike conducted in an area under the control of US allies.

Amer Mohammad Ali Al Saqra', 12, killed in a March 5, 2018 air strike in Hadramawt, governorate, Yemen. Photo received from a relative.



(219) Annex C., “Follow-up Letter from Mwatana for Human Rights and Columbia Law School’s Human Rights Clinic to the US Department of Defense” (May 22, 2020).

(220) Annex D., “Response Letter from the US Department of Defense to Mwatana for Human Rights and Columbia Law School’s Human Rights Clinic” (August 3, 2020).

(221) Ibid.

Amer Mohammad Ali Al Saqra's school certificate from 2012 to 2013. Photo received from a relative.

Informal translation:

Republic of Yemen
The Ministry of Education
Education Office
Al Jawf Governorate
Khab and Al Shaaf district
Al Farooq Al Showe'e school

Certificate for evaluating works
of the year and the exam for
primary stage (from 1st until 8th
grade)

For the school year of 2012 –
2013

Name of the student: Amer Ali
Mohammed
Surname: Huraidan

Sector:

Note:

The final result of the student
is calculated by combining the
results of both semesters, the
student is not considered to
have passed without entering
the exams of the second
semester.



Hassan Saleh Hassan Al Huraidan, 17, injured on March 5, 2018 in Hadramawt governorate, Yemen. Photo received from a relative.



Civilian Harm from January 26/27, 2018 Air Strike on Shabwah, Yemen

On January 26 or 27, 2018, at about midnight, a US air strike killed five civilian men and two Yemeni army soldiers in As Said district, Shabwah governorate, Yemen.

Mwatana conducted five interviews during two site visits to Al Shabaa village, where the men were from, on February 10, 2018 and January 10, 2020. Al Shabaa village is a few kilometers from where the strike occurred. Mwatana interviewed four relatives of the men killed, and the principal of the school where one of the men used to work. Mwatana also took and collected photos and documents, including photos of weapons remnants found at the site and the car after the strike, as well as documents related to the men killed, including death certificates, letters from employers, letters from local authorities, and a document related to the car.

A few days before the strike, Saleh Mohammad bin Alawiya's son had gone missing. The family heard the boy may have gone to a nearby AQAP camp. Wanting to find his son and bring him home, Saleh asked a few men to join him in the search. The men were looking for Saleh's son, trying to retrieve him, when the US strike killed them.

The day of the strike, five of the men, including Saleh, decided to travel to Al Saieed area to look for Saleh's missing son. En route, they picked up the other two men.

The seven men—including a driver, a teacher, a university student, a beekeeper, a security officer and two Yemeni army soldiers—were driving together towards the Sara'a area searching for the missing boy when the strike killed them.

Residents of Sara'a village—about two kilometers away from the strike site—and people in the Al Mosaina'a area heard the explosion. Some local residents went to the site and found the car burned and the men killed. Their bodies were taken to the Al Mosaina'a hospital. The hospital contacted the men's relatives, who retrieved their bodies. The men were buried in their hometowns.

From late 2016, including at the time of the strike, the UAE-backed Shabwani Elite Forces were in control of most of Shabwah governorate. The nearest checkpoint Mwatana identified was about ten kilometers south of the strike site.

Mwatana found no credible indication that any of the men killed were directly participating in hostilities with AQAP or IS-Y, or that they were in any way associated with these groups.

Saleh, 49 years old, used to stay in the Ataq district, in the center of Shabwah governorate, waiting for passengers to taxi to Aden. He would also drive passengers from Aden back to Ataq. The Yemeni Taxi Drivers' syndicate provided a document, which Mwatana examined and included below, confirming that Saleh worked with them until he died, and noting he had exemplary manners and was a law-abiding citizen.

Khaled Faraj Mohammad bin Alawiya, 37 years old, was a teacher. He taught math in the mornings at the 30th November School, a public school in the area previously known as Al Wehda School. In a letter that Mwatana examined, included below, Khaled's school said that he worked with them as a math teacher until his death, and that he was a respectful employee and beloved teacher. Interviewees also told Mwatana that Khaled was beloved by his students and his community.

Najib Mohammad Saleh Lasmah, 25 years old, was a university student in Aden University in the College of Oil and Minerals. Najib went to the university daily. Mwatana examined a document from Aden University, included below, that confirmed Najib's status as a student.

Mubarak Mohammad Saleh Hadij, 41 years old, was a beekeeper. He owned a group of beehives and traded in Shabwah and Abyan governorates.

Ali Faraj Mohammad bin Alawiya, 34 years old, was a security officer. In a document Mwatana examined, included below, an official at the Ministry of Oil and Minerals confirmed that Ali was working with them as a guard.

Nabil Salem Baadalan, 40 years old, and Ziad Saleh Mohammad bin Alawiya, 20 years old, were both soldiers with the Yemeni army. According to interviews, Ziad spent most of his time in the military camp in Bayhan district in Shabwah governorate. In a document Mwatana examined, included below, the commander of the 21 Mechanized Brigade noted that Ziad and Nabil were part of his brigade and that the two men had no affiliation with extremist groups.

A Yemeni official also issued a document, which Mwatana examined and included below, listing all seven of the men's professions.

A 40-year-old man who lost two brothers in the strike spoke to Mwatana about the day, "I was in my home after Fajr prayer when a neighbor started knocking on the door. When I opened, he told me that he received a call that an incident happened and my two brothers, and other relatives were all killed. My knees were on the ground. I collapsed."⁽²²²⁾ He continued, "I woke everyone in the house with the worst kind of news imaginable. We got in the car and went off to see what had happened. I cannot forget the moment when I saw the two cars carrying the bodies. I asked to see them and I wish I had not. Many of them were disfigured and torn to pieces. I hugged them and sobbed until people removed me from the car."⁽²²³⁾

Five days after the air strike killed the seven men, the families called for a protest in front of Ataq police station. Interviewees said that more than 150 people joined the protest, calling on the local authorities, the government, Security Council member states and the US government to look into the strike, and calling on the US to acknowledge responsibility for the strike.⁽²²⁴⁾

In February 2018, CENTCOM said the US had conducted 18 air strikes in Yemen in December 2017 and January 2018 targeting AQAP and IS-Y "in coordination with the government of Yemen."⁽²²⁵⁾ The release did not provide details on where each of these 18 strikes occurred, whether AQAP or IS-Y was allegedly targeted in each strike, or any resulting civilian harm. After a request from the Bureau of Investigative Journalism, US Central Command denied US forces carried out a strike on January 27.⁽²²⁶⁾ A spokesperson for US Central Command later confirmed to Long War Journal that a strike had targeted AQAP in Shabwah on January 26, but gave no further information on casualties.⁽²²⁷⁾ A weapons expert who analyzed photos of weapons remnants Mwatana received from a local resident said that the remnants likely are parts of an AGM-114 Hellfire missile, an air-to-surface missile commonly released by US drones.⁽²²⁸⁾

In a follow-up interview in May 2019, a relative of the men told Mwatana, "Other than Mwatana and some other organizations that came to document the incident, no

(222) Interview with "Ahmed," a 40-year-old family member on January 10, 2020 about January 26/2018, 27/ strike that resulted in killing two of his uncles and two siblings in Shabwah, Yemen, on file with Mwatana for Human Rights.

(223) Interview with "Ahmed," a 40-year-old family member on January 10, 2020 about January 26/2018, 27/ strike that resulted in killing two of his uncles and two siblings in Shabwah, Yemen, on file with Mwatana for Human Rights.

(224) Interview with "Ahmed," a 40-year-old family member on January 10, 2020 about January 26/2018, 27/ strike that resulted in killing two of his uncles and two siblings in Shabwah, Yemen, on file with Mwatana for Human Rights.

(225) US Central Command, *supra* note 192.

(226) The Bureau of Investigative Journalism, *supra* note 7.

(227) See "Airwars Civilian Casualty Assessment: USYEMTr141-C," Airwars, <https://airwars.org/civilian-casualties/usyemtr141-c-january-262018/>.

(228) Report by arms expert consulted by Mwatana for Human Rights. Report ref. Jan 27/2018, 28/ (dated July 1, 2020), on file with Mwatana.

investigation committee came... No compensation was paid or promised by any side."⁽²²⁹⁾ In its annual report on civilian casualties, the Department of Defense claimed there were "no credible reports of civilian casualties resulting from US military actions in Yemen during 2018."⁽²³⁰⁾

On November 4, 2020, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic sent a letter to United States Central Command regarding this strike and other US operations in Yemen. The letter presented the significant evidence Mwatana had gathered, and recommended the US investigate, acknowledge and apologize for civilian harm caused and offer reparations or other amends to civilian victims, as well as review more broadly how the United States is conducting operations in Yemen in order to mitigate civilian harm. The US had not yet sent a formal response to the November 2020 submission at time of writing.

(229) Interview by phone with "Saleem," a relative in May 2019 about January 26/2018 strike on Shabwah, Yemen.

(230) Department of Defense, *supra* note 127.

Weapon remnants found after the attack, which a weapon expert identified as being from an AGM-114 Hellfire missile. Photo received from a relative.



The car destroyed in the January 2018 air strike in Shabwah governorate, Yemen. Photo received from a relative.



Letter from Taxi Drivers' Syndicate stating that Saleh Mohammad bin Alawiya was working for them until he died in January 2018. Photo taken by a Mwatana researcher.



Informal translation:

TO WHOM IT MAY CONCERN

We hereby confirm that Saleh Mohammed Ali Al Jaar, nicknames: Bin Alwiah, was working as a taxi driver until the day of his death.

He was an example of noble behavior, committed to order and was loving his work.

Allah bears witness to this statement.

Syndicate of Taxi Drivers

Date: 11.02.2018

[signed and stamped]

Letter from 30th November School stating Khaled Faraj Mohammad bin Alawiya was working for them until he died in January 2018. Photo taken by a Mwatana researcher.



Informal translation:

In the name of Allah, the Most Merciful
and Most Compassionate

TO WHOM IT MAY CONCERN

We hereby confirm that Khalid Mohammed Ali Al Awlaqi (nicknamed: Bin Alwiah) was a teacher at our school. He was teaching mathematics for grades 4 and 5 until the day of his death.

He was an example of noble behavior, committed to the school discipline and was a loving person to his students and his subject.

Allah bears witness to this statement.

Headmaster of 30 November School, Attaq
[signed and stamped]

Education Office, Ataq district
[signed and stamped]

Director of the Education Office in Shabwah governorate
[signed and Direc stamped]

Letter from Ministry of Oil and Minerals stating Ali Faraj Mohammad bin Alawiya worked with them and asking the Shabwah Police Department to release his salary.



Informal translation:

Republic of Yemen
Ministry of Oil and Minerals
Shabwah Office
Date: 03.11.2017

To [name]
General Director of Shabwah governorate Police Force

Greetings,
Subject: Urgent No. 176670 – Ali Faraj Mohammed Ali Bin Alwiah

Reference is made to above subject. We inform you that the abovenamed person works with us as a personal guard for the Deputy Director of the Oil and Minerals Office in Shabwah governorate, [name]. Therefore, kindly cooperate with him, order the payment of his salaries and grant him a release order, as he is working with us.

Thank you for your cooperation. Please accept our best regards and appreciation.
General Director of the Ministry of Oil and Minerals Office Shabwah governorate
[signed and stamped]

Letter from Shabwah Ministry of Local Administration stating the professions of the seven men killed in the strike, and noting that they had no affiliation with extremist groups. Photo taken by a Mwatana researcher.

Informal translation:

Republic of Yemen
Ministry of Local Administration W
Shabwah governorate
As Said district

TO WHOM IT MAY CONCERN

Greetings,
SUBJECT: AFFIDAVIT

We hereby confirm that the victims of the drone strike in Al Mussainah area, Shabwah governorate, on 27.02.2018 [sic] are local people from the area and are well known for their good behaviour. They do not have any connection to any entities in violation to international laws and customs and they do not have any affiliations to any terrorist entities or organisations.

Their names are as follows:

1. Nabil Salem Mohammed Baedlan – Officer in 21 Mechanized Brigade, Baihan area
2. Saleh Mohammed Ali Alwiah - Taxi driver, Shabwah – Aden road
3. Khalid Faraj Mohammed Ali Alwiah - Contracted teacher at 30 Nvember school, Ataq
4. Ali Faraj Mohammed Ali Alwiah - Security officer in Shabwah Secrity Department
5. Zeyad Saleh Mohammed Ali Alwiah - Soldier in 21 Mechanized Brgade
6. Najeeb Mohammed Saleh Lasma- Fourth year student at the Faculty of Oil (Geology)
7. Mubarak Mohammed Saleh Hedajj - Apiarist (Beekeeper)

They were attacked by a drone in Al Mussainah area.

General Director of Al Saeed
district Chairman of the Local
Council [Signed and stamped]

Handwritten:

We confirm the authenticity of that.

Member of the Local Council [Signed]
Head of the Social Affairs Committee [Signed]
Al Mussainah Security Director [Signed and stamped]



Letter from 21 Mechanized Brigade Commander stating Ziad Saleh Mohammad bin Alawiya and Nabil Salem Baadalan were both members of the brigade and were not affiliated with extremist groups. Photo taken by a Mwatana researcher.

Informal translation:

Republic of Yemen
Ministry of Defense
General Staff
Third Military Region
Command of 21 Mechanized Brigade

TO WHOM IT MAY CONCERN

Greetings,

Subject: Affidavit

With reference to above subject, we confirm to you that the following individuals are victims of an air strike in Al Musainah area, Shabwah governorate on 27.01.2018. They are officers in the Brigade and do not have any connections to any entities in violation to international laws and customs nor to any terrorist organizations. They are:



S	Rank	Military ID Number	Name	Remarks
1	Lieutenant	1225442	Nabil Salem Mohammed Ali Baadalan	
2	Second lieutenant	1223690	Zaid Saleh Mohammed Ali Bin Alawiyah	

Thank you
Brigadier
Commander of 21 Mechanized Brigade
[signed and stamped]

Letter from Aden University Faculty of Oil and Minerals confirming that Najib Mohammad Saleh Lasmeh was a student. Photo taken by a Mwatana researcher.



Informal translation:

Republic of Yemen
University of Aden
Faculty of Oil and Minerals

Date: 14.02.2018

TO WHOM IT MAY CONCERN

Greetings,
Subject: Confirmation of Enrollment
The Deanship of the Faculty of Oil and Minerals, Aden University,
hereby certifies that:
Najib Mohammed Saleh Lasmeh
is an enrolled student in the Engineering
Geology Department
Enrollment number 18/63
Fourth Level / Academic Year 2017/2018

This confirmation was issued on request.
Please accept our best regards.
Vice Dean for Student Affairs
[signed and stamped]

Civilian Harm from December 22, 2017 Air Strike on Al Bayda, Yemen

An air strike on December 22, 2017 killed one civilian man, Abdallah Ahmed Hussein Al Aameri, 47 years old, while he was driving grain and poultry from Rada'a city to Yakla village in Ghaifa district in Al Bayda governorate, Yemen.

Mwatana interviewed two witnesses by phone on December 31, 2017 and interviewed one relative on May 17, 2020. Mwatana was unable to reach the extremely remote, mountainous area for a site visit. Mwatana examined two videos taken the day of the strike, which show Abdallah's car in the immediate aftermath of the strike, and Abdallah's identification documents.

According to interviewees, Abdallah worked transporting goods. He would wake up each morning to drive to Rada'a city to pick up boxes of chicken or other needed food supplies, transporting them to the village. He would also transport people to and from the village. Interviewees told Mwatana that Abdallah's job took up most of his time.

On the day of the strike, Abdallah was returning from Rada'a city, transporting grain and poultry from Rada'a city to Yakla village. The food was intended to assist some families in the village, and was originally provided by a humanitarian program.

The strike that killed Abdallah took place on an unpaved road in a mountainous area between Rada'a city and Yakla village. The area, extremely remote, does not have an established military or residential presence.

Witnesses said that before the strike they had heard the familiar sound of drones buzzing overhead. The strike occurred at about 4:30 in the afternoon, hitting Abdallah's car while he was en route back to Yakla, and killing him.

After the explosion, villagers went to the strike site, which was close to Yakla village. When they arrived, Abdallah was already dead. The vehicle he had been driving burned for a long time, they said. One resident told Mwatana,

"We rushed to the location to know the cause of the explosion and when we arrived Abdallah was dead, his car destroyed and half his body burned."⁽²³¹⁾

The villagers collected Abdallah's remains. He was buried in the area and prayers were performed at the local mosque. He left behind a large family, which had relied

(231) Interview with "Khalid," a local resident on December 28, 2017 about December 22, 2017 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

on him. A relative said that Abdallah took care of his eleven children—eight boys and three girls, his two wives, his brother's children and his mother, who lived with him and his family.⁽²³²⁾

One local resident told Mwatana, "The United States of America is killing us and the world is watching without lifting a finger."⁽²³³⁾

Mwatana found no credible indication that Abdallah was directly participating in hostilities with AQAP or IS-Y, or that he was in any way associated with these groups.

His family is unaware of any investigation into the incident.⁽²³⁴⁾

In February 2018, CENTCOM said the US had conducted 18 air strikes in Yemen in December 2017 and January 2018 targeting AQAP and IS-Y "in coordination with the government of Yemen."⁽²³⁵⁾ The release said that eight of these strikes were in December, but it did not directly confirm the December 22 strike in Al Bayda.⁽²³⁶⁾ Airwars classified the December 22, 2017 strike as a "likely" US strike.⁽²³⁷⁾ In its annual report on civilian casualties for 2017, the Department of Defense stated, "There were credible reports of civilian casualties caused by US military actions in Yemen against AQAP and ISIS during 2017," but did not provide information on which incidents the Department had assessed resulted in civilian harm.⁽²³⁸⁾

On November 4, 2020, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic sent a letter to United States Central Command regarding this strike and other US operations in Yemen. The letter presented the significant evidence Mwatana had gathered, and recommended the US investigate, acknowledge and apologize for civilian harm caused and offer reparations or other amends to civilian victims, as well as review more broadly how the United States is conducting operations in Yemen in order to mitigate civilian harm. The US had not yet sent a formal response to the November 2020 submission at time of writing.

(232) Interview with "Kareem," one of Abdallah's relatives on December 28, 2017 about December 22, 2017 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(233) Interview with "Maeen," a local resident on December 28, 2017 about December 22, 2017 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(234) Interview by phone with Abdallah's relative in May, 2019 about December 22, 2017 strike on Al Bayda, Yemen.

(235) US Central Command, *supra* note 192.

(236) *Ibid.*

(237) See "Airwars Civilian Casualty Assessment: USYEMTr128-C," Airwars, <https://airwars.org/civilian-casualties/usyemtr128-c-december-222017-/>.

(238) Department of Defense, *supra* note 142 at p. 7.

Video still of Abdallah's car after the December 22, 2017 strike in Al Bayda, Yemen. Video taken the day of the strike, received from a relative.



Video still of Abdallah's car after the December 22, 2017 strike in Al Bayda, Yemen. Video taken the day of the strike, received from a relative.



Civilian Harm from December 14 or 15, 2017 Air Strike on Al Bayda, Yemen

On December 14 or 15, 2017,⁽²³⁹⁾ a US air strike killed two civilian women in the Yakla area in Al Bayda governorate, Yemen. According to witness testimonies collected by Mwatana, the strike killed Hajera Ahmed Saleh Al Taisi, about 33 years old, and Dhabia Ahmad Al Taisi, about 63 years old. Hajera was pregnant at the time of her death.

Mwatana conducted in-depth interviews by phone on December 19, 2017 with three relatives of the two women who were killed. Mwatana also conducted follow-up interviews with these people by phone in May 2019 and April 2020.

Both Dhabia and Hajera were from the Al Taisi family. According to relatives, the two women were housewives. They used to spend their days doing household chores, like cooking and bringing water to their homes in Yakla village—a mountainous, secluded area. Yakla village has approximately 15 homes, with seven of the homes—including Hajera's and Dhabia's—in close proximity to one another, residents told Mwatana.

Dhabia also helped farm and take care of the livestock—caring for her sheep and cows—and helped in the valley to grow watermelon, tomatoes and potatoes.

Hajera was Dhabia's niece. She was pregnant at the time of the strike. A relative told Mwatana that Hajera had suffered a miscarriage before her pregnancy when the strike occurred. Neither Hajera nor the baby survived the strike.

On the day of the strike, Dhabia was visiting Hajera's home, about 90 meters from Dhabia's own small house. At about 6:00 p.m., as Dhabia was leaving the house, the strike occurred. The strike hit right next to the entrance of the house, killing Dhabia, who was standing by the door. Hajera was in her kitchen. She was hit by shrapnel in the neck, which ripped through her back. The surrounding homes suffered varying degrees of damage from the strike.

After the strike, people rushed to the house to help. Dhabia's son, about 35 years old, was in his house nearby and rushed to the site. His mother was dead. He tried to gather her remains.

(239) Witnesses told Mwatana the strike occurred on December 14, 2017. The strike may have occurred a day after this, on December 15, 2017. Airwars treated the strike that killed the two women as confirmed, dating it on December 15, 2017. CENTCOM also acknowledged a strike in Al Bayda governorate on December 15, 2017. "Airwars Civilian Casualty Assessment: USYEMTr124-C," Airwars, <https://airwars.org/civilian-casualties/usyemtr124-c-december-152017/>.

Hajera's husband, who was in another part of the house at the time of the strike, also rushed to help, discovering his wife gravely wounded. He tried to move Hajera to the hospital, but she died on the way. Her young son, about nine-years-old, was with her. Her husband told Mwatana, "My wife was expecting a child; the shrapnel killed her and her fetus ... Today, the drone hit us. The life of people and their movements are almost paralyzed by fear."⁽²⁴⁰⁾

The next morning, Dhabia and Hajera were buried in the village cemetery.

The people Mwatana interviewed reported that the strike had increased feelings of anger and resentment in the community. One relative said, "Our throats have become sore speaking to one and all about the tragedies facing us. Every time the unmanned aircraft come back to kill innocent people. For God's sake, what crime did the women commit to be targeted by the US aircraft?"⁽²⁴¹⁾

Mwatana found no credible indication that either of the women were directly participating in hostilities with AQAP or IS-Y, or that they were otherwise associated with these groups.

In a press release, US Central Command acknowledged that US forces conducted eight air strikes in Yemen in December 2017, including a December 15 strike in Al Bayda governorate which the US claimed killed AQAP's external operations facilitator. The release did not mention any associated civilian harm.⁽²⁴²⁾ A relative told Mwatana he was unaware of any other strike that happened the same day in the same area. Airwars treated the strike that killed the two women as confirmed, dating it on December 15.⁽²⁴³⁾ In its annual report on civilian casualties for 2017, the Department of Defense stated, "There were credible reports of civilian casualties caused by US military actions in Yemen against AQAP and ISIS during 2017," but did not provide information on which incidents the Department had assessed resulted in civilian harm.⁽²⁴⁴⁾

In follow-up interviews in May 2019, relatives of the two women told Mwatana that no one had contacted them regarding a possible investigation into the strike, or any form of reparation, compensation, or other forms of amends.⁽²⁴⁵⁾

On November 4, 2020, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic sent a letter to United States Central Command regarding this strike and

(240) Interview with Hajera's husband on December 18, 2017 about December 14 or 15, 2017 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(241) Interview with a relative in April 2020 about December 14 or 15, 2017 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(242) US Central Command, *supra* note 192.

(243) Airwars, *supra* note 239.

(244) Department of Defense, *supra* note 142 at p. 7.

(245) Interview by phone in May 2019 with relatives about the strike that killed Hajera and Dhabia on December 14 or 15, 2017 in Al Bayda, Yemen.

other US operations in Yemen. The letter presented the significant evidence Mwatana had gathered, and recommended the US investigate, acknowledge and apologize for civilian harm caused and offer reparations or other amends to civilian victims, as well as review more broadly how the United States is conducting operations in Yemen in order to mitigate civilian harm. The US had not yet sent a formal response to the November 2020 submission at time of writing.

Civilian Harm from November 23, 2017 Air Strike on Al Bayda, Yemen

On November 23, 2017, a US air strike killed one civilian man and one civilian child—Ahmed Mabkhout Salem Al Ameri, 25 years old, and Mohammed Massaad Abbad, 14 years old—in the Yakla area of Al Bayda governorate, Yemen.

Mwatana conducted in-depth interviews with two relatives, who were also residents of the area, on November 29, 2017, and conducted follow-up interviews with them in May 2020. Mohammed's school certificate for the 2010-11 school year, which Mwatana examined and is included below, shows Mohammed to have been approximately in the third grade in 2011, and therefore approximately in the eighth grade in 2017 when the strike killed him. In his testimony, Mohammed's father said his son was 14 years old at the time of the strike.

Mwatana also collected two videos filmed after the strike by a local resident. The footage shows the location of the strike and weapons remnants found at the site. Mwatana shared the videos with an arms expert, who analyzed the videos and concluded that the remnants are likely from an AGM-114 Hellfire missile,⁽²⁴⁶⁾ often released by US drones.

On the day of the strike, Ahmed and Mohammed were at Ahmed's qat farm. They were both picking qat from the farm to sell.

At around 5:30 in the evening, Ahmed and Mohammed were preparing to leave the farm on Mohammed's motorbike when the strike occurred. Mohammed's mother was the first to reach her son. Mohammed and Ahmed's bodies were still aflame when she reached the site. Both Mohammed and Ahmed were killed.

A nearby home was also impacted by the strike, with some debris hitting the home. Burn marks were visible on the home after the strike.

Mwatana found no credible indication that either Ahmed or Mohammed were directly participating in hostilities with AQAP or IS-Y, or that they were otherwise associated with these groups.

Mohammed was a child when the US killed him. "Mohammed spent most of his time at home and had nothing to do with any suspicious activity of any kind... He always helped me with household chores [until he was] killed on that fateful day and that

(246) Report by arms expert consulted by Mwatana for Human Rights. Report ref. Nov 23, 2017 (dated: 01 Jul 2020), on file with Mwatana.

devastating hour," his father told Mwatana.⁽²⁴⁷⁾ "I cannot forget his younger sisters screaming at the sight of his body, his mom was frantically running all over the place," his father continued.⁽²⁴⁸⁾

Ahmed's relative, who is a local tribal leader, told Mwatana that Ahmed had been working in Saudi Arabia painting houses for seven months and had returned to Yemen a month before the strike. He was his family's only reliable source of income. They struggled to make ends meet after he was killed. Yemenis who work in Saudi Arabia, as Ahmed did, provide an important source of income for their families.

Mohammed's father told Mwatana that the family moved to Marib governorate after the strike, "[in] order to protect the rest of my children."⁽²⁴⁹⁾ Mohammed's family remains displaced. They said they are in a bad economic situation—the cost of living is high compared to other places in Yemen, including in Yakla.

In a press release dated December 20, 2017, US Central Command stated that, "in November, the US conducted ten strikes across Yemen governorates Al Bayda, and Marib."⁽²⁵⁰⁾ US Central Command, in an email to Bureau of Investigative Journalism, confirmed that US forces carried out a strike in Al Bayda on November 23, 2017. The Bureau reported that the US claimed the strike targeted the Islamic State and had killed two "terrorists."⁽²⁵¹⁾

In May of 2020, one of the victim's relatives told Mwatana that they were unaware of any investigation into the strike.⁽²⁵²⁾

On November 4, 2020, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic sent a letter to United States Central Command regarding this strike and other US operations in Yemen. The letter presented the significant evidence Mwatana had gathered, and recommended the US investigate, acknowledge and apologize for civilian harm caused and offer reparations or other amends to civilian victims, as well as review more broadly how the United States is conducting operations in Yemen in order to mitigate civilian harm. The US had not yet sent a formal response to the November 2020 submission at time of writing.

(247) Interview with the Mohammed's father on November 29, 2017 about the November 23, 2017 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(248) Interview with the Mohammed's father on November 29, 2017 about the November 23, 2017 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(249) Interview with Mohammed's father in May, 2020 about November 23, 2017 strike on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(250) "Update on recent counterterrorism strikes in Yemen [Press Release]," US Central Command (December 20, 2017), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1401383/update-on-recent-counterterrorism-strikes-in-yemen/>.

(251) "Yemen: Reported US Covert Actions 2017," The Bureau of Investigative Journalism, <https://www.thebureauinvestigates.com/drone-war/data/yemen-reported-us-covert-actions-2017>.

(252) Interview by phone with "Fateh," a relative, in May 2020 about November 23, 2017 strike on Al Bayda, Yemen.

Weapon remnants found after the attack, which a weapons expert identified as likely parts of an AGM-114 Hellfire missile. Video received from a relative.



Weapon remnants found after the attack, which a weapons expert identified as likely parts of an AGM-114 Hellfire missile. Video received from a relative.



Weapon remnants found after the attack, which a weapons expert identified as likely parts of an AGM-114 Hellfire missile. Video received from a relative.



Weapon remnants found after the attack, which a weapons expert identified as likely parts of an AGM-114 Hellfire missile. Video received from a relative.



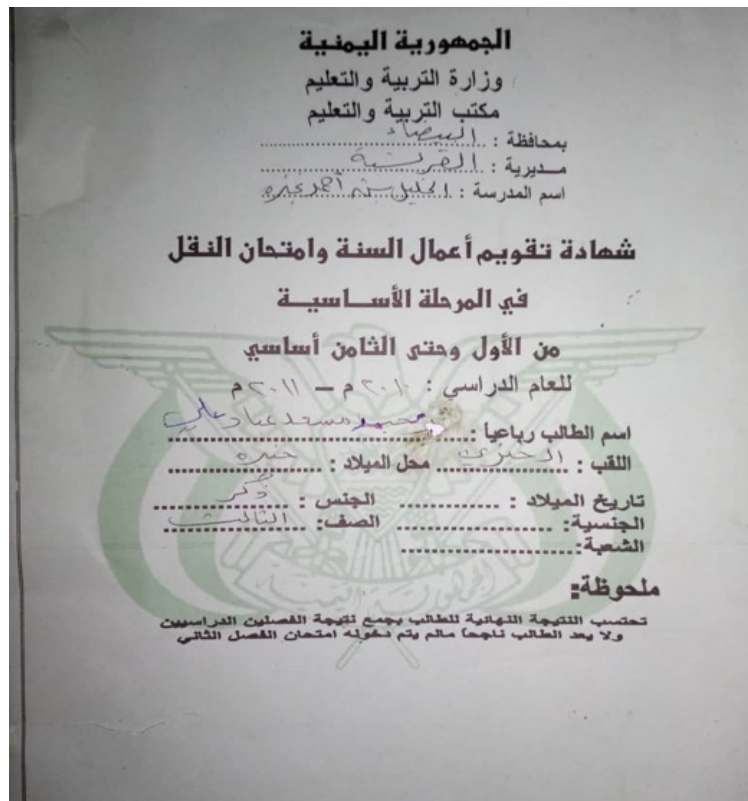
Weapon remnants found after the attack, which a weapons expert identified as likely parts of an AGM-114 Hellfire missile. Video received from a relative.



The motorbike that was carrying Ahmed and Mohammed at the time of the strike, found at the location of the November 23, 2017 US air strike. Photo received from a relative.



Mohammed's school certificate, showing him to be in the third grade during the 2010-2011 school year, sent to Mwatana by Mohammed's parents.



Informal translation:

Republic of Yemen,
Ministry of Education
Education Office

Governorate: Al Bayda
District: Al Grbia
School: Al Khalil ben Ahmed Khbza

Yearly school certificate of school work and transfer exam at the elementary level

School year: 2010 – 2011
Name of Student: Mohammed Massaad Abbad Ali
Surname: Al Khabzy
Place of Birth: Khabza
Date of Birth:.....
Sex: Male
Class: Three.
Nationality: ...
Division:...
Notes:...

Civilian Harm from August 13, 2017 Air Strike on Abyan, Yemen

On August 13, 2017, a US air strike killed two civilian men, El Khodor Ali Saiid Jaradah, 20 years old, and Ali Haidra Saiid Jaradah, 19 years old, in Al Khobar-Mroun village in Khanfar district, Abyan governorate. El Khodor and Ali were working on some beehives they owned when the US strike killed them.

Mwatana conducted two site visits to the area, first on October 5, 2017, and later on January 10, 2020. During these site visits, Mwatana conducted in-depth interviews with nine people, including seven relatives of El Khodor and Ali, a witness to the strike, and the village sheikh. In some cases, Mwatana conducted follow-up interviews with these people to gather further information. Mwatana also took and collected photos and documents, including photos of weapons remnants found at the site, both men's death certificates, Ali's birth certificate, and El Khodor's identification card.

Both Ali and El Khodor worked in the honey trade and had 70 to 80 beehives in Mouron village—an area about a kilometer from their houses—which they would check on most days. Yemen is famous for its honey.

The day of the air strike, El Khodor and Ali decided to have lunch together and to go check on their beehives. El Khodor went to pick up Ali on his motorcycle. The two men bought qat and drove to the area where their beehives were located. The men took their personal weapons with them, as is common in Yemen. The men decided to chew some qat before beginning work on their beehives.

They were sitting under a nearby tree when the strike occurred at about 3:30 in the afternoon.

A 30-year-old relative of the two men and local resident said people in the area and the surrounding villages had noticed an unusually heavy presence of drones in the sky during the three days before the strike, which made people nervous as “the drones have a black record of killings.”⁽²⁵³⁾ Around the time of the afternoon prayer on the day of the strike, he said, “all the people in the region and neighboring areas heard a powerful explosion and saw huge columns of smoke rising, followed by drone sounds...Nobody knew what was going on.”⁽²⁵⁴⁾

(253) Interview with “Yahya,” a relative, on October 5, 2017 about August 13, 2017 strike on Abyan, Yemen, on file with Mwatana for Human Rights.

(254) Interview with “Yahya,” a relative, on October 5, 2017 about August 13, 2017 strike on Abyan, Yemen, on file with Mwatana for Human Rights.

After the explosion, residents ran towards the sound. When they arrived, El Khodor and Ali's bodies had been ripped apart and there was charred flesh "everywhere." Ali's body and face was full of shrapnel, and El Khodor was hit in the chest, with his lower body crushed. Their relative said, "I was shocked to see the remaining body parts and the remaining pieces of their clothes hanging on the tree branches. The place was overwhelmed with the smell of gunpowder. I gathered their remaining body parts, which the other villagers who arrived at the scene before me had not gathered. I buried their parts under the tree. I will continue to recall this incident whenever I hear the sound of a drone hovering above. Drones continue to circulate in the area. Any of us could be killed by these drones. I could be among the next victims."⁽²⁵⁵⁾

A 22-year-old relative of the two men also said that he had heard the explosion and that he had been told the US hit El Khodor and Ali. He said that those who went to the site "saw clothing and body parts scattered on the trees."⁽²⁵⁶⁾ He went to see Ali and El-Khodor's families just after the strike as they were preparing for prayer and the men's burial at Hosn Saïd Cemetery—about seven kilometers from their village. "Everyone there was terrified and stunned. How is it that a drone known for its accuracy targeted people who had no connection to any terrorist group?!", he said.⁽²⁵⁷⁾

He told Mwatana that the strike caused El Khodor and Ali's families to leave the village. "The families of the victims no longer have any desire to remain in that place," he said.⁽²⁵⁸⁾

Mwatana found no credible indication that either El Khodor or Ali were directly participating in hostilities with AQAP or IS-Y, or that they were associated with these groups.⁽²⁵⁹⁾ Residents and relatives praised both men for their manners and their kindness and said that they were respected and beloved by other people in their village. The village sheikh told Mwatana,

(255) Interview with "Yahya," a relative, on October 5, 2017 about August 13, 2017 strike on Abyan, Yemen, on file with Mwatana for Human Rights.

(256) Interview with "Jamal," a relative, on October 5, 2017 about August 13, 2017 strike on Abyan, Yemen, on file with Mwatana for Human Rights.

(257) Interview with "Jamal," a relative, on October 5, 2017 about August 13, 2017 strike on Abyan, Yemen, on file with Mwatana for Human Rights.

(258) Interview with "Yahya," a relative, on October 5, 2017 about August 13, 2017 strike on Abyan, Yemen, on file with Mwatana for Human Rights.

(259) All interviews conducted by Mwatana indicated the two men were civilians. Both men's death certificates listed their occupations as "soldier." Mwatana conducted additional follow-up interviews to inquire specifically about El Khodor and Ali's registration status and any possible participation in the Yemeni army. In April 2020, El Khodor's relative said that in 2015 El Khodor and Ali went to speak with members of the army registering new soldiers, but the two men arrived late and did not finish the registration procedures. It is common for some sectors of Yemeni society to register on military rolls to get access to government salaries. Those registered may never work for, participate in activities with, or in any other way be linked to the military. Their names remained "pending." When the war increased in severity, neither El Khodor nor Ali chose to follow-up on the registration process. Neither man received military training, and neither joined an army unit or participated in any military operations, according to their family members. They do not appear to have ever completed their registration nor come under the command of the Yemeni army.

"I have been sheikh to this village for 17 years and I knew those boys who died in the incident. They were two of the finest youth of our village."⁽²⁶⁰⁾

Ali had gotten married four months before he was killed. He left behind his wife, his parents, his six brothers and five sisters. Ali had left school when he was in the seventh grade to help provide for his family. In addition to working in the honey trade, he also worked as a fisherman. At the time of the strike, he was living with his parents and providing for his father, mother, young wife and unmarried sister. His other siblings lived outside of the family home.

El Khodor left behind his wife and a four-year-old son. His son died of an illness a few months after the strike. El Khodor also left behind five siblings—two brothers and three sisters. According to his mother, he helped support the house financially and by doing chores outside and inside the house.

The main income for the men's families came from the honey sold from the 70 to 80 beehives owned by the two men, which the strike damaged. Most of the beehives were burned and the rest were scattered in the strike. According to the family, each beehive cost 20,000 Yemeni Rial, with the total lost for 70 beehives estimated at 1,400,000 Yemeni Rial.

According to the Bureau of Investigative Journalism, a CENTCOM spokesperson confirmed that the US military carried out a strike in the Abyan governorate on August, 13, 2017, claiming the strike targeted AQAP.⁽²⁶¹⁾ An arms expert also analyzed photos of the weapons remnants from the strike and concluded the remnants are likely from an AGM-114 Hellfire missile, often released by US drones.⁽²⁶²⁾

Family members of Ali and El Khodor told Mwatana they were unaware of any investigation into the strike.⁽²⁶³⁾

(260) Interview with the area sheikh on January 10, 2020 about August 13, 2017 strike on Abyan, Yemen, on file with Mwatana for Human Rights.

(261) The Bureau of Investigative Journalism, *supra* note 251; "Airwars Civilian Casualty Assessment: USYEMTr096-C," Airwars, <https://airwars.org/civilian-casualties/usyemtr096-c-august-132017-/>.

(262) Report of arms expert consulted by Mwatana for Human Rights, Report ref. Aug 13, 2017, (dated July 1, 2020), on file with Mwatana.

(263) Interview by phone with "Mustafa," a relative, in May 2019 about the strike that killed El Khodor and Ali on August 13, 2017 in Abyan, Yemen.

On November 4, 2020, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic sent a letter to United States Central Command regarding this strike and other US operations in Yemen. The letter presented the significant evidence Mwatana had gathered, and recommended the US investigate, acknowledge and apologize for civilian harm caused and offer reparations or other amends to civilian victims, as well as review more broadly how the United States is conducting operations in Yemen in order to mitigate civilian harm. The US had not yet sent a formal response to the November 2020 submission at time of writing.

Weapon remnants found after the attack, which a weapons expert identified as likely parts of an AGM-114 Hellfire missile. Photo taken by a Mwatana researcher.



Weapon remnants found after the attack, which a weapons expert identified as likely parts of an AGM-114 Hellfire missile. Photo taken by a Mwatana researcher.



The mattress both men were sitting on before the strike, found at the site of the August 13, 2017 strike. Photo taken by a Mwatana field researcher.



Debris found at the site of the August 13, 2017 strike. Photo taken by a Mwatana field researcher.



The tree where the two men were sitting immediately before the August 13, 2017 strike. Photo taken by a Mwatana field researcher.



Civilian Harm from May 23, 2017 Raid on Marib, Yemen

On May 23, 2017, a US military raid in Al Athal village of the Al Jubah district of the Marib governorate resulted in the death of five people. According to information collected by Mwatana, two civilians, two men who appeared to be members of the US-aligned Yemeni army, and another man whose status Mwatana was unable to determine were killed during the raid. Another four people were injured, including two civilians and two Yemeni army soldiers.

During site visits to the area on June 16, 2017 and June 24, 2020, Mwatana conducted in-depth interviews with six people, including with two wounded survivors and four relatives of those killed and wounded. In some cases, Mwatana conducted follow-up interviews by phone to gather further information. Mwatana also took or collected about three dozen photos, including photos of the wounded child, the invitation to the village-organized protest after the raid, medical reports and identification cards of those killed and wounded, military IDs, death certificates, and of bullets and other physical remnants found at the site after the raid.

Al Athal is a very small village in a relatively isolated area, consisting mainly of residential houses. "For more than a month [before the raid] the drone hovered over the village. We knew it will hit anywhere or at any time,"⁽²⁶⁴⁾ a resident said.

The night of the raid, people in the village started hearing gunshots. Two of the villagers went outside to see what was happening. In Marib and other tribal areas in Yemen, gun shots can mean several things, including a signal for help or a warning that a flood has erupted.

At about 1:00 in the morning, the raid began. Witnesses said a helicopter and soldiers on the ground were shooting in all directions, hitting everything that moved. They also reported air strikes and said there was a ring of fire around the village and that anyone who approached it would get shot. Three houses in the southern part of the village, which, according to witnesses, were surrounded and attacked, were particularly impacted.

Abdullah, a 19-year-old student, was sleeping in his house with his mother and his little sister when the raid began. Their house was on top of a small hill. When the raid began, they heard people speaking English and dogs barking. Abdullah's mother hurried to grab him and his sister and ran with them towards the bathroom. They hid

(264) Interview with "Saeed," a local resident, on June 16, 2017 about May 23, 2017 raid on Marib, Yemen, on file with Mwatana for Human Rights.

inside, but the helicopter started shooting at the bathroom from above, so they ran down the hill from the house and hid behind two bushes. Abdullah was behind one, and his mother and little sister were behind another. His mother watched, from about ten meters away, as the helicopter began shooting at the bush where Abdullah was hiding, killing him. "She saw fire falling from the sky and devouring the tree where Abdallah [had] sought shelter. She felt totally paralyzed watching her son die in front of her," another local resident, who is a relative of the family, told Mwatana.⁽²⁶⁵⁾

Mabkhout, a 20-year-old student, said that when he heard sounds the night of the raid he went outside to see what was happening. He said he thought it might have been a tribal conflict. He first saw a helicopter, and then saw light. He told Mwatana, "I then heard my sister calling my name. She was saying, 'Mabkhout, don't die. Can you hear me, Mabkhout!'"⁽²⁶⁶⁾ Mabkhout was shot and his legs were wounded. Bleeding, his relatives moved him to a safer spot, where he fainted.

Al Ghader, a soldier in the Yemeni military, was sleeping in his room when the raid began. He was shot in the chest and kidney. His wife tried to close his mouth so that those attacking the village would not hear his moaning. He remained alive throughout the night, but when his family tried to send him to a nearby hospital in the morning he died along the road.

In the immediate aftermath of the raid, those wounded were taken to a nearby hospital. Mabkhout had to travel to Egypt for further treatment. The medical system in Yemen has been largely decimated due to the conflict.

Those killed were buried in the village on May 25, two days after the raid.

The raid resulted in the deaths of at least five people and the wounding of four others.

Those killed included two civilians: Nasser Ali Mahdi Al Athal, a 72-year-old former shepherd, and Abdullah Salem Saeed Al Athal, a 19-year-old student.

Nasser—the former shepherd who was killed in the raid—was an old man who was married with seven children. At the time of the raid, he had not been working for some time and depended on his children to take care of him. Witnesses said he could not see clearly or stand properly. In earlier years, Nasser had travelled to the UAE and Saudi Arabia, and had friends in both countries. Interviewees told Mwatana that he was not remotely involved in anything political, noting that he had never learned to read or write and that his daily routine—like many elderly Yemeni people—included praying in the mosque and staying at home.

(265) Interview with "Khalid," Abdallah's relative, on June 16, 2017 about May 23, 2017 raid on Marib, Yemen, on file with Mwatana for Human Rights.

(266) Interview with Mabkhout on June 24, 2020, who was injured on May 23, 2017 raid on Marib, Yemen, on file with Mwatana for Human Rights.

"Nasser was sleeping at a small mosque at the time of the attack. He had lost much of his vision and no longer had the ability to stand for lengthy periods of time or walk long distances,"⁽²⁶⁷⁾ a relative told Mwatana. "Despite his physical challenges, he had been overseeing the building of that mosque," the relative continued.⁽²⁶⁸⁾ After the fighting began, Nasser's family members tried to tell him not to leave the mosque, but they did not know if he was able to hear them, a relative said. "At around 4:00 am, we went to check on him only to find his dead body lying near the mosque door."⁽²⁶⁹⁾

19-year-old Abdullah was still a student and would spend his days taking care of family errands and chewing qat.

Two men who had registered with or were members of the US-aligned Yemeni army were also killed in the raid. Yasser Mohammed Salem Al Athal, about 20 years old, was shot in the throat, according to interviews. His death certificate describes him as a soldier. He was also a student in the 11th grade. Al Ghader Saleh Salem Al Athal, 45 years old, was shot. He was living with his wife. A relative said, "Al Ghader had no relation to Al Qaeda. He borrowed money from me for a surgery for his wife, but death was faster in reaching him."⁽²⁷⁰⁾

Two civilians, including Othman Mohammed Saleh Al Athal, a 12-year-old civilian boy,⁽²⁷¹⁾ and Mabkhout Ali Arfaj Al Athal, a 20-year-old civilian man, were injured.

Mwatana interviewed both survivors. Othman was a student in the sixth grade. He told Mwatana that his hands were wounded in the raid, with at least one bullet going right through his hand. He was driven to the hospital after the raid and stayed there until the next day. Mabkhout was wounded in his right and left legs. He told Mwatana he was studying accounting, and was in his first year of college at the time of the raid. He lived about a kilometer away from where the raid occurred.

Two soldiers in the Yemeni army were also wounded: Mourad Saeed Salem Al Athal, 22 years old, and Basheer Ali Ahmed Al Athal, 30 years old.

Mwatana found no credible information to suggest that any of the eight individuals described above were directly participating in hostilities with AQAP or IS-Y, or that

(267) Interview with "Salem," one of Nasser's relatives, on June 16, 2017 about May 23, 2017 raid on Marib, Yemen, on file with Mwatana for Human Rights.

(268) Interview with "Salem," one of Nasser's relatives, on June 16, 2017 about May 23, 2017 raid on Marib, Yemen, on file with Mwatana for Human Rights.

(269) Interview with "Salem," one of Nasser's relatives, on June 16, 2017 about May 23, 2017 raid on Marib, Yemen, on file with Mwatana for Human Rights.

(270) Interview with "Abdullah," a relative, on June 24, 2020 about May 23, 2017 raid on Marib, Yemen, on file with Mwatana for Human Rights.

(271) Enclosed below are two documents Othman received related to his treatment at the hospital after the raid. One, an intake report, records Othman as 12 years old, while the discharge paper records him as 14. In Yemen, it is common to use approximate ages.

they were otherwise associated with the groups. Another man, who a relative said had previously fought with AQAP, was also killed in the raid. Mwatana was unable to determine what relationship the man had with AQAP at the time of the raid.

A number of homes and vehicles were also damaged and destroyed in the raid. One interviewee told Mwatana, "After the attack we tried to assess the damage on the house and the small mosque my father had built. We saw that both the house and the mosque were hit more than 20 times from all directions."⁽²⁷²⁾

Witnesses told Mwatana that the operation left people in the village scared and traumatized. Residents blamed the miscarriages of six women in the period following the raid on the impact of that night. One village resident told Mwatana, "My six-year-old son wanted to go to the bathroom but then returned without going. When I asked him the reason, he said, 'I don't want you all to die without me if the drone hits.'"⁽²⁷³⁾

The villagers organized a protest to which they invited the media and activists to join. They published information about the protest under the hashtag "#Alathlantribe is not Qaida."

(272) Interview with "Sharaf," a witness on June 16, 2017 about May 23, 2017 raid on Marib, Yemen, on file with Mwatana for Human Rights.

(273) Interview with "Qassem," a relative, on June 24, 2020 about May 23, 2017 raid on Marib, Yemen, on file with Mwatana for Human Rights.

On May 23, 2017, the US acknowledged carrying out a raid in the Marib governorate. That day, CENTCOM issued a press release in which Pentagon spokesman Captain Jeff Davis confirmed US Special Operations conducted a ground raid in Marib “the day before.”⁽²⁷⁴⁾ He said the raid had targeted an AQAP “compound comprising a few buildings,” and that “[Al Qaida in the Arabian Peninsula was] using this as a headquarters, a place to meet and plan for external operations and to lead the group.” A CENTCOM spokesperson, Col. John Thomas, later told the New York Times in a telephone interview that the raid had been intended to seize potentially important information from the compound—typically electronic devices such as computers, hard drives, and cellphones—and they had not intended to kill or capture a particular individual.⁽²⁷⁵⁾ Davis informed reporters the raid killed at least seven AQAP militants with small-arms fire and precision air strikes from an AC-130 gunship. Davis noted the operation had the support of the Yemeni government, and that it had been conducted in conjunction with US partners. The May 23, 2017 CENTCOM press release stated that “no civilian casualties were reported, and based on observations on the ground and in the sky, there are no credible indications of such casualties.”

The Bureau of Investigative Journalism later reported that “US Central Command told the Bureau it had received the reports of civilian casualties and was looking into the matter.”⁽²⁷⁶⁾ The Independent, a UK newspaper, also reported in November 2017 that CENTCOM was conducting an investigation.⁽²⁷⁷⁾ In its annual report on civilian casualties for 2017, the Department of Defense stated, “There were credible reports of civilian casualties caused by US military actions in Yemen against AQAP and ISIS during 2017,” but did not provide information on which incidents the Department had assessed resulted in civilian harm. The same report went on to repeat the claim that the May 23, 2017 raid was “against a compound associated with AQAP,” and that those killed included “seven AQAP militants through a combination of small arms fires and air strikes.”⁽²⁷⁸⁾ Mwatana found the raid killed at least two civilians, including a 72-year-old former shepherd who could not see or stand properly, and wounded another two civilians, including a young boy, in addition to the four Yemeni army personnel casualties.

(274) Note that the majority of sources, including Mwatana’s research, indicate that the raid took place beginning around 1:00 a.m. Arabian Standard Time on May 23. Though Davis’s statement indicates the raid took place on May 22, the discrepancy may be due to time differences. Terri Moon Cronk, “Pentagon Spokesman Describes U.S. Raid in Yemen,” US Central Command (May 23, 2017), <https://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/1191797/pentagon-spokesman-describes-us-raid-in-yemen/>.

(275) Eric Schmitt and Helene Cooper, “Navy Seals Kill 7 Militants in Yemen Raid but Suffer Injuries,” The New York Times (May 23, 2017), <https://www.nytimes.com/2017/23/05/world/middleeast/navy-seals-yemen-raid.html>.

(276) The Bureau of Investigative Journalism, *supra* note 251.

(277) Bethann McKernan, “Amid the carnage in Yemen, civilians also face consequences of the US war on terror,” The Independent (November 15, 2017), <https://www.independent.co.uk/news/world/middle-east/yemen-al-qaeda-us-counter-terrorism-drones-navy-seal-raids-adhlan-marib-saudi-arabia-civil-war-a8057106.html>.

(278) Department of Defense, *supra* note 142 at p. 7.

On November 4, 2020, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic sent a letter to United States Central Command regarding the raid and other US operations in Yemen. The letter presented the significant evidence Mwatana had gathered, and recommended the US investigate, acknowledge and apologize for civilian harm caused and offer reparations or other amends to civilian victims, as well as review more broadly how the United States is conducting operations in Yemen in order to mitigate civilian harm. The US had not yet sent a formal response to the November 2020 submission at time of writing.

Othman Mohammed Saleh Al Athal, 12, injured during the May 23, 2017 raid in Marib governorate, Yemen.



Othman Mohammed Saleh Al Athal, 12, injured during the May 23, 2017 raid in Marib governorate, Yemen. Photo taken by a Mwatana researcher on June 16, 2017



The back of Othman Mohammed Saleh Al Athal's hand, which shows the scar from one of his injuries from the raid. Photo taken by a Mwatana researcher.



The front of Othman Mohammed Saleh Al Athal's hand showing the scar from one of his injuries in the raid. Photo taken by a Mwatana researcher.



Othman Mohammed Saleh Al Athal's discharge papers from 26th September Hospital.

Republic of Yemen
 Ministry of health & population
 Health office Marib gov.
 26th of September hospital Al gopa
 Statistic & medical record

وزارة الصحة العامة والمكان
 مكتب الصحة والمكان م / مارب
 مستشفى ٢٦ سبتمبر بالجوبه
 ادارة الاحصاء والسجل الطبي

DISCHARGE PERMISSION إعلان خروج

File No (٤٣٠) رقم الملف	Department (الرجال) القسم	Patient full name (اسم المريض) عثمان محمد صالح الاثال
Adm. date ٢٠١٧/٥/٢٤ تاريخ الدخول	Bed No () رقم السرير	Sex (ذكر) الجنس
Dis. date ٢٠١٧/٥/٢٥ تاريخ الخروج	Room No () رقم الغرفة	Age (١٤) العمر

البوابه لامانع من خروج المريض
 إدارة الاحصاء والسجل الطبي/المتابعة الماليه
 التوقيع :
 الختم :

م الطبيب :
 موقع :
 تم :

Informal translation:

Patient Full name: Othman Mohammed Saleh Al Athal

Sex: Male

Age: 14 years

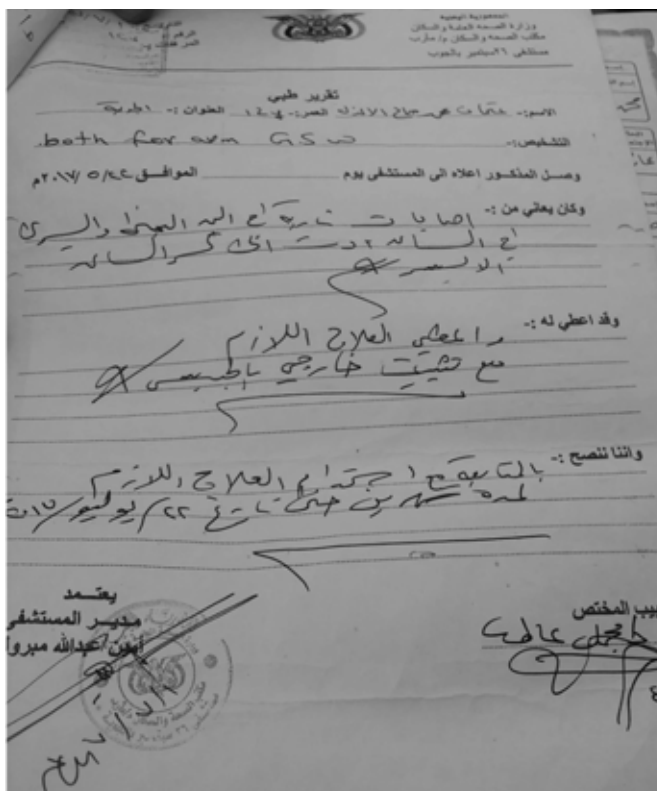
Department: Men

File number: 430

Admission date: May 24 2017

Discharge date: May 25 2017

Othman Mohammed Saleh Al Athal Medical Report From 26th September hospital.
Photo taken by a Mwatana researcher.



Informal translation:

Republic of Yemen
Ministry of Public Health and Population
Public Health in Population Office, Marib province
26 September Hospital, Al Joubah

MEDICAL REPORT

Name: Othman Mohammed Saleh Al Athal
Age: 12 years
Address: Al Joubah
Diagnosis: Both forearm GSW

This patient was admitted to the hospital on 22.05 2017 [sic] and he was suffering from gunshot injuries in the right and left hand in the forearm leading to fracturing of the left forearm bone. He was given proper treatment and an external fixator set. Therefore, we recommend that he continues the use of the prescribed medications for two months, i.e., until 22 July 2017.

Treating physician Hospital Manager
[Signed] [Signed and stamped]

Mabkhout Ali Arfaj Al Athal's college identification card. Photo taken by Mabkhout.



Informal translation:

Name: Mabkhout Ali Ali Arfaj

Nationality: Yemeni

Department: Accounting

Level: First.

Student number: 2017318t

College record

Deputy Dean for Students Issues

[Signed and stamped]

Mabkhout Ali Arfaj Al Athal's medical report. Photo taken by Mabkhout.

Republic of Yemen
Marib General Hospital Authority

الجمهورية اليمنية
هيئة مستشفى مارب العام

Day: / / Date: / / التاريخ: / / اليوم: / /

تقرير طبي

الاسم: مبعوث علي علي عرفاج //

العمر: ٢٠ عام //

القسم: الجراحة //

وبعد المذكور أعلاه إلى المستشفى لديه عملية زرع شريان الساق الأيسر الطلي وكان الحصب متناثر وأجريت له المعالجة المستمرة حتى تحسن حالته ثم عمل له زراعة جلد ، المريض بحاجة إلى عملية لعضلات في المرفق الأيسر مع متابعة اختصاصي الاصابات //

وهذا أصلي هذا التقرير بناء على طلب المريض ولا تتحمل الهيئة أي مسؤولية تجاه ذلك //

قد التقى الطبيب في سجل التقارير الطبية في الإدارة برقم ٩٦٧-٦-٣٠١٠٠٣ / ٢ وتاريخ ٢٨-١١-٢٠١٧ م

Marib: Tel: +967-6-304033 / 2 , Fax: +967-6-301003 هاتفي: +967-6-301003 ، فاكس: +967-6-304033/2

Informal translation:

Republic of Yemen
Marib General Hospital Authority
MEDICAL REPORT

Name: Mabkhout Ali Ali Arfaj
Age: 20 years
Section: Surgery

The above patient arrived at the hospital having underwent an operation for plantation of rear left leg artery. The nerves were affected. Surgical dressings were made until his condition improved and then skin transplantation was conducted. The patient requires an orthopedic surgery in the left wrist with continuous follow up from a neurologist.

This report was issued based on the request of the patient. The Authority does not any responsibility whatsoever.

Entered in the record of
medical reports under No. 4579/2017 on 28.11.2017.

Chairman

[Signed and stamped]

Mabkhout's admission document into Sheba Province University in 2017.
Photo taken by Mabkhout.



Informal translation:

Republic of Yemen
University of Sheba Region

No. 364
Date: 16.02.2017

CERTIFICATE OF ENTRY

The University of Sheba Region hereby certifies that student Mabkhout Ali Ali Arfaj Al Adhal, born in 1998, Yemeni national, has joined the University in 2016/2017. His university number is 318 in accounting specialization. He is registered for the first level in the academic year 2016 / 2017. This certificate was given to him based on his request for presentation to whom it may concern. The University does not bear any responsibility before any third parties.

Registrar Vice Dean for Student Affairs Dean
[Signed] [Signed] [Signed]
University Registrar Vice Rector
[Signed] [Signed]
16.02.2017

Mabkhout's wounded leg after surgery in Marib General Hospital. Photo taken by the doctor.



Basheer Ali Ahmed Al Athal's discharge form from Marib Hospital. Photo taken by a relative.

Informal translation:

Patient's name: Basheer Ali Ahmed, File number: 38530, Section: Surgery and bones. Admission Date: May 23, 2017, Exit date: May 31, 2017.

(Signed)

REPUBLIC OF YEMEN
Marib General Hospital Authority 1622

Out patient card كرت خروج المريض

FILE NO: 38530

Patient's name: Basheer Ali Ahmed (باسعير علي احمد)

Marital Status: Single (متزوج)

Address: (Address field is blank)

Section: Surgery and bones (جراحة العظام)

Join date: 15/5/17 (تاريخ الدخول: 15/5/17)

Diagnosis: (Diagnosis field is blank)

Recommendations: (Recommendations field is blank)

Revision history: (Revision history field is blank)

Doctor Signature: (Signature of the doctor)

Basheer Ali Ahmed Al Athal's college graduation certificate. Photo taken by a relative.

Republic of Yemen
Sheba Region University
Vice-Rectorate for Students Affairs

شهادة التخرج

GRADUATION CERTIFICATE

2009/149

الرقم الجامعي: 00672

Sheba Region University, faculty of: Education & Arts & Sciences

certifies that: Basheer Ali Ahmed Saleh Al-Adhal

born in: Mareb Date of birth: 1985

of: Yemeni nationality has been awarded the: Bachelors Degree

Major: Arabic Language, Education

In the: June session, in the year: 2013

with an overall accumulative grade of: "Good"

equivalent to: 66.67% Issued on: 09/01/2020

Dean of the Faculty: (Signature)

Students' Affairs Director: (Signature)

Vehicle that was damaged by the raid. Photo sent to Mwatana by a relative.



Vehicle that was damaged by the raid. Photo sent to Mwatana by a relative.



Invitation to the village-organized protest after the attack.



سيتم اليوم الخميس 25 مايو بعد الظهر تشييع جنائز الشهداء من
قبيلة العدلان مراد من مستشفى 26 سبتمبر بواسطـة الجوبة
والصلاة عليهم عصرا في قرية النجاد- العدلان يتم بعدها
وقفـة احتجاجية لاستنـاء كـار جريمة قصف وقتل وارهـاب
المدنيين من الأطفـال والنسـاء وكبـار السن
ندعو كل من المشايخ والوجهاء وكل الشرفاء والغيورين من
أبناء المحافظة ووسائل الإعلام وكل الناشطين والمنظمات
الحقوقية للحضور ونقل الصورة الحقيقية عن المنطقة وأبنائه
ارجو النشر والمشاركة

#قبيلة_العدلان_ليسو_قاعدة

Informal translation:

On Thursday afternoon, 25 May, the funerals of the martyrs from Athlan Murad tribe will march from the 26 September Hospital, Wasit area, Al Joubah district. Prayer ceremony will be conducted at Al Najad village, Al Athlan. After that, there will be a vigil to remember the crime of shelling, killing and terrorizing civilian children, women and elderly people. We invite all sheiks, dignitaries and all honorable people in the governorate, media, all activists and human rights organizations to attend this vigil to communicate the true picture of this region and its people.

Please share.

#AdhlanTribeAreNotQaeda

The village-organized protest after the attack.



Marks left from the aircraft which fired on the village. Photo taken by a Mwatana researcher.



Items left behind after the operation by the soldiers that conducted the raid. Photos taken by a relative.



Death Falling from the Sky

Civilian Harm from the United States' Use of Lethal Force in Yemen



Items left behind after the operation by the soldiers that conducted the raid.



Death Falling from the Sky

Civilian Harm from the United States' Use of Lethal Force in Yemen

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Civilian Harm from March 4, 2017 Air Strike on Abyan, Yemen

On March 4, 2017, an air strike killed two civilian men, Salem Ahmed Saleh Bileidi, 34 years old, and his nephew, Hadi Ali Ahmed Bileidi, 28 years old, in the Al Rahabah area near Moujan village in the Akhbar district of Abyan governorate, Yemen. The two men were riding on a motorcycle together.

Mwatana visited the site on May 8, 2017 and conducted in-depth interviews with five people, including four relatives of the men killed and one resident of their village. In some cases, Mwatana conducted follow-up interviews with these people to gather further information. Mwatana also collected documents related to the two men, including their death certificates, identification cards and a medical report indicating their bodies had been received at a hospital after the strike.

The two men were honey traders. Salem also worked as a teacher, and Hadi as a fisherman and mechanic from time to time. Salem, who was Hadi's uncle, had three children: two girls and a boy. He was a part-time teacher at the village school. After a previous air strike on the school, Salem had continued to teach the students either in his home or outdoors. A village resident told Mwatana that Salem was known for his good conduct and reputation, and he was respected by people both inside and outside the village.

At the time of the strike, Hadi's wife was pregnant with their first child. One resident said, "I knew both Salem and Hadi. They were both born in Moujan and lived their lives here. Salem continued working in the school as a teacher even after the salaries stopped."⁽²⁷⁹⁾

Like many people in their village, Salem and Hadi used to travel to Ahwar district to retrieve food and other groceries for their families. Several days before the strike, Hadi had found a motorcycle broken and abandoned in a valley previously used by AQAP and close to Moujan village. Hadi took the motorcycle, fixed it and began using it.

The Maraqash region is rough and mountainous, and the village is located in the heart of a rugged valley, making it difficult to reach. In the village, there are about 65 to 70 houses scattered and far apart from one another. Most houses are simple structures made of stone and straw. There is a small mosque, as well as a mixed, basic education school in the village, where Salem had taught. The school included six classrooms, a

(279) Interview with "Fadel," a local resident, on May 8, 2017 about March 4, 2017 strike on Abyan, Yemen, on file with Mwatana for Human Rights.

couple of bathrooms and an office. The village lacks electricity and water—water is brought into the village on villagers' backs or is carried by donkeys. Village residents primarily make a living from beekeeping and other agricultural work. The area is famous in Yemen for how many people own a weapon, including those in poverty. Though Salem did not carry a gun, relatives said that Hadi did.

According to interviews, the area had a significant AQAP presence in the past, though it was not controlled by AQAP at the time of the strike. Interviewees said that AQAP had withdrawn from the village a few months before the strike. There did not appear to be an AQAP presence in the area at the time of Mwatana's site visits.

The village has been repeatedly attacked throughout the wider conflict, residents said. Before this air strike, the school and some homes in the area had been hit several times by aircraft. During Mwatana's visits, people said children were still not attending school at the school building due to a fear of future attacks and because there was unexploded ordnance next to the school. Villagers said that no one had come to examine the remaining ordnance from these attacks or to remove it. Residents also said that attacks had caused many local residents to flee, or to move between the village, during periods of calm, and nearby Ahwar village, when air strikes increased. Residents told Mwatana that about 20 to 25 families had been displaced from the area over the past few years. Salem's and Hadi's relatives said they had become accustomed to the sound of drones, and could identify when a drone was hovering over the area.

The day before the strike, on March 3, 2017, Hadi, Salem, and another of Hadi's uncles left Moujan village at about 4:00 p.m. and went to Ahwar district to bring some food and groceries to their families. The uncle decided to head home early, while Hadi and Salem decided to spend the night at another family member's house and return the following day.

The air strike took place at around 5:30 in the evening. The uncle who had returned home early said he received a call at about 6:00 p.m. on the day of the strike from a local resident, who told him an air strike had hit two people on a motorcycle on their way to Moujan village. He and other family members tried to go to the site of the strike—a spot on a main road about 22 kilometers from Moujan village—but were unable to reach it because there were visible aircraft at a low altitude in the area and they were afraid there might be another attack. Hadi's father said he was stopped from going to the site of the strike at a checkpoint run by UAE-backed Security Belt forces due to the aircraft in the sky. The UAE is a close ally of the United States.

As the family could not reach the men, some of Al Rahabah area's residents took parts of the bodies to Al Khubar Hospital. The family asked someone living closer to the site to bury what remained of their relatives. The motorcycle Hadi was driving was

completely destroyed.

Both Hadi's and Salem's families relied on the men's incomes. Both men worked more than one job and, as their relatives told Mwatana, their families still could not afford to meet their basic needs. Hadi's wife told Mwatana that after the strike, "I was crying hysterically, and I broke down. Hadi was so thrilled with my pregnancy."⁽²⁸⁰⁾

Hadi's father (and Salem's brother) said, "We tried more than once to make our voice heard, saying that there are no terrorists in our village and asking them [the US] to come and check... but nobody wanted to hear us. I hope that our voices will be heard. We have lost a lot and do not want to lose more."⁽²⁸¹⁾

After the strike, the families left their village and moved to another area in Yemen, noting they felt unsafe and worried about potential future drone strikes.

Mwatana found no credible indication that either Salem or Hadi were directly participating in hostilities with, or associated with, AQAP or IS-Y. All those interviewed said that Salem and Hadi were civilians and had nothing to do with any armed groups.

The strike that killed Hadi and Salem occurred in the context of a significant escalation of US air strikes in Yemen, including at least one in Abyan. On March 6, 2017, a Pentagon spokesperson announced that, "Overnight, the United States made an air strike on Yemen's Abyan governorate against Al Qaida in the Arabian Peninsula fighters, bringing to 40 the strikes there in the past five nights," and noting that "the strikes have been coordinated with and done in full partnership with the government of Yemen."⁽²⁸²⁾ The spokesperson confirmed deaths of alleged AQAP members in strikes on March 2 and 3, 2017, but did not mention March 4, 2017. Based on media reports, the Bureau of Investigative Journalism recorded a strike on March 4, 2017 as a possible US air strike in Abyan.⁽²⁸³⁾ Airwars described a March 4, 2017 strike in the same area of Abyan as a likely US strike.⁽²⁸⁴⁾

(280) Interview with Hadi's wife on May 10, 2017 about March 4, 2017 strike on Abyan, Yemen, on file with Mwatana for Human Rights.

(281) Interview with Hadi's father on May 10, 2017 about March 4, 2017 strike on Abyan, Yemen, on file with Mwatana for Human Rights.

(282) "US Detects, Tracks Multiple North Korea Missile Launches," US Department of Defense (March 6, 2017), <https://www.defense.gov/Explore/News/Article/Article/1103997/us-detects-tracks-multiple-north-korea-missile-launches/>.

(283) The Bureau of Investigative Journalism, *supra* note 251.

(284) See "Airwars Civilian Casualty Assessment: USYEMTr034," Airwars, <https://airwars.org/civilian-casualties/usyemtr034-march-42017-/>.

The families are unaware of any investigation into the strike. In a follow-up interview in May 2019, Hadi's father said that no one had contacted them regarding a possible investigation or compensation.⁽²⁸⁵⁾

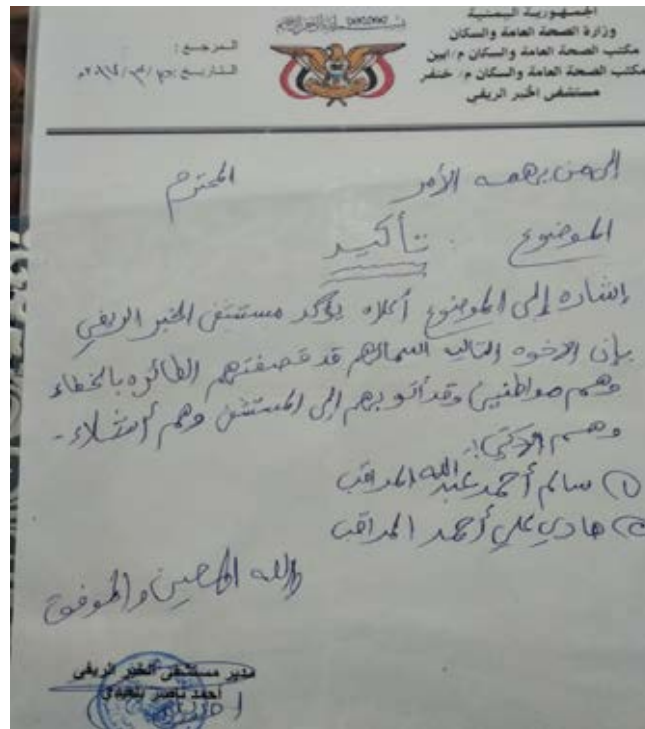
On November 4, 2020, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic sent a letter to United States Central Command regarding this strike and other US operations in Yemen. The letter presented the significant evidence Mwatana had gathered, and recommended the US investigate, acknowledge and apologize for civilian harm caused and offer reparations or other amends to civilian victims, as well as review more broadly how the United States is conducting operations in Yemen in order to mitigate civilian harm. The US had not yet sent a formal response to the November 2020 submission at time of writing.

(285) Interview by phone with Hadi's father in May 2019 about March 4, 2017 strike on Abyan, Yemen.

Impact of the strike on the asphalt road. Photo taken by a Mwatana researcher.



Medical report issued on March 15, 2017 noting that the bodies of the two men were received at Al Khubar Hospital and that the men were dead on arrival and their bodies torn apart.



Informal translation:

Republic of Yemen

March 15, 2017

Ministry of Public Health

Office of Public Health in Abyan governorate

Office of Public Health in Khanfar district

Al Khubar Countryside Hospital

To Whom it May Concern:

Subject: Affirmation

Al Khubar Countryside Hospital confirms that the following two men arrived to the hospital and their bodies were torn apart due to the faulty aerial bombing:

(1) Salem Abdullah Ahmed Al Morageb,

(2) Hadi Ali Ahmed Al Morageb⁽¹⁾

(1) In Yemen different last names, expressing different affiliations, tribal, familial, geographic, etc., are often used.

Civilian Harm from January 29, 2017 Raid on Al Bayda, Yemen

On January 29, 2017, the United States, apparently with the United Arab Emirates, conducted a military raid in the Yakla area of the Wald Rabi' district in Al Bayda governorate, Yemen. According to witness testimonies collected by Mwatana, the raid lasted for three hours and killed at least 15 civilians, including ten children under the age of ten, four women and an adult man, and wounded at least five civilians—all children. Mwatana also found that another eight men and one boy, whose statuses Mwatana was unable to determine based on the facts available, were also killed during the raid. A US soldier was also killed, and three other US soldiers wounded.

Mwatana conducted in-depth interviews with 13 people. Mwatana interviewed 11 people, including one wounded civilian, six relatives of those killed and four other witnesses, during a site visit on February 1, 2017. Two further phone interviews were conducted with two additional relatives in March 2020. Mwatana also took and collected photos, including photos of damaged and destroyed houses during Mwatana's site visit, and collected photos of relevant documentation, including identification documents.

Yakla is a mountain village located in the northeast of Rada'a city, attached to the southern boundary of the Marib governorate. The village consists of about 15 houses and is isolated due to the area's rugged roads, and lacks most basic services. Most people in Yakla depend on farming for their livelihoods.

Residents of the area told Mwatana that they had been asleep when the raid began at about 2:00 in the morning. They said they woke up to the sound of unusually intense and fast-sounding gunshots. They explained that gunshots were often heard in Yakla, but that these sounded particularly powerful. Some of the witnesses also reported seeing an aircraft. The US acknowledged it had carried out a raid in Yemen involving aircraft on January 29, 2017.⁽²⁸⁶⁾

Ten-year-old Barzan Mohammad Abdallah Mabkhout Al Amir, whose family lived in the village, recalled, "We were all asleep when we suddenly heard the shooting. Our mother gathered us in one room to protect us. My grandfather was immediately killed after he left the house. The house collapsed and my mother, father, and siblings were all killed."⁽²⁸⁷⁾ Barzan was the only member of his immediate family to survive.

(286) "US Central command statement on Yemen raid [Press Release]," US Central Command (Feb. 1, 2017), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1068267/us-centrAl-command-statement-on-yemen-raid/>.

(287) Interview with Barzan Al Amir on February 1, 2017 who was injured in January 29, 2017 raid on Al Bayda, Yemen, on file with Mwatana for Human Rights.

Another local resident, 55 years old, told Mwatana he was asleep in his home when the raid started. His nephew, his nephew's wife, and their six-year-old daughter were killed in the raid. His nephew was shot and his nephew's wife and daughter died after their house collapsed. His cousin, who was 35 years old, was also shot and killed while fleeing her home with her child. "We found her child covered with blood while hugging her mother's body,"⁽²⁸⁸⁾ he said. The baby was still alive.⁽²⁸⁹⁾

A local resident, 27 years old, who lost a family member in the raid, described that night, "The moment I heard the loud shots, I wanted to get out to see what was going on, but the shots were so heavy that I could not leave the house. I was able to leave around 5:00 am and that's when I saw bodies of men, women and children scattered all around the village. Some were killed with gunshots and others died under the houses' debris."⁽²⁹⁰⁾

Residents told Mwatana that US forces used helicopters to attack inhabited houses, and that US soldiers stormed the village and opened fire, including on villagers fleeing from their homes. Some of those interviewed by Mwatana said that some men in the village tried to fire back when they realized their village was under attack.

As one person who lost his brother in the raid told Mwatana, "At 6:00 a.m. I went out to see what we lost. It was one of the most horrific incidents the area has seen. I realized that the soldiers and the helicopter were targeting anything that moved—even our sheep, donkeys and dogs. I saw my brother with his head flashlight on the ground, it was dead and covered with blood. He used that flashlight because there was no electricity in the village."⁽²⁹¹⁾

The strike left people in the village, particularly children, paralyzed with fear, residents said. Traumatized, people in the village told Mwatana in May 2020 that they were still struggling to carry out regular activities, such as farming. One man, whose daughter was killed in the raid, said his wife was traumatized and that her health had gravely deteriorated after the raid and their daughter's death.⁽²⁹²⁾

Many homes were destroyed, with residents telling Mwatana they had been unable to rebuild them. Barzan, the 10-year-old, told Mwatana that his family's house collapsed. A 55-year-old local resident also reported that his house had been destroyed.

(288) Interview with "Abdulkhaliq," a 55-year-old relative, on February 1, 2017 about January 29, 2017 raid on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(289) Interview with 'Thamer,' a 30-year-old resident who also lost a family member in the raid on February 3, 2017 about the January 29, 2017 raid on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(290) Interview with 'Thamer,' a 30-year-old resident who also lost a family member in the raid on February 3, 2017 about the January 29, 2017 raid on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(291) Interview with "Tariq," a resident, on February 1, 2017 about January 29, 2017 raid on Al Bayda, Yemen, on file with Mwatana for Human Rights.

(292) Interview with the father of one of the victims on May 19, 2020 about January 29, 2017 raid on Al Bayda, Yemen, on file with Mwatana for Human Rights.

Witnesses interviewed by Mwatana indicated that eight additional buildings were damaged or destroyed in the raid. Mwatana also observed damage and destruction of multiple houses in the village during its visit three days after the raid.

US Central Command acknowledged carrying out a raid in Yemen on January 29, 2017.⁽²⁹³⁾ The next day, it confirmed in a press release that the raid took place in a "remote area of Al Bayda, Yemen."⁽²⁹⁴⁾ The day after the raid, then-White House Press Secretary, Sean Spicer, announced: "This weekend we carried out a very successful raid against al Qaeda in the Arabian Peninsula which resulted in the death of an estimate of 14 AQAP members."⁽²⁹⁵⁾ Pentagon spokesman Navy Capt. Jeff Davis also claimed that the US conducted a military raid on an AQAP compound in Al Bayda in which materials were captured, which he said would help the US "gain a deeper insight into the group's planning to help prevent terrorist attacks against innocent civilians in the United States and our coalition-partner nations."⁽²⁹⁶⁾ He acknowledged women were killed in the raid but labeled them as "female fighters" and "enem[ies]," stating that they "ran to pre-established positions as if they'd trained to be ready and trained to be combatants and engage with us."⁽²⁹⁷⁾

Mwatana found that the raid killed at least 15 civilians, including ten children under the age of ten, four women and an adult man, and wounded at least five civilians—all children. Their names, genders and approximate ages are listed below. Interviewees told Mwatana that women and children, the majority of those killed and wounded, had tried to run away and that they had not engaged in fighting.

(293) "US Central command statement on Yemen raid [Press Release]," US Central Command (Feb. 1, 2017), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1068267/us-centrAl-command-statement-on-yemen-raid/>.

(294) Terri Moon Cronk, "US Raid in Yemen Garners Intelligence," US Central Command (January 30, 2017), <https://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/1065112/us-raid-in-yemen-garners-intelligence/>.

(295) Cynthia McFadden, William M. Arkin, and Tim Uehlinger, "How the Trump Team's First Military Raid in Yemen Went Wrong," NBC News (last updated October 2, 2017), <https://www.nbcnews.com/news/us-news/how-trump-team-s-first-military-raid-went-wrong-n806246>; White House Daily Briefing, C-SPAN (January 30, 2017), <https://www.c-span.org/video/?4231941-/sean-spicer-briefs-reporters-white-house>.

(296) Moon Cronk, *supra* note 294.

(297) *Ibid.*

Mwatana found no credible information suggesting that these 20 civilians killed or wounded were directly participating in hostilities with AQAP or IS-Y. Of the 15 civilians killed, only one was an adult man, who residents said was old—about 65—who was unable to fight and had lost his hearing before the raid. All the rest were children—most very young—or women.

Civilians Mwatana Documented As Killed and Wounded in the January 29, 2017 Raid

Killed	Name	Sex	Approximate Age
1	Lima Mohammed Hussein Al Ameri	Female	24
2	Braah Mohammed Abdallah Al Ameri	Female	6
3	Anssar Mohammed Abdallah Al Ameri	Male	4
4	Hussein Mohammed Abdallah Al Ameri	Male	3
5	Fatima Abdallah Al Ameri	Female	4
6	Khadija Mohammed Abdallah Al Ameri	Female	6
7	Mursil Abedraboh Masad Al Ameri	Male	6
8	Nora Anwar Al Awlaqi	Female	8
9	Asma Fahad Ali Al Ameri	Female	months 3
10	(Abdallah Mabkhout Al Ameri (farmer	Male	65
11	Thabiya Ali Abdallah Al Ameri	Female	40
12	Futaim Saleh Mohsin Al Ameri	Female	35
13	Salima Ali Ahmed Al Ameri	Female	30
14	Aisha Mohammed Abdullah Al Ameri	Female	6
15	Arwa Mohammed Abdullah Mabhkout Al Ameri	Female	7
Wounded	Name	Sex	Approximate Age
1	Barzan Mohammed Abdullah Mabkhout Al Ameri	Male	10
2	Jihad Fahad Ali Al Ameri	Male	6
3	Zeinab Fahad Ali Al Ameri	Female	4
4	Mosa Fahad Ali Al Ameri	Male	2
5	Ihsaan Fahad Ali Al Ameri	Male	2

According to interviews, an additional eight men and one boy, whose statuses Mwatana was unable to determine based on the facts available, were also killed during the raid. According to Mwatana's research, some of these individuals fought back during the raid, but Mwatana was unable to determine which of these individuals participated in the fighting, and how. After the raid, AQAP released statements on the raid, extolling the men in Yakla for fighting the US forces. In a statement a few days after the raid, AQAP's leader in Yemen expressed condolences to the community, listing about two dozen people as among those killed. The statement did not clearly state that these individuals were AQAP combatants, and based on Mwatana's research, some were civilian members of the community. However, eight of the individuals were listed with a nom de guerre, indicating they may have had a significant relationship with or role in the group.

On February 1, 2017, the US announced that one US service member had been killed during the raid, and stated that three other US service members were wounded.⁽²⁹⁸⁾

Since the raid, the US has offered multiple and conflicting civilian and combatant casualty estimates. Initially, the US government did not mention any civilian casualties.⁽²⁹⁹⁾ Then, on February 1, 2017, the US Central Command stated it had “concluded regrettably that civilian non-combatants were likely killed in the midst of a firefight during a raid in Yemen” and that “casualties may include children.”⁽³⁰⁰⁾ It also announced that an “ongoing credibility assessment seeks to determine if there were any still-undetected civilian casualties in the ferocious firefight.”⁽³⁰¹⁾ The same statement concluded with a quote from a US Air Force Colonel, which appeared to shift blame to AQAP for “hiding women and children within militant operating areas and terrorist camps.” The statement did not acknowledge that the raid occurred in a village filled with civilians in their homes. The statement ended by condemning AQAP’s “callous disregard for innocent lives,” saying “That’s what makes case like these so especially tragic.”⁽³⁰²⁾

On March 9, 2017, General Joseph Votel, who led the US Central Command at the time of the raid, told the Senate Armed Services Committee that “a determination based on our best information available [is] that we did cause casualties, somewhere between four and 12 casualties that—that we – we accept responsible—I accept responsibility for.”⁽³⁰³⁾ Votel did not provide details of who those civilians were believed to be.⁽³⁰⁴⁾ A few days before the raid, another high-ranking member of the US military sent an email to Votel about it which ended with “good hunting...”⁽³⁰⁵⁾

As noted above, Mwatana found the raid resulted in at least 20 civilian casualties. This is likely a conservative estimate.⁽³⁰⁶⁾

(298) “Servicemember killed in raid on Al Qa’ida headquarters in Yemen,” US Central Command (January 29, 2017), <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1063707/servicemember-killed-in-raid-on-Al-qaida-headquarters-in-yemen/>; US Central Command, *supra* note 293.

(299) *Ibid.*; Spencer Ackerman, “US commando dies in Yemen raid as Trump counter-terror plans take shape,” *The Guardian* (January 29, 2017), <https://www.theguardian.com/world/2017/jan/29/Al-qaida-suspects-yemen-killed-raid-us-commandos>.

(300) US Central Command, *supra* note 293.

(301) *Ibid.*

(302) US Central Command, *supra* note 293.

(303) *Ibid.*

(304) Missy Ryan, “Yemen raid killed up to a dozen civilians, military investigation says,” *The Washington Post* (March 9, 2017), https://www.washingtonpost.com/world/national-security/yemen-raid-killed-up-to-a-dozen-civilians-military-investigation-finds/201709/03//d08e8bcc-04e711-e7-b1e9-a05d3c21f7cf_story.html.

(305) “DoD Emails Soliciting Approval and Discussing PR Strategy of US involvement in UAE Shabwah,” (redacted), at p. 17, released in response to ACLU FOIA, <https://www.aclu.org/node/67232>.

(306) See Section III, “Methodology” on how Mwatana classifies individuals as civilians.

In its annual report on civilian casualties for 2017, the Department of Defense stated, "There were credible reports of civilian casualties caused by US military actions in Yemen against AQAP and ISIS during 2017," but did not provide information on which incidents the Department had assessed resulted in civilian harm. The report claimed again that the January 2017 raid was "on an AQAP compound in Al Bayda, Yemen, to gather information to help prevent future terrorist attacks," and that it killed "14 AQAP operatives."⁽³⁰⁷⁾ An internal Joint Special Operations Command report obtained by the Intercept later said the raid resulted in "minimal civilian casualties," and claimed a figure of "35 enem[ies] killed in action." Pentagon spokesperson Lieutenant Commander Rebecca Rebarich later told the Intercept that the 35-person figure was "the result of a lengthier formal assessment."⁽³⁰⁸⁾

On the day of the raid, a Yemeni government minister condemned the raid on his official Twitter account as "extrajudicial killings."⁽³⁰⁹⁾ After the raid, the US government continued to announce that it was conducting operations in Yemen with the consent of the Yemeni government.⁽³¹⁰⁾

On November 4, 2020, Mwatana for Human Rights and the Columbia Law School Human Rights Clinic sent a letter to United States Central Command regarding this strike and other US operations in Yemen. The letter presented the significant evidence Mwatana had gathered, and recommended the US investigate, acknowledge and apologize for civilian harm caused and offer reparations or other amends to civilian victims, as well as review more broadly how the United States is conducting operations in Yemen in order to mitigate civilian harm. The US had not yet sent a formal response to the November 2020 submission at time of writing.

(307) Department of Defense, *supra* note 141 at p. 7.

(308) Alex Emmons, "Pentagon says 35 killed in Trump's first Yemen raid—more than twice as many as previously reported," *The Intercept* (December 20, 2018), <https://theintercept.com/201820/12//yemen-raid-investigation/>.

(309) Schmitt and Sanger, *supra* note 165; Abdul Malik Al Mekhlafi @almekhlafi59, "القتل خارج القانون، وقتل المدنيين عمل مدان و دعم للإرهاب," *Twitter* (January 29, 2017), <https://twitter.com/almekhlafi59/status/825836203303956484>.

(310) The White House, *supra* note 4 (In the 2018 Report, the White House states that "US Armed Forces continue to work closely with the Government of Yemen" in operations, and notes that "If a particular item or topic area from the original report is not covered in this update or its classified annex, it remains unchanged from the original report." In the 2016 Report, the White House stated that "the United States has conducted counterterrorism operations against AQAP in Yemen with the consent of the Government of Yemen in the context of the armed conflict against AQAP and in furtherance of US national self-defense); see also US Central Command, *supra* note 166 (stating that US forces continue to work "in coordination with the government of Yemen").

Location where witnesses reported US forces landed during the January 2017 raid. Photo taken by a Mwatana researcher.



Damage to the reception room of a Yakla home from the January 2017 raid. Photo taken by a Mwatana researcher.



A. home in Yakla that was attacked and significantly damaged during the January 2017 raid. Photo taken by a Mwatana researcher.



VII. Annexes

A. Letter from Mwatana for Human Rights and Columbia Law School's Human Rights Clinic to the US Department of Defense, December 17, 2019



Mwatana for Human Rights



COLUMBIA LAW SCHOOL

HUMAN RIGHTS CLINIC

December 17, 2019

The Honorable John Rood
Under Secretary of Defense for Policy
U.S. Department of Defense
Washington, D.C., U.S.A.

Dear Under Secretary Rood,

Re: Request for Meeting: New Information About Civilian Casualty During March 5, 2018 U.S. Military Operation in Al Abr, Hadramawt, Yemen

Mwatana for Human Rights and the Columbia Law School Human Rights Clinic write to you to present new information about an aerial attack conducted by the United States in Al Abr district, Hadramawt Governorate, Yemen, on March 5, 2018. Our evidence strongly suggests that a 12-year-old civilian boy was killed and that a 17-year-old boy was wounded while driving home after dropping women in their family off at a funeral. According to our information, they were the only two people in the vehicle at the time of the attack.

We present here the evidence we have collected on this incident, and request a meeting with you to discuss the evidence we have found, the potential for a new Department of Defense investigation, pathways for appropriate redress or other forms of amends to the family, and how we might input into a potential Department of Defense review of how such operations are conducted in Yemen, with a view to mitigating further civilian harm in the future.

We have attached to this letter a detailed description of the March 5, 2018 civilian casualty incident, based on information Mwatana collected through on-site interviews with the boys' relatives, and the boy who was wounded. We remain in contact with these individuals, who requested that Mwatana share the information below in order to seek redress for these harms, as well as to advocate for broader policy changes to mitigate civilian harm. We have also attached five photographs to this letter, showing images and documents that support the incident description.

Mwatana for Human Rights is an independent Yemeni organization that advocates for human rights through documentation of civilian harm, provision of support to victims, and policy advocacy. Since the beginning of the current conflict in Yemen, Mwatana has worked extensively to document civilian harm caused by all parties to the conflict. We have issued reports on civilian harm caused by the Houthi armed group, the Saudi/UAE-led coalition, and Yemeni government forces.¹ Mwatana chooses cases to investigate primarily based on the

¹ See, e.g. Mwatana for Human Rights, *Withering Life: The Human Rights Situation in Yemen in 2018*, July 16, 2019, available at: <https://mwatana.org/en/withering-life2018/>; Mwatana for Human Rights, *Chapters from Hell: Violations of International Human Rights Law in the Armed Ground*

existence of civilian harm and regardless of the party that conducted the attack. Mwatana collects witness statements first-hand, and also documents any physical evidence found at the site, including photos and remnants. We partner with many international organizations, including the Columbia Law School Human Rights Clinic, Crisis Action, Physicians for Human Rights, Open Society Justice Initiative, Justice Rapid Response, and the United Nations, and we have received grants from the Netherlands, the European Union, and the United Nations. In 2018, Mwatana received the Human Rights First Roger N. Baldwin Medal of Liberty. In 2019, our Chairperson was named one of Time Magazine's 100 Most Influential People in the World. Mwatana has briefed the UN Security Council, the US Congress, as well as government officials across the globe, including in the U.S., U.K., France and other European states.

The Columbia Law School Human Rights Clinic works to promote human rights. We work in partnership with advocates around the world, and have partnered closely with Mwatana for Human Rights to advance human rights protections in Yemen through joint policy research and advocacy.

Mwatana has gathered evidence on several further apparent US attacks that killed or wounded civilians in Yemen in 2017 and 2018. In some cases, these attacks also appear to have killed or wounded soldiers in the Yemeni army with which the U.S. is aligned. We are sharing detailed findings on only one case at this time, in the hopes of establishing a trusted dialogue. We are preparing detailed descriptions of these additional cases. We would be keen to open a dialogue with the Department on these cases, with the hope that our information might input into a potential broader Department of Defense review of how such operations are conducted in Yemen, with a view to mitigating civilian harm in the future.

We are available to discuss the matters raised by this letter in person, by phone, or by email. We thank you for your consideration and look forward to your response. We request acknowledgement of this letter by January 13, 2020, including a timeline for a decision about whether we can arrange a meeting to discuss the incident.

Sincerely,

Radhya Al-Mutawakel

Chairperson

Mwatana for Human Rights

Sana'a, Yemen

ralmutawakel@mwatana.org

Conflict in Taiz, November 6, 2016, available at: <https://mwatana.org/en/chapters-from-hell/>; Mwatana for Human Rights, *Press in Yemen Faces Extinction: Journalists Need Support*, June 23, 2017, available at: <https://mwatana.org/en/press-in-yemen-faces-extinction/>; Mwatana for Human Rights, PAX and the University Network for Human Rights, *Day of Judgment: Role of the US and Europe in Civilian Death, Destruction and Trauma in Yemen*, March 6, 2019, available at: <https://mwatana.org/en/day-of-judgment/>; Mwatana for Human Rights, *Concealed Killer: Fall of Civilians by the Landmines Laid by the Ansar Allah Armed Group (the Houthis) and Saleh Forces*, May 10, 2017, available at: https://mwatana.org/en/concealed_killer_rep/; Mwatana for Human Rights & Open Society Justice Initiative, *Death by Drones: Civilian Harm Caused by U.S. Targeted Killings in Yemen*, April 14, 2015, <https://mwatana.org/en/death-by-drones/>.

Priyanka Motaparthy

Director, Project on Counterterrorism, Armed Conflict, and Human Rights
Human Rights Institute
Columbia Law School
priyanka.motaparthy@law.columbia.edu

CC:

Thomas Alexander, Acting Assistant Secretary of Defense for Special Operations/Low-Intensity Conflict, Department of Defense
General Kenneth F. McKenzie, Commander, United States Central Command
Colonel Matthew Grant, General Counsel, United States Central Command

B. Response Letter from the US Department of Defense to Mwatana for Human Rights and Columbia Law School's Human Rights Clinic, March 18, 2020



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

March 18, 2020

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

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

Dear Ms. Al-Mutawakel and Ms. Motaparthi:

Thank you for your December 17, 2019 letter to the U.S. Department of Defense and U.S. Central Command (USCENTCOM) regarding an air strike in Hadramawt Governorate, Yemen, on March 5, 2018. Consistent with existing practice, we provided your letter and the new information contained therein for review and consideration by the appropriate commander. This information was considered as part of our standard civilian casualty assessment process, which considers new information from all sources. We remain keenly focused on reducing the likelihood of harm faced by civilians during combat operations.

In this case, after due consideration of the newly provided material as well as the existing military records and intelligence, USCENTCOM determined that the strike did not result in civilian casualties. The planning and execution of the strike complied with the law of war and U.S. law and policy. It is not unusual to have inconsistencies between civilian casualty information that is reported to civil society organizations in conflict zones and the classified information that is available to U.S. forces.

While U.S. commanders are given the authority to provide limited redress when determined appropriate, this is a matter of discretion as U.S. domestic law and the law of war do not require the United States or any state to assume liability or compensate individuals when its lawful combat operations result in injuries to their person or property. Based on the assessment in this case, the commander determined that such redress was inappropriate.

My office, and other subject-matter experts in USCENTCOM, continue to work closely with colleagues across the U.S. Department of Defense in the development of congressionally mandated guidance on civilian casualty mitigation and response. We recognize the importance of acknowledging civilian casualties caused by U.S. military action. To that end, USCENTCOM regularly acknowledges such casualty-causing events publicly and in reports to the U.S. Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "MR Grant", is positioned above the typed name of the signatory.

MATTHEW R. GRANT
Colonel, U.S. Air Force
Staff Judge Advocate

C.Follow-up Letter from Mwatana for Human Rights and Columbia Law School's Human Rights Clinic to the US Department of Defense, May 22, 2020



Mwatana for Human Rights



COLUMBIA LAW SCHOOL

HUMAN RIGHTS CLINIC

May 22, 2020

Col. Matthew R. Grant
U.S. Central Command
7115 South Boundary Boulevard
MacDill AFB, FL 33621-5101

Dear Col. Grant,

Thank you for your March 18, 2020 response to our letter of December 17, 2019, in which we reported credible new information indicating civilian harm in Yemen as a result of a U.S. air strike. We would appreciate the chance to better understand CENTCOM's assessment of this incident.

In our letter, we shared information about two children harmed in a March 5, 2018 airstrike in al Abr district, in Yemen's Hadramawt governorate. In your response, while it appears the U.S. acknowledges conducting an air strike on March 5, 2018 in Hadramawt, you stated that "USCENTCOM determined that the strike did not result in civilian casualties." However, our information, based on in-depth interviews and a site visit in Yemen, provides credible information indicating that the strike resulted in the death of a civilian child, Amer Ali Mohammad Al Saqra', and the injury of another child, Hassan Saleh Hassan Al Huraidan, who was a member of the Yemeni military but appears to have neither directly participated in hostilities with, nor been affiliated with, Al Qaeda in the Arabian Peninsula (AQAP) or the Islamic State in Yemen (IS-Y) or otherwise involved in armed conflict with the United States.

In recent years, the United States has made important commitments to improving processes for civilian harm reporting and transparency about strikes. On March 6, Undersecretary of Defense for Policy Dr. James Anderson convened a meeting with NGOs on the Department of Defense's policy and practice around civilian casualties, which the Columbia Law School Human Rights Clinic attended. Undersecretary Anderson committed to improving processes for NGOs to provide information to U.S. forces regarding reports of civilian casualties; to work towards more transparently acknowledging civilian casualties that resulted from U.S. military operations; and to continued engagement with NGOs on these issues.

In the spirit of ongoing dialogue and transparency, and to better understand the processes and procedures behind CENTCOM's determination, we are writing to request information on the following:

1. Does CENTCOM acknowledge that a U.S. airstrike on March 5, 2018 in Hadramawt resulted in one death and one injury? Does CENTCOM acknowledge that those harmed were a 12-year-old and a 17-year-old child?
2. If CENTCOM acknowledges that a 12-year-old boy (who our investigations indicate was Amer Ali Mohammad Al Saqra') died in the strike, and that a 17-year-old (who our investigations indicate was Hassan Saleh Hassan Al Huraidan) was wounded by the strike, what is the basis of CENTCOM's determination that they were lawful targets?

3. Were the two children the target of the March 5, 2018 air strike? If not, who or what was the target of the strike?
4. In our previous letter, we provided CENTCOM with documents and witness statements indicating that Amer Ali Mohammed al Saqra' was a student, and that Hassan Saleh Hassan Al-Huraidan was a member of the Yemeni military—an ally of the U.S. government. Can you comment on why despite this evidence, CENTCOM determined they were lawful targets?
5. Did CENTCOM incorporate an assessment before conducting this strike as to whether capture of any identified target was feasible? According to our investigations, Hassan was visiting allied government military camps and participating in hostilities with an allied government in the time period leading up to the strike, suggesting that if he was the target, he could likely have been captured.
6. We would appreciate you providing us the military grid reference system (MGRS) coordinates for this event, indicating the location of the strike. We understand that you have provided this information as standard practice for events in Iraq and Syria for some time, and would appreciate the same for this event.

We are available to discuss the questions raised by this letter by phone, or by email. Thank you for any additional information you can provide.

Sincerely,

Radhya Al-Mutawakel

Chairperson

Mwatana for Human Rights

Sana'a, Yemen

ralmutawakel@mwatana.org

Priyanka Motaparthi

Director, Project on Counterterrorism, Armed Conflict, and Human Rights

Human Rights Institute

Columbia Law School

priyanka.motaparthi@law.columbia.edu

CC:

Dr. James Anderson, Acting Undersecretary of Defense for Policy, U.S. Department of Defense

General Kenneth F. McKenzie, Commander, United States Central Command

D. Response Letter from the US Department of Defense to Mwatana for Human Rights and Columbia Law School's Human Rights Clinic, August 3, 2020



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

August 3, 2020

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

Ms. Priyanka Motaparthi
Human Rights Institute, Columbia Law School
435 West 116th Street, Box B-28
New York, NY 10027

Dear Ms. Al-Mutawakel and Ms. Motaparthi,

Thank you for your letter of May 22, 2020, to U.S. Central Command (USCENTCOM) regarding an air strike in Hadramawt Governorate, Yemen, on March 5, 2018. As indicated in my previous response on the subject from March 18, 2020, USCENTCOM followed our existing practice by providing your letter and the new information contained therein for review and consideration by the appropriate commander. This information was considered as part of our standard civilian casualty assessment process, which considers new information from all sources. We remain vigilant and keenly focused on reducing the likelihood of harm faced by civilians during combat operations.

In response to the additional questions posed in your May 22, 2020, letter, USCENTCOM clarifies that we acknowledge the U.S. airstrike on March 5, 2018, resulted in one death and one injury in Hadramawt Governorate, Yemen. In this case, U.S. forces struck an Al Qaeda target. United States forces exercised great care to ensure that the strike only impacted the intended target in an area where there would be no collateral damage. After reviewing the materials your organization provided, as well as the existing military records and intelligence supporting the strike, USCENTCOM reaffirms that the airstrike impacted the intended Al Qaeda target with no harm to civilians or civilian objects.

As you are undoubtedly aware, Al Qaeda and other international terrorist organizations do not comply with the laws of war and other internationally-recognized standards of conduct during hostilities. Al Qaeda exploits children and unlawfully uses them as child soldiers in its operations; unfortunately, their practice is one of the defining features of this conflict.

Our obligation to safeguard national security information precludes answering some of your questions, and limits the detail we may offer on others. Among other questions, you requested we provide the Military Grid Reference System (MGRS) geographic coordinates of the strike in question. While USCENTCOM often republishes MGRS coordinates provided by non-governmental organizations (NGOs), we ordinarily decline to disclose the MGRS coordinates directly related to U.S. combat operations.

I reiterate the great importance that USCENTCOM attaches to the prevention of civilian casualties. Unlike many of our adversaries, the U.S. military seeks to maintain the highest standards for civilian casualty mitigation and response. We welcome additional information from NGOs and always strive to be timely, accurate, and transparent in our acknowledgement and reporting of civilian casualties. While inconsistencies between civilian casualty information that is reported by NGOs in conflict zones and the

classified information that is available to U.S. forces are common, USCENTCOM acknowledges the value of the additional facts and insights that NGOs can provide.

USCENTCOM fully supports improving the processes for NGOs to provide information to U.S. forces. I appreciate your attendance at the March 6, 2020, roundtable discussion with the Undersecretary of Defense for Policy, and I valued the opportunity to address you and the other participants via video teleconference. Conversations such as the March roundtable are important opportunities for our organizations to communicate and learn from each other.

Sincerely,



MATTHEW R. GRANT
Colonel, U.S. Air Force
Staff Judge Advocate

E. Letter from Mwatana for Human Rights and Columbia Law School's Human Rights Clinic to the US Department of Defense, November 4, 2020



Mwatana for Human Rights



COLUMBIA LAW SCHOOL

HUMAN RIGHTS CLINIC

November 4, 2020

General Kenneth F. McKenzie Jr.
Commander
U.S. Central Command
MacDill Air Force Base, Florida

General McKenzie,

Re: New information about civilian casualties during 11 U.S. military operations in Yemen

We are writing to present new information about 11 additional cases of U.S. military operations that our investigations indicate resulted in civilian casualties, as your colleagues have invited us to do in previous communications. We would like to request further information about each of these incidents. We also provide recommendations on steps that would help redress and mitigate civilian harm resulting from U.S. operations in Yemen.

According to our investigations, these 11 military operations carried out across four governorates in Yemen between 2017 and 2019 led to the death of at least 37 civilians, including 19 men, six women, and 12 children, and the injury of seven civilians, including one man and six children. The operations also caused wider civilian harm, destroying civilian property, depriving families of essential income or economic support, displacing families, and causing long-term health consequences, including social and psychological damage.

We request that you answer the following questions for each of the incidents included in the annexes to this letter, as well as provide us with any additional information you are able to share. For each incident:

1. Can you confirm that U.S. forces carried out the air strike or operation? If so, could you confirm the area and governorate targeted?
2. What is your assessment of the number of people killed and injured in each operation? How did the U.S. military classify each of the people killed or injured: as civilians or combatants? Does the U.S. acknowledge killing children and women in this incident? If so, how many? How did the U.S. classify the status of these children and women?
3. What steps did U.S. forces take before and during the incident to mitigate civilian harm? Did U.S. forces incorporate an assessment before conducting the operation as to whether capture of any identified target was feasible?
4. What was the intended target of the attack?
5. Did the U.S. military investigate the incident, including any possible violations of international law? If so, what type of investigation was carried out, what steps were taken to gather information, what were the results and what steps were taken, if any, to discipline or hold accountable individuals found to have violated rules of engagement or international laws and standards in these operations?

6. What steps, if any, has the U.S. taken to acknowledge civilian losses, to apologize for such losses, and to provide civilians with compensation or condolence payments in this incident?

Any information you can provide would help us better understand any measures the U.S. military has taken to mitigate and redress civilian harm resulting from U.S. military operations in Yemen. Such information would also help realize the U.S. Department of Defense's commitment to engaging with non-governmental organizations that report on civilian harm, and to providing more transparent reporting on civilian deaths and injuries.

We have attached to this letter detailed descriptions of the 11 incidents, based on information collected by Mwatana. Mwatana has documented these incidents through interviews with relatives of those injured or killed, survivors injured in the attacks, and residents of the areas where the attacks took place. In the majority of cases, Mwatana did this through site visits. Researchers also took photographs of strike sites and weapons remnants where possible, and collected photographs, videos, and documents from local residents. We have included these photographs with the corresponding incident descriptions.

Mwatana continues to remain in contact with the individuals interviewed, including family members of those killed or wounded. Surviving relatives called for accountability, including redress, after these operations. No one interviewed said they knew of any investigations being undertaken into civilian harm, nor had they been offered or received an apology, acknowledgment, compensation, or condolence payments.

Mwatana plans to publish a report on U.S. military operations in Yemen that its investigations found killed, wounded, or otherwise harmed civilians in Yemen. In this report, Mwatana will present the information that researchers have collected and that we have presented to CENTCOM, as well as any further information or response CENTCOM provides us with.

We present here the evidence we have collected on each incident. For each incident we are reporting, the U.S. government should, in our view, conduct investigations into the allegations of civilian harm and any possible violations of international humanitarian law or international human rights law, acknowledge and apologize for civilian losses and offer solatia (condolence) or compensation payments, and hold accountable any individuals found to have violated rules of engagement or international laws and standards in these operations. More broadly, the U.S. should commit to reviewing how such operations are conducted in Yemen, with a view to mitigating civilian harm in the future. We would welcome feedback regarding how we might input this information into such a review.

We request your response to the above questions, as well as any further information you can provide on the incidents we have documented, by December 16, 2020, so that Mwatana may reflect it in forthcoming reporting on this issue. We look forward to your response.

Sincerely,

Radhya Al-Mutawakel
Chairperson
Mwatana for Human Rights
Sana'a, Yemen
ralmutawakel@mwatana.org

Priyanka Motaparthi
Director, Project on Counterterrorism, Armed Conflict, and Human Rights
Human Rights Institute and Clinic

VIII. Acknowledgments

Death Falling from the Sky was researched and written by Mwatana for Human Rights. Open Society Foundation supported the project.

Mwatana would like to thank all those who contributed to this report, in particular the individuals who spoke with Mwatana, including survivors and family members of those killed and wounded. Without them, these facts would not have come to light.

This report also benefitted from the input of volunteers and partners. Mwatana would like to extend special thanks to the Columbia Law School Human Rights Clinic, which partnered with Mwatana to prepare formal submissions to the US Department of Defense regarding the civilian harm highlighted in this report, and to the Columbia Law School Human Rights Institute, which provided invaluable insight and guidance during this report's review.

The report builds on a 2015 Mwatana-Open Society Justice Initiative report, *Death by Drone: Civilian Harm Caused by US Targeted Killings in Yemen*.

Death Falling from the Sky

Civilian Harm from the United States' Use of Lethal Force in Yemen

January 2017- January 2019

The voices of the victims of US operations have been largely drowned out by media coverage focused on the broader war in Yemen. There are many armed actors in Yemen, and all sides have committed abuses against civilians. Since the Ansar Allah (Houthi) armed group took over the country's capital in 2014 and a coalition of forces led by Saudi Arabia and the United Arab Emirates intervened in that conflict in 2015, civilians in Yemen have suffered indiscriminate and disproportionate airstrikes and ground shelling, the use of widely-banned weapons such as cluster munitions and landmines, and the widespread use of enforced disappearance, arbitrary detention and torture, among other abuses.

This report, "Death Falling from the Sky" investigates ten US airstrikes—all apparently conducted with unmanned aerial vehicles (drones)—and two US ground raids in Yemen between 2017 and 2019 in five Yemeni governorates. At least 38 Yemeni civilians, including 13 children, six women, and 19 men, were killed in the 12 operations, and at least seven civilians, six of whom were children, were injured. The operations also caused other types of deep and long-lasting civilian harm.

The incidents described in this report raise serious concerns about the extent to which the United States is complying with international human rights law and international humanitarian law, where applicable, in Yemen, particularly regarding precautionary measures, distinction, military necessity, and proportionality.

The cases in this report raise concerns about who the US deems targetable, and what precautionary measures the US is taking to protect civilians, including to verify that a person is in fact a lawful target.