

I. Summary

1. Mwatana for Human Rights (Mwatana), the Columbia Law School Human Rights Clinic (the clinic), Cairo Institute for Human Rights Studies (CIHRS), International Federation for Human Rights (FIDH), and the Gulf Centre for Human Rights (GCHR) submit this report to inform the examination of Yemen during its third Universal Periodic Review (UPR). This submission focuses on international human rights and humanitarian law violations by the Government of Yemen and by the armed group Ansar Allah (the Houthis).¹
2. Since Yemen's last UPR review in 2014, armed conflict has overtaken most of the country after Houthi forces seized the capital of Sana'a on 21 September 2014. Allied with former Yemeni President Ali Abdullah Saleh, they gradually expanded their control since March 2014. Following a letter from President Abd-Rabbu Mansour Hadi requesting intervention, Saudi Arabia, leading a coalition of nine Arab countries, and with the support of the U.S. and other western nations, initiated military operations against the Houthi-Saleh forces on 26 March 2015.²
3. The conflict has taken a terrible toll on civilians and thousands of Yemeni civilians have been killed and injured as a result of the fighting. Mwatana has documented 534 civilian deaths and 524 injuries in 2017 alone.³ Carried out with the consent of the Yemeni Government, Saudi-led airstrikes have killed and injured thousands of civilians and destroyed civilian infrastructure, raising serious concerns about international law violations. Houthi-Saleh forces also carried out attacks harming Yemeni civilians, and have destroyed homes and hospitals, resulting in significant loss of life.⁴
4. The humanitarian access restrictions by Houthi-Saleh forces and the Saudi-led coalition have had a devastating effect on the ability of Yemenis to access food, medicine, and fuel. The widespread destruction of civilian objects, including hospitals, schools, and economic infrastructure, has contributed to devastating humanitarian consequences, including a cholera epidemic and famine risk.⁵
5. In addition, Houthi-Saleh forces, the Yemeni government, the United Arab Emirates (UAE), and UAE-backed Yemeni forces have arbitrarily detained, tortured, forcibly disappeared Yemeni civilians, including children. In its 2014 UPR review, the Government of Yemen accepted recommendations to ensure that the actions of its security forces were brought into line with international law and that security forces and non-state actors responsible for human rights abuses were investigated and prosecuted.⁶ Since then, as documented in this report, violations by security forces and non-state actors have only increased, as has widespread impunity.
6. This submission first sets out violations by the Government of Yemen in government-controlled territory in section II. In section III it sets out violations and abuses by the Houthi-Saleh led forces. Section IV includes recommendations, and section V sets out questions which member states could pose to the Yemeni Government.

II. Violations by the Government of Yemen and in Government-Controlled Territory

7. This section highlights the most significant patterns of human rights violations committed by Yemeni government forces and armed groups⁷ under the operational control of the Yemeni government and its Saudi-led coalition partners. It also details violations that occurred within the territory understood to be controlled by the Government of Yemen.⁸

8. Yemen has responsibility under international treaty and customary law to respect, protect, and fulfil the human rights of those within its territory or otherwise subject to its jurisdiction.⁹ Where armed groups are acting under the instructions of, or under the direction or control of the Yemeni government, Yemen is directly responsible for the actions of the armed groups.¹⁰
9. In addition, Yemen has human rights obligations in relation to the activities of other states on its territory, including the Saudi-led coalition. In particular, Yemen cannot lawfully consent to acts on its territory that would be unlawful if Yemen itself carried out such acts. Yemen also cannot lawfully provide aid or assistance to other states, including to the Saudi-led coalition and the United Arab Emirates (UAE), where such assistance contributes to breaches of human rights law.¹¹ Yemen must also take appropriate measures to protect individuals against violations by other states operating in Yemen, including by making adequate inquiries and putting in place sufficient safeguards to ensure that acts by other states on their territory comply with human rights law.¹²
10. Under international humanitarian law, as a party to the ongoing armed conflict[s] in Yemen, the Yemeni forces must comply with the principles of distinction, proportionality, and precautions in and against attack enshrined in international humanitarian law (IHL), as well as facilitate impartial humanitarian assistance and ensure that its coalition partners respect IHL.¹³ Under IHL, Yemen must also investigate war crimes allegedly committed on their territory—whether by its own forces, other forces with whom it is in coalition, or opposing forces, and, where there is sufficient evidence, prosecute the suspects.¹⁴

A. Arbitrary Detention,¹⁵ Enforced Disappearance,¹⁶ and Torture¹⁷

11. In its 2014 UPR review, the Government of Yemen accepted recommendations to take measures to combat arbitrary detention and enforced disappearance, prevent acts of torture and ill-treatment, and ensure that allegations of torture and other ill-treatment were investigated and prosecuted.¹⁸ Under international law, arbitrary detention, enforced disappearance, and torture and other ill-treatment are prohibited.¹⁹ Torture and enforced disappearances are crimes under international law.²⁰ Yemen is obliged to investigate and prosecute those responsible for torture and enforced disappearances, and provide reparations for victims.²¹
12. In 2017, Mwatana verified 51 new incidents of arbitrary detention and 68 enforced disappearances in territory controlled by the Government of Yemen and contested governorates.²² Those targeted were most often political opponents or civilians suspected of sympathizing with political or military opponents.
 - a. On 27 April 2017, Mustafa Hussein Mohammed Al-Mutawakil (61 years old) called his wife at 7:45 am to tell her he had been detained by Yemeni security at the Bab Al-Falaj checkpoint in Marib, a checkpoint under the control of forces loyal to the Government of Yemen. She has not heard from him since. Yemeni government officials in Marib informed her that they had him in their custody but refused to release him or allow him contact with family members or a lawyer.²³ A 2018 United Nations Panel of Experts on Yemen report (U.N. Panel) attributed direct responsibility to the former Director of General Security in Marib for the detention and determined that there “was no evidence that al-Mutawakil had lost his civilian status or protection at the time of his arrest.”²⁴

13. In 2017, Mwatana verified 52 incidents of torture²⁵ committed by, among others, Yemeni forces, and United Arab Emirates (UAE) backed Yemeni forces known as the Security Belt²⁶ and Hadrami Elite forces.²⁷ In 14 of these documented incidents, torture led to death. Methods of torture included beatings with batons and metal bars, kicking, burning, and denial of food, and water. Detainees were accused of providing support for political and military opponents of the Yemeni government or espionage. Torture was also used as a means of eliciting confessions.²⁸
 - a. On 7 March 2017, around 9:00 pm, Security Belt forces detained eight people in Zunjubar District in Abyan Governorate. The detainees were interrogated at the police headquarters about their alleged affiliation with Al-Qaeda in the Arabian Peninsula (AQAP) or the Islamic State. All of the detainees were subjected to torture, which caused the death of Ameen Abdul Aziz Al-Maqtari (23 years old). One detainee informed Mwatana that the Security Belt lined them up by the sea at night. The Security Belt forces filled Al-Maqtari's mouth with sand, tied him up, and dragged him into the sea. They placed him in a prone position, and seven Security Belt members stood on his back, which restricted his breathing. They beat him, causing him to scream. His dead body arrived at the hospital later that night, and the medical report indicated signs of torture.²⁹

B. Recruitment of Child Soldiers³⁰

14. In its 2014 UPR review, the Government of Yemen accepted recommendations to end the recruitment or use of child soldiers by government forces and armed opposition groups.³¹ Under international humanitarian law, recruitment of child soldiers is prohibited and amounts to a war crime.³² The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, to which Yemen is a party, further prohibits child recruitment, and obliges Yemen to take all feasible measures to prevent recruitment and use of children by armed groups, including all necessary measures for the proper implementation and enforcement of these obligations.³³
15. In 2017, Mwatana's investigations of child recruitment found that the Security Belt and Hadrami Elite forces recruited 184 children.³⁴ Resistance groups and parts of the armed forces aligned with President Hadi recruited 176 children.³⁵ Forces took advantage of the deteriorating humanitarian and economic conditions in Yemen and the large number of school dropouts to recruit children for combat or security purposes, including to staff checkpoints and help with logistics.
16. Mwatana's findings are consistent with the findings of other human rights organizations and with those of the United Nations and the U.N. Panel of Experts. A 2018 U.N. Secretary-General report on children in armed conflict found that Yemeni armed forces were responsible for 105 cases of child recruitment, and Security Belt Forces were responsible for 142 cases.³⁶

C. Denial of Humanitarian Access

17. IHRL protects the population's rights to life, health, and food,³⁷ and IHL obligates parties to facilitate rapid and unimpeded access of impartial humanitarian relief.³⁸
18. In 2017, the closure of Sana'a International Airport for commercial flights by the Saudi-led coalition continued to prevent those with medical and protection needs from leaving Yemen.³⁹ The severe access restrictions imposed by the coalition's closure of Yemen's air, naval, and sea ports, as well as delays associated with food, fuel, and medicine imports, exacerbated the humanitarian crisis.⁴⁰

19. Pro-government resistance forces and parts of the army aligned with President Hadi were responsible for three incidents of denial of humanitarian access in 2017.⁴¹ These included denial of access to trucks carrying food and demands for money to grant access.

D. Attacks on Schools⁴² and Hospitals⁴³

20. Despite the special protection afforded to education facilities and hospitals under international humanitarian law, they continued to be attacked. Such attacks further implicate Yemen's human rights obligations to ensure the rights to health and education, given the disastrous impact on the school and health system.⁴⁴ During 2017, schools and hospitals were damaged in air and ground attacks by the Saudi-led coalition and UAE-backed Yemeni forces. Some parties also endangered the sites by using them for military purposes.
21. Mwatana has investigated the use of schools for military purposes including the conversion of schools to prisons, headquarters of armed groups, military supply centres, detention centres, or shelters for military personnel⁴⁵, which have impeded children's access to education. In 2017, Mwatana documented 19 cases where schools continued to be occupied or used as military barracks, detention centres, and training centres by the Security Belt and pro-government Resistance groups.
 - a. On 11 June 2017, at 6:00 pm, the Security Belt entered the Education Bureau and Sayfan High School in Mahfad District in Abyan Governorate. They occupied the premises until 12 July 2017. The school was used as a barracks. They destroyed the water and sanitation network.⁴⁶
22. The conflict in Yemen has destroyed the health system. In 2017, Mwatana documented nine incidents of attacks on hospitals, medical centres, and medical staff attributable to pro-Resistance groups and Security Belt forces.⁴⁷ Hospitals were also damaged as a result of airstrikes and ground attacks.⁴⁸
 1. On 12 December 2017, an armed group affiliated to the popular resistance attacked the Al-Thawrah General Hospital in Taiz City. Members of the armed group were aboard four vehicles; they attacked the guards at the hospital's main gate, stormed into the premises and stopped at the Emergency Unit while they kept on firing their guns and threatening the hospital personnel.⁴⁹

E. U.S. Drone Strikes and Ground Operations

23. Mwatana documented five drone strikes in Al Bayda and Abyan governorates resulting in the death of nine civilians including two children and two women. Mwatana documented two U.S. ground operations in Marib and Al Bayda. 19 civilians were killed in the two operations including 12 children. 53 others were injured including 5 children and 43 women.⁵⁰

III. Violations by the Houthi-Saleh Forces

24. This section highlights the most significant patterns of abuses and violations of human rights and international humanitarian law attributable to the Houthi or Saleh forces and violations that occurred in territory under their effective control.⁵¹
25. As a party to the armed conflict, the Houthis and other armed groups must also comply with international humanitarian law. Individual members of the Houthis and other armed groups responsible for war crimes can and must be held criminally responsible. There is also emerging support for the view that non-state actors, such as the Houthis,

that carry out government-like functions as the *de facto* authorities in territory they control are bound by international human rights law.⁵²

A. Arbitrary Detention, Enforced Disappearance, and Torture

26. Under international humanitarian law, arbitrary detention, enforced disappearance, and torture are specifically prohibited.⁵³
27. Mwatana verified 69 incidents of arbitrary detention⁵⁴ and 33 incidents of enforced disappearance⁵⁵ by Houthi-Saleh forces in 2017, in addition to 53 incidents of arbitrary detention⁵⁶ and 26 incidents of enforced disappearance⁵⁷ in 2015-2016. The Houthi-Saleh forces detained political opponents, mainly those associated with Al-Islah Party, as well as civilians, journalists, academics, human rights advocates, and activists.
 - a. On 28 February 2017, the Houthis detained Basheer Mas'oud Ghaleb Al-Wosabi, age 23, in Sana'a.⁵⁸ The Houthis accused Al-Wosabi of cashing out payments to sleeper cells affiliated with the prominent religious cleric Abdul Majeed al-Zindani. He was detained at the Security Headquarters of the Sixth Region⁵⁹. After 10 days, he was transferred to the Criminal Investigation Department (CID). The Specialized Penal Prosecution issued an order for his release. Al-Wosabi was instead transferred to the Al-Thawrah reserve prison, where he remains as of June 2018.
28. Mwatana documented 29 incidents of torture of Yemeni civilians by the Houthi-Saleh forces during their detention in 2017, three of which led to death, and four incidents of torture in 2015-2016.⁶⁰ Detainees were accused of supporting or committing espionage and were beaten with batons and metal bars, kicked, burned, and denied food, water, and medical care in order to coerce confessions.
 - a. On 10 November 2016, Walid al-Ibbi, age 26 was arrested by Houthi-Saleh forces in front of his home in Sana'a. Al-Ibbi was held at a CID prison in Sana'a. The next morning, a Houthi leader informed his family that he was in Houthi custody but would not reveal the place of detention or let them visit him. On 15 November 2016, the family was informed that they could see al-Ibbi's body in the morgue of Kuwait Public Hospital. They were told that al-Ibbi had committed suicide, but an autopsy report revealed that al-Ibbi had been subjected to "severe abuse and violence."⁶¹
 - b. On 11 October 2017, the Houthis arrested Hussein Abdullah Akhdar, age 55 on Mazda Street in Sana'a. Akhdar was detained in a basement cell at the prison of the Political Security Organization in Sana'a. On 28 November 2017, he was released from Al-Jomhori Hospital in a wheelchair, unable to walk. Burn marks were seen throughout his body. He died on 9 December 2017.⁶²

B. Ground Attacks

29. The Houthi-Saleh forces are bound by the principles of distinction, proportionality, and precautions in and against attack enshrined in international humanitarian law.⁶³
30. Mwatana documented 70 indiscriminate ground attacks by the Houthi-Saleh forces in 2017, resulting in the deaths of 147 civilians and injuries of 142.⁶⁴
 - a. On 23 August 2015 at 10:00 PM, a 122 mm M-21 rocket fell on the building of Muhammad Dirham Al-Qadasi on Jamal Street in Al-Qahirah district in Taiz city.⁶⁵ Only the Houthi-Saleh forces had the BM-21 Grad rocket launcher at the time. The second and third stories of the building collapsed and seven civilians

were killed and five injured as a result.⁶⁶ The street had a number of stores and a significant civilian presence. Although pro-government Resistance groups were in control of the area at the time, Mwatana did not find any evidence to suggest that Resistance groups were on the street at the time of the attack.

C. Recruitment of Child Soldiers⁶⁷

31. Under international humanitarian law, recruitment of child soldiers is prohibited and amounts to a war crime.⁶⁸
32. In 2017, Mwatana verified 510 incidents of child soldier recruitment by the Houthi-Saleh forces,⁶⁹ who recruited children to work at checkpoints, on combat logistics, and for other military or security purposes. Worsening humanitarian and economic conditions and high rates of school dropouts rendered children vulnerable to recruitment.

D. Landmine Use

33. The use of landmines is prohibited by the Convention on the Prohibition of Anti-Personnel Mines, to which Yemen has been a State Party since September 1998.
34. In the course of the conflict, Houthi-Saleh forces have used banned landmines that have caused numerous civilian casualties and hindered the safe return of civilians to areas affected by landmines. In 2017, Mwatana documented 25 incidents of explosions of landmines planted by the Houthi-Saleh forces, which caused 14 civilian deaths and 46 injuries.⁷⁰ These were in addition to the 33 incidents in 2015-2016, which caused 57 civilian deaths and 47 injuries.⁷¹ Over half of those affected between 2015 and 2017 were women and children.
 - a. On 7 July 2017, at 9:00 am, a series of landmines exploded in the village of Al-Shaqb Al-Sayahi in the district of Sabir Al-Mwadim to the south of Taiz, permanently disabling Afaf Mohammed Ahmed Muqbil (22) and Dalilah Abdu Ahmed Ahmed Muqbil (25).⁷² The Houthis had planted landmines at a distance of about 50 meters on the road near Tabat Al-Salhi, which was under their control, in order to prevent the progress of pro-Hadi or pro-UAE Resistance groups and elements of the Yemeni army, who were situated in Tabat Mza'al, about 100 meters away from the location of the incident.⁷³
35. Mwatana concluded that the Houthis were responsible for all landmine explosions in six governorates⁷⁴ because landmines and other explosive devices were discovered only in areas from which the Houthis retreated, as opposed to areas previously controlled by anti-Houthi forces. Landmines were left in residential neighbourhoods, public roads, main streets, homes, and farms. The Houthi-Saleh forces did not leave any signs indicating where mines were located.

E. Violations Against Journalists

36. In 2017, Mwatana documented violations against journalists by the Houthi-Saleh forces including arbitrary detention, enforced disappearance, torture, harassment, and death as a result of torture, which, as noted above, are prohibited under international law. As of 31 December 2017, the Houthis continued to detain 12 journalists. Mwatana documented 10 incidents of arbitrary detention of journalists and one case of enforced disappearance in 2015-2016.
 - a. On 6 September 2016, Yahya Al-Jubaihi, age 61 and his sons, Hamzah and Dhi Yazan, were detained by the Houthis and taken to the building of the Political

Security Organization in Sana'a. On 12 April 2017, a court in Sana'a sentenced Al-Jubaihi to death for "collaborating with a foreign country" after a 15-minute trial. On 21 September 2017, the former head of the Political Supreme Council, Saleh Al-Sammad, overturned the sentence and ordered Al-Jubaihi's release. He was released on bail on 24 September 2017. His younger son was also released, while his older son Hamzah remained in detention.

- b. On 21 May 2017, the journalists Abdullah Qabel, age 25 and Yousef Alazairi, age 26, were killed in an airstrike on a hotel where they were being detained by the Houthis after their arrest at a checkpoint in Dhamar city.⁷⁵ Their bodies were found two days after the airstrike. The Yemeni Journalists' Syndicate had contacted Houthi leaders and asked them not to keep Abdullah and Yousef there. The Houthis had denied detaining them and refused to let their relatives enter the area.

F. Persecution of Religious Minorities

37. The persistent persecution of the Baha'i community in Yemen, including through raids, arrests, arbitrary detention, and enforced disappearance raise serious concerns about the *de facto* Houthi authorities respect for the convictions and practices of religious minorities in international humanitarian and human rights law.
38. In 2017, Mwatana investigated cases where members of the Baha'i minority in Yemen continued to face harassment by the Houthis for their religious beliefs and cultural activities. Seven Baha'is, all of whom were detained in 2017 and four of whom were forcibly disappeared, were still in prisons run by the Houthis in Sana'a as of 31 December 2017.
 - a. During 2017, the Specialized Criminal Court in Sana'a continued its trial of Hamid Kamal Muhammad Haydara (53), a member of the Baha'i minority, with charges of offences punishable by death. On 2 January 2018, a death sentence was issued for him along with an order for the confiscation of his property and assets and the closure of the Baha'i forums in Yemen. Mwatana concluded that Haydara was a prisoner of conscience who was being held and tried on account of his beliefs and peaceful activities as a Baha'i.⁷⁶
39. In 2017, a report by the United Nations High Commissioner for Human Rights supported Mwatana's findings and concluded that the "de facto authorities in Sana'a targeted the Baha'i community in Yemen, in what appeared to be "a persistent pattern of persecution", which included raids, arrests and prolonged arbitrary or illegal detentions."⁷⁷

G. Denial of Humanitarian Access

40. Under international humanitarian law, the Houthi-Saleh forces are bound to facilitate impartial humanitarian assistance.⁷⁸ Humanitarian access restrictions imposed by the *de facto* Houthi authorities have prevented Yemeni civilians from accessing goods necessary for their survival. In 2017, Mwatana documented 24 incidents of Houthi-Saleh forces denying humanitarian access.⁷⁹ Houthi-Saleh forces blocked and confiscated trucks carrying humanitarian aid at checkpoints and imposed rigid restrictions on the work of humanitarian organizations in areas under their control.⁸⁰

H. Attacks on Schools and Hospitals

41. In 2017, Mwatana documented seven incidents of attacks on hospitals and medical centres by the Houthi-Saleh forces⁸¹ and one case of a school being used as a military

barracks. Schools and hospitals are subject to specific protections under international humanitarian law.⁸²

a. In early December 2017, in the city of Sanaa, the Houthis occupied Abdul Qader Al-Mutawakil Hospital.⁸³

IV. Recommendations

42. We call upon the Government of Yemen to:

- a. Ensure that Yemeni forces comply with international human rights and humanitarian law.
- b. Ensure the Saudi-led coalition military and security forces, and the armed groups it funds and supports, respect IHRL and IHL in their operations in Yemen.
- c. Condemn violations of IHL by the Saudi-led coalition, and demand the immediate cessation of attacks against civilians and civilian objects.
- d. Cease consent for Saudi-led coalition and UAE operations in Yemen until adequate safeguards are in place to ensure that the military operations are in compliance with Yemen's obligations under international human rights and humanitarian law.
- e. Provide clarification on the oversight that the Government of Yemen exercises over the ground and air operations of the Saudi-led coalition and the UAE, and what measures are in place to ensure that there is accountability for violations.
- f. Call upon the coalition to provide detailed public information on the attacks which resulted in civilian deaths, hold those responsible accountable, and provide remedies, including compensation, to the victims.
- g. Call upon the United States to provide detailed public information on its drone strikes and raids which resulted in civilian deaths, hold those responsible accountable, and provide remedies, including compensation, to the victims.
- h. Immediately open all land, sea, and airports for humanitarian and commercial flights as these are matters that is exclusively within the sovereign rights of the Government of Yemen.
- i. Immediately release all those subjected to arbitrary detention; reveal the fate of victims of enforced disappearance, including by publishing lists of individuals in detention in territory controlled by the Government.
- j. Investigate all reported incidents of torture in accordance with international standards; take immediate measures to hold those responsible accountable, and provide remedies to victims.
- k. Ensure that all armed groups immediately cease recruiting child soldiers; release from duty all children who are under 18, and ensure they have access to rehabilitation programs.
- l. Cooperate fully with the Group of Eminent Experts to ensure that all perpetrators of serious crimes in Yemen are held to account.

V. Questions for the Government of Yemen

43. What is the Government's role in the airstrikes carried out by the coalition both at the initial planning stages, during the conduct of strikes, and in after-action reviews or post-strike assessments?
44. What measures has the Government taken to ensure that the Saudi-led coalition and the United States are mitigating harm to civilians and civilian objects in airstrikes and ground operations?
45. What measures has the Government taken to investigate violations, including those documented by the U.N., including the U.N. Panel and the OHCHR, and to bring to account those identified as perpetrators in the report of the U.N. Panel?
46. What measures has the Government taken to investigate and prosecute those responsible for, and to prevent, detention related abuses committed by the Security Belt Forces and the Elite Forces as documented in this report and the report of the U.N. Panel?
47. What measures has the Government taken to release or bring to trial those held in disclosed and undisclosed detention centres throughout territory controlled by the Government?
48. What measures has the Government taken to prevent the recruitment of children and to facilitate the release of children already recruited by the Security Belt Forces and the Elite Forces?
49. What measures has the Government taken to ensure that journalists have access to conflict-affected areas and that they can freely report?
50. What measures has the Government taken to open the Sana'a airport for the passage of those requiring medical and protection assistance?

VI. Contacts

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¹ More information can be found in Mwatana's previous reports: *Woes of 'Arabia Felix,' Annual Report: Situation of Human Rights in Yemen 2017*, May 2018, <http://mwatana.org/en/the-woes-of-arabia-felix>; *Torture in Yemen: Multiple Powers and One Behavior*, June 2017, <http://mwatana.org/en/torture-in-yemen-multiple-powers-and-one-behavior>; *Press in Yemen Faces Extinction: Journalists Need Support*, June 2017 (with Gulf Centre for Human Rights), <http://mwatana.org/wp-content/uploads/2017/10/Press-report-En.pdf>; *Concealed Killer: Civilian victims of landmines planted by Ansar Allah group (Houthis) and Saleh forces*, April 2017, <http://mwatana.org/wp-content/uploads/2017/10/Concealed-Killer-Report-En.pdf>; *Chapters from Hell: Violations of International Humanitarian Law in the Armed Ground Conflict in Taiz*, November 2016, <http://mwatana.org/en/chapters-from-hell>; *They Are Not Here: Incidents of Arbitrary Detention and Enforced Disappearance under the de facto authority of Houthi armed group in Yemen*, May 2016, http://mwatana.org/wp-content/uploads/2017/10/They-are-not-here-E_2.pdf.

² The original military members of the Coalition were Bahrain, Egypt, Jordan, Kuwait, Morocco, Saudi Arabia, Sudan, and the United Arab Emirates (UAE). Qatar was expelled on 5 June 2017 and began to withdraw its forces on 7 June 2017. There were reports that Morocco withdrew its forces in April 2018. Non-military members include Djibouti, Malaysia, and Senegal. See Reuters Staff, Factbox: Saudi-led coalition against Yemen's Houthis, *Reuters*, 10 April 2015, <https://www.reuters.com/article/us-yemen-security-coalition-factbox-idUSKBN0N11F220150410>; UN Panel of Experts on Yemen, Final Report of the Panel of Experts on Yemen, 26 January 2018, UN Doc. S/2018/68, pp.13, 291 (hereinafter S/2018/68); Morocco Pulls Out of Saudi-Led Coalition For Military Buildup Against Polisario Front, *Al Bawaba*, 15 April 2018, <https://www.albawaba.com/news/morocco-pulls-out-saudi-led-coalition-military-buildup-against-polisario-front-1117294>; Morocco withdraws from the Arab Coalition Forces in Yemen, *Middle East Monitor*, 16 April 2018, <https://www.middleeastmonitor.com/20180416-morocco-withdraws-from-the-arab-coalition-forces-in-yemen>.

³ As of 14 December 2017, the Office of the UN High Commissioner for Human Rights (OHCHR) estimated that 5,558 civilians had been killed and 9,065 injured in the conflict. OHCHR Press Briefing on Yemen and Gaza, 19 Dec. 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22551&LangID=E>. In this report, wherever possible, Mwatana also provides information on the numbers of women and children affected. In Yemen, it is generally accepted that women do not participate in hostilities, so it is more likely than not that they were civilians. Women and children are also afforded special protection under international humanitarian law and human rights law.

⁴ U.N. Security Council, *Final Report of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014)*, U.N. Doc. S/2018/192 (Jan. 26, 2016) ¶ 126.

⁵ Kate Lyons, Yemen's cholera outbreak now the worst in history as millionth case looms, *The Guardian*, 12 October 2017, <https://www.theguardian.com/global-development/2017/oct/12/yemen-cholera-outbreak-worst-in-history-1-million-cases-by-end-of-year>; Oxfam, Yemen being pushed ever closer to famine: 1,000 days of war and a crippling blockade is starving its people, *ReliefWeb*, 19 December 2017, <https://reliefweb.int/report/yemen/yemen-being-pushed-ever-closer-famine-1000-days-war-and-crippling-blockade-starving-its>.

⁶ UN Human Rights Council, Report of the Working Group on the Universal Periodic Review, Yemen, UN Doc. A/HRC/26/8, 7 April 2014, <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/26/8&Lang=E> (recommendations 115.8 and 115.80).

⁷ The term armed groups means those groups with the minimal level of organization required under international law. See, for example, International Criminal Tribunal for the Former Yugoslavia (ICTY), *The Prosecutor v. Boškoski and Tarčulovski*, Case No. ICTY-IT-04-82-T, Judgment (Trial Chamber), 10 June 2008, paras. 194–205.

⁸ The governorates under the control of the Government of Yemen are Abyan, Aden, Al Mahrah, Hadramaut, Shabwah, and Socotra. Al Dhale'e, Lahj, and Marib are mostly under the control of anti-Houthi forces. Contested governorates are Al Jawf and Taiz.

⁹ Yemen is a party to seven of the nine core international human rights treaties, as follows: International Covenant on Economic, Social, and Cultural Rights (acceded 1987); International Covenant on Civil and Political Rights (acceded 1987); International Convention on the Elimination of All Forms of Racial Discrimination (acceded 1972); Convention on the Elimination of All Forms of Discrimination against Women (acceded 1984); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (acceded in 1991); Convention on the Rights of the Child (ratified 1991); Convention on the Rights of Persons with Disabilities (acceded 2009). Yemen is also party to the two optional protocols to the Convention on the Rights of the Child on the Rights of the Child on the involvement of children in armed conflict (acceded 2007)

and on the Rights of the Child on the sale of children, child prostitution and child pornography (acceded 2004), and the Optional Protocol to the Convention on the Rights of Persons with Disabilities (acceded 2009).

¹⁰ Articles on Responsibility of States for Internationally Wrongful Acts, Art. 8.

¹¹ Articles on Responsibility of States for Internationally Wrongful Acts, Arts. 16, 20; Report of the Special Rapporteur on extrajudicial, summary, or arbitrary executions (Christof Heyns), U.N. Doc. A/68/382, ¶ 38; cf. *Lopez Burgos v. Uruguay*, ¶ 12.3, *Celiberti de Casariego v. Uruguay*, ¶ 10.3 (“it would be unconscionable to so interpret the responsibility under article 2 of the Covenant as to permit a State party to perpetrate violations of the Covenant on the territory of another State, which violations it could not perpetrate on its own territory.”); *Soering v. United Kingdom*, App. No. 14038/88 (Eur. Ct. H.R. July 7, 1989).

¹² U.N. Human Rights Committee, Communication No. 319/1988, *García v. Ecuador*, Views adopted on 5 Nov. 1991, paras. 5.1-5.2.

¹³ Common Articles 1 and 3 of the Four Geneva Conventions (ratified by Yemen on May 25, 1977); Additional Protocol II to the Four Geneva Conventions (ratified by Yemen on April 17, 1990), arts. 13-15, 18(2); 1 INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC), CUSTOMARY INTERNATIONAL HUMANITARIAN LAW (2005) (hereinafter ICRC Customary IHL Study), Rules 1-24, 55, and 139.

¹⁴ ICRC Customary IHL Study, Rule 158.

¹⁵ The UN Working Group on Arbitrary Detention considers detention as arbitrary when the authorities fail to invoke any legal basis justifying the deprivation of liberty. Arbitrary detention is prohibited by Article 9 of the Universal Declaration of Human Rights (UDHR); Article 9 of the International Covenant on Civil and Political Rights (ICCPR), to which Yemen has been a State Party since 1987; Article 48 of the Yemeni Constitution of 2001; and Article 246 of the Yemeni Criminal Law.

¹⁶ The UN Declaration on the Protection of All Persons from Enforced Disappearance defines enforced disappearance as a situation in which a person is arrested, detained or abducted by the state or agents acting for the state, who then deny that the person is being held or conceal their whereabouts, placing them outside the protection of the law. Enforced disappearance is prohibited by the Yemeni Constitution (Article 48) and a 1998 Yemeni law on abduction.

¹⁷ The UN Convention Against Torture (CAT) defines torture as the intentional infliction of severe physical or mental pain or suffering on a person for the purposes of obtaining information or a confession from them or a third person, punishing them for an act committed or suspected of being committed by them or a third person, or intimidating or coercing them or a third person, or based on discrimination, when the pain or suffering is inflicted by or with the instigation, consent, or acquiescence of a public official or another person acting in an official capacity. Torture is prohibited by Article 5 of the UDHR; Article 7 of the ICCPR; and Article 11 of the CAT obliges parties to take measures to prevent Torture. Yemen has been a State Party to CAT since 1991.

¹⁸ UN Human Rights Council, Report of the Working Group on the UPR, Yemen, UN Doc. A/HRC/26/8, 7 April 2014 (recommendations 115.59, 115.78, and 115.159).

¹⁹ ICCPR, article 9; CAT, articles 1, 2, and 16; Common Article 3 of the Four Geneva Conventions; Additional Protocol II to the Four Geneva Conventions, Article 4; ICRC Customary IHL Study, Rules 90, 98, 99.

²⁰ CAT, article 4.

²¹ ICCPR, article 2(1); CAT, article 14; UN Human Rights Committee, General Comment No. 31, ¶¶ 15-18; UN Committee against Torture, General Comment No. 3; ICRC Customary IHL Study, Rules 149-150.

²² Mwatana documented incidents of arbitrary arrests and detentions in Abyan (19), Aden (6), Al Dhale’e (1), Hadramaut (2), Lahj (17), Marib (3), and Taiz (3). Mwatana documented incidents of enforced disappearance in Abyan (12), Aden (26), Hadramaut (15), Lahj (2), Marib (11), and Shabwah (2). The Security Belt Forces in Abyan and Lahj were responsible for at least 19 incidents of arbitrary arrest, detention and enforced disappearance, Hadrami Elite forces for the 17 incidents in Hadramaut and the Shabwani Elite Forces for the two incidents in Shabwah.

²³ Al-Mutawakil was a Sana’a University professor and the Chairman of the General Investment Authority. His family believed that he was arrested because of his appointment, in November 2016, as Chairman of the General Investment Authority by the Houthi-Saleh alliance. Al-Mutawakil was also Professor at the University of Sana’a. The UN Panel of Experts concluded that he had not lost his civilian protection at the time of arrest.

²⁴ S/2018/68, p. 311.

²⁵ These violations occurred in Abyan (28), Aden (11), Al Dhale’e (1), Hadramaut (1), Lahj (10), and Shabwah (1). The Security Belt in Abyan and Lahj were responsible for at least 10 incidents and the Hadrami Elite Forces for two incidents.

²⁶ These forces are active in the governorates of Abyan, Aden, and Lahj. According to the UN Panel of Experts on Yemen, “Security Belt Forces, which were formed in March 2016, technically fall under the Ministry of the Interior. However, in practice, they are trained, supplied and paid for by the United Arab Emirates and operate outside the Yemeni military command-and-control structure.” The Panel concluded that the Security Belt Forces consisted of more than 15,000 troops. See pp. 18, 19 of S/2018/68.

²⁷ The UN Panel of Experts on Yemen reports that “in early 2016, the United Arab Emirates formed and funded the Hadrami Elite Forces ahead of a planned assault on Mukalla. Like the Security Belt Forces, the Hadrami Elite Forces are better paid than their regular Yemeni army counterparts and operate outside the Yemeni military command-and-control structure.” See p. 19 of S/2018/68. The UN Panel identified the Security Belt and the Hadrami Elite Forces to be proxy forces for the United Arab Emirates. The Panel also documented 12 incidents of torture, sexual violence, arbitrary detentions, and enforced disappearances committed by the United Arab Emirates, Security Belt, and Elite Forces. See pp. 47 and 48 and Annex 62 of S/2018/68. It also documented 21 incidents of torture and identified six officials of the Government of Yemen who engaged in these violations. See p. 51 and Annex 65 of S/2018/68.

²⁸ See Mwatana 2017 annual report <http://mwatana.org/the-woes-of-arabia-felix/>

²⁹ Mwatana conducted interviews with the seven detainees who witnessed the incident. Mwatana retained a copy of the initial medical report following the death of Al-Maqtari. The medical report confirmed that Al-Maqtari’s dead body arrived at the hospital around 2:30 am. His body had arrived wet, covered with sand, with foam coming out of his mouth. The medical findings were consistent with the testimonies of other detainees.

³⁰ In this report, the term children refers to those individuals below 18 years. The recruitment of children by armed groups and the military is prohibited by Article 4(3)(c) of Additional Protocol II of the Geneva Conventions; Article 38 of the Convention on the Rights of the Child (CRC), to which Yemen has been a State Party since 1991; Articles 1, 2, and 4 of the Optional Protocol to the CRC on the involvement of children in armed conflict, to which Yemen has been a State Party since 2007; Articles 1 and 3 of the Worst Forms of Child Labor Convention, to which Yemen has been a State Party since 2000; and Article 45 of the Yemeni Child Protection Law of 2002.

³¹ UN Human Rights Council, Report of the Working Group on the UPR, Yemen, UN Doc. A/HRC/26/8, 7 April 2014 (recommendations 115.60, 115.61, 115.62, 115.63, and 115.64).

³² Additional Protocol II, article 4(3)(c); ICRC Customary IHL Study, Rules 136 and 156.

³³ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, articles 2, 4, and 6.

³⁴ Their numbers of recruitments were particularly high in Abyan and Lahj.

³⁵ Their numbers of recruitments were particularly high in Abyan and Al Jawf.

³⁶ United Nations, Children in armed conflict, Report of the Secretary General, U.N. Doc. A/72/865-S/2018/465 (May 16, 2018) ¶ 201.

³⁷ UDHR, *supra* note 4, arts. 22, 28; League of Arab States, Arab Charter on Human Rights, *supra* note 38; Convention on the Rights of the Child, *supra* note 40, art. 24; ICESCR, *General Comment No. 12*, *supra* note 38; UN General Assembly, Resolution 64/159, *supra* note 38; Human Right Council, Resolution 7/14, *supra* note 38; UN General Assembly, The Human Right to Water and Sanitation, U.N. Doc. A/RES/64/292 (Aug. 3, 2010); Human Rights Council, *Report of the Special Rapporteur on the Right of Everyone to the Highest Attainable Standard of Physical and Mental Health*, U.N. Doc. A/HRC/68/297 (Aug. 9, 2013) (hereinafter Report of the Special Rapporteur on right to health) ¶¶ 13-16.; Principle 9, *Maastricht Principles*, *supra* note 5; UDHR, *supra* note 4; International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, *supra* note 5; ICESCR, *General Comment No. 14*, *supra* note 5.

³⁸ Additional Protocol II, *supra* note 6, art. 18(2); ICRC Customary IHL Study, *supra* note 10, Rule 55.

³⁹ See Annex 70 of the UN Panel of Experts Report, S/2018/68.

⁴⁰ See Mwatana and Columbia Law School Human Rights Clinic, *supra* note 6.

⁴¹ These incidents occurred in Al Dhale’e, Shabwah and Taiz. The obligations on parties relating to humanitarian access can be found in Article 18(2) of Additional Protocol II; and is elaborated in International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, 2005, Rule 55.

⁴² Attacks against schools are prohibited under customary international law. See ICRC, *supra* note 27, Rules 7 - 10. See also the Safe Schools Declaration, signed by more than 70 countries, and available here: https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf.

⁴³ Attacks against hospitals are prohibited by under Article 11 of Additional Protocol II and customary international law. See ICRC, *supra* note 27, Rule 28.

⁴⁴ ICESCR, articles 12 and 13.

⁴⁵ Mwatana documented several cases in its 2017 annual report <http://mwatana.org/the-woes-of-arabia-felix/> and in its report "Chapters from Hell" <http://mwatana.org/en/chapters-from-hell/>

⁴⁶ Mwatana interviewed eyewitnesses and the school board on 13 January 2017.

⁴⁷ Mwatana documented one attack each in Abyan and Aden by Security Belt forces, as well as seven in Taiz by Resistance groups.

⁴⁸ Houthi and pro-government resistance forces are responsible for the ground attacks on hospitals and medical centers http://mwatana.org/the-woes-of-arabia-felix/the_most_dominant_human-rights_violations/attack_on_hospitals/

⁴⁹ Mwatana for Human Rights interviewed Waleed Mohammed Al-Himyari on December 14, 2017.

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- ⁵⁰ U.S. Central Command officials announced on 20 December 2017 that U.S. forces have conducted multiple ground operations and more than 120 strikes this year to remove key leaders and disrupt the ability of al-Qaida in the Arabian Peninsula and ISIS-Yemen to use ungoverned spaces in Yemen as a hub for terrorist recruiting, training, and base of operations to export terror worldwide.
<https://www.defense.gov/News/Article/Article/1401445/centcom-officials-provide-update-on-recent-counterterrorism-strikes-in-yemen/>
- ⁵¹ Houthis control Al Mahwit, Amran, Dhamar, Ibb, and Raymah. Sa'ada was entirely under Houthi control until last year and is now mostly under Houthi control. Al Bayda, Al Hudaydah, Hajjah, and Sana'a are mostly under Houthi control. Contested governorates are Al Jawf and Taiz.
- ⁵² See, e.g. Daragh Murray, *Human Rights Obligations of Non-State Armed Groups* (2016); Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on armed non-State actors: the protection of the right to life (June 5, 2018), U.N. Doc. A/HRC/38/44.
- ⁵³ Common Article 3 of the Four Geneva Conventions; Additional Protocol II to the Four Geneva Conventions, Article 4; ICRC Customary IHL Study, Rules 90, 98, 99.
- ⁵⁴ These incidents occurred in Al Bayda, Al Jawf, Al Hudaydah, Dhamar, Sa'ada, Sana'a, and Taiz.
- ⁵⁵ These incidents occurred in Al Bayda, Al Hudaydah, Dhamar, Sa'ada, Sana'a, and Taiz.
- ⁵⁶ Mwatana verified these incidents between January 2015 and May 2016. The detentions took place in Amran, Al Hudaydah, Dhamar, Hajjah, Ibb, Sana'a, and Taiz.
- ⁵⁷ Mwatana verified these incidents between January 2015 and May 2016. These incidents occurred in Al Hudaydah, Dhamar, Ibb, Sana'a, and Taiz.
- ⁵⁸ Al-Wosabi had worked as a guard for an Islah Party leader before the Houthis took Sana'a in September 2014.
- ⁵⁹ The sixth military region covers an area that includes Al Jawf, Sada'ah, and Amran governorates
- ⁶⁰ The 2017 incidents occurred in Al Hudaydah, Sa'ada, Sana'a, and Taiz. The 2015-2016 violations occurred in Sana'a.
- ⁶¹ Mwatana interviewed the victim's brother and obtained a copy of the forensic pathologist's report on the autopsy of al-Ibbi. The report stated that the cause of the death was a gunshot wound and that the distance of the gunshot "did not exceed one meter." In addition, the report noted that "the back of the right hand is free of gunpowder remnants and blood spray resulting from the reverse backlash of the gunshot." One of the report's conclusions was that "the amount of bruises and abrasions throughout the body" showed that Al-Ibbi suffered "severe abuse and violence." The medical report was consistent with testimonies of family members.
- ⁶² Mwatana interviewed eyewitnesses on 13 December 2017.
- ⁶³ Common Article 3 of the Four Geneva Conventions (ratified by Yemen on May 25, 1977); Additional Protocol II to the Four Geneva Conventions (ratified by Yemen on April 17, 1990), arts. 13-15, 18(2); ICRC Customary IHL Study, Rules 1-24.
- ⁶⁴ Most of these attacks (66 incidents) occurred in Taiz, in addition to attacks in Abyan, Al Jawf, Lahj, Marib, and Sana'a. 36 women and 160 children were among those who died or were injured.
- ⁶⁵ Mwatana retained imagery of the remnants.
- ⁶⁶ The dead and injured included seven women and three children.
- ⁶⁷ In this report, children are identified as individuals below 18 years, *supra note 21*.
- ⁶⁸ Additional Protocol II, article 4(3)(c); ICRC Customary IHL Study, Rules 136 and 156.
- ⁶⁹ Most incidents of recruitment occurred in Sa'ada and Sana'a. Mwatana verified these numbers through interviews with parents and children and through verified witness reports of child soldiers.
- ⁷⁰ The injured and dead included 22 women and 16 children. Most of these incidents occurred in Taiz.
- ⁷¹ These incidents were reported from Aden, Al Bayda, Lahj, Marib, Sana'a, and Taiz. The injured and dead included 45 children and 10 women.
- ⁷² According to Afaf, the two women had been walking together, with a herd of goats behind them, when Dalelah stepped on a mine. The goats scattered, which led to more explosions. Dalelah crawled on the ground and touched another landmine. Afaf fell on the ground, which caused a mine to explode. She was tossed in the air and landed on another mine.
- ⁷³ Mwatana obtained the two victims' medical reports and their photos post-surgery. These are consistent with types of injuries associated with these incidents. Mwatana interviewed Afaf Mohammed Ahmed Muqbil and local residents on 17 July 2017.
- ⁷⁴ In 2015-2017, Mwatana documented 57 cases in Aden, Taizz, Marib, Sanaa, Al Bayda, and Lahj
- ⁷⁵ The hotel was a suspected Houthi weapons storage facility. The journalists were arrested after covering an anti-Houthi tribal gathering in the area. They were reporters for the Yemen Shabab and Suhail, generally perceived to be anti-Houthi channels. See Mwatana, *Houthi authority: A dark era in history of Yemeni press*, 18 October 2015, <http://mwatana.org/en/houthi-dark-history>.
- ⁷⁶ Mwatana interviewed the family of Munif Haydarah Ahmed Salem on 19 August 2017.

⁷⁷ Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Yemen, including violations and abuses since September 2014*, U.N. Doc. A/HRC/36/33 (Sept. 13, 2017) ¶72.

⁷⁸ ICRC Customary IHL Study, Rule 55.

⁷⁹ Mwatana documented 20 incidents in Sa'ada, two in Al Jawf, one in Taiz, and one in Sana'a.

⁸⁰ In Sa'ada, the Houthi-Saleh forces refused to let a medical team go to Al Heshwa. They prohibited the construction of a hospital in Damaj.

⁸¹ The Houthis were responsible for two attacks in Sa'ada and five in Taiz. On 5 July 2017, the Houthis stopped a mobile clinic in Sa'ada. In early December 2017, in the capital city of Sana'a, the Houthis occupied Abdul Qader Al-Mutawakil Hospital.

⁸² Attacks against hospitals are prohibited by under Article 11 of Additional Protocol II and customary international law. *See* ICRC, *supra* note 27, Rule 28; Attacks against schools are prohibited under customary international law. *See* ICRC, *supra* note 27, Rules 7 - 10. *See* also the Safe Schools Declaration, signed by more than 70 countries, and available here:

https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf.

⁸³ Mwatana interviewed eye witnesses on 12 December 2017. *See* annual report http://mwatana.org/the-woes-of-arabia-felix/the_most_dominant_human-rights_violations/sanaa_event/