

“ RETURNED TO ZERO ”

The Case for Reparations to Civilians in Yemen

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RETURNED TO ZERO

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Summary

We returned to zero,

22-year-old “Mohammed” (a pseudonym) said when describing the damage a 2017 airstrike carried out by the Saudi Arabia and United Arab Emirates-led Coalition did to him and his family in Yemen.

The airstrike injured Mohammed and destroyed his family’s three-floor home, their furniture, their car and their water tanks. “After the accident, we tried to dig and remove the dirt and do anything in order to return to the house,” he said, “but due to the situation, the difficult conditions, the expenses of schools, universities, rent and other necessities of life, we were not able—and the house is still in its condition.” Whenever his family members hear the sound of airplanes, he said, “They are all afraid and huddle together as though there is a monster that will eat them.”

This report, “Returned to Zero”: The Case for Reparations to Civilians in Yemen, was researched and written by Mwatana for Human Rights and the Allard K. Lowenstein International Human Rights Clinic at Yale Law School. It is the first detailed study of the international legal obligations of State members of the Saudi/UAE-led Coalition, the internationally recognized government of Yemen, and the Ansar Allah (Houthi) armed group to provide reparations for the international wrongs for which they are responsible in Yemen. For years, civilians in Yemen have sought to communicate the devastating impact that warring party abuse has had on them, their families, and their communities. Through this report, Mwatana and the Lowenstein Clinic seek to shed light on the right of individual civilian victims of international wrongs in Yemen to receive reparation.

This report is the product of many years of research. The report’s findings and recommendations are based on information that Mwatana collected as part of a wider effort to document violations of international humanitarian law and international human rights law during the ongoing conflict. Mwatana has interviewed thousands of civilians

that have been harmed by the Saudi/UAE-led Coalition, the internationally recognized government of Yemen, the Ansar Allah (Houthi) armed group, the UAE-backed Southern Transitional Council (STC), the UAE-backed Joint Forces, the United States and others in Yemen.

In international law, the right to reparation stems from the legal obligation of the violator to make the victim whole. For this report, Mwatana actively sought information on any reparations-related steps taken by key warring parties in Yemen. Mwatana reviewed public statements, reports, and documents produced by the Saudi/UAE-led Coalition, by the internationally recognized government of Yemen, and by the Ansar Allah (Houthi) armed group, and the report's authors analyzed public statements, reports and documents produced by the redress-related bodies that warring parties have set-up. Between May 2020 and January 2022, Mwatana conducted 81 reparations-focused interviews with civilian victims, their family members, and human rights lawyers in Yemen. Mwatana focused these interviews on those that had either been promised some form of assistance or reparation by warring parties or that had sought some form of assistance or reparation from warring parties.

As part of its research, Mwatana sent letters to Saudi Arabia, the UAE, the internationally recognized government of Yemen, Coalition Forces, the Ansar Allah (Houthi) armed group, and the Southern Transitional Council requesting information on any steps they had taken to provide reparations to civilian victims of their international law violations in Yemen. None responded.

The Lowenstein Clinic conducted international legal research, focusing on the right of individuals harmed as a result of war-time wrongs to receive reparations, the obligations of State and non-State armed groups to provide reparations, and questions relating to attribution for international wrongs. The Lowenstein Clinic also drafted the report, assisted in drafting the letters to warring parties, and analyzed the warring parties' civilian harm responses in Yemen, based on Mwatana's investigations.

"Returned to Zero" examines the most significant ad hoc mechanisms that the Saudi/UAE-led Coalition, the internationally recognized government of Yemen, and the Ansar Allah (Houthi) armed group have established to investigate and respond to civilian harm caused by their forces in Yemen since the conflict began. Mwatana did not identify redress-related mechanisms set-up by other warring parties, for example, the

Southern Transitional Council. The report compares existing warring party responses to civilian harm in Yemen with international standards for reparations to civilian victims. The report finds these responses to be grossly inadequate, both in relation to the scale and severity of the harms done to civilians and in comparison to the international legal obligations that warring parties hold.

Coalition condolence payments

The internationally recognized government of Yemen, Saudi Arabia, the UAE, and other Coalition States have made limited efforts to investigate and respond to reports of civilian harm by their forces in Yemen. In particular, these States set-up distinct but related bodies that played some role in a process that eventually led to condolence payments to a small number of civilian victims of airstrikes.

Since 2016, Yemen and Coalition officials have repeatedly promised to provide assistance to civilian victims of airstrikes. In its first set of findings, the Coalition's investigative body, the Joint Incidents Assessment Team (JIAT), recommended the Coalition provide "compensation" to civilians impacted by an airstrike that caused mass civilian harm. JIAT's statement referred to a "Reparations Committee" to which families should submit their claims, but provided no further information on how families in Yemen could contact the committee or how the committee might contact them. By 2017, Coalition officials said publicly that the Coalition would heed JIAT's recommendations, including on "compensation," and JIAT informed the Yemeni government's national human rights commission that "the Coalition leadership is ready to provide suitable compensation for the families of the victims." But, by 2018, victims of the relevant airstrikes said they had received nothing, not even a phone call. Despite JIAT's promises, even if they wanted to, civilian victims of these airstrikes had no idea where to present claims.

Then, in August 2018, immediately before the UN Human Rights Council was set to begin its annual discussions about the situation in Yemen, the Saudi/UAE-led Coalition and internationally recognized government of Yemen announced that they had set-up

a joint committee to distribute “voluntary aid,” e.g. financial payments, to victims of Coalition airstrikes in Yemen. “The Joint Committee To Grant Voluntary Humanitarian Assistance to Those Harmed in Yemen” (Joint Committee) would disburse “aid” to those affected by the Coalition’s military operations, the announcement promised. The first payment that Mwatana could confirm came nearly a year later.

In June 2019, buried in a much longer statement, the Coalition spokesperson announced that the Joint Committee had chosen six different airstrikes for which the Coalition had provided assistance. By June 2019, Mwatana, other human rights groups, and UN experts had reported on hundreds of Coalition airstrikes, many of which appeared unlawful, that had caused significant civilian harm. Six was a shockingly tiny fraction.

For this report, Mwatana interviewed dozens of civilians that lost family members, were injured, or had property damaged or destroyed in 20 different airstrikes for which JIAT recommended the Coalition provide some sort of assistance to civilian victims, including four of the airstrikes for which the Coalition and internationally recognized government said condolence payments had been made. By 2021, payments had finally been made to some of the civilian victims harmed in the six Joint Committee-chosen airstrikes.

From the start, the payment process—which followed investigations that were not independent, impartial, or credible—was non-transparent, ineffective, and far from thorough. Some civilians received money before the June 2019 announcement. Others received payments much later. Some received smaller amounts than they were meant to receive. Some—including civilians that lost family members, had been wounded, or suffered property damage in the six strikes—received no payment at all. Others, after learning that civilians harmed in the same strikes received assistance, were told they were not eligible, despite being named on payment lists. There were other irregularities in the process, like duplicate names, including listing people twice for the same type of harm.

In all cases, payments came without an apology or acknowledgment of fault. Instead, the Coalition and internationally recognized government of Yemen asked some of those who received payments to sign a receipt describing the payments as “voluntary assistance” provided to those harmed by Coalition “mistakes.” Men appeared to control the payment process in most cases and, in a few, civilians with some form of influence appeared more likely to receive payments.

While condolence payments alone are not reparations, they can provide some form of immediate, material assistance to families and individuals in need after attacks. Many of the civilians with whom Mwatana spoke described the direct and indirect physical, social, psychological, and economic costs they bore as a result of Coalition airstrikes. While explaining that money would never make up for the loss of their loved ones, they emphasized the continued need for medical treatment, the loss of housing, and the search for assistance to make up for the loss of, for example, a breadwinner's salary that their family had depended on. At the same time, even civilians that received monetary assistance distinguished the one-time condolence payments from reparation and justice.

The bodies created by Coalition States and the internationally recognized government of Yemen have not provided any form of assistance—monetary or otherwise—to the vast majority of civilian victims of their attacks in Yemen. Only a tiny fraction of civilian victims of airstrikes have received condolence payments and civilian victims of other types of unlawful conduct by the Saudi/UAE-led Coalition, the internationally recognized government of Yemen, and affiliated forces—for example, detention-related abuse—have largely been ignored.



Ansar Allah committees to hear petitions for redress

The Ansar Allah (Houthi) armed group has also created redress-related bodies. Most notably, the group set-up the Authority to Lift Injustice and the Redress Committee, both of which were publicly tasked with hearing complaints against Ansar Allah members and petitions for assistance and redress. Mwatana interviewed 16 civilians and human rights lawyers that interacted

with these Ansar Allah redress-related bodies. All of them had sought assistance or redress in cases relating to abusive detentions and disappearances.

In most cases, those who accessed the Ansar Allah bodies received no form of ascertainable assistance. One lawyer said, “Although the committee is called the Redress Committee, we did not find redress from it except for those who have personal power against them. Redress is only for people with power.” Another lawyer offered, “All we received back [from the Redress Committee] were promises that never happened... It was like the previous committees.”

Both the Redress Committee and the Authority to Lift Injustice are made up of Ansar Allah members, including those likely implicated in complaints that would be brought before the bodies. This creates credible fears of reprisals. Mwatana found that Ansar Allah’s redress-related bodies occasionally exposed petitioners to risk, including abuse related to that which the original petition was based on, for example, exposing an abusively detained person to further cruel treatment in detention. Ansar Allah has also retaliated against people that have accepted condolence payments from the Coalition.

Neither of the Ansar Allah redress-related bodies operates transparently. There is no clear basis for how the Redress Committee or the Authority to Lift Injustice decide which cases to consider, whether or not to take action, and whether and when to make recommendations to other Ansar Allah entities. Their work varies from governorate to governorate. In some governorates, lawyers said the bodies took on cases that had nothing to do with Ansar Allah abuse, including cases that offered the possibility of profit for the mediators. There is no transparent basis for determining who might be eligible for assistance from these bodies, nor what assistance or redress these bodies might offer.

Ansar Allah’s redress-related bodies have failed to conduct real investigations and, according to those that petitioned the bodies, are generally ineffective and powerless against other Ansar Allah actors, like the security and intelligence forces. While these bodies appear to have intervened in a tiny number of cases of detention-related abuse, the vast majority of civilian victims of Ansar Allah conduct in Yemen, including—for example, those maimed in landmine explosions or who lost family members in indiscriminate shelling attacks—have largely been ignored. Mwatana conducted 11 reparations-related interviews in 2021 with people affected by Ansar Allah landmine explosions and Ansar Allah ground shelling attacks. All said they had received no redress, had not interacted with any redress bodies, and were unaware of any fora or process through which to bring claims. Ansar Allah has claimed that the Coalition has an obligation to provide reparations in Yemen, but has yet to acknowledge its own

responsibilities to repair the extensive harm it has done to civilians.

A few days after Ansar Allah started a deadly fire in an overcrowded migrant detention facility that killed and wounded scores of people, Ansar Allah promised to investigate and compensate those harmed. Instead, Ansar Allah attacked migrants protesting about the fire in Sana'a. "Ifa" (a pseudonym), who was injured in the fire, said, "They don't treat us as humans, all of them. That is why we don't expect reparations from them."



Grave international law violations

For nearly eight years, the warring parties in Yemen—including the Saudi/UAE-led Coalition, the internationally recognized government of Yemen, and the Ansar Allah (Houthi) armed group, as well as others—have taken lives, devastated families, wrecked cities, destroyed land, and unsettled the future of millions.

The war has affected every part of daily life in Yemen. Warring parties have killed civilians celebrating at weddings and mourning at funerals, fishermen working on their boats, and families sitting in their own homes. Warring parties have extensively damaged essential public infrastructure, including markets, schools, farms, and hospitals. According to various estimates, the conflict in Yemen has led to the deaths of more than 230,000 people, the displacement of at least 4 million others, and the reversal of at least two decades of human development. The vast majority of the country's population is now in need of some form of humanitarian assistance.

Since the conflict began, warring parties have committed frequent, repeated and gross violations of international human rights law and frequent, repeated and serious violations of international humanitarian law in ways that have hurt Yemeni civilians. Indiscriminate and disproportionate attacks have killed and wounded civilians and destroyed civilian homes, vehicles, and other property. Warring parties have committed extrajudicial killings and enforced disappearances and used torture, other forms of cruel, inhuman, and degrading treatment and sexual and gender-based violence. They have used widely banned weapons, like landmines and cluster munitions, which have

maimed civilians, including many children, and made agricultural land inaccessible. They have recruited and used children in fighting and blocked and restricted humanitarian aid and used starvation as a weapon of war. The list goes on.

The redress-related mechanisms so far set-up by the Saudi/UAE-led Coalition, the internationally recognized government of Yemen, and the Ansar Allah (Houthi) armed group are wholly inadequate to accomplish the task of ensuring prompt, adequate and effective reparations to civilian victims, particularly in light of the severity of violations committed by these warring parties and the scale of the resulting civilian harm. None of the existing mechanisms operate effectively or transparently. All are significantly lacking in credibility. None have conducted effective investigations into alleged violations, nor have they provided adequate, prompt or effective reparations to civilian victims.

While the case studies included in this report focus primarily on Coalition airstrikes and Ansar Allah detention-related abuse, as cases with some sort of link to the work of existing, redress-related bodies, other types of warring party conduct have also caused severe civilian harm and involved grave international law violations. The warring parties haven't provided any form of assistance to the vast majority of the civilians they have harmed in Yemen, nor fulfilled their obligation to provide reparations. Civilians repeatedly expressed the belief that warring parties in Yemen were more likely to repeat their wrongs than to remedy them. To date, the warring parties have proven them right.



The obligation to provide reparation

Under international law, when an international wrong occurs, reparations are owed. Reparations are meant to restore the injured party, as far as possible, to their position before the wrong occurred. Reparations are a form of justice.

A century ago, reparations rights and obligations were seen as applying to the relations between States. Today, there is growing recognition that individual victims of

international humanitarian law and international human rights law violations have a right to receive reparations for the harms they have suffered.

Under international law, reparations should endeavor to restore, to the greatest extent possible, the injured party to their situation before the violation or to compensate them for the irreparable harm they have suffered. Reparations may take one or several forms, including restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Full, adequate, and effective reparation may require a combination of multiple forms, and should be promptly delivered and proportional to the gravity of the violation and the harm suffered. In Yemen, no warring party has made credible reparations to the civilian victims of their violations.

Restitution, the preferred form of reparation, involves the attempt to restore the victim to the situation before the violation. Restitution may not always be possible, particularly for wrongs that are irreparable, as are many in Yemen. Reparations cannot restore the life of a lost family member or return a home that was cared for by a family for generations then destroyed.

Compensation is often undertaken when restitution is not possible. Compensation involves financial payment, which should provide for any economically assessable damage. Rehabilitation involves measures aimed at mending the harm that a victim suffered, for example the provision of medical, psychological, legal, and social services. Satisfaction encompasses a variety of actions designed to address injuries that are not financially assessable, such as rights to truth, recognition, and remembrance. Guarantees of non-repetition involve appropriate assurance that the unlawful action will not repeat.

Modern developments in international law suggest that individuals may seek reparation directly from the actor responsible for the international wrong, which may be a State, a non-State armed group or an individual, as well as through their State or through a mechanism created by the international community, for example an international claims commission. The State in whose territory the violation occurred—in this case, Yemen—has an obligation to help individuals realize their right to reparation.

The obligation to provide reparation does not replace or negate other aspects of States' obligations to ensure accountability for serious international law violations, including the obligations to investigate alleged violations of international humanitarian

law and international human rights law and to prosecute alleged perpetrators of war crimes. The prosecution obligation is not subject to negotiation or waiver. Amnesties for war crimes, for example, are prohibited. In some cases, judicial and administrative sanctions against persons responsible for violations may be a crucial component of reparations.

While this report focuses on the reparations obligations of State members of the Saudi/UAE-led Coalition, the internationally recognized government of Yemen, and the Ansar Allah (Houthi) armed group, other actors involved in the conflict in Yemen may also have reparations obligations to civilians in Yemen.



Waiting for justice

International law violations in Yemen have caused and continue to cause pain and destruction on an enormous scale. Thousands of civilians have been killed. Thousands have been maimed. Many require medical treatment. People have had their loved ones, their communities, their homes, their jobs, and their

belongings taken from them, Warring parties devastated the economic systems they relied on for income.

Without assistance or reparations, civilian victims have struggled to get back on their feet. After an airstrike killed her husband, four sons, daughter-in-law and grandson and destroyed her home, “Noria” (a pseudonym) explained, “Nothing was left for us except the clothes that we were wearing.” She found a temporary place to live, but could not afford it. “I am tired of being evicted by people because I can’t pay rent.” “Belques” (a pseudonym) said, “I lost my entire life... I lost my husband and the person who provided for myself and my children. I lost my home that was our shelter... Nobody can fix what has been broken... [but] I want a house for me and my children, and a monthly salary that I can spend on them.” “Salma” (a pseudonym), whose 14-year-old son lost both his legs in a landmine explosion, said, “Our suffering started with landmines since 2015 and our suffering continues until now. We can no longer cultivate, herd or log wood.”

Harmed civilians interviewed by Mwatana expressed a variety of priorities for justice. Some mentioned full monetary compensation, while others preferred an international court to try perpetrators and still others wanted revenge. Mohammed expressed a preference for “compensation first so that we can return to our lives and repair our destroyed homes,” while another survivor said, “money can’t compensate for our beloved ones.” Over and over, civilian victims said that those who were responsible for the wrongs should provide the reparation. Some said they wanted to see holistic accountability and reparations, but that they had lost hope in justice.

Reparations have so far been neglected by the warring parties in Yemen and under-prioritized by those with influence, including other States. In an effort to support the realization of civilian victims’ right to reparation in Yemen, this report makes recommendations to the warring parties, to other States, to UN bodies, and to civil society.

While the study calls on warring parties to urgently provide civilian victims with adequate, effective, and prompt reparation, it finds that warring parties have failed to meet this obligation for nearly eight years. The UN Security Council has the authority to refer the situation in Yemen to the International Criminal Court and to establish an international reparations mechanism for Yemen. The study calls on the UN Security Council to urgently exercise this authority. Because the UN Security Council has, so far, abysmally failed to take appropriate action to ensure accountability for grave international law violations in Yemen, the study also calls on the UN Human Rights Council or the UN General Assembly to take immediate steps to facilitate accountability for Yemen, including by calling on warring parties to meet their reparations obligations to civilians in Yemen and by creating an international criminally focused investigative mechanism for Yemen. The study calls on all States to support efforts towards reparative justice in Yemen and on global civil society to support the calls in this report.

The report is not intended to be a last word on the subject of reparations. It is intended to open and facilitate a wider conversation on what just and credible reparations to civilians in Yemen, like Mohammed, Ifa, Noria, Belques and Salma, might look like. It is a call for justice for the millions of civilian lives lost, ruined and disrupted by nearly a decade of war in Yemen. The costs of war should not fall on those who do not participate in conflict.



Houses destroyed during clashes in 2015 between the Ansar Allah (Houthi) armed group and the Saudi/UAE-led coalition in Al-Qatea' neighborhood, Crater District, Aden Governorate.



The aftermath of a Saudi/UAE-led coalition airstrike on a civilian house in Rubi Mountain, Ibb Governorate on February 28, 2015.



Recommendations

To all parties to the conflict in Yemen

- Cease hostilities with a view to ensuring a durable and inclusive peace.
- Immediately cease all violations and abuses of international humanitarian law (IHL) and international human rights law (IHRL).
- Conduct a full review of the impact of your forces' conduct in Yemen, including an examination of the lawfulness and civilian impact of each incident credibly alleged to involve civilian harm since the conflict began.
- Robustly investigate all credible reports and allegations of violations by your forces in Yemen and publicly disclose the results. Carefully consider external sources, including reports by civil society, witnesses, family members and survivors. Acknowledge each violation, recognize responsibility, and apologize to survivors and victims' families.
- Urgently provide civilian victims with credible remedies for violations of IHL and IHRL, including adequate, effective, and prompt reparation for harm suffered and access to relevant information concerning violations and reparation mechanisms.
- Cooperate with investigations, including those conducted by the UN, relevant UN special procedures mandate holders and civil society, into allegations of unlawful conduct in Yemen.

To the internationally recognized government of Yemen

- Take immediate steps to provide adequate, effective, and prompt reparation to civilians harmed as a result of the internationally recognized government's international wrongs and take immediate steps to ensure the right to reparation for all civilians in Yemen.
- Conduct an immediate and full review of the currently available processes for providing condolence payments to civilian victims of Saudi/UAE-led Coalition airstrikes, including monetary assistance, and ensure these processes include measures to prevent corruption and protect against retaliation.

- Raise specific cases of civilian harm with Saudi/UAE-led Coalition States and advocate for accountability and prompt and meaningful reparations, including compensation, rehabilitation and other forms of reparation, to civilians harmed as a result of unlawful Coalition attacks, as well as condolence payments and other assistance for civilians harmed, regardless of an attack's lawfulness.
- Ensure that reparations measures are in line with international standards, victim-centered, inclusive and accessible to all civilian victims, based on transparent policies and procedures, include guarantees to prevent corruption and protect against retaliation, and are full and effective, including restitution, compensation, rehabilitation, satisfaction, or guarantees of non-repetition, or a combination thereof, depending on the harm and needs of victims.
- Prosecute and impose disciplinary actions and other penalties as appropriate where Yemen nationals or individuals in Yemen's territory have been credibly implicated in international crimes. Support, cooperate fully with, and contribute to international accountability efforts, including investigations undertaken in pursuit of universal jurisdiction cases. Ratify the Rome Statute of the International Criminal Court (ICC) without delay.
- Support efforts towards credible transitional justice, including during the peace process and encompassing support of processes for seeking truth, searching for the disappeared, and memorializing victims.
- Extend an invitation to relevant UN entities, including the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, to visit Yemen, and cooperate with these entities.

To Saudi Arabia, the United Arab Emirates, and other Coalition States

- Take immediate steps to provide adequate, effective, and prompt reparations to civilians harmed as a result of Coalition States' international wrongs in Yemen.
- Conduct an immediate and full review of the currently available processes for providing condolence payments to civilian victims of Saudi/UAE-led Coalition airstrikes and ensure these processes include measures to prevent corruption and protect against

retaliation.

- Implement an effective and accessible process for survivors, family members and civil society to submit claims, information and evidence regarding civilian harm in Yemen. Provide clear, accessible and up-to-date information regarding how to submit a claim and information on any alleged violations found, any investigations and prosecutions undertaken, and any assistance or remedies provided. Ensure appropriate resources, including staff, are dedicated to these efforts.
- In statements regarding Saudi/UAE-led Coalition attacks, including those issued by JIAT, include the number of civilians killed, wounded, and otherwise harmed, broken down by location, date, age, and gender, as well as information on any damage caused to civilian objects.
- Ensure that reparations measures are in line with international standards, victim-centered, inclusive and accessible to all civilian victims, based on transparent policies and procedures, include guarantees to prevent corruption and protect against retaliation, and are full and effective, including restitution, compensation, rehabilitation, satisfaction, or guarantees of non-repetition, or a combination thereof, depending on the harm and needs of victims.
- Prosecute and impose disciplinary actions and other penalties in cases where nationals of Coalition States or individuals in Coalition States have been credibly implicated in international crimes. Support, cooperate fully with, and contribute to international accountability efforts, including investigations undertaken in pursuit of universal jurisdiction cases. For Saudi Arabia, the UAE and other Coalition States not already members of the ICC, ratify the Rome Statute without delay.
- Extend an invitation to relevant UN entities, including the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, and cooperate with these entities.

To the Ansar Allah (Houthi) Armed Group

- Take immediate steps to provide adequate, effective, and prompt reparations to civilians harmed as a result of Ansar Allah's international wrongs in Yemen.
- Conduct an immediate and full review of the currently available processes for

investigating and providing assistance to civilian victims of Ansar Allah violations and ensure these processes include guarantees to prevent corruption and protect against retaliation.

- Ensure that reparations measures are in line with international standards, victim-centered, inclusive and accessible to all civilian victims, based on transparent policies and procedures, include guarantees to prevent corruption and protect against retaliation, and are full and effective, including restitution, compensation, rehabilitation, satisfaction, or guarantees of non-repetition, or a combination thereof, depending on the harm and needs of victims.
- Support, cooperate fully with, and contribute to international accountability efforts, including investigations undertaken in pursuit of universal jurisdiction cases.

To the United Nations Security Council

- Establish an international reparations mechanism for Yemen that is designed to ensure reparation to civilian victims of serious IHL violations and gross IHRL violations in Yemen in line with international standards.
- Refer the situation in Yemen to the ICC to conduct a full investigation into alleged international crimes committed in Yemen.
- Call for independent, impartial, full, prompt, and effective investigations, pursuant to international standards, into all alleged violations and abuses of IHL and IHRL in Yemen.
- Include accountability language in all UN Security Council resolutions, statements and other relevant outputs on Yemen, including calling on all parties to the conflict in Yemen to provide full reparation to civilian victims of the serious IHL violations and gross IHRL violations for which these warring parties are responsible.
- Include in the agenda of the monthly meeting on Yemen a focused discussion on accountability for IHL and IHRL violations, including exploring mechanisms to secure justice and redress, including reparation, for civilian victims. Include relevant Yemeni stakeholders in the discussions, inviting representatives of civil society, human rights groups, and civilian victim groups.

To the UN Human Rights Council or the UN General Assembly

- Create an international criminally-focused investigative mechanism with a mandate to collect, consolidate, preserve and analyze evidence, and to prepare case files in order to facilitate and expedite fair and independent legal proceedings, in accordance with international standards.
- Include accountability language in all resolutions, statements and other relevant outputs on Yemen, including calling on all parties to the conflict in Yemen to provide full reparation to civilian victims of the serious IHL violations and gross IHRL violations for which these warring parties are responsible and naming warring parties that have yet to fulfill their reparation obligations to civilians in Yemen.

To all UN Member States

- Prioritize questions and recommendations relating to accountability, including reparations, during the upcoming Universal Periodic Review process on Yemen.
- Support efforts towards international criminal accountability in Yemen, particularly through supporting the establishment of an international criminally-focused investigative mechanism with a mandate to collect, consolidate, preserve and analyze evidence, and to prepare case files in order to facilitate and expedite fair and independent legal proceedings, in accordance with international standards.
- Support efforts towards reparative justice in Yemen, including supporting: (i) research into reparations-focused steps that UN bodies, States and others can take to ensure warring parties meet their obligations to provide reparations to civilians in Yemen and that the right of civilians in Yemen to reparation is realized; (ii) studies to further define possible modalities of reparations, including the necessary functions and powers for an international reparations mechanism for Yemen; (iii) mappings of civilian harm in Yemen at the individual and community level; and (iv) consultations with civilian victims, community groups, and civil society to define the needs of affected communities and ensure reparations are victim-centered.

- Conduct independent, impartial, full, prompt, and effective investigations into alleged international crimes in Yemen, and hold the perpetrators accountable, including through the exercise of universal or other forms of jurisdiction.
- Support the integration of human rights into peace negotiations for Yemen, including supporting processes towards effective transitional justice and rejecting steps that would undermine respect for human rights, accountability and redress, such as blanket amnesties for international crimes.
- Immediately cease activities perpetuating the conflict and potentially contributing to violations, including ceasing arms sales, transfers and related support to the warring parties.

To the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence

- Issue a statement, independently or jointly with other Special Rapporteurs, highlighting the right to reparations in Yemen and urging all warring parties, including Saudi Arabia, the UAE, the internationally recognized government of Yemen, and the Ansar Allah (Houthi) armed group, to provide reparations to civilian victims. Consider requesting to visit Yemen.

To the United Nations Security Council Panel of Experts

- Include reporting and recommendations on accountability in upcoming reports to the UN Security Council, including naming warring parties that have yet to fulfill their reparation obligations to civilians in Yemen and calling on the UN Security Council to take further steps to ensure credible accountability, including reparations, for Yemen.

To civil society

- Prioritize accountability, including reparations, during the upcoming Universal Periodic Review process on Yemen, including by coordinating submissions from relevant organizations and experts on the topic.
- Continue investigating, documenting, and publicly reporting on IHL and IHRL violations committed by all sides during the ongoing conflict in Yemen.
- Advocate for the establishment of an international criminally-focused investigative mechanism with a mandate to collect, consolidate, preserve and analyze evidence, and to prepare case files in order to facilitate and expedite fair and independent legal proceedings, in accordance with international standards.
- Advocate for the establishment of an international reparations mechanism for Yemen that is designed to ensure reparation to civilian victims of serious IHL violations and gross IHRL violations in Yemen.



The car destroyed by a Saudi/UAE-led coalition airstrike on September 20, 2016. The airstrike killed 12 children and three women in Al-Awlah valley Al-Matma district, Al-Jawf Governorate.



Methodology

“Returned to Zero”: The Case for Reparations to Civilians in Yemen was co-authored by Mwatana for Human Rights and the Allard K. Lowenstein International Human Rights Clinic at Yale Law School.



Mwatana
for Human Rights

Mwatana for Human Rights (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 publishing reports on violations and abuses by the Ansar Allah (Houthi) armed group, members of the Saudi/UAE-led Coalition, the internationally recognized government of Yemen, the UAE-backed Southern Transitional Council (STC), the UAE-backed Joint Forces, the United States, and others.

**Lowenstein International
Human Rights Clinic
Yale Law School**

The Allard K. Lowenstein International Human Rights Clinic (Lowenstein Clinic) is a Yale Law School course that gives students firsthand experience in human rights advocacy under the supervision of international human rights lawyers. The Lowenstein Clinic undertakes a wide variety of litigation and research projects on behalf of human rights organizations and individual victims of human rights abuse. Recent work has included involvement in human rights litigation in U.S. courts; preparing amicus briefs on international and comparative law for U.S., foreign, and international fora; advocacy before international and regional human rights bodies; and investigating and drafting reports on human rights situations.

This report analyzes the international obligations of key warring parties in the Yemen conflict—namely the internationally recognized government of Yemen, State members of the Saudi/UAE-led Coalition, and the Ansar Allah (Houthi) armed group—to provide reparations for international wrongs for which they have been responsible during the ongoing armed conflict and the right of individual civilians to receive these reparations.¹ The report examines the most significant ad hoc mechanisms that these warring parties have established to investigate and respond to civilian harm caused by their forces since the conflict began,² and compares existing warring party responses against international standards for reparations to civilian victims. Using case studies, the report demonstrates some of the harms civilians in Yemen have faced as a result of violations by the internationally recognized government of Yemen, State members of the Saudi/UAE-led Coalition, and the Ansar Allah (Houthi) armed group and the inadequacy of warring party responses to date.

For this report, Mwatana actively sought information on any reparations-related steps taken by warring parties in Yemen, including by examining public statements and other documents produced by the warring parties and examining statements and reports produced by redress-related bodies set-up by the internationally recognized government of Yemen and State members of the Saudi/UAE-led Coalition. Mwatana also wrote to warring parties directly. In its letters, which are annexed to this report, Mwatana asked for information on any reparations-related steps so far taken by Saudi Arabia, the UAE, the internationally recognized government of Yemen, the STC, and Ansar Allah. As of publication, Mwatana had not received any response from any of these warring parties.

For this report, Mwatana conducted 81 reparations-focused interviews between May 2020 and January 2022 with victims, family members of victims, lawyers working on cases involving IHL and IHRL violations, and others. Interviewees were asked questions about the incident that caused the harm; the harms suffered; whether they knew about any reparation mechanisms; if any assistance or reparations were provided;

1 The report does not thoroughly analyze the reparations obligations of all actors responsible for international wrongs in Yemen, such as other non-State armed groups (like the Southern Transition Council), other States conducting attacks in Yemen (such as the United States), or States that aid and assist the primary belligerents (for example, by providing arms). Where responsible for international wrongs, these actors have reparations obligations to civilians of Yemen.

2 The report does not consider potential domestic or international judicial pathways for reparation claims, given the current state of the Yemeni judicial system, the lack of access for the vast majority of Yemeni civilians to courts abroad, and the challenges to bringing reparation claims against States, including immunity doctrines, and against non-State armed groups. This could be an area for further study.

how assistance or reparations were provided (where applicable); what assistance or reparations were provided (where applicable); and what accountability meant to them. All interviews were conducted in Arabic. No financial or other incentives were offered to the interviewees for speaking with researchers.

As part of its effort to identify and understand any reparations-related steps so far taken by the warring parties, Mwatana focused the interviews for this report on those that had either been promised some form of assistance or redress by the warring parties or that had sought some form of assistance or redress from the warring parties.

For the Coalition and internationally recognized government, Mwatana focused its interviews on civilians that had been harmed in attacks for which the Coalition's investigative body, JIAT, had specifically and publicly recommended the Coalition provide some sort of assistance. Mwatana interviewed 49 such civilians; these civilians were harmed in 20 different airstrikes in which JIAT publicly recommended some form of assistance. In four of these 20 airstrikes, the Coalition and internationally recognized government also specifically and publicly claimed to have provided condolence payments to civilian victims. At the time the research was conducted, JIAT had only recommended the Coalition provide assistance to civilian victims of airstrikes and the Coalition and internationally recognized government had only claimed to provide condolence payments to victims of airstrikes. As such, the case studies in this report about Coalition and internationally recognized government violations primarily relate to airstrikes.

For Ansar Allah, Mwatana focused its interviews on civilians and lawyers that had interacted with Ansar Allah's redress-related bodies. In 2020 and 2021, Mwatana interviewed eight lawyers in Sanaa, Hajjah, Taiz, Ibb, Al Hudaydah, Al Mahwit, and Al Bayda governorates that had interacted with Ansar Allah's redress-related bodies and eight civilians that had petitioned the bodies for redress. All 16 had sought assistance or redress in cases relating to arbitrary and abusive detentions. Mwatana also conducted interviews with civilians harmed in one of the only incidents in which Ansar Allah specifically and publicly promised to provide some form of redress—namely the fire Ansar Allah caused in an overcrowded migrant detention facility in Sana'a in 2021. Mwatana conducted five follow-up interviews with civilians harmed in the detention facility fire on the question of reparations in 2021. While Mwatana conducted 11 further reparations-related interviews in 2021—with six people affected by Ansar Allah landmine explosions and five people affected by Ansar Allah ground shelling attacks

—all of those interviewed said they had received no redress from Ansar Allah, had not interacted with any redress bodies, and were unaware of any fora or process through which to bring claims. Given the above, the case studies in this report about Ansar Allah violations primarily relate to detention-related abuse.

As documented and reported on by Mwatana and many other rights groups and UN experts, Coalition airstrikes and Ansar Allah detention-related abuse are far from the only types of warring party conduct that have resulted in serious international humanitarian law (IHL) violations and gross international human rights law (IHRL) violations during the conflict in Yemen. Mwatana included two additional case studies from its previous reporting—on Coalition detention-related abuse and Ansar Allah landmine use—as an example of other forms of warring party violations that have caused significant civilian harm in Yemen and for which reparations are owed. The report also provides a snapshot (but not a comprehensive depiction) of a range of serious IHL and gross IHRL violations committed by the internationally recognized government of Yemen, State members of the Saudi/UAE-led Coalition, and the Ansar Allah (Houthi) armed group since the conflict began.

The Lowenstein Clinic researched reparations in international law, including under IHRL and IHL. The Lowenstein Clinic focused in particular on developments in international law regarding the right of individuals harmed as a result of war-time wrongs to receive reparations, the obligations of State and non-State armed groups to provide reparations, and questions relating to attribution for international wrongs.

The Lowenstein Clinic drafted the report and used its legal research to inform its analysis of the warring parties' civilian harm responses in Yemen, based on Mwatana's investigations. The Lowenstein Clinic also reviewed other reporting on IHL and IHRL violations during the conflict, including that produced by the UN Group of Eminent Experts (GEE), the UN Security Council Panel of Experts (PoE), Human Rights Watch, and Amnesty International, and assisted in drafting the letters to the warring parties.

The report's description of the Coalition and the internationally recognized government's condolence payments was significantly bolstered by a years-long analysis of public statements made by the Coalition's investigative mechanism, JIAT, by one of the report's authors, as well as an analysis of a set of internal government documents relating to the condolence payments shared with the author.

Due to significant safety and security risks, this report uses pseudonyms in most of the case studies, anonymizes interviewees and, at times, does not identify sources. All relevant documents are on file with the report's authors. During research for this report, Mwatana documented cases of retaliation by Ansar Allah against persons who accepted condolence payments, that petitioned Ansar Allah for redress, and that spoke out against the group. Coalition-backed groups have also retaliated against perceived opponents, including those that have criticized Coalition States.

The report's findings and recommendations are informed by information collected by Mwatana researchers in Yemen between 2015 and 2022 as part of a wider effort to document violations of IHL and IHRL during the ongoing conflict. Mwatana has interviewed thousands of civilian victims of abuse by State members of the Saudi/UAE-led Coalition, the internationally recognized government of Yemen, the Ansar Allah (Houthi) armed group, and other warring parties. Mwatana's researchers use rigorous and peer-reviewed methods to investigate alleged incidents. They visit attack sites; interview survivors, family members, and witnesses; photograph weapons remnants after attacks; and collect physical, documentary, and photographic evidence. Every case documented by Mwatana field researchers is reviewed and cross-checked by Mwatana's central research team. Mwatana's central research team also conducts periodic field visits to different governorates to further investigate particular cases. Mwatana chooses cases to investigate based on the existence of civilian harm and regardless of the party that conducted the attack.

This report would not have been possible without the courage and trust of all of those who spoke with, offered their time to, and shared information with the report's authors. Mwatana and the Lowenstein Clinic extend particular gratitude to the civilian victims of international law violations who have sought and who continue to seek reparations for the wrongs done to them.



The conflict in Yemen

Yemen's most recent armed conflict began in 2014. On September 21, 2014, the Ansar Allah (Houthi) armed group took control of the capital, Sana'a, by force. Houthi forces aligned themselves with former long-time president Ali Abdullah Saleh, who had been ousted from power after widespread popular uprisings across Yemen in 2011. By the end of 2014, Houthi-Saleh forces controlled most of Sana'a Governorate.³

In early 2015, the Houthi-Saleh alliance placed President Abdrabbuh Mansur Hadi under house arrest, announced a "constitutional declaration," and dissolved parliament.⁴ President Hadi fled to Yemen's southern port city of Aden, which he declared the country's temporary capital. Houthi-Saleh forces advanced south and took over large swathes of territory, eventually entering Aden. President Hadi fled to Riyadh, Saudi Arabia.

On March 26, 2015, a Coalition of nine States led by Saudi Arabia and the United Arab Emirates (UAE)⁵ intervened in the conflict in support of the internationally recognized government of Yemen against the Houthi-Saleh forces.⁶ Since that time, the Saudi/UAE-led Coalition has operated in Yemen with the Government's consent, and Yemen's military and armed forces have actively participated in Saudi/UAE-led Coalition operations, including by providing intelligence to identify targets for airstrikes. The Coalition's investigative mechanism, the Joint Incidents Assessment Team (JIAT), has frequently pointed to the role of Yemeni intelligence in airstrikes with high civilian tolls (but notably failed to mention the role of other Coalition members, such as Saudi Arabia

3 See, e.g. Peter Salisbury, "Yemen: Stemming the Rise of a Chaos State," Chatham House (May 2016), <https://www.chathamhouse.org/sites/default/files/publications/research/2016-05-25-yemen-stemming-rise-of-chaos-state-salisbury.pdf>.

4 "Yemen: Constitutional Declaration by the Houthis, February 2015," Al-Bab (February 6, 2015), <https://al-bab.com/yemen-constitutional-declaration-houthis-february-2015>.

5 The UN Group of Eminent Experts (UNGEE) noted in its 2020 report: "Among the main military developments, the second half of 2019 saw the United Arab Emirates withdraw most of its ground troops, leaving a minimal presence in Mukha, Aden, Balhaf, Mukalla and Socotra. The United Arab Emirates has, however, continued its air operations, and some 90,000 United Arab Emirates-backed Yemeni fighters remain on the ground in Yemen." UNGEE, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/45/6, September 28, 2020, para. 17, <https://www.ohchr.org/Documents/HRBodies/HRCouncil/GEE-Yemen/2020-09-09-report.pdf> ("UNGEE 2020 Report").

6 The Coalition operates with very little transparency. In addition to Saudi Arabia and the UAE, Coalition members initially included Bahrain, Egypt, Jordan, Kuwait, Qatar, Morocco, Senegal, and Sudan, but the States making up the Coalition have changed since the conflict began. For example, Qatar and Morocco left the Coalition in 2017 and 2019, respectively. UNGEE, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/45/CRP.7, September 29, 2020, Annex 1.A, para. 1, <https://www.ohchr.org/Documents/HRBodies/HRCouncil/GEE-Yemen/A-HRC-45-CRP.7-en.pdf> ("UNGEE 2020 Detailed Findings").

and the UAE, in attacks).⁷

Yemen's war is multi-faceted and has involved an increasing number of actors in distinct but related armed conflicts. As the conflict(s) have continued, alliances have both formed and fractured. In 2015, Ansar Allah formed a governing council with members of former president Saleh's political party. That alliance ended in December 2017 when fighting broke out between Ansar Allah and Saleh forces and Ansar Allah forces killed former president Saleh. On the Saudi/UAE-led Coalition side, the UAE has supported groups that have clashed with the internationally recognized government of Yemen, most notably the Southern Transitional Council (STC). The internationally recognized government and the STC signed an agreement in Riyadh in 2019, but tensions remain high.⁸

Throughout the conflict, other armed actors have taken advantage of the ongoing insecurity and caused civilian harm. Al-Qaeda in the Arabian Peninsula (AQAP) has controlled territory and claimed attacks at various points throughout the conflict, as have other armed actors.⁹ The US has carried out drone strikes and ground raids purportedly targeting AQAP and the Islamic State in Yemen, which have resulted in dozens of civilian deaths and injuries.¹⁰

7 Kristine Beckerle, "Hiding Behind the Coalition: Failure to Credibly Investigate and Provide Redress for Unlawful Attacks in Yemen," Human Rights Watch (August 24, 2018), <https://www.hrw.org/report/2018/08/24/hiding-behind-Coalition/failure-credibly-investigate-and-provide-redress-unlawful> ("Hiding Behind the Coalition").

8 Susanne Dahlgren, "The Southern Transitional Council and the War in Yemen," Middle East Research and Information Project (April 26, 2018), <https://merip.org/2018/04/the-southern-transitional-council-and-the-war-in-yemen/>. In April 2017, Yemeni separatist forces formed the Southern Transitional Council, led by Aydarus al-Zubaydi and Hani Bin Brik. Although they signed a power-sharing deal with the Hadi Government in November 2019 (the Riyadh Agreement), in April 2020 the Southern Transitional Council declared self-administration over regions they controlled. Peter Salisbury, "Yemen's Southern Transitional Council: A Delicate Balancing Act," Crisis Group (March 31, 2021), <https://www.crisisgroup.org/middle-east-north-africa/gulf-and-arabian-peninsula/yemen/yemens-southern-transitional-council-delicate-balancing-act>; UN Security Council, Letter dated 22 January 2021 from the Panel of Experts on Yemen addressed to the President of the UN Security Council, S/2021/79, January 25, 2021, paras. 39-42, 132, <https://undocs.org/en/S/2021/79> ("UNSC PoE 2021 Report").

9 See, e.g. "Yemen's Al-Qaeda: Expanding the base," Crisis Group (February 2, 2017), <https://www.crisisgroup.org/middle-east-north-africa/gulf-and-arabian-peninsula/yemen/174-yemen-s-al-qaeda-expanding-base>; Elisabeth Kendall, "ISIS in Yemen: Caught in a Regional Power Game," Newline Institute for Strategy and Policy (July 21, 2020), <https://newlinesinstitute.org/isis/isis-in-yemen-caught-in-a-regional-power-game-2/>.

10 "Death Falling from the Sky: Civilian Harm from the United States' Use of Lethal Force in Yemen, January 2017 – January 2019," Mwatana for Human Rights (March 2021), p. 8, <https://mwatana.org/wp-content/uploads/2021/03/Death-Falling-from-the-Sky-22.pdf> ("Death Falling from the Sky").

There have been multiple attempts at peace talks, truces, and ceasefires in Yemen since the conflict began. UN-brokered peace talks in 2016 in Kuwait led to little consensus and ultimately broke down.¹¹ Talks in Stockholm in 2018 resulted in agreements regarding prisoner exchanges and humanitarian corridors for Taiz and Al Hudaydah governorates, including access to Al Hudaydah port, a key entry point for food imports and aid deliveries. Warring parties did not abide by the agreements and the conflict continued, as did violations and abuses of international human rights law (IHRL) and international humanitarian law (IHL).¹²

In 2020, proposals for peace and ceasefires were unilaterally announced,¹³ but, according to the UN Office for the Coordination of Humanitarian Affairs (OCHA), rather than a reduction in hostilities, the number of front lines increased. By the end of October 2020, there were “47 front lines, up from 33 in January 2020.”¹⁴ By 2021, the conflict was “escalating,”¹⁵ particularly after Ansar Allah intensified its attacks on Marib Governorate.

Fighting in Marib, which is home to the largest number of internally displaced persons in Yemen, posed significant humanitarian concerns and exacerbated displacement.¹⁶ The fighting spread, with violence particularly fierce in Marib, Shabwa, Al- Hudaydah, Al Bayda, and Taiz Governorates.¹⁷

11 Yemen peace talks in Kuwait stall over differences,” Al Jazeera (April 24, 2016), <https://www.aljazeera.com/news/2016/04/yemen-peace-talks-kuwait-hit-impasse-160424142733651.html>; Omar Munassar, “Yemen’s Stockholm Agreement: One Step Forward, One Step Back?” LSE Middle East Centre Blog (April 15, 2019), <https://blogs.lse.ac.uk/mec/2019/04/15/yemens-stockholm-agreement-one-step-forward-one-step-back>.

12 “Three years since the Stockholm agreement, civilians are still under fire in Yemen,” Joint INGO Statement (December 13, 2021), <https://reliefweb.int/report/yemen/three-years-stockholm-agreement-civilians-are-still-under-fire-yemen>.

13 “Yemen Conflict: Saudi Arabia puts forward peace plan,” BBC (March 22, 2021), <https://www.bbc.co.uk/news/world-middle-east-56491503>.

14 “Global Humanitarian Overview 2021,” UN Office for the Coordination of Humanitarian Affairs (OCHA) (December 10, 2020), 111, <https://www.unocha.org/global-humanitarian-overview-2021>.

15 “Yemen Situation Report,” OCHA, <https://reports.unocha.org/en/country/yemen>; “Humanitarian Update: Yemen Humanitarian Response Plan aims to avert famine, prevent disease outbreaks and protect civilians,” OCHA (March 2021), 2, https://reliefweb.int/sites/reliefweb.int/files/resources/Yemen_Humanitarian_Update_2021_No_3.pdf.

16 “Yemen: UN rights office calls for de-escalation in Marib governorate,” UN News (February 19, 2021), <https://news.un.org/en/story/2021/02/1085232>.

17 For a review of the conflict in 2021, see “A New Year Added to the Age of Bloody Conflict,” Press Briefing on the Situation of Human Rights in Yemen, 2021,” Mwatana for Human Rights (January 2022) (“Mwatana 2021 Report”).

At the end of 2021, states at the UN Human Rights Council, following intensive lobbying by Saudi Arabia and the UAE, voted to disband the UN Group of Eminent Experts, which had been investigating and reporting on IHL and IHRL violations by all warring parties in Yemen since 2017. In the beginning of 2022, the conflict escalated once again. Over 650 civilian casualties were documented in January alone, an average of 21 per day—the highest number in years. A Coalition airstrike on a detention center killed or injured at least 244 detainees, making it one of the worst single attacks in years.¹⁸

In Riyadh, on April 7, 2022, President Hadi ceded his executive power to a new, seven-member presidential council that includes prominent figures from multiple military and political groups, including the STC, and is led by Rashad al-Alimi. Hadi also relieved Ali Mohsen al-Ahmar from his duties as vice president.¹⁹

In April 2022, Ansar Allah and the internationally recognized government of Yemen agreed to a two-month truce, endorsed by the Saudi/UAE-led Coalition, at the start of the month of Ramadan. In June 2022, Ansar Allah and the internationally recognized government of Yemen agreed to extend the truce for another two months. During the truce, there was a significant reduction in violence and civilian casualties and the resumption of international commercial flights from Sana'a for the first time since the Coalition shuttered the airport in 2016. At the time of writing, the warring parties had yet to take other promised steps, including Ansar Allah re-opening roads under its control in and around Taiz Governorate.²⁰

18 "Sharp escalation in fighting across Yemen risks spiraling out of control," UN News (February 15, 2022), <https://news.un.org/en/story/2022/02/1112042>; "Yemen: Latest Round of Saudi-UAE-Led Attacks Targets Civilians," Mwatana for Human Rights and Human Rights Watch (April 18, 2022), <https://mwatana.org/en/latest-round/>.

19 Peter Salisbury, "Behind the Yemen Truce and Presidential Council Announcements," Crisis Group (April 8, 2022), <https://www.crisisgroup.org/middle-east-north-africa/gulf-and-arabian-peninsula/yemen/behind-yemen-truce-and-presidential-council-announcements>.

20 "Statement by the Secretary-General on extension of nationwide truce in Yemen," OSESGY news, (June 2, 2022), <https://osesgy.unmissions.org/statement-secretary-general-extension-nationwide-truce-yemen>.

NORIA AND HUSSEIN



Justice on
the ground
we don't find
and we lost
our hope in
it. I wait only
for justice in
the sky.



In September 2015, the Saudi/UAE-led Coalition bombed a residential house in the capital Sana'a, Yemen. The strike destroyed the house, destroyed another nearby house, and damaged a third house under construction. About ten minutes later, the Coalition bombed the same neighborhood again, hitting a nearby building where two families lived. The airstrike killed 19 civilians, including ten children and two women. It wounded eight civilians, including three children and two women. A high-ranking Ansar Allah-affiliated member of the Yemeni army lived nearby. His house was not hit.

Two years later, the Coalition's investigative body, the Joint Incident Assessment Team (JIAT), said the Coalition had targeted the house of a Houthi leader, but—due to a technical fault— hit the home. JIAT found the Coalition acted with "soundness," but recommended the Coalition provide "appropriate humanitarian assistance" for the "unintended error."

55-year-old "Noria" (a pseudonym) said that before the airstrike she and her family were in a financially comfortable position. Noria was a housewife. Her husband provided for the family. The airstrike killed him, four of her sons, her daughter-in-law, and her grandson. Her two children were traumatized. Noria was wounded in the strike and still requires treatment. The airstrike

also destroyed her home. After, people stole some of her remaining belongings from amongst the debris. Noria said, “Nothing was left for us except the clothes that we were wearing.”

After the airstrike, Noria did things she never imagined she would do, she told Mwatana. She asked for charity. She rented a house and was able to furnish it through the help of “good people.” Later, she was evicted because she was unable to pay rent. She sold some of her daughter-in-law’s gold to try and rebuild her destroyed home. Although the house was still missing windows and doors, she moved back in. She said, “I am tired of being evicted by people because I can’t pay rent.”

Noria’s family did not receive any assistance or reparations from the Coalition or the internationally recognized government of Yemen. Asked about justice, Noria said she wanted to see the leaders of the warring parties prosecuted for the blood they had spilled, including that of her children and her husband, and for what they had done to Yemen. She said Saudi Arabia should provide her with compensation, as they were responsible for the airstrike. She suggested a committee be established to look at the different types of harm that the airstrike caused to determine the amount of compensation.

The same airstrike that destroyed Noria’s home and killed seven of her relatives also killed the father and brother of “Hussein” (a pseudonym), a 30-year-old agricultural worker, wounded two of his family members, and destroyed his home. Hussein shared his father and brother’s death certificates with Mwatana. All of the family’s property, including two taxis they relied on for an income, was also destroyed.

“We lost everything we owned in that airstrike, we had no food or a house or furniture left or anything.” Hussein said he sought aid from a humanitarian organization, but they told him they did not have the funds to help him.

The surviving members of the family traveled out of Sana’a to live with a relative and “depended on their charity” for a year, Hussein said. By 2021, his wounded family members had recovered physically, but still suffered psychologically.

Hussein, who became responsible for the family after his father and brother were killed in the airstrike, returned to Sana'a to find work. Little by little, he gathered money, rented a house, and was able to move his family back to the city. When asked about justice, Hussein said, "Justice on the ground we don't find and we lost our hope in it. I wait only for justice in the sky."

Hussein went on to say that compensation was important to him. If "there was something financial of course we don't refuse it, [but] as for what happened, khallas (it is over)." In his opinion, those who caused the damage were responsible for providing compensation.

Despite a recommendation by the Coalition's own investigative body that the Coalition provide assistance to civilian victims harmed by the airstrike, Mwatana did not identify any civilian victims harmed in the attack who received any form of assistance—monetary or otherwise—from Coalition States or the internationally recognized government.



Destroyed houses in a small village in Al Maslub District, Al Jawf Governorate after the Saudi/UAE-led coalition attacked the village on February 14, 2020.

IFA



They don't
treat us as
humans,
all of them.
That is why
we don't
expect
reparations
from them.



When people rushed to the door, those who were strong enough were able to make it. Those who were sick and weak were stepped over. It was a fight for survival. No one remembered anything other than saving his own life. I thought that was the last day of my life, but thanks God, I managed, but sadly many others couldn't.

I didn't know that the life of a human being would be so cheap and worthless.

On March 7, 2021, members of Ansar Allah started a deadly fire in an overcrowded detention facility.²¹ Ansar Allah had been detaining hundreds of African migrants, mostly Ethiopians, at the Immigration, Passport and Naturalization Authority's Holding Facility in Sana'a. The fire caused the death and injury of scores of people.

A few days before the fire, a large number of migrants held in the facility began a hunger strike. They were protesting their ill-treatment, their arbitrary detention, and the terrible conditions at the facility. When Ansar Allah's Anti-Riot police arrived at the facility, they launched several projectiles at a hangar-like building that was holding hundreds of people. One of the projectiles started the fire. According to the UNGEE, at least 46 adult migrant men were killed and more than 202 others injured. One survivor told the UNGEE:

21 For more, see: "Ansar Allah (Houthi) Group Causes Death and Injury of Scores of African Migrants in Sana'a," Mwatana for Human Rights (March 9, 2021), <https://mwatana.org/en/ansar-allah-death-migrants/>; UNGEE, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/48/20 (10 September 2021), <https://www.ohchr.org/Documents/HRBodies/HRCouncil/GEE-Yemen/A-HRC-48-20-AUV.pdf> ("UNGEE 2021 Report"), at para. 51; "Yemen: Scores Die in Migrant Detention Center Fire," Human Rights Watch (March 16, 2021), <https://www.hrw.org/news/2021/03/16/yemen-scores-die-migrant-detention-center-fire>.

Three days after the fire, Ansar Allah said they were investigating the incident. Ten days later, on March 20, 2021, the Ansar Allah-controlled Ministry of Interior issued a statement claiming Ansar Allah had ordered financial payments be provided to those wounded in the fire and the families of those killed.²²

Mwatana conducted nine interviews with people who were wounded in the fire, relatives of those harmed, and witnesses to the fire. Mwatana conducted five additional, reparations-focused interviews with victims and their relatives in 2021. None of the people that Mwatana interviewed in Sana'a or in Aden received any financial payments from Ansar Allah.

Instead, these people said, a few days after the fire, Ansar Allah attacked a group of migrants protesting about the fire in Sana'a. Ansar Allah also took some of the migrants in areas under their control to an area near Al-Habilain, a remote district in Lahj Governorate, and told them to walk to reach Aden.

Those wounded in the fire and their relatives told Mwatana that they were unaware of any way to file claims or seek redress from Ansar Allah. They said they had no hope that Ansar Allah or any Ansar Allah mechanism would provide credible assistance or justice.

Those who reached Aden told Mwatana that they had not received proper accommodations, nor had they received financial assistance from the internationally recognized government, Ansar Allah, or humanitarian agencies.

"Ifa" (a pseudonym) was wounded in the fire in Sana'a. He said, "They don't treat us as humans, all of them. That is why we don't expect reparations from them."

22 Ansar Allah also claimed to have detained members of the Anti-Riot Police and members of the Passports Authority and transferred them to "the relevant judicial authorities." See, e.g. "Ministry of Interior clarifies circumstances of the accident at the migrant shelter and the results of the investigation," Saba News, March 20, 2021, <https://www.saba.ye/ar/news3133252.htm>; Ansar Allah, "Refugee Affairs Committee reiterates Yemen's humanitarian approach to honoring and protecting its guests," March 10, 2020, <https://www.ansarollah.com/archives/417788>.



International law on reparations

International law applicable to the conflict in Yemen

International human rights law

International human rights law (IHRL) applies both in times of peace and in times of armed conflict. IHRL complements international humanitarian law (IHL) during periods of armed conflict.²³ The relationship between IHL and IHRL is complementary and one of mutual reinforcement, wherein both bodies of law share the underlying aim of protecting human dignity.²⁴

The International Court of Justice (ICJ) has repeatedly commented on the application of IHRL during times of conflict. *In Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons (Nuclear Weapons Opinion)*, the Court noted that human rights protections, such as those in the International Covenant of Civil and Political Rights (ICCPR), “[do] not cease in times of war.”²⁵ The Court also addressed “the issue of the relationship between international humanitarian law and human rights law” in *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied*

23 “International Legal Protection of Human Rights in Armed Conflict,” Office of the United Nations High Commissioner for Human Rights (OHCHR) (2011), https://www.ohchr.org/Documents/Publications/HR_in_armed_conflict.pdf; “Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons,” International Court of Justice (July 8, 1996), para. 25, <https://www.icj-cij.org/public/files/case-related/95/095-19960708-ADV-01-00-EN.pdf> (“Nuclear Weapons Opinion”). See also UN Human Rights Committee, General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (May 26, 2004), para. 11, <https://undocs.org/CCPR/C/21/Rev.1/Add.13> (“General Comment No 31”); “Advisory Opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,” International Court of Justice (July 9, 2004), paras. 111-114, 130, <https://www.icj-cij.org/public/files/case-related/131/131-20040709-ADV-01-00-EN.pdf> (“Wall Opinion”); “Case Concerning Armed Activities on the Territory of the Congo: Democratic Republic of Congo v. Uganda: Judgment,” International Court of Justice (December 19, 2005), para. 216, <https://www.icj-cij.org/public/files/case-related/116/116-20051219-JUD-01-00-EN.pdf>; UN Human Rights Committee, General Comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, 30 October 2018, para. 64, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf (“General Comment No. 36”).

24 See, e.g. *Prosecutor v. Anto Furundžija*, IT-95-17/1-T, Trial Judgement, 10 December 1998, para. 183.

25 *Nuclear Weapons Opinion*, supra note 30 at para. 25.

Palestinian Territory (Wall Opinion),²⁶ reiterating that its *Nuclear Weapons* Opinion “rejected [the] argument” that the ICCPR applies only during peacetime²⁷ and holding that “[m]ore generally, the Court considers that the protection offered by human rights conventions does not cease in case of armed conflict.”²⁸ In the *Wall* Opinion, the ICJ also found that States’ ICCPR responsibilities are “applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory.” In other words, States have IHRL duties even outside their territory when they exercise control to the point of jurisdiction. The ICJ repeated these findings in the 2005 *Case Concerning Armed Activities on the Territory of the Congo*.²⁹

Other bodies have also found that IHL and IHRL both apply in times of conflict. The UN Human Rights Committee has written that “both spheres of law are complementary, not mutually exclusive.”³⁰ The UN High Commissioner of Human Rights has said that both “international human rights law and international humanitarian law offer a series of protections to persons in armed conflict.”³¹ International and regional courts, as well as United Nations organs, treaty bodies and human rights special procedures, have recognized that both bodies of law provide complementary and mutually reinforcing protection in situations of armed conflict.³²

26 *Wall Opinion*, supra note 30 at para. 104, 130.

27 *Id.* at para. 105.

28 *Id.* at para. 106.

29 *Congo v. Uganda*, supra 30 at para. 216.

30 General Comment No. 36, supra 30 at para. 64. See also General Comment No. 31, supra 30 at para. 11; UN Human Rights Committee (HRC), UN Human Rights Council, General Comment No. 29: States of Emergency (Article 4), CCPR/C/21/Rev.1/Add.11, 31 August 2001, para. 3, <https://www.refworld.org/docid/453883fd1f.html>.

31 “International Legal Protection of Human Rights in Armed Conflict,” Office of the United Nations High Commissioner for Human Rights (OHCHR) (2011), 1, https://www.ohchr.org/Documents/Publications/HR_in_armed_conflict.pdf.

32 See generally, *id.* at 32–69.

International humanitarian law

The conflict in Yemen is a non-international armed conflict (NIAC),³³ e.g. "protracted armed violence between governmental authorities and organized armed groups or between such groups within a State."³⁴ The two threshold requirements for a NIAC—organization (of non-State armed groups, such as Ansar Allah and the Southern Transitional Council) and intensity (of the hostilities)—have been met.³⁵ Although the Saudi/UAE-led Coalition intervened in the conflict, the intervention occurred at the request of the internationally recognized government of Yemen. The Coalition's involvement, so long as it is fighting alongside the internationally recognized government, does not alter the classification of the conflict into an international armed conflict (IAC).³⁶

All parties to the NIAC in Yemen, including the internationally recognized government of Yemen, State members of the Saudi/UAE-led Coalition, and non-State armed groups such as Ansar Allah and the Southern Transitional Council, are bound by Common Article 3 of the four Geneva Conventions (CA 3). All States party to the conflict have ratified the Geneva Conventions.³⁷ The protections included in Common Article 3 are also considered customary IHL.³⁸

33 See, e.g. "Non-International Armed Conflicts in Yemen," Geneva Academy-RULAC (April 15, 2021), <https://www.rulac.org/browse/conflicts/non-international-armed-conflicts-in-yemen#collapse3accord>; Special Procedures Letter to Ansar Allah, October 6, 2020, 7 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25543>.

34 Prosecutor v. Dusko Tadić, IT-94-1-A, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 70. See also Geneva Conventions I-IV, Common Article 3.

35 Geneva Academy-RULAC, *supra* note 40. See also UN Security Council, Letter dated 20 February 2015 from the Panel of Experts on Yemen established pursuant to UN Security Council resolution 2140 (2014) addressed to the President of the UN Security Council, 20 February 2015, S/2015/125, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/008/25/PDF/N1500825.pdf?OpenElement> ("UNSC PoE 2015 Report").

36 ICRC Commentary to Geneva Convention I, *infra* note 58 at Article 2, para. 259; T. Ferraro, 'The applicability and application of international humanitarian law to multinational forces' [2013] 95 (891/892) *International Review of the Red Cross* 561, 584.

37 See generally, ICRC, *Treaties, States Parties and Commentaries: Geneva Conventions of 1949 and Additional Protocols*, and their Commentaries, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>.

38 Jean-Marie Henckaerts, Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law, 87 *Int. Rev. Red Cross* 175–212, 187 (2005). however, purport to provide a complete overview or analysis of these findings.", "author": [{"dropping-particle": "", "family": "Henckaerts", "given": "Jean-Marie", "non-dropping-particle": "", "parse-names": false, "suffix": ""}], "container-title": "International Review of the Red Cross", "id": "ITEM-1", "issue": "857", "issued": {"date-parts": [{"2005"}]}, "page": "175-212", "title": "Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law", "type": "article-journal", "volume": "87", "locator": "187", "uris": [{"http://www.mendeley.com/documents/?uuid=25d34fbe-6f0b-4cd7-9607-76c91b639dcc"}]}, "mendeley": {"formattedCitation": "Jean-Marie Henckaerts, <i>Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law</i>, 87 Int. Rev. Red Cross 175–212, 187 (2005)

In addition, Additional Protocol II to the Geneva Conventions (AP II), which has a more restrictive scope of application than CA 3,³⁹ applies to the conflict in Yemen. AP II applies where additional threshold requirements are met, namely where the conflict “takes place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.”⁴⁰ Yemen, the “territory” where the conflict takes place, has ratified AP II, making it the law for both State and non-State armed groups in its territory.⁴¹ Ansar Allah’s exercise of territorial control over a large part of Yemen enables them to carry out sustained military operations and implement IHL, meeting the threshold criteria for the applicability of AP II.⁴² AP II is said to “develop and supplement” CA 3 “without modifying its existing conditions of application,”⁴³ such that both apply concurrently. Much of AP II is also customary IHL.⁴⁴

Customary IHL applies to both States and non-State armed groups party to the non-international armed conflict(s) in Yemen.⁴⁵

39 Jelena Pejic, ‘The Protective Scope of Common Article 3: More Than Meets the Eye’ [2011] 93 (881) *International Review of the Red Cross and Red Crescent* 1, 2.

40 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, opened for signature 8 June 1977, 1125 U.N.T.S. 609, entered into force 7 December 1978 (AP II), Article 1(1) (“AP II”).

41 ICRC, State Parties to Additional Protocol II, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp_viewStates=XPages_NORMStatesParties&xp_treatySelected=475.

42 For a discussion of Ansar Allah’s territorial control, see UNGEE, “Situation of human rights in Yemen, including violations and abuses since September 2014,” UN Doc. A/HRC/39/43 (17 August 2018), para. 14, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/252/79/PDF/G1825279.pdf?OpenElement> (“UNGEE 2018 Report”).

43 AP II, *supra* note 47, at Article 1(1).

44 UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on armed non-state actors: the protection of the right to life, A/HRC/38/44, 7 December 2020, para. 25, <https://undocs.org/en/A/HRC/38/44> (“Special Rapporteur NSA Right to Life Report”).

45 A further analysis of the IHL and IHRL obligations of the internationally recognized government of Yemen, State members of the Saudi/UAE-led Coalition, and the Ansar Allah (Houthi) non-State armed group is provided in the *obligation to provide reparation* Section of this report.



Reparations for violations of international law

The obligation to provide reparation

Reparations are different from voluntarily-provided assistance; they stem from a legal obligation to redress an act that violates international law.⁴⁶ According to the Permanent Court of International Justice (PCIJ), two fundamental principles govern reparations under international law: First, any international wrong generates an obligation for the wrongdoer to make reparation.⁴⁷ Second, reparation must, insofar as possible, eradicate the consequences of the illegal act.⁴⁸

Both international humanitarian law and international human rights law strongly support the principle that violations of international law create an obligation to repair. IHL makes this obligation explicit in several key treaties. Art. 3 of the Hague Convention (IV) states that “[a] belligerent party which violates the provisions of the said Regulations shall... be liable to pay compensation.”⁴⁹ Each of the four Geneva Conventions contains

46 See also International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries 31, A/56/10, 2001, Article 31 (“Draft Articles on State Responsibility”) (“1. The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act. 2. Injury includes any damage, whether material or moral, caused by the internationally wrongful act of a State.”)

47 Factory at Chorzów (Germany v. Poland), Judgment, 1928 P.C.I.J. ser. A No. 17, at para. 73 (Sep. 13).

48 Id, at para. 124.

49 Convention No. IV Respecting the Laws and Customs of War on Land art. 3, Oct. 18, 1907, 36 Stat. 2227 (“Hague Convention IV”).

an article binding State parties to certain liability in the event of breach.⁵⁰ Under customary IHL, States must “make full reparation for the loss or injury caused” by their IHL violations in both international and non-international armed conflicts.⁵¹

IHRL instruments also enshrine this principle. The Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention for the Protection of All Persons from Enforced Disappearance (CED), and the Convention on the Rights of the Child (CRC) all enshrine the right of a victim of a violation to a remedy, which includes reparation.⁵² Regional human rights treaties similarly support an obligation to repair.⁵³

The PCIJ has asserted that the obligation to repair exists even where a treaty does not explicitly mention such an obligation. According to the Court, “it is a principle of international law, and even a general conception of law, that any breach of an engagement involves an obligation to make reparation... [R]eparation is the indispensable complement of a failure to apply a convention, and there is no necessity for this to be stated in the convention itself.”⁵⁴

50 Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field art. 51, Aug. 12, 1949, 75 U.N.T.S. 31 (“Geneva Convention I”); Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea art. 52, Aug. 12, 1949, 75 U.N.T.S. 85 (“Geneva Convention II”); Convention (III) Relative to the Treatment of Prisoners of War art. 131, Aug. 12, 1949, 75 U.N.T.S. 135 (“Geneva Convention III”); Convention (IV) Relative to the Protection of Civilian Persons in Time of War art. 148, Aug. 12, 1949, 75 U.N.T.S. 287 (“Geneva Convention IV”). In the context of international armed conflicts, Article 91 of Additional Protocol I states that “A Party to the conflict which violates the provisions of the Conventions or of this Protocol shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.” Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 U.N.T.S. 3 (“Additional Protocol I,” or “AP I”).

51 ICRC, Rule 150. Reparation, Customary IHL Database, ICRC Rule 150, (internal citations omitted). Available at https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule150.

52 For a longer discussion of IHRL instruments on the right to reparation, see, e.g. Christine Evans, *The Right to Reparation in International Law for Victims of Armed Conflict*, 22-29.

53 The right to adequate remedy is enshrined in American Convention on Human Rights, opened for signature 22 November 1969, 1144 U.N.T.S. 123, entered into force 18 July 1978 (A.C.H.R.), arts. 7, 25, and 63; African Charter on Human and Peoples’ Rights, opened for signature 26 June 1981, 1520 U.N.T.S. 217, entered into force 21 October 1986 (“ACHPR”), arts. 50 and 56, and European Convention for the Protection of Human Rights and Fundamental Freedoms, opened for signature 4 November 1950, 213 U.N.T.S. 221, entered into force 3 September 1953 (“ECHR”), art. 13.

54 *Factory at Chorzów*, *supra* note 54 at para. 73.

The PCIJ also gave early articulation to the principle that reparation must eradicate the consequences of the illegal act insofar as possible: “[R]eparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed.”⁵⁵ The Court noted that this second principle is “established by international practice and in particular by the decisions of arbitral tribunals.”⁵⁶ Reparation is meant to place an aggrieved party in the same position they would have been in if no wrongful act had occurred.⁵⁷

In order to ensure the obligation to repair is fulfilled, the UN Security Council and States have created ad hoc mechanisms to determine and administer reparations for violations that occurred during conflict, including mechanisms that recognized reparations for IHL violations.⁵⁸

55 Id. at para. 124.

56 Id.

57 In *Factory at Chorzów*, the PCIJ set out a three-step process to quantify the reparations obligation that an offending party owes to a victim. The first step is to demonstrate “(1) [t]he existence of the obligation to make reparation.” As the principle of reparations is inherent in the fact of international breach, all that is necessary for step (1) is to ascertain “whether a breach of an international engagement has in fact taken place.” The second is to demonstrate “(2) [t]he existence of the damage which must serve as a basis for the calculation of the amount of the indemnity.” The third is to demonstrate “(3) the extent of this damage.” Regarding steps (2) and (3), the PCIJ stated that restitution is the preferred mode of reparation, with equivalent compensation as a second choice where restitution is not possible. Id. at paras. 72, 74, 124. In determining reparations awards, a limiting consideration is the “burdens upon the economies and populations” that “very large adverse awards” would impose on violating States. The Eritrea-Ethiopia Claims Commission (“EECC”) recognized this limiting principle as a valid consideration, rejecting Ethiopia’s urging that burdens on the violating State not be taken into account. The EECC noted that “the prevailing practice of States in the years since the Treaty of Versailles has been to give very significant weight to the needs of the affected population in determining amounts sought as post-war reparations.” Eritrea-Ethiopia Claims Commission, PCA Case No. 2001-02, Final Award - Ethiopia’s Damages Claims, 17 September 2009, para. 21, <http://pcacases.com/web/sendAttach/767>.

58 For example, the UN Security Council established the UN Compensation Commission (UNCC) in 1991 to handle claims against the State of Iraq based on Iraq’s invasion of Kuwait. See Open Society Justice Initiative, *UN Entities’ Powers to Establish Administrative Reparations Programs: A Briefing Paper for Discussions on the Armed Conflict in Yemen* (March 2022), <https://www.justiceinitiative.org/publications/un-entities-powers-to-establish-administrative-reparations-programs>. The Eritrea-Ethiopia Claims Commission, established by a treaty between Eritrea and Ethiopia following the Eritrean-Ethiopian War (1998-2000), specifically recognized reparations claims for IHL violations, including claims brought on behalf of nationals (including both natural and juridical persons) of one party against the Government of the other party. United Nations, *Agreement between the Government of the State of Eritrea and the Government of the Federal Democratic Republic of Ethiopia for the resettlement of displaced persons, as well as rehabilitation and peacebuilding in both countries*, 12 December 2000, UN Treaty Series, Volume 2138, I-37274, art. 5, § 1 (“Agreement Between Eritrea and Ethiopia”).

Global movement towards reparations for individuals

Historically, war reparations were sought by the victors in a conflict; this grew out of the war indemnities system, where victorious States attempted to recoup the costs of waging war from losing parties.⁵⁹ During the first half of the twentieth century, as international practice moved away from victors' costs and towards repairing harm for internationally wrongful acts, the term "reparations" gradually replaced "war indemnities." But, States remained the traditionally recognized claimants.⁶⁰

Over the past seventy years, particularly through the rise of international human rights law, there has been increasing recognition of the individual as a subject of international law and of the right of individuals to reparation when they are subjected to international wrongs.⁶¹ Today, there is growing recognition that individual victims of international humanitarian law violations and individual victims of international human rights law violations have a right to reparation and that individuals may seek that reparation through their State or directly from responsible parties.

The ICJ has affirmed that States can owe reparations directly to individuals for violations of international law. The ICJ ruled in its 2004 *Wall* Opinion that Israel had an obligation to provide restitution or, where restitution was not possible, compensation to "all natural or legal persons having suffered any form of material damage."⁶² The ICJ cited its predecessor's *Factory at Chorzów* decision and stated that the obligation to provide reparation is part of "customary law"⁶³ related to any "act contrary to international law."⁶⁴ After quoting "the essential forms of reparation in customary law... laid down" in *Factory at Chorzów*, the Court wrote:

59 Pietro Sullo & Julian Wyatt, "War Reparations," Max Planck Encyclopedia of Public International Law (May 2014), para. 2, [https://www.lalive.law/data/publications/EPIL_War_Reparations_\(1\).pdf](https://www.lalive.law/data/publications/EPIL_War_Reparations_(1).pdf).

60 See, e.g., M.J. Bonn, The Reparation Problem, The Annals of the American Academy of Political Science (1922).

61 International criminal law (ICL), though minimally touched upon in this section, also enshrines an obligation to repair in the event of an international law violation and the right of an individual to receive that reparation. See Rome Statute of the International Criminal Court art. 75, July 17, 1998, 2187 U.N.T.S. 90 (last amended November 29, 2010, depositary notification C.N.651.2010.TREATIES-8) ("Rome Statute"). See also Elizabeth Salmon & Juan-Pablo Perez-Leon-Acevedo, Reparation for victims of serious violations of international humanitarian law: New developments, Int. Rev. Red Cross 1 (2022).

62 Wall Opinion, supra 30 at paras. 145, 152–3.

63 Wall Opinion, supra 30 at para. 152.

64 Factory at Chorzów, supra 54 at para. 152.

Israel is accordingly under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage as a result of the wall's construction.⁶⁵

The ICJ recognized that the obligation of States to provide reparation for a violation of international law can accrue directly to harmed individuals.

The United Nations General Assembly agreed with the ICJ's determination, "[d]emand[ing] that Israel, the occupying power, comply with its legal obligations as mentioned in the advisory opinion."⁶⁶ The UN General Assembly made this demand repeatedly in the years that followed.⁶⁷ In 2007, the UN General Assembly specifically passed a resolution on the "Establishment of the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory," that noted paragraph 153 of the *Wall* Opinion (reproduced above),⁶⁸ re-stated Israel's obligation to compensate "persons" harmed as a result of its international wrongs⁶⁹ and created a UN register meant "to serve as a record,

65 Wall Opinion, *supra* 30 at para. 153.

66 UN General Assembly, Advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, including in and around East Jerusalem, 2 August 2004, A/RES/ES-10/15, para. 2, <https://undocs.org/A/RES/ES-10/15>.

67 In UNGA Resolution 59/124, UNGA Resolution 60/107, UNGA Resolution 61/119 and UNGA Resolution 62/109. UN General Assembly, Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, A/RES/59/124, 25 January 2005, para. 8, <https://undocs.org/A/RES/59/124>; UN General Assembly, Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, A/RES/60/107, 18 January 2006, para. 8, <http://undocs.org/A/Res/60/107>; UN General Assembly, Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan : resolution / adopted by the UN General Assembly, A/RES/61/119, 15 January 2007, para. 12, <https://undocs.org/A/RES/61/119>; UN General Assembly, Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, A/RES/62/109, 10 January 2008, <https://undocs.org/A/RES/62/109>.

68 Wall Opinion, *supra* 30.

69 UN General Assembly, Establishment of the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory, A/RES/ES-10/17, 24 January 2007, preamble, <https://undocs.org/A/RES/ES-10/17>.

in documentary form, of the damage caused to all natural and legal persons” by Israel’s construction of the Wall.⁷⁰ The secretariat of the Register was instructed to “inform the Palestinian public about the possibility of and the requirements for filing a damage claim,” further demonstrating the UN General Assembly’s intention that individuals receive reparation.⁷¹

Yemen, Saudi Arabia, and the United Arab Emirates voted in favor of each of these UN General Assembly Resolutions, all of which endorsed the principle that a State that commits an international wrong can owe reparations to the individuals harmed as a result of that wrong.⁷²

Several States made submissions to the ICJ for the *Wall* case recognizing the individual right to reparation. Malaysia wrote that “Israel is obliged to make reparation to the Palestinian Authority, *as well as to the individual victims concerned*, for all the internationally wrongful acts committed by the construction and maintenance of the Wall.”⁷³ Sweden stated that, “compensation must be awarded for harm already suffered, as provided in Article 3 of the Fourth Hague Convention of 1907, which expresses international customary law, and Article 2(3) of ICCPR [which recognizes the right of any person whose rights or freedoms are violated to an effective remedy].”⁷⁴ Lebanon, after asking “What, then, are the legal consequences of the construction of the wall?”, ended their submission with, “[l]astly, Israel must compensate those persons who have suffered from the construction of the wall.”⁷⁵ France’s submission, which emphasized property

70 Id. at para. 3.

71 Id., at para. 8(b).

72 For voting records on each resolution, see the United Nations Digital Library voting records: Voting Record for A/RES/59/124, <https://digitallibrary.un.org/record/537024?ln=en>; Voting Record for A/RES/60/107, <https://digitallibrary.un.org/record/562873?ln=en>; Voting Record for A/RES/61/119, <https://digitallibrary.un.org/record/588911?ln=en>; Voting Record for A/RES/62/109, <https://digitallibrary.un.org/record/614530?ln=en>; Voting Record for A/RES/ES-10/15, <https://digitallibrary.un.org/record/526686?ln=en>; Voting Record for A/RES/ES-10/17, <https://digitallibrary.un.org/record/694915?ln=en>.

73 Malaysia, Written statement submitted to the ICJ, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 30 January 2004, 56, <https://www.icj-cij.org/public/files/case-related/131/1625.pdf> (emphasis added).

74 Sweden, Note Verbale dated 30 January 2004 from the Embassy of the Kingdom of Sweden to the Netherlands, together with the Statement of the Kingdom of Sweden, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 30 January 2004, para. 9, <https://www.icj-cij.org/public/files/case-related/131/1631.pdf>.

75 Lebanon, Written Statement of Lebanon, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 30 January 2004, paras. 45, 49, <https://www.icj-cij.org/public/files/case-related/131/1563.pdf>.

destruction, stated that “international law... requires compensation which effectively makes good the entire injury suffered by the owners of the property in question.”⁷⁶

The 2001 *Draft Articles on State Responsibility for Internationally Wrongful Acts* (Draft Articles), which codified existing customary international law on State responsibility, also recognize that State reparation obligations may be owed directly to a person. Article 33(2) says that Part II of the Draft Articles (“Content of the international responsibility of a State”) “is without prejudice to any right, arising from the international responsibility of a State, which may accrue directly to any person or entity other than a State.”⁷⁷ Further, the official Commentaries to Article 33 explain that, even where a State may have the right to reparation, the reparation does “not necessarily accrue to that State’s benefit.” In the context of a violation of an individual’s human rights, the Commentaries specifically state “individuals should be regarded as the ultimate beneficiaries and in that sense as the holders of the relevant rights.”⁷⁸

For decades, human rights instruments have conceptualized reparation as a remedy for an individual whose rights have been violated. In discussing remedies, major human rights treaties use language that explicitly treats individuals as holding the right to receive reparations. Article 8 of the Universal Declaration of Human Rights states, “[e]veryone 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.”⁷⁹ The International Convention on Civil and Political Rights explicitly provides for an individual right to reparation.⁸⁰ The Human Rights Committee, which interprets the ICCPR, affirmed

76 France, Written Statement by the French Republic, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 30 January 2004, paras. 40-41, <https://www.icj-cij.org/public/files/case-related/131/1591.pdf> (emphasis added).

77 International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries 31, A/56/10, 2001, Article 33(2) (“Draft Articles on State Responsibility”).

78 Id., Article 33, para. 3.

79 Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III), art. 13(1) (Dec. 10, 1948) (“UDHR”).

80 International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 U.N.T.S. 171, entered into force 23 March 1976, Articles 2, 9(5), 14(6)) (“ICCPR”). (“Each State Party to the present Covenant undertakes: (a) 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; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted.”)

in General Comment 31 that “[a]rticle 2, paragraph 3 requires that States Parties make reparation to individuals whose Covenant rights have been violated. Without reparation *to individuals* whose rights have been violated, the obligation to provide an effective remedy, which is central to the efficacy of article 2, paragraph 3, is not discharged.”⁸¹ Other human rights treaty provisions, such as Article 14 of the Convention against Torture (CAT),⁸² Article 6 of the Convention on the Elimination of All Forms of Racial Discrimination (CERD),⁸³ Article 39 of the Convention of the Rights of the Child (CRC),⁸⁴ and Article 24(4) of the International Convention for the Protection of All Persons from Enforced Disappearance (CED), affirm the individual right to reparation in different forms.⁸⁵

Yemen has ratified CAT, the ICCPR, CERD, and the CRC, as well as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Economic and Social and Cultural Rights (ICESCR), and the Convention on the Rights of Persons with Disabilities (CRPD), but—despite widespread disappearances in the country—not yet joined the International Convention for the Protection of All Persons from Enforced Disappearance (CED). Saudi Arabia and the UAE have both

81 General Comment No. 31, *supra* note 30 at para. 16 (emphasis added).

82 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, opened for signature 10 December 1984, 1465 U.N.T.S. 85, entered into force 26 June 1987, Article 14 (“CAT”). (“Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.”)

83 Convention on the Elimination of All Forms of Racial Discrimination, opened for signature 21 December 1965, 660 U.N.T.S. 195, entered into force 4 January 1969, Article 6, (“CERD”). (“States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.”).

84 Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 U.N.T.S. 3, entered into force 2 September 1990, Article 39, (“CRC”). (“States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.”)

85 The International Convention for the Protection of All Persons from Enforced Disappearance, opened for signature 20 December 2006, 2716 U.N.T.S. 3, entered into force 23 December 2010, Article 24, (“Each State Party shall ensure in its legal system that the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation. The right to obtain reparation referred to in paragraph 4 of this article covers material and moral damages and, where appropriate, other forms of reparation such as: (a) Restitution; (b) Rehabilitation; (c) Satisfaction, including restoration of dignity and reputation; (d) Guarantees of non-repetition.”).

ratified CAT, CERD, and CRC, as well as CEDAW and CRPD, but not yet joined the ICCPR, ICESCR or CED.⁸⁶

In 2005, the UN General Assembly, which is composed of the 191 Member States of the United Nations,⁸⁷ adopted the *UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (UN Basic Principles) without a vote. According to the International Law Commission, such resolutions carry significant weight and “offer important evidence of the collective opinion” of UN Member States regarding rules of customary international law.⁸⁸ The UN General Assembly emphasized that the UN Basic Principles identified “mechanisms, modalities, procedures and methods for the implementation of existing legal obligations under international human rights law and international humanitarian law.”⁸⁹

The UN Basic Principles explicitly recognize the right of individual victims to reparation for serious international humanitarian law violations and gross international human rights violations. Paragraph 8 of the UN Basic Principles makes clear that “victims are *persons* who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law.”⁹⁰ In his introduction to the UN Basic Principles, Theo van Boven, one of the principal drafters, repeatedly notes that the UN Basic Principles have a “victim-oriented perspective.”⁹¹ The goals of

86 See OHCHR, United Nations Human Rights Treaty Bodies Database on Yemen, Saudi Arabia and UAE ratification status, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=193&Lang=EN (last consulted June 9, 2022).

87 United Nations, Growth in United Nations Membership, <https://www.un.org/en/about-us/growth-in-un-membership#2000-Present>.

88 ILC, Draft Conclusions on Identification of Customary International Law, with Commentaries, UN Doc. A/73/10, 2018, Commentary to Draft Conclusion 12, para. 2. See also Olivia Herman, Beyond the state of play: Establishing a duty of non-State armed groups to provide reparations, *Int. Rev. Red Cross* 1, 8 (2021). The UN Basic Principles are formally non-binding. Evans, *supra* note 99 at 38.

89 UN General Assembly, Resolution 60/147: UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147, March 21, 2006, www.undocs.org/A/RES/60/147 (emphasis added) (“UN Basic Principles” or “UN Basic Principles”).

90 UN Basic Principles, *supra* note 110 at art. 8. (emphasis added).

91 Theo van Boven, The United Nations UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 3, https://legal.un.org/avl/pdf/ha/ga_60-147/ga_60-147_e.pdf.

the sub-commission that initiated the study that led to the drafting of the UN Basic Principles were “combating impunity and strengthening victims’ rights to redress and reparation.”⁹²

UN bodies, including the UN General Assembly and the UN Commission on Human Rights, as well as individual States have recognized that individuals have a right to reparation for serious violations of IHL and gross violations of IHRL. In 1993, in Resolution 48/153 on the human rights situation in the former Yugoslavia, the UN General Assembly “recognize[d] the right of victims of ‘ethnic cleansing’ to receive just reparation for their losses.”⁹³ The UN General Assembly echoed this one year later in Resolution 49/196.⁹⁴ In 2003, the UN Commission on Human Rights, in a resolution on extrajudicial, summary or arbitrary executions, “*reiterat[ed]* the obligation of all States... to grant adequate compensation within a reasonable time to the victims or their families.”⁹⁵ The Commission repeatedly reiterated the statement.⁹⁶ Individual States have also recognized that individuals have a right to reparation when their human rights are violated.⁹⁷ Individual States have also called for reparations to be provided to

92 Id. at 1.

93 UN General Assembly, Situation of human rights in the territory of the former Yugoslavia: violations of human rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro): resolution / adopted by the UN General Assembly, A/RES/48/153, 20 December 1993, <https://undocs.org/en/A/RES/48/153>.

94 UN General Assembly, Situation of human rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro): resolution / adopted by the UN General Assembly, A/RES/49/196, 10 March 1995, <https://undocs.org/en/A/RES/49/196>.

95 UN Commission on Human Rights, Commission on Human Rights Resolution 2003/53: Extrajudicial, Summary or Arbitrary Executions, E/CN.4/RES/2003/53, 24 April 2003, § 4, https://ap.ohchr.org/documents/alldocs.aspx?doc_id=5004.

96 UN Commission on Human Rights, Commission on Human Rights Resolution 2004/37: Extrajudicial, Summary or Arbitrary Executions, E/CN.4/RES/2004/37, 19 April 2004 § 5, <https://www.refworld.org/docid/43f3136cc.html>; UN Commission on Human Rights, Human Rights Resolution 2005/34: Extrajudicial, Summary or Arbitrary Executions, E/CN.4/RES/2005/34, 19 April 2005, § 4, <https://www.refworld.org/docid/45377c4ec.html>.

97 See e.g., El Salvador, Written replies by the Government of El Salvador to the list of issues formulated by the Human Rights Committee in connection with its consideration of the sixth periodic report of El Salvador, CCPR/C/SLV/Q/6/Add.1, 21 September 2010, § 5. Available in Spanish at <http://hrlibrary.umn.edu/hrcommittee/spanish/elsalvador2010.html>; Nepal, Declaration of commitment on the implementation of human rights and international humanitarian law, 26 March 2004, para. 8. Unofficial translation available at <https://www.satp.org/satporgtp/countries/nepal/document/papers/implement.htm>.

individual victims of IHL violations.⁹⁸ The ICRC has found that “[t]here is an increasing trend in favour of enabling individual victims of violations of international humanitarian law to seek reparation directly from the responsible State.”⁹⁹

Both standing and ad hoc international mechanisms have recognized the right of individuals to receive reparation and enabled them to do so.¹⁰⁰ In the field of international criminal law, under the 1998 Rome Statute, which established the International Criminal Court (Rome Statute), the Court was granted the power to specify “appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation.”¹⁰¹ Article 75 of the Rome Statute “indisputably recognizes the right of a victim to reparation.”¹⁰² In the realm of State responsibility, in 1991, the UN Security Council established the United Nations Compensation Commission (UNCC), an ad hoc mechanism to administer reparations after the Kuwait-Iraq War.¹⁰³ The UNCC was tasked to create “appropriate procedures for evaluating losses, listing claims and verifying their validity and resolving disputed claims in respect of Iraq’s liability.”¹⁰⁴ Individuals were

98 See e.g., Croatia, Views and Comments on the note and revised Draft UN Basic Principles and Guidelines on the Right to Reparation for Victims of [Gross] Violations of Human Rights and International Humanitarian Law, 19 August 1997, E/CN.4/1998/34, 22 Dec. 1997, § 6, <https://undocs.org/E/CN.4/1998/34>; Switzerland, Statement of the chargé d’affaires of Switzerland before the UN Security Council during a debate on the protection of civilians in armed conflict, 19 August 2013, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v2_ru_rule150; Greece, Court of Appeal of Piraeus, Judgement No. 894/2001, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v2_ru_rule150.

99 Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, Volume I: Rules, Cambridge University Press, Cambridge (2005), 541.

100 In the 1990s, while the International Criminal Tribunals for the former Yugoslavia and for Rwanda had the power to “order the return of any property acquired by criminal conduct to their rightful owner,” the intended system of reparation was not implemented. Regional human rights courts have also ordered States provide reparations to individual victims of their violations, with particularly innovative jurisprudence on reparations emerging from the inter-American court. See, e.g. Emanuela-Chiara Gillard, *Reparation for Violations of International Humanitarian Law*, 85 *Int. Rev. Red Cross* 529, 545-46 (2003); Shuichi Furuya, *The Right to Reparation for Victims of Armed Conflict: The Intertwined Development of Substantive and Procedural Aspects*, *Max Planck Trialogues on the Law of Peace and War*, Cambridge University Press, 2021, 34-35; Elizabeth Salmon & Juan-Pablo Perez-Leon-Acevedo, *Reparation for victims of serious violations of international humanitarian law: New developments*, *Int. Rev. Red Cross* 1 (2022).

101 Rome Statute, *supra* note 56 at Article 75(2) § 416.

102 Elke Schwager, *The Right to Compensation for Victims of an Armed Conflicts*, 4 *CHINESE J. INT. LAW* 417, 427 (2005).

103 UN Security Council, Resolution 687 (1991) on the restoration of the sovereignty, independence and territorial integrity of Kuwait, S/RES/687, April 3, 1991, para. 18, <https://www.un.org/Depts/unmovic/documents/687.pdf>.

104 *Id.* at para. 19.

able to bring claims directly to the UNCC, including claims involving violations of IHL.¹⁰⁵

International law scholars have argued that an individual right to reparation for violations that occur during armed conflict from the responsible parties exists or is emerging in customary international law.¹⁰⁶ The Declaration of International Law Principles on Reparation for Victims of Armed Conflict (ILA Principles) was adopted in 2010¹⁰⁷ by the International Law Association (ILA), an association of experts which studies and clarifies developments in international law and which has consultative status as an international NGO at a number of UN agencies.¹⁰⁸ The ILA found that, “[v]ictims of armed conflict have a right to reparation from the responsible parties.”¹⁰⁹ The ILA Principles reflect the ILA’s understanding of the law and how it was developing at that time.¹¹⁰ Article 11 of the ILA Principles notes a duty on the part of responsible parties, whether a State or non-State actor, toward victims: “Responsible parties shall make every effort to give effect to the rights of victims to reparation” and “establish programmes and maintain institutions that facilitate access to reparation.”¹¹¹ While the Co-Rapporteur responsible for drafting the principles found that “in view of the relevant State practice and taking note of a strong majority among scholars ... until most recently, international law did not provide for any right to reparation for victims of armed conflicts,” the Committee found “increasing examples of international bodies proposing, or even recognising, the existence of, or the need to establish, such a right.”¹¹² Other academics have argued that the individual right to reparation already firmly

105 Schwager, *supra* note 107 at 425.

106 Evans provides a list of scholars who consider the right either “already well-grounded in international law” or as “an emerging rule.” Evans, *supra* note 99 at 39.

107 International Law Association, “Resolution No 2 /2010: Reparation for Victims of Armed Conflict (Substantive Issues),” in Report of the Seventy-Fourth Conference Held in The Hague 15-19 August 2010, 29 (2010) (“ILA Reparation Principles”).

108 International Law Association, “About Us,” <https://www.ila-hq.org/index.php/about-us/aboutus2> (last visited Mar. 14, 2022).

109 ILA Reparation Principles, *supra* note 113 at art. 6.

110 Rainer Hofmann, “Draft Declaration of International Law Principles on Reparation for Victims of Armed Conflict (Substantive Issues), Preliminary Remarks, in Report of the Seventy-Fourth Conference Held in The Hague 15-19 August 2010, 292-94 (2010) (“the Committee decided to draft a Declaration which is reflecting international law as it is progressively developing.”).

111 ILA Reparation Principles, *supra* note 128 at art. 11(2).

112 Hofmann, *supra* 131, at 293.

exists, including under relevant IHL treaties.¹¹³

In the context of the armed conflict in Yemen, UN bodies have specifically asserted that civilians in Yemen have individual rights to reparation. In 2017, the UN High Commissioner for Human Rights, in a report on the situation of human rights in Yemen to the UN Human Rights Council, stated that “[i]nternational human rights law and international humanitarian law include obligations ... to provide victims with full and effective reparation.”¹¹⁴ The UNGEE has repeatedly asserted the right of victims of violations of international law to receive reparations.¹¹⁵ In their 2019 detailed findings, the UNGEE wrote that “a State responsible for violation of international humanitarian law is required to make full reparations for the loss or injury caused,” and that “there is increasing recognition that non-State entities must also provide reparations. This is particularly pertinent when these entities are considered to be *de facto* authorities.”¹¹⁶ In their 2020 report, the UNGEE wrote that “[n]o right exists without a remedy.”¹¹⁷ The UNGEE noted it had previously “stressed the need to realize victims’ rights to an effective remedy (including reparations).”¹¹⁸ The 2020 detailed findings elaborated that “[v]ictims’ right to an effective remedy includes the right to reparations as recognized

113 See, e.g. Evans, *supra* note 99 at 39; Fritz Kalshoven, Expert Opinion, Article 3 of the Convention (IV) Respecting the Laws and Customs of War on Land, signed at the Hague, 18 October 1907, reprinted in Hisakazu Fujita, Isomi Suzuki, and Kantaro Nagano (eds.), *War and the Rights of Individuals. Renaissance of Individual Compensation*, Nippon Hyoron-sha Co., Tokyo, 1999, p. 38; Christopher Greenwood, Expert opinion, Rights to Compensation of Former Prisoners of War and Civilian Internees Under Article 3 of Hague Convention No. IV 1907, reprinted in Hisakazu Fujita, Isomi Suzuki, and Kantaro Nagano (eds.), *War and the Rights of Individuals. Renaissance of Individual Compensation*, Nippon Hyoron-sha Co., Tokyo, 1999, pp. 67, 69.

114 UN High Commissioner for Human Rights, Situation of human rights in Yemen, including violations and abuses since September 2014: report of the United Nations High Commissioner for Human Rights, A/HRC/36/33, 13 September 2017, para. 79, <https://undocs.org/A/HRC/36/33>.

115 UNGEE 2018 Report, *supra* note 49 at para. 102 (“Given the gravity of the human rights situation in Yemen, a comprehensive approach to accountability is required for the realization of the rights to truth and adequate, effective and prompt reparation, and guarantees of non-recurrence.”); UNGEE, Situation of human rights in Yemen, including violations and abuses since September 2014: Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen, A/HRC/42/CRP.1, 3 September 2019, para. 868, https://www.ohchr.org/Documents/HRBodies/HRCouncil/GEE-Yemen/A_HRC_42_CRP_1.PDF, (“UNGEE 2019 Detailed Findings”) (“Victims of human rights violations are entitled to effective and prompt reparations, including compensation and guarantees of non-repetition.”); UNGEE 2020 Detailed Findings, *supra* note 8 at para. 363 (“The Group has also stressed the need to realise victims’ rights to an effective remedy (including reparations).”).

116 UNGEE 2019 Detailed Findings, *supra* note 136 at para. 868.

117 UNGEE 2020 Report, *supra* note 7 at para. 94.

118 *Id.* See also *id.*, at para. 101.

in international human rights law and international humanitarian law.”¹¹⁹ In the same report, the UNGEE specified that “insufficient attention is being paid to the provision of adequate reparations *to victims of violations*,” clarifying it is the individual victims who should be receiving the reparations.¹²⁰ In their 2021 accountability update, the UNGEE stated again that it had “underlined the importance of victims’ right to an effective remedy and associated rights to truth, justice and reparation.”¹²¹



119 UNGEE 2020 Detailed Findings, supra note 8 at para. 403 (internal citation omitted). See also id. at para. 405.

120 UNGEE 2020 Detailed Findings, supra note 8 at para. 411 (emphasis added).

121 UNGEE, Accountability update, A/HRC/48/CRP.4, 14 September 2021, para. 1, https://www.ohchr.org/sites/default/files/2021-12/A_HRC_48_CRP4_En.pdf. (“UNGEE 2021 Accountability Update”).

International standards for reparations for individuals

Victims' right to remedy includes (a) equal and effective access to justice; (b) adequate, effective and prompt reparation for harm suffered; and (c) access to relevant information concerning violations and reparations mechanisms.¹²²

The international standards for reparations, including the forms that reparations should take for gross violations of IHRL and serious violations of IHL, are laid out in the UN Basic Principles. According to the UN Basic Principles, reparation must be "adequate, effective and prompt,"¹²³ "proportional to the gravity of the violations and the harms suffered,"¹²⁴ and "full and effective."¹²⁵

States' obligation to provide adequate, effective and prompt reparations is related to their obligations to investigate violations, to provide victims of violations with equal and effective access to justice,¹²⁶ and to bring perpetrators to justice.¹²⁷ These obligations flow from a variety of treaty and customary international law sources, including States' obligations to respect, ensure respect for, and implement international human rights law and international humanitarian law.¹²⁸ Investigations into IHL and IHRL violations, including those conducted by warring parties, should be "independent, impartial, prompt,

122 UN Basic Principles, *supra* note 110 at para. 11.

123 UN Basic Principles, *supra* note 110 at para. 15.

124 UN Basic Principles, *supra* note 110 at para. 15.

125 UN Basic Principles, *supra* note 110 at para. 18.

126 UN Basic Principles, *supra* note 110 at para. 3.

127 All four Geneva Conventions, for example, include requirements for States to search for, prosecute and punish those responsible for grave breaches. Treaties like the CAT require States to implement provisions in their domestic laws that allow for universal jurisdiction. Furuya, *supra* note 121 at 16, 32.

128 UN Basic Principles, *supra* note 110 at para. 3 (According to the UN Basic Principles, States' obligations to respect, ensure respect for, and implement international human rights law and international humanitarian law includes the duty to: (a) take appropriate legislative and administrative and other appropriate measures to prevent violations; (b) investigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law; (c) provide those who claim to be victims of a human rights or humanitarian law violation with equal and effective access to justice, as described below, irrespective of who may ultimately be the bearer of responsibility for the violation; and (d) provide effective remedies to victims, including reparation, as described below).

thorough, effective, credible and transparent.”¹²⁹ Victims should “have equal access to an effective judicial remedy as provided for under international law,” and domestic laws should reflect the “right to access justice and fair and impartial proceedings.”¹³⁰ Further, “[a]n adequate, effective and prompt remedy ... should include all available and appropriate international processes in which a person may have legal standing,” regardless of possible domestic remedies.¹³¹

While much of the UN Basic Principles focuses on State obligations, particularly the State in whose territory the victim resides, they are a “victim-oriented” document.¹³² Substantively, reparations may take one or more of five forms:

- (1) restitution,
- (2) compensation,
- (3) rehabilitation,
- (4) satisfaction, and
- (5) guarantees of non-repetition.¹³³

Full and effective reparations may require a combination of multiple forms.¹³⁴

Restitution is the attempt to restore, to the extent possible, the victim to the situation before the violation, and thus to make it as if no wrongful act had been committed. Restitution—attempting to return to the status quo ante before the unlawful act—is the

129 UNGEE 2019 Detailed Findings, *supra* note 136 at para. 872 (citing Human Rights Committee, General Comment 36 (2018), *supra* note 30 at para. 28. See also UN Human Right Committee, Guidelines on measures of reparation under the Optional Protocol to the International Covenant on Civil and Political Rights, CCPR/C/158, 30 November 2016, para. 11(b), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/264/86/PDF/G1626486.pdf?OpenElement> (“UNHRC Guidelines on Reparation”).

130 UN Basic Principles, *supra* note 110 at para. 12.

131 UN Basic Principles, *supra* note 110 at para. 14.

132 Van Boven, *supra* note 112 at 2-3.

133 UN Basic Principles, *supra* note 110 at paras. 15, 18, 19-23.

134 Draft Articles on State Responsibility, *supra* note 98 at art. 34, (“Full reparation...shall take the form of restitution, compensation and satisfaction, either singly or in combination.”) *Id.* at art. 34, para. 2 (“Article 34 also makes clear that full reparation may only be achieved in particular cases by the combination of different forms of reparation.”). See also ILA Principles, *supra* note 128 at art. 1.

principle underlining the theory of reparation in international law.¹³⁵ Restitution can include the restoration of legal rights, including citizenship, social status, and family life, the return of one's home, property, or place of residence, and the restoration of liberty or employment.¹³⁶

Compensation involves financial payment, which should provide for any economically assessable damage.¹³⁷ The payment should be proportional to the gravity of the violation and the circumstances in each case.¹³⁸ In evaluating compensation, an adjudicative body may consider factors such as physical and mental harm, lost opportunities (including employment, education and social benefits), material damages (including loss of earnings and loss of earning potential), moral damages, and costs required for services such as legal or expert assistance, medicine and medical services, and psychological and social services.¹³⁹ Compensation is often undertaken when restitution is not possible.¹⁴⁰ As restitution is often very difficult to effect, compensation is perhaps the most common form of reparation.¹⁴¹

Rehabilitation involves measures aimed at mending the harm that a victim suffered, including the provision of medical, psychological, legal, and social services.¹⁴² In the Trial Chamber Reparations Order filed in *Al Mahdi*, the ICC stated that rehabilitation is aimed at restoring the victims and their communities to their former condition.¹⁴³ The *Al Mahdi* case included an example of collective rehabilitation, with the reparations order

135 See Draft Articles on State Responsibility, *supra* note 98 at art. 35, para. (3) ("because restitution most closely conforms to the general principle that the responsible State is bound to wipe out the legal and material consequences of its wrongful act by re-establishing the situation that would exist if that act had not been committed, it comes first among the forms of reparation.").

136 UN Basic Principles, *supra* note 110 at para. 19.

137 UN Basic Principles, *supra* note 110 at para. 20.

138 UN Basic Principles, *supra* note 110 at para. 20.

139 UN Basic Principles, *supra* note 110 at para. 20(a)-(e).

140 Draft Articles on State Responsibilities, *supra* note 98 at arts. 35-36. ("Restitution, despite its primacy as a matter of legal principle, is frequently unavailable or inadequate...Even where restitution is made, it may be insufficient to ensure full reparation. The role of compensation is to fill in any gaps so as to ensure full reparation for damage suffered.").

141 ILA Principles Commentaries, *supra* note 112 at art. 8, para. 1; Draft Articles on State Responsibility, *supra* note 98 at art. 36, para. 2.

142 UN Basic Principles, *supra* note 110 at para. 21.

143 The Prosecutor v. Ahmad Al Faqi Al Mahdi, Reparations Order, 17 August 2017, T.Ch., *icc-01/12-01/15-236* (*Al Mahdi Reparations Order*) paras. 83, 90, <https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/12-01/15-236>.

including the rehabilitation of protected sites.¹⁴⁴

Satisfaction encompasses a variety of actions designed to address injuries that are not financially assessable, such as rights to truth, recognition, and remembrance. The UN Basic Principles include a range of possible forms of satisfaction, including effective measures aimed at stopping violations; truth-telling; the search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed; an “official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim;” public apologies, including “acknowledgement of the facts and acceptance of responsibility;” judicial and administrative sanctions against those responsible; commemorations and tributes to the victims; and the inclusion of an account of the abuses in international law trainings and education.¹⁴⁵

Guarantees of non-repetition involve offers of appropriate assurance that the unlawful action will not repeat. The UN Basic Principles list a range of possible measures that may help achieve this goal, including, but not limited to, ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality; strengthening the independence of the judiciary; protecting persons in the legal, medical and health-care professions, the media and other related professions, and human rights defenders; providing human rights education to the public and to officials; and reviewing and reforming laws.¹⁴⁶

In addition to conducting investigations, ensuring equal and effective access to justice, and ensuring full and effective reparation, States should inform the general public and victims of violations “of the rights and remedies” available and “of all available legal, medical, psychological, social, administrative and other services to which victims may have a right of access.”¹⁴⁷ States should also entitle victims “to seek and obtain information on the causes leading to their victimization and on the causes and conditions pertaining to the gross violations ... and to learn the truth.”¹⁴⁸

144 *Id.* para. 104; see also Nadia Tapia Navarro, *Collective reparations and the limitations of international criminal justice to respond to mass atrocity*, 18 *Int. Crim. Law Rev.* 67, 84 (2018).

145 UN Basic Principles, *supra* note 110 at para. 22.

146 UN Basic Principles, *supra* note 110 at para. 23.

147 UN Basic Principles, *supra* note 110 at para. 24.

148 UN Basic Principles, *supra* note 110 at para. 24.



Taiz city, Thaabat neighborhood, east of Taiz city, photographed in February 26, 2018. Taiz city has been subjected to relentless attacks, including Ansar Allah shelling, during the conflict.



**The obligation to
provide reparation
in Yemen**

After nearly eight years of conflict, civilians harmed as a result of gross international human rights law violations and serious international humanitarian law violations in Yemen have yet to see their right to reparation realized.

The warring parties in Yemen have caused massive harm to civilians throughout the current conflict. They have also gravely exacerbated Yemen's humanitarian crisis, contributing to widespread starvation, displacement, and disease. In 2019, before the COVID-19 pandemic, the UN Development Program (UNDP) estimated that the war had already reversed two decades of human development.¹⁴⁹ In May 2021, OCHA reported that over 4 million Yemenis had been displaced, mostly within Yemen,¹⁵⁰ and that over 20 million people—the vast majority of people in the country—required humanitarian assistance.¹⁵¹ While the numbers on overall casualties vary, OCHA estimated that by 2021 the conflict had directly and indirectly caused 233,000 deaths of civilians and combatants. According to OCHA, 131,000 of those deaths resulted “from indirect causes such as a lack of food, health services and infrastructure.”¹⁵²

Sometimes, the link between warring party conduct and civilian harm can be difficult to establish. Other times, it is acutely clear. Since the conflict began, Mwatana for Human Rights has documented and reported on civilian harm caused by all warring parties.¹⁵³ Mwatana documented and verified 5,409 civilians killed and 8,263 civilians wounded by warring party attacks; these attacks were most often carried out by the Saudi/UAE-led Coalition, the Ansar Allah (Houthi) armed group, the internationally

149 United Nations Development Programme, “Assessing the Impact of War on Development in Yemen,” April 22, 2019, <https://www.ye.undp.org/content/yemen/en/home/library/assessing-the-impact-of-war-on-development-in-yemen.html>.

150 “Yemen Situation Report,” OCHA, 5 August 2021, 1; See also “Yemen: Events of 2020,” Human Rights Watch, <https://www.hrw.org/world-report/2021/country-chapters/yemen#>.

151 “Yemen Situation Report,” *supra* note 173, at 1.

152 “Global Humanitarian Overview 2021,” UN Office for the Coordination of Humanitarian Affairs (OCHA) (December 10, 2020), 111, <https://www.unocha.org/global-humanitarian-overview-2021>.

153 For more detail see generally, “Withering Life: Human Rights Situation in Yemen 2018,” Mwatana for Human Rights (July 2019) (“Mwatana 2018 Report”); “Without Accountability: Human Rights Situation in Yemen 2019,” Mwatana for Human Rights (October 2020), (“Mwatana 2019 Report”); “A Tragedy Without Justice: Human Rights Situation in Yemen 2020,” Mwatana for Human Rights (September 2021) (“Mwatana 2020 Report”); Mwatana 2021 Report, *supra* note 23. See also UNGEE 2018 Report, *supra* note 49; UNGEE, “Situation of human rights in Yemen, including violations and abuses since September 2014,” UN Doc. A/HRC/42/17 (9 August 2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/240/87/PDF/G1924087.pdf?OpenElement> (“UNGEE 2019 Report”); UNGEE 2020 Report, *supra* note 7; UNGEE, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/48/20 (10 September 2021), <https://www.ohchr.org/Documents/HRBodies/HRCouncil/GEE-Yemen/A-HRC-48-20-AUV.pdf> (“UNGEE 2021 Report”).

recognized government of Yemen, the UAE-backed Joint Forces, or the UAE-backed Southern Transitional Council. Over the same time period, Mwatana documented 3,277 people subjected to various forms of detention-related abuse, including enforced disappearances and torture. Most of these documented detention-related abuses were committed by the Ansar Allah (Houthi) armed group, the UAE-backed Southern Transitional Council, or the internationally recognized government of Yemen.

Mwatana's numbers significantly undercount even the direct civilian toll of warring party attacks and abuse in Yemen. Mwatana only includes cases in its count that Mwatana researchers document directly. Given the scale, Mwatana is unable to investigate every report of civilian harm. Mwatana's numbers do not represent the conflict's true toll.

Civilians suffer losses as a result of both lawful and unlawful attacks and will often be in need assistance. But, when an international wrong occurs, reparations are owed. All parties to the conflict have repeatedly violated international law in ways that have hurt Yemeni civilians. Indiscriminate and disproportionate attacks have killed and wounded civilians and destroyed civilian homes, vehicles, and other property.¹⁵⁴ Warring parties have committed extrajudicial killings and enforced disappearances and used torture, other forms of cruel, inhuman, and degrading treatment and sexual and gender-based violence.¹⁵⁵ They have used widely banned weapons—like landmines and cluster munitions—and recruited and used children in fighting.¹⁵⁶

154 See, e.g., "Day of Judgment: The Role of the US and Europe in Civilian Death, Destruction, and Trauma in Yemen," Mwatana for Human Rights (May 5, 2019), https://mwatana.org/wp-content/uploads/2019/03/Final-Design_Day-of-Judgment_Mwatana.pdf; "Yemen: Artillery Attacks Kill Civilians in Taizz," Human Rights Watch (August 9, 2017), <https://www.hrw.org/news/2017/08/09/yemen-artillery-attacks-kill-civilians-taizz>.

155 See, e.g., "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/2020/06/In-the-Darkness.pdf> ("In the Darkness"); "Yemen: Free 'Disappeared' Civilians," Human Rights Watch, (September 2, 2020), <https://www.hrw.org/news/2020/09/02/yemen-free-disappeared-civilians>; "Yemen: Saudi Forces Torture, 'Disappear' Yemenis," Human Rights Watch, (March 25, 2020), <https://www.hrw.org/news/2020/03/25/yemen-saudi-forces-torture-disappear-yemenis>; "Human Rights in the Middle East and North Africa: Review of 2018 Yemen," Amnesty International (February 26, 2019), 2, <https://www.amnesty.org/en/documents/mde31/9898/2019/en/>; Mwatana 2018 Report, *supra* note 176 at 62-63.

156 See, e.g., UNGEE 2020 Detailed Findings, *supra* note 8 at 31-34, 42-51, 62-74; UN Security Council, Letter dated 27 January 2020 from the Panel of Experts on Yemen addressed to the President of the UN Security Council, UN Doc. S/2020/326 (April 28, 2020), 41-46, <https://www.undocs.org/s/2020/326> ("UNSC PoE 2020 Report"); United Nations High Commissioner for Human Rights (UNHCR), "Situation of human rights in Yemen," A/HRC/33/38 (August 4, 2016), 19-20, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/33/38; "Concealed Killer: Fall of civilians by the landmines laid by the Ansar Allah Armed Group (the Houthis) and Saleh Forces," Mwatana for Human Rights (10 May 2017), <https://mwatana.org/wp-content/uploads/2017/10/Concealed-Killer-Report-En.pdf>.

Warring parties have also blocked and restricted humanitarian aid and used starvation as a weapon of war. In September 2021, Mwatana and Global Rights Compliance published “Starvation Makers,” a report that followed a year-long investigation and built on six years of documentation and investigative work by Mwatana. The report concluded that members of the Saudi/UAE-led coalition and Ansar Allah used starvation as a method of warfare, severely impeding civilians’ access to food and water and acting in spite of the widespread knowledge of the dire humanitarian situation in Yemen, where people, including children, were dying from starvation.¹⁵⁷

While human rights organizations and UN bodies have shed light on international law violations committed by the warring parties in Yemen and the resulting civilian harms, there has yet to be a comprehensive mapping of the civilian harms stemming from warring parties’ international law violations at an individual or collective level during the current conflict. Such a mapping, which would necessarily include further consultations with victims, could be a significant next step on the road to reparations. Other steps that UN bodies, States and global civil society could take to support reparative justice in Yemen are included in the recommendations to this report.



Destroyed houses in a small village in Al Maslub District, Al Jawf Governorate after the Saudi/UAE-led coalition attacked the village on February 14, 2020.

¹⁵⁷ Mwatana for Human Rights, *Starvation Makers: The use of starvation by warring parties in Yemen*, September 2021, <https://mwatana.org/wp-content/uploads/2021/09/Starvation-Makers-2021-En.pdf>; “Yemen: Coalition Blockade Imperils Civilians,” Human Rights Watch (December 7, 2017), <https://www.hrw.org/news/2017/12/07/yemen-coalition-blockade-imperils-civilians>.

Saudi Arabia, the UAE, Yemen and other Coalition States

Saudi Arabia, the United Arab Emirates, the internationally recognized government of Yemen, and other States in the Saudi/UAE-led Coalition have obligations to provide reparations to civilian victims of their international wrongs in Yemen. They have not met these obligations.

The following section provides a snapshot of the patterns of serious international humanitarian law violations and gross human rights violations committed by these States in Yemen, describes the limited steps these States have so far taken to respond to civilian harm in Yemen, analyzes these steps in light of international standards for reparations, and details the international legal obligations of these States to provide reparations to civilians in Yemen.

Serious international humanitarian law violations and gross human rights violations

In March 2015, Saudi Arabia and the United Arab Emirates led a military coalition of States to intervene in the armed conflict in Yemen on behalf of the internationally recognized government of Yemen under President Hadi. In addition to the States comprising the Coalition, several non-State armed groups have fought with or on behalf of Coalition States.

Throughout the conflict, the internationally recognized government of Yemen, State members of the Saudi/UAE-led Coalition, and affiliated actors have committed frequent, repeated, and serious international humanitarian law violations and frequent, repeated, and gross human rights violations.¹⁵⁸ These violations include, but are not

¹⁵⁸ For the purposes of this report, included in “Coalition-affiliated groups” are the UAE-backed Southern Transitional Council and the UAE-backed Joint Forces on the Western Coast.

limited to, indiscriminate and disproportionate airstrikes, indiscriminate ground attacks, extrajudicial killings, enforced disappearances, the use of sexual violence and torture, the recruitment and use of child soldiers, and significant aid obstruction. Such violations have caused immense civilian harm. Individuals fighting on behalf of and with the Saudi/UAE-led Coalition and internationally recognized government of Yemen, including high-ranking officials, appear to be responsible for war crimes.¹⁵⁹

Saudi/UAE-led Coalition airstrikes have caused particularly extensive harm to civilians in Yemen. Coalition airstrikes have hit residential areas, markets, schools, farms, detention facilities, hospitals, and objects indispensable to the survival of the civilian population. Coalition airstrikes have killed people attending weddings and funerals, children sitting on buses, fishermen fishing on boats, and families gathering in their homes.¹⁶⁰ The Coalition has used “double-tap strikes,” in which a second strike occurs soon after the first, endangering first responders who come to help survivors or collect bodies.¹⁶¹

Numbers on the overall civilian toll from Coalition airstrikes varies. The Yemen Data Project, which collates reporting from a variety of sources, estimated in May 2022 that 25,054 Coalition airstrikes had resulted in 8,983 civilian deaths and 10,243 civilian injuries in Yemen since March 2015.¹⁶² Between March 2015 and May 2022, Mwatana, whose count includes only those airstrikes and civilian casualties that Mwatana researchers investigated and verified directly, documented 1029 Coalition airstrikes that killed 3,616 civilians, including 1,206 children and 459 women, and injured 3,963 civilians, including 1,010 children and 463 women.

Many (many) Coalition airstrikes have violated IHL. As far back as 2016, the UNSC Panel of Experts warned that the Coalition’s “targeting of civilians through air strikes, either by bombing residential neighbourhoods or by treating the entire city of Sa’dah and region of Maran as military targets, is a grave violation of the principles

159 The United Nations Group of Eminent Experts has repeatedly concluded that the Coalition and internationally recognized government of Yemen may be responsible for war crimes: UNGEE 2018 Report, *supra* note 49 at paras. 73, 108; UNGEE 2019 Report, *supra* note 176 at paras. 41, 79, 85, 96 ; UNGEE 2020 Report, *supra* note 7 at paras. 31, 35, 45, 67, 105; UNGEE 2021 Report *supra* note 176 at paras. 25, 87.

160 UNGEE 2021 report, *supra* note 176 at para. 21.

161 UNGEE 2018 report, *supra* note 49.

162 Yemen Data Project, <https://yemendataproject.org/> (last accessed May 1, 2022).

of distinction, proportionality and precaution.”¹⁶³ For years, Mwatana, the UNGEE, the UNSC Panel of Experts, Human Rights Watch, Amnesty International and others have independently investigated hundreds of Coalition airstrikes that killed and injured civilians and damaged civilian infrastructure. They have concluded, repeatedly, that the Coalition failed in specific airstrikes to respect core IHL rules, including the principles of distinction, proportionality, and precaution.¹⁶⁴

Disappearances and detention-related abuses have also been widespread, severe, and caused significant civilian harm. Saudi Arabia, the UAE, Yemen, and affiliated forces have arbitrarily detained and disappeared scores of civilians.¹⁶⁵ Civilian detainees have been subjected to torture and other cruel, inhuman, and degrading treatment in detention facilities controlled by the internationally recognized government of Yemen, by the UAE, by Saudi Arabia, and by affiliated armed groups.¹⁶⁶ Mwatana, the UNGEE, the UNSC Panel of Experts, Human Rights Watch, Amnesty International and others have documented and reported on hundreds of cases of enforced disappearances, arbitrary detentions, or torture and other cruel, inhuman and degrading treatment of civilians by the internationally recognized government of Yemen, Saudi Arabia, the UAE, the UAE-backed Southern Transitional Council, or affiliated forces since the conflict began.

By way of example, according to the UNGEE, Saudi forces arbitrarily held at least 148 Yemeni fishermen between October 2016 and April 2018, many of whom were beaten and held in solitary confinement. Mwatana, Human Rights Watch, the UNGEE and others documented torture at facilities controlled by the UAE and UAE-affiliated forces, including electrocutions, hanging by the arms and legs, sexual violence, long periods of

163 UN Security Council, Letter dated 22 January 2016 from the Panel of Experts on Yemen established pursuant to UN Security Council resolution 2140 (2014) addressed to the President of the UN Security Council, S/2018/192, para. 128, <https://undocs.org/S/2018/192> (“UNSC PoE 2016 Report”).

164 See e.g., UNGEE 2018 Report, *supra* note 49 at para. 108; “Woes of ‘Arabia Felix’: Situation of Human Rights in Yemen 2017,” Mwatana for Human Rights (May 15, 2018), 48-52, <https://mwatana.org/wp-content/uploads/2018/08/The-Woes-of-Arabia-Felix-English-Version-1.pdf> (“Mwatana 2017 Report”).

165 See, e.g., “Yemen: UAE Backs Abusive Local Forces,” Human Rights Watch (June 22, 2017), <https://www.hrw.org/news/2017/06/22/yemen-uae-backs-abusive-local-forces>; “Disappearances and torture in southern Yemen detention facilities must be investigated as war crimes,” Amnesty International (July 12, 2018), <https://www.amnesty.org/en/latest/news/2018/07/disappearances-and-torture-in-southern-yemen-detention-facilities-must-be-investigated-as-war-crimes>.

166 UNGEE 2018 Report, *supra* note 49 at paras. 65-73.

solitary confinement, interrogation while naked bound and blindfolded, and rape.¹⁶⁷ The internationally recognized government of Yemen has disappeared people and subjected them to abuse in detention.¹⁶⁸ These abuses have reverberating effects on families and communities. As the brother of one disappeared man told the UNGEE, “We can’t even know if he is still alive or dead.”¹⁶⁹

More recently, the disappearance and subsequent killing of Abdul-Malek al-Sanabani, one day after his arrival to Yemen from the United States, sparked uproar and prompted renewed calls for accountability. Al Sanabani was killed after being stopped at a checkpoint controlled by armed men affiliated with the UAE-backed Southern Transitional Council, a non-State armed group active in southern Yemen.¹⁷⁰

The internationally recognized government of Yemen and other UAE-backed armed groups have also recruited children as fighters,¹⁷¹ and Saudi ground forces, internationally recognized government forces, and affiliated forces have indiscriminately shelled civilians.¹⁷² According to the UNGEE, in a single attack in 2019, Saudi mortar fire killed at least 89 civilians in Al Raqw market, an informal hub and transit center for Yemenis, Ethiopians, and Somalis.¹⁷³ Earlier in the war, the Coalition acknowledged using widely-banned cluster munitions,¹⁷⁴ which contain multiple smaller explosives that spread out and explode indiscriminately over an area.

167 See, e.g., UNGEE 2019 Report, *supra* note 176 at 65-7; UNGEE 2018 *supra* note 49 at para. 71, Mwatana 2017 Report, *supra* at 183 at 75-9; In the Darkness, *supra* note 178, “Yemen: UAE Backs Abusive Local Forces,” Human Rights Watch (June 22, 2017), <https://www.hrw.org/news/2017/06/22/yemen-uae-backs-abusive-local-forces>.

168 See e.g., In the Darkness, *supra* 180; UNGEE 2019 Report, *supra* note 176 at para. 66.

169 UNGEE 2021 Report, *supra* note 176 at 41.

170 “Justice requires that the accused be brought to court,” Mwatana for Human Rights (October 5, 2021), <https://mwatana.org/en/al-sanabani/>.

171 The UN Secretary-General, the UNGEE, and Mwatana have verified hundreds of cases of recruitment and use of boys by the UAE-backed Security Belt forces, Hadramaut Elite forces and the internationally recognized government of Yemen. See, e.g., UNGEE 2019 Report, *supra* note 176 at para. 84; UNGEE 2020 Report, *supra* note 7 at paras. 73-79.

172 UNGEE 2019 Report, *supra* note 176 at paras. 38-41.

173 Saudi ground forces, UAE-backed Southern Transitional Council forces, UAE-backed Joint Forces on the West Coast, and forces loyal to President Hadi were responsible for attacks that killed and injured civilians. UNGEE 2020 report, *supra* note 7 at para. 34.

174 See, e.g., “Yemen: Cluster Munitions Wound Children,” Human Rights Watch (March 17, 2017) <https://www.hrw.org/news/2017/03/17/yemen-cluster-munitions-wound-children>. With the exception of Senegal, none of the Coalition States have ratified the Convention on Cluster Munitions. UNGEE 2019 Detailed Findings, *supra* note 121 at para. 51.

The Saudi/UAE-led Coalition, internationally recognized government of Yemen, and Coalition-backed armed groups have also restricted humanitarian access, impeded the flow of critical life-saving goods to the country, and used starvation as a weapon of war. The Coalition has caused particularly significant harm through its de facto blockade of important sea and airports. In late 2017, the Coalition cut off all entry points to Yemen for several days and continued to severely restrict access to the critically important port of al-Hudaydah for many weeks.¹⁷⁵ Coalition attacks have destroyed objects indispensable to civilians' survival, including farms and farmland, water facilities, essential port infrastructure, and hospitals and medical facilities, while the internationally recognized government of Yemen has failed abysmally to respect, protect, and fulfill people's economic, social, and cultural rights.¹⁷⁶

This is by no means a comprehensive review of the international law violations committed by the Saudi/UAE-led Coalition, the internationally recognized government of Yemen, or affiliated forces during the ongoing conflict in Yemen. It serves as a brief and incomplete snapshot to give some sense of the severity of abuses and the resulting civilian harms. Mwatana, the UNGEE, and other human rights organizations have investigated, documented, and reported on serious violations of IHL and gross violations of IHRL by these warring parties in Yemen for years. Civilians have sought to communicate the devastating impact attacks by these warring parties have had on them, on their families, and on their communities. The responses of the Saudi/UAE-led Coalition and the internationally recognized government of Yemen have so far been grossly inadequate.

175 See, e.g., "Yemen: Coalition Blockade Imperils Civilians," Human Rights Watch (December 7, 2017), <https://www.hrw.org/news/2017/12/07/yemen-coalition-blockade-imperils-civilians>; Mwatana for Human Rights and Columbia Law School Human Rights Clinic, Submission to the UN Committee on Economic, Social and Cultural Rights for consideration before adopting the List of Issues with respect to Yemen (August 10, 2020), https://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/200810_final-cescr-submission-from-mwatana-and-columbia-hr-clinic-2.pdf; UNGEE 2018 Report, *supra* note 49 at para. 47.

176 See, e.g., UNGEE 2019 Report, *supra* note 176 at para. 52; Starvation Makers, *supra* 180.

MOHAMMED



Whenever
they hear the
sound of the
airplanes,
they are
all afraid
and huddle
together as
though there
is a monster
that will eat
them.



In late 2017, the Saudi/UAE-led Coalition bombed a residential neighborhood near the Ansar Allah-held Ministry of Defense in Sana'a. The strike wounded 21 civilians, including ten children and six women.

In late 2018, the Coalition's investigative body, JIAT, claimed the Coalition carried out two strikes using two guided bombs. One hit its target, the Ansar Allah-held Ministry of Defense, according to JIAT, and the other "accidentally" landed on a house, allegedly due to a technical failure. JIAT said it was "appropriate" for Coalition States to provide "assistance" for the "loss of human life and material damage."

"Mohammed" (a pseudonym), was wounded in the airstrike. His younger brothers, both high school students, were traumatized. Mohammed explained that, more than two years after the strike, "Generally, the family's psychological state is very bad until now." He said:

"Whenever they hear the sound of the airplanes, they are all afraid and huddle together as though there is a monster that will eat them. After the airstrike, we took them to the country to change the scenery but it didn't work. As for [my 16-year-old brother], when he hears the sound of planes, he runs to his mother as though a small child."

The Coalition airstrike destroyed the family's three-floor home, their furniture, their water tanks, and their car. After the strike, the family could not live in the house due to the damage. Mohammed explained:

"After the accident, we tried to dig and remove the dirt [around the destroyed house] and do anything in order to return to the house, but due to the situation, the difficult conditions, the expenses of schools, universities, rent and other necessities of life, we were not able and the house is still in its condition."

The family received monetary assistance from a relief organization and some blankets and sponges, but—despite JIAT's recommendation—no compensation or other reparation from Coalition States or the internationally recognized government. "We returned to zero," Mohammed said.

When asked about justice, Mohammed told Mwatana, "[t]he perpetrators were Saudi Arabia, which bombed the homes of ordinary citizens." He expressed a preference for "compensation first so that we can return to our lives and repair our destroyed homes, then the judiciary, whenever it is possible, because courts take too long."

Another man, 60 years old and unemployed, said his son was wounded in the same strike and their house damaged. When asked what was most important to him in terms of justice, he said that "whoever did this should be penalized" and that his family should be given "financial compensation to repair the house before it falls over our heads."

YASSER



I am willing
to eat dirt if
I don't have
money for
food, but
I want to
see [those
who killed
my family]
brought to
justice.



In December 2017, at around 7:15 am, the Saudi/UAE-led Coalition dropped five bombs on and near a memorial located in the capital Sana'a. One bomb hit a vehicle parked near the gate.

According to witnesses, after the first bomb, the gatekeeper, who lived next to the memorial, tried to flee with his family. He took his children to a taxi. A bomb hit the taxi, killing everyone inside. Two bombs then hit the gatekeeper's home.

In total, the Coalition airstrike killed 11 civilians, including five children and two women, and injured three others, including a child. Nine of those killed, including all five children, and two of those wounded were from the gatekeeper's immediate family.

Two years later, in 2019, JIAT claimed the Coalition had intelligence that Houthi leaders were at the memorial site and that the Coalition had used guided bombs to target them. JIAT said the Coalition took precautions to avoid civilian harm but that "for humanitarian reasons" the Coalition should provide assistance for the "collateral damages."

"Yasser" (a pseudonym), the 25-year-old brother of the gatekeeper, said:

"My family disappeared in the blink of an eye. All my family—my mother, my father, my brothers—died, and only two remain with me, and they are in a serious condition and I could lose them at any moment."

Both of Yasser's surviving brothers were wounded in the attack. One still requires an expensive and dangerous surgery due to shrapnel lodged near his heart. He does not have the money to pay for it. Their house was also completely destroyed. "Nothing was left of it and the furniture also ended in rubble... We did not have even a pillow or a blanket," Yasser said.

"I saw how my family members turned into pieces. We are more tired than you can imagine. I felt for a moment I would be alone and there would be no one left with me and living became difficult.

We were living in the street, but praise be to God I began to work and rented a place for me and my brothers, and I took them from the street, and every period we are able to provide a little more, a part of furniture, a blanket, some clothes, a plate."

Despite JIAT's recommendation, Yasser said neither he nor his brothers had received any compensation or reparations from Coalition states or the internationally recognized government of Yemen. He said:

"I want justice. I don't want money. What am I going to do with money?

I am willing to eat dirt if I don't have money for food, but I want to see [those who killed my family] brought to justice.

The treasures of the world are nothing to the old shoes of my mother and father. "

Limited efforts to investigate and respond to civilian harm

The internationally recognized government of Yemen, Saudi Arabia, the UAE, and other Coalition States have made limited efforts to investigate and respond to reports of civilian harm in Yemen. In particular, these States set-up three distinct but related bodies that played some role in a process that eventually led to financial payments to a small number of civilian victims of airstrikes.

First, the internationally recognized government of Yemen created a national commission to investigate alleged violations of IHRL and IHL in Yemen. In September 2012, then-President Hadi, via presidential decree, created the National Commission to Investigate Alleged Violations to Human Rights (NCIAVHR).¹⁷⁷ Since 2015, the NCIAVHR has issued a number of reports on violations committed during the ongoing conflict. While the NCIAVHR has recommended that the Yemeni government should provide reparations and the Coalition should offer compensation, the Commission does not have the power to compel these actors to take up their responsibility nor the mandate to award reparations itself.¹⁷⁸ Yemen and Coalition States have routinely ignored the NCIAVHR's recommendations.

Cases investigated by the NCIAVHR are meant to be referred to the Yemeni judiciary "so that perpetrators of human rights violations are brought to justice and the victims receive reparations,"¹⁷⁹ but the Yemeni judicial system has fractured and, in many places, collapsed.¹⁸⁰ Even if the judicial system were rehabilitated and brought in line with international standards, it is extremely unlikely that courts in Yemen would be able to hear or enforce claims against States like Saudi Arabia and the UAE or handle the immense number of credible reparation claims. In 2021, the UNGEE reported that Yemen had "no active programme of either interim relief or longer-term reparations for

177 Amendment of Presidential Decree No. 140 of 22 September 2012 (as amended by Decree No. 13 of 2015, Decree No 50 of 2017 and Decree No.30 of 2019)).

178 Reports and analysis on file with report author.

179 Between 2019 and 2021, the UNGEE reported that only 19 out of more than 1000 case files referred to the Attorney General had progressed to the trial stage at the Specialized Criminal Court in Aden, while the NCIAVHR itself has reported the judicial system has been unwilling or unable to move forward on the cases it has referred. See, e.g., National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Yemen, 8 November 2018, para. 43.

180 UNGEE 2021 report, *supra* note 176, para. 9.

those who have suffered the effects of violations during the current conflict.”¹⁸¹

Second, in 2016, the Saudi/UAE-led Coalition created the Joint Incidents Assessment Team (JIAT) to assess and make public its findings on Coalition attacks in Yemen. JIAT has a mandate to investigate “claims and accidents” arising from Coalition operations in Yemen and to produce reports and recommendations.¹⁸² The US and UK advised the Coalition in the establishment of JIAT.¹⁸³ As of early 2021, JIAT had recommended the Coalition provide some form of assistance to victims of about 40 airstrikes, out of approximately 200 incidents for which JIAT had released publicly accessible statements.¹⁸⁴

Third, the Saudi/UAE-led Coalition and Yemen set-up a joint committee tasked with distributing “voluntary aid,” e.g. financial payments, to victims of Coalition airstrikes in Yemen.¹⁸⁵ In August 2018, the Coalition and internationally recognized government of Yemen announced “The Joint Committee to Grant Voluntary Humanitarian Assistance to Those Harmed in Yemen” (Joint Committee). The Joint Committee would disburse “aid” to those affected by the Coalition’s military operations, the announcement promised.¹⁸⁶ The first payment that Mwatana could confirm came nearly a year later.

In accordance with the UN Basic Principles, States have the obligation to provide “adequate, effective and prompt” reparation. As discussed in more detail in the International Law on Reparations section of this report, this obligation relates to States’

181 UNGEE 2021 report, *supra* note 176, para. 31.

182 Hiding Behind the Coalition, *supra* note 9 at 1.

183 See e.g. “One American’s Failed Quest to Protect Civilians in Yemen”, *The Atlantic* (17 August 2018), <https://www.theatlantic.com/international/archive/2018/08/yemen-saudi-airstrike-school-bus/567799/>.

184 Analysis on file with report author.

185 Other States have also set-up condolence payment processes. The US made monetary payments to civilians in Iraq and Afghanistan, for example. According to the Department of Defense, “ex gratia” payments seek to convey feelings of condolence or sympathy for the relatives of the deceased, but do not imply an admission of wrongdoing. U.S. Department of Defense, Memorandum by Under Secretary of Defense on Interim Regulations for Condolence or Sympathy Payments, June 22, 2020, <https://media.defense.gov/2020/Jun/23/2002320314/-1/-1/1/INTERIM-REGULATIONS-FOR-CONDOLENCE-OR-SYMPATHY-PAYMENTS-TO-FRIENDLY-CIVILIANS-FOR-INJURY-OR-LOSS-THAT-IS-INCIDENT-TO-MILITARY-OPERATIONS.PDF>.

186 The Joint Committee announcement came soon after a Human Rights Watch report (Hiding Behind the Coalition) highlighted the Coalition’s promises to provide victims of airstrikes with redress and a UNGEE report found Saudi Arabia, the UAE, the internationally recognized government, and others were responsible for egregious abuses in Yemen. “Mechanism to disburse aid to those affected by Coalition military operations in Yemen established,” *Saba Net*, August 30, 2018, <https://www.sabanew.net/viewstory/37824>; “Disbursing aid to the affected people in Yemen in two days,” *Okaz*, August 31, 2018, <https://www.okaz.com.sa/politics/na/1667757>.

obligations to credibly investigate violations, to provide victims of violations with equal and effective access to justice, and to bring perpetrators to justice. Investigations into alleged violations of international humanitarian law and international human rights law should be independent, impartial, prompt, thorough, effective, credible, and transparent.¹⁸⁷ To date, the redress-related mechanisms set-up by the internationally recognized government of Yemen, Saudi Arabia, the UAE, and other Coalition States have failed to meet these standards.

The existing redress-related bodies are not independent, impartial, or transparent. The NCIHVHR was established by presidential decree, continues to suffer from structural independence issues, and has transparency gaps, including in regards the cases it chooses to report on and submit to the public prosecutor and its funding streams. The President of Yemen has had the sole authority to appoint and dismiss NCIHVHR commissioners. President Hadi did not appoint commissioners to the body until 2015, when pressure at the UN Human Rights Council was mounting to create an international investigation into Yemen abuses.

JIAT, a Coalition body, bases its findings on material provided to it by Coalition militaries. While JIAT often refers to civilian harm documented by the UN and NGOs at the start of its statements, it often frames its findings as “rebuking” these claims. JIAT began to recommend some form of amends to civilians harmed in Coalition airstrikes as early as 2016, but its recommendations were often vague—for example, directed to the Coalition or Coalition States, rather than to any particular country, and framed broadly.¹⁸⁸ Based on an analysis of JIAT’s investigations through 2018, Human Rights Watch concluded:

JIAT has failed to meet international standards regarding transparency, impartiality, and independence. Established in the wake of mounting evidence of coalition violations, the body has failed even in its limited mandate to assess ‘claims and accidents’

¹⁸⁷ See also UNGEE 2019 Detailed Findings, *supra* note 136 at para. 872 (citing Human Rights Committee, General Comment 36 (2018), *supra* note 30 para. 28); UNHRC Guidelines on Reparation, *supra* note 150.

¹⁸⁸ JIAT calls for assistance to families for material damage, rather than describing in any detail the civilian harm JIAT assessed resulting from an attack (including the basic number of civilians killed, wounded, or otherwise harmed in an attack). In 2020, the UN Security Council’s Panel of Experts reported that the Coalition informed them that eight cases investigated by JIAT were referred to a military prosecutor, but the details of these cases—including the status of the cases, the nationality of the perpetrators, and on what basis they were being charged—were not made publicly available. UNSC PoE 2020 Report, *supra* note 179 at para. 40.

that occurred during coalition military operations. JIAT has not only conducted its investigations without a transparent methodology, but appears to have regularly failed to conduct a thorough laws-of-war analysis in its investigations and produced flawed and dubious conclusions.¹⁸⁹

The Joint Committee is the least transparent of the existing redress-related bodies. It appears entirely non-independent. As of 2018, the Joint Committee appeared to report to a “high position” in the Saudi government, who seemed to have ultimate decision-making authority over which civilians received assistance for which Coalition airstrikes.¹⁹⁰ Who occupied this position—as well as much else regarding the Joint Committee—remains unclear. By 2021, the members of the Joint Committee, the methodology the Joint Committee used, and the processes through which civilian victims could receive assistance from the Joint Committee remained non-transparent. The Saudi/UAE-led Coalition told the UNGEE and UN Panel of Experts that the Joint Committee considers granting voluntary aid to those affected in Yemen by “collateral damage resulting from military operations shrouded by unintended errors,” but provided no real information on the nature, composition or processes of the Joint Committee.¹⁹¹

In interviews with Mwatana, even civilian victims that received monetary assistance through the Joint Committee process said they were unsure how the process worked. Most said that someone in their community had called them or visited them and told them that the Coalition or Yemeni government had deemed them eligible for monetary assistance. Other people harmed in the same airstrikes told Mwatana that they had tried to find out where to request payments for the harms they suffered, including significant injuries and the deaths of family members, but they had no idea where to present their claims or even begin to look.

Existing redress-related bodies significantly lack credibility. Yemen and Coalition officials have repeatedly promised to provide reparation or assistance to civilian victims

189 Hiding Behind the Coalition, *supra* note 9 at 2.

190 For more information on the report’s methodology, see the Methodology section above.

191 Coalition response to the Group of Eminent Expert’s third official report, 7 October 2020, para. 24, www.ohchr.org/EN/HRBodies/HRC/YemenGEE/Pages/Index.aspx; UNSC PoE 2021 Report, *supra* note 10 at para. 124.

of dozens of airstrikes since 2016 and failed to follow through. In its first set of findings in 2016, JIAT recommended the Coalition provide “compensation” to civilians impacted by a 2015 airstrike on a residential complex that caused mass civilian harm.¹⁹² Families lost their homes. Many of those killed were their families’ breadwinners.¹⁹³ JIAT’s statement referred to a “Reparations Committee” to which families should submit their claims, but provided no further information on how families in Yemen could contact the committee or how the committee might contact them.¹⁹⁴ By 2017, Coalition officials said publicly that the Coalition would heed JIAT’s recommendations, including on “compensation,” and JIAT informed the NCIHVHR that “the Coalition leadership is ready to provide suitable compensation for the families of the victims.”¹⁹⁵ But, by 2018, victims of the relevant airstrikes said they had received nothing—not even a phone call.¹⁹⁶ Despite JIAT’s promises, even if they wanted to, they had no idea where to present claims.¹⁹⁷

In early 2018, a Yemeni government official announced during a meeting with the UNHCR that a “compensation fund” had been established.¹⁹⁸ The compensation fund would begin work in “a few days,” studying cases and compensating victims for “the Coalition’s mistakes of war.”¹⁹⁹ According to the official, “the phase of compensation and reparation in accordance with international procedures” had begun.²⁰⁰ Many months later, Mwatana had identified no payments made.

192 “Joint Incidents Assessment Team (JIAT) on Yemen Responds to Claims on Coalition Forces’ Violations in Decisive Storm Operations,” Saudi Press Agency, (August 5, 2016), <https://www.spa.gov.sa/viewstory.php?lang=en&newsid=1524799>.

193 “Yemen: Coalition Strikes on Residence Apparent War Crime,” Human Rights Watch, (July 27, 2015), <https://www.hrw.org/news/2015/07/27/yemen-coalition-strikes-residence-apparent-war-crime>

194 “Joint Incidents Assessment Team (JIAT) on Yemen Responds to Claims on Coalition Forces’ Violations in Decisive Storm Operations,” Saudi Press Agency, (August 5, 2016), <https://www.spa.gov.sa/viewstory.php?lang=en&newsid=1524799>. Years later, some of the victims of this airstrike were provided monetary payments.

195 Substantive Report on Investigations in Alleged Human Rights Violations in the Republic of Yemen for the Period from 31/07/2016 to 31/01/2017, The National Commission to Investigate Alleged Violations to Human Rights (Aden), p. 20.

196 Hiding Behind the Coalition, *supra* note 9 at 81.

197 *Id.*

198 Ministry of Foreign Affairs, Official Facebook page, March 20, 2018 post, “Al Mikhlaifi and Fatah meet with the Group of Experts to Investigate the Facts,” <https://www.facebook.com/mofa.gov.ye/posts/559056417812002>.

199 *Id.*

200 *Id.*

Then, in August 2018, immediately before the UN Human Rights Council began its annual discussions about the situation in Yemen, the internationally recognized government of Yemen announced the Joint Committee had finished studying “a number of cases” and would begin to make payments in “two days.”²⁰¹ At the UN Human Rights Council, a document circulated by Saudi Arabia argued it was not necessary to renew the mandate of the UNGEE and claimed the Coalition had set up a fund and made payments to victims.²⁰²

After the UN Human Rights Council discussions, the Coalition and the internationally recognized government said little on reparation or payments for about a year and a half.

Grossly inadequate assistance to civilians

In June 2019, buried in a much longer statement, the Coalition spokesperson announced that the Joint Committee had chosen six different airstrikes for which the Coalition would provide assistance.²⁰³ By June 2019, Mwatana, other human rights groups, and UN experts had reported on hundreds of Coalition airstrikes, many of which appeared unlawful, that had caused significant civilian harm. Six was a shockingly tiny fraction.

By 2021, Mwatana was able to confirm that payments were made by the redress-related bodies set-up by the Coalition and the internationally recognized government to some of the civilian victims of these six airstrikes. From the start, the payment process—which followed investigations that were not independent, impartial, or credible—was non-transparent, ineffective and far from thorough.

In June 2019, the Coalition spokesperson said the Coalition had received 145 “allegations” of Coalition attacks in which civilians had been harmed.²⁰⁴ Based on

201 Ministry of Foreign Affairs, “Mechanism to disburse aid to those affected by Coalition military operations in Yemen established,” (August 30, 2018), <https://www.mofa-ye.org/Pages/4760/>.

202 Document on file with report authors.

203 “General: Colonel Al-Maliki: The Houthi militia is trying to provoke the Coalition but we will comply with international law and take strict, deterrent measures,” Saudi Press Agency (June 24, 2019), <https://www.spa.gov.sa/1937774>.

204 Id.

interviews and government documents, it appears that all or most of the 145 “allegations” were put forward by the NCIAVHR, the Yemeni government’s investigation commission. According to the Coalition spokesperson, JIAT “accepted” 18 of the 145 allegations, and the Joint Committee decided to provide payments to civilian victims in six of the 18 JIAT-approved cases.

Neither the Coalition nor the internationally recognized government clarified why the Riyadh-based JIAT rejected 127 allegations, all or most of which appeared to have been put forward by the Aden-based NCIAVHR, a Coalition-supported Yemen government body. They also did not clarify what plans, if any, the Coalition had to provide assistance to victims of the 12 other strikes that JIAT, the Coalition body that bases its findings on information provided by Coalition militaries, had accepted. It remains unclear how the Joint Committee decided upon the six strikes it deemed eligible for payment in 2019; it is clear the Joint Committee significantly reduced the number of strikes from those put forward by the NCIAVHR and those accepted by JIAT. The true civilian toll of Coalition airstrikes and the internationally recognized government of Yemen is far beyond that reported on by the NCIAVHR or JIAT.²⁰⁵

Even in these six Joint Committee-chosen strikes, the Coalition States and the internationally recognized government of Yemen failed to create functional and complete lists of harmed civilians and to deliver full payments to designated recipients. Mwatana examined government documents that listed around 100 names meant to receive financial payments through the Joint Committee process. It is unclear how these lists of names were compiled. The number of civilians differed, in some cases dramatically, from Mwatana’s findings on the civilian harm resulting from the same strikes.

Mwatana also interviewed people harmed in these six strikes.²⁰⁶ Some received money before the June 2019 announcement. Others received payments much later. Some received smaller amounts than government documents indicated they were meant to receive. Some, including those listed on government documents to receive payments, said they received no payment at all. Other civilians harmed in the same strikes—who lost family members, had been wounded, or had suffered property damage—were not listed on government documents and received no payments.

²⁰⁵ See *infra*, note 187 and accompanying text.

²⁰⁶ For more information on the report’s methodology, see the Methodology section above.

Mwatana's research indicated that civilians with some form of influence—for example, links to the internationally recognized government or the ability to exert pressure—were more likely to receive payments. In one case, there seemed to be an advantage for civilians who had contacts in Marib governorate, which the internationally recognized government controls. Those who received payments said they received calls from a friend in Marib, in many cases naming the same person, who told them their names or their family members' names were on a list for payments. Mwatana interviewed four other people impacted by the same strike who did not receive payments. Most had been injured. They shared their medical reports and described their injuries and ongoing physical complications to Mwatana. Government documents named at least one of them as being promised payment. When these people asked others in the community about payments, they were told they were “not on the list that came from Marib.”

Some people interviewed by Mwatana said they only received partial payments. According to government documents, relatives of those killed were meant to receive a lump sum of 40,000 Saudi Riyals (SR) (around 10,600 USD), those wounded a sum of 10,000 to 15,000 SR (around 2,600 – 4,000 USD), and those with property damage a sum of 5,000 to 20,000 SR (around 1,300 – 5,300 USD). One Coalition airstrike killed more than a dozen civilians. Mwatana interviewed four people impacted by the strike—three had lost family members and one was wounded. The three men who lost family members all reported receiving a one-time payment from the Coalition years after the strike. Two separate government documents listed the three men's family members by name. Both documents specified that the family members should receive a payment of 40,000 SR. One document said the payments had been made. All three men told Mwatana that, in reality, they received smaller amounts. Two men said they received 38,000 SR and one said he received 32,000 SR. It is unclear where the rest of the men's designated payments ended up.

The fourth man that Mwatana interviewed, who was wounded in the strike, said he received nothing. He was listed by name on two government documents as meant to receive a 10,000 SR payment. One of the documents said the payment had been made. After hearing that others in the community received assistance, the man contacted the person who distributed the funds. The person told him, incorrectly, that payments were only for those whose relatives were killed in the airstrike.



I lost my entire life... I lost my husband and the person who provided for myself and my children. I lost my home that was our shelter.



Government documents showed other irregularities, like duplicate names, including listing people twice for the same type of harm, and widely disparate approaches to payments in different strikes. In one strike, government officials “amended some of the names.” One of the added names appears to be a relative of the person who distributed the funds.

In another case, civilians only received payments after speaking out on television. The victims of one particularly egregious airstrike organized themselves soon after the attack. Many survivors had developed long-term physical health complications and many of the children were experiencing psychological harm that required therapy and treatment. The head of the victims’ association told Mwatana that in 2019 the Coalition publicly announced they had disbursed payments to victims of the airstrike, and that the Coalition had lied. He went on TV. Soon after, the Coalition made payments to about thirty percent of the victims, he said. When the association tried to contact the Coalition to provide more comprehensive payments, the Coalition was “not very reactive.” The Coalition “only wanted the media to say the Coalition made the compensation and it did. That is it for them,” he said.

In that same strike, the Coalition killed the husband of “Belques” (a pseudonym), a 35-year-old teacher. Her home “including my bedroom and my children’s bedroom, the entire house... everything was destroyed,” she said. The gas station where her husband worked became “a place for ghosts.” She told Mwatana, “I lost my entire life... I lost my husband and the person who provided for myself and my children. I lost my home that was our shelter.” After the strike, Belques and her four children were displaced. She registered to receive a small amount of humanitarian aid—some sugar, rice, oil, and lentils. By 2020, more than a year after the Coalition and internationally recognized government said they provided assistance for the airstrike, Belques said she had not

received any payment. “Nobody can fix what has been broken,” she said, “[but] I want a house for me and my children, and a monthly salary that I can spend on them [the children] only.”

Mwatana identified other people that had been wounded in the six Joint Committee-chosen strikes that said they had received no payments. A 48-year-old hospital technician said his right leg was cut, his right hand was broken, his left leg had shrapnel in it, and his head was wounded. He shared a medical report with Mwatana. After the strike, he required six months of treatment, two years of healing at home, and a prosthetic leg. He had to stop working because of his injuries. He was his family’s breadwinner. His name was listed on a government document as eligible for payment, but he received nothing. “I demand my rights and I demand a replacement for my lost leg that was because of this, and justice would be returning people’s rights to them... [fair redress would be] treatment at the expense of those who handicapped me until I am recovered,” he said.

Two other men wounded in the same strike told Mwatana they did not receive any payment. Both men emphasized the importance of financial assistance to pay for the medical treatment they needed for their injuries. One of them, a 33-year-old ice cream seller, told Mwatana that he needed compensation “so I can treat myself,” or that those responsible should “pay for me to be treated.” He wanted to see compensation for everyone.

Even where provided, the monetary payments by the internationally recognized government and Coalition States do not meet international standards for reparations. The UN Basic Principles state that reparation should be provided through one or more of five recognized forms, including restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Reparations, awarded through a judicial, administrative or other process, should be full, effective, and proportionate to the harm done, and adequate, effective, and prompt. Reparations stem from a legal obligation of a violator to make a victim whole.²⁰⁷

The internationally recognized government of Yemen and Coalition States have expressly not linked these payments to any international legal obligation. On the contrary, the internationally recognized government and Coalition States have framed these payments as “voluntary” and “humanitarian.” The body set-up to facilitate

207 For a more detailed discussion, see the International Law on Reparations section of this report.

these payments was named the “Joint Committee To Grant Voluntary Humanitarian Assistance To Those Harmed In Yemen.” In the vast majority of cases where JIAT recommended payments, JIAT took care to emphasize that the Coalition was not at fault or that it had complied with international law. JIAT often emphasized an airstrike was an “unintentional” bombing, the result of a technical problem, or that Coalition forces had followed appropriate procedures, but the strike resulted in some form of unforeseen “collateral damage.”²⁰⁸

Payments came without an apology or acknowledgment of fault. Instead, the Coalition and internationally recognized government asked some of those who received payments to sign a receipt describing the payments as “voluntary assistance” provided to those harmed by Coalition “mistakes.” Mwatana examined the receipt, which had a Coalition Joint Command heading, a space to check whether the funds were for “Injuries,” “Deaths,” or “Property,” and a space for the financial company and the recipient to sign. The receipt read:

I, the claimant (---), national number (---), received an amount of (---), Saudi Riyals as voluntary assistance from the Joint Committee to Grant Voluntary Humanitarian Assistance to Those Harmed in Yemen as a result of unintentional mistakes from Coalition military operations in Yemen that resulted in (---) in the incident of (---) in the city of (---) in the District of (---) in the Governorate of (---) and for this I sign below.

Many of the people that Mwatana interviewed that received condolence payments through the Joint Committee process distinguished the one-time monetary payments from reparation and justice. Harmed civilians expressed a variety of priorities for redress to Mwatana. While some mentioned full monetary compensation, others preferred that an international court try perpetrators and still others wanted revenge. Some said they wanted to see holistic accountability and reparations, but that they had lost hope in justice. Here are some of their perspectives:

²⁰⁸ In only a handful of the airstrikes for which JIAT recommended assistance (by 2021, about a fifth of the total airstrikes publicly reported on by JIAT) did JIAT acknowledge any apparent fault on the part of the Coalition or recommend some other action, for example that a case be referred to prosecution. JIAT did not link its recommendations for financial assistance to this finding of fault. Analysis on file with report author. See also *Hiding Behind the Coalition*, supra note 9.

A 29-year-old nurse who was wounded and could not work after he was injured by a Coalition airstrike received a payment. He said he was “happy with the amount” but it was not enough to cover all of his medical expenses. The airstrike injured his right hand and broke his bones. He required an operation abroad to treat his injuries. He said real redress would help him cover his remaining medical expenses, either by providing him compensation or covering the treatment directly.

A 25-year-old who lost his brother in a 2015 airstrike and received a payment in 2019 emphasized the hardship the airstrike caused his family. His brother had provided for his family. After he was killed, the rest of the family had to step in and find work to provide for themselves and to cover their mother’s medical expenses. The payment did not restore the family to its situation before the violation. The 25-year-old said compensation and reparation were “a part” of justice, “but money can’t compensate for our beloved ones.”

A 45-year-old man who was wounded in a Coalition strike and received payment said, “I was happy when [my friend in Marib] said to me there was compensation.” He wanted to see everyone compensated, including the families of those killed, and to see all those injured treated for their wounds.

A man whose son was killed in a Coalition airstrike and who accepted a payment noted the inadequacy of financial compensation, saying, “money is nothing compared to losing a human being. I don’t care about compensation, but it is good for the children who lost their father who cared for them, it is for the children and their mother.” He said justice would be “to see full complete justice for the children, women, young people, and elderly who fell [were killed].”

A 23-year-old who lost his brother in a Coalition airstrike and received payment said, “We received assistance but we are not able to call it compensation.” His brother was the head of his household and other family members suffered from stress and psychological trauma after his death.

A woman whose two brothers were killed in a Coalition strike and whose family accepted a payment emphasized the importance of criminal justice. She said, “At the beginning, we protested receiving monetary compensation in exchange for the souls of our relatives... and many families protested but... this... did not take away our right to prosecute the perpetrator of this incident.” The woman said her vision of justice included “an international court to try the perpetrators... to try people for what was... a war crime,

and for compensation to be offered for the home and for the loss of it.”

While these monetary payments alone are not reparations, they can provide some form of immediate, material assistance to families and individuals in need after attacks. Some people who received payments through the Joint Committee process told Mwatana that they needed the financial support to care for themselves or their family, even if the payments were inadequate and came years after they suffered harm.

Many of the civilians with whom Mwatana spoke described the direct and indirect physical, social, psychological, and economic costs they bore as a result of Coalition airstrikes. While explaining that money would never make up for the loss of their loved ones, many emphasized the long-term material impacts of the airstrikes, including the continued need for medical treatment, the loss of housing, and the search for assistance to make up for the loss of a breadwinner’s salary that they had depended on.

The bodies created by Coalition States and the internationally recognized government have not provided any form of assistance—monetary or otherwise—to the vast majority of civilian victims of their attacks in Yemen. Beyond airstrikes, other forms of Coalition, Yemen and allied groups’ attacks have resulted in significant civilian harm. While the NCIIVHR has investigated a variety of types of warring party conduct, JIAT and the Joint Committee have focused almost exclusively on airstrikes. Other types of conduct that have caused civilian harm—for instance detention-related abuse, indiscriminate ground shelling, humanitarian access restrictions, and child recruitment—have largely gone unaddressed by these bodies and entirely unredressed.

There is no clear process through which civilians harmed as a result of airstrikes or other conduct can seek condolence payments from the Saudi/UAE-led Coalition or the internationally recognized government of Yemen, including through the three existing redress-related mechanisms.

State members of the Saudi/UAE-led Coalition, the internationally recognized government of Yemen, and allied groups continue to commit the same types of international wrongs for which reparations have long been owed in Yemen. Rather than incorporating guarantees of non-repetition into their civilian harm responses, Saudi Arabia, the UAE, and the internationally recognized government of Yemen have pointed to their redress-related bodies in efforts to block independent investigations into Yemen abuses. This fits within a much larger effort by Saudi Arabia, the UAE, and other warring States to evade accountability for international wrongs for which they are responsible

in Yemen. In 2021, these States, using threats and incentives, succeeded in convincing the UN Human Rights Council to end the investigation mandate of the UN Human Rights Council-mandated Group of Eminent Experts, although the war continued, violations were ongoing, and reparations remained far from achieved.



The aftermath of a Saudi/UAE-led coalition airstrike on a civilian house in Rubi Mountain, Ibb Governorate on February 28, 2015.

KAREEM AND ABDULLAH



Who will
compensate
us for the
loss of my
children
and house?
They don't
even know
about us.



In the summer of 2019 at about 8:00 am, a Coalition aircraft dropped a bomb on a four-story apartment building in one of the most densely populated neighborhoods in the capital, Sana'a. The attack damaged or destroyed five apartment buildings, killed eight civilians, including five children and a woman, and wounded at least 77 others, including at least 30 children and 19 women.

In October 2019, JIAT issued a statement claiming the Coalition launched two strikes, one which hit a military target and another in which the bomb "deviated." JIAT found that the bomb "accidentally" fell "away" from its "legitimate military target," and recommended "assistance for human and material losses."

In 2020, Mwatana interviewed three people affected by the airstrike, one who was injured and two who lost family members. None had received payments from the Coalition or internationally recognized government.

“Kareem” (pseudonym), a 58-year-old taxi driver, said that he and his daughter were injured in the strike. Kareem owned two floors of the four-story apartment building; his brother owned the other two. He said the strike caused significant damage, including to the windows, doors, furnishings, and nearby cars. He was grateful none of his relatives were killed.

After the strike, Kareem said, “Our family had to flee and were displaced to a relative’s home where we remained. We felt a lot of pressure trying to rebuild our house... There is no justice. No one can get his rights back, but compensation for what was damaged is most important.”

“Abdullah” (pseudonym), 48 years old, said four of his children were killed in the strike. He, his wife, and his son were injured and their house destroyed. His surviving son had changed a lot since the strike, he said; his son misses his siblings and does not understand why they died.

After the strike, Abdullah and his surviving family members moved to a village. When they returned to Sana’a, a poor woman gave them a room to sleep in until they could prepare their house. When asked about justice, he said:

“Criminal accountability is important but who is going to hold them accountable in the end? And who will compensate us for the loss of my children and house? They don’t even know about us.

Until now, I am psychologically in pain. Every time I think of my children, my heart breaks. I think of how my children disappeared. They died in the blink of an eye.”

NASSER AND MUSTAPHA



They caused
us severe
damage, We
lost huge
sums in
repairing the
damage and
following up
on [my sons]
that they
detained.



At dawn on in December 2017, men wearing the black military uniforms and black masks of the UAE-backed Counter-Terrorism Forces raided a house in Aden Governorate.²⁰⁹ They arrested “Nasser” (pseudonym), a 23-year-old motorcycle driver, and his 17-year-old brother “Mustapha” during a wider detention campaign carried out that night and early morning. Nasser and Mustapha were taken in military and armored vehicles to an unknown destination. Their father said:

“I was asleep when I heard heavy gunfire. I rushed to see what was happening. I was horrified as I saw seven masked gunmen storming the house. They handcuffed and blindfolded Nasser and took him outside. My other son had gone up to the roof of the house to see what was happening, but the soldiers were deployed on the roofs of the neighboring houses and they started shooting at him and detained him as well. We found a considerable amount of blood on the roof of the house and the courtyard of the neighbor’s house. We don’t know how they detained him.”

209 For more, see *In the Darkness*, supra note 178 at 68-9.

The family did not know where Nasser and Mustapha were taken. They submitted reports to the Al Buraiqeh Police Station and the Aden Security Administration, and followed up with the Security Belt Command, the Public Prosecutor's Office and the person in charge of following up on the missing. None gave the family information regarding Nasser and Mustapha's whereabouts.

Nasser was disappeared for three months in the Coalition camp, after which he was transferred to Bir Ahmed prison. A former detainee eventually told Nasser's father that Nasser was in Bir Ahmed. His father went to visit. Nasser told him that, first, he was taken to Waddah Hall and, days later, transferred to the Coalition prison. Nasser told his father he had been "tortured, beaten and insulted during interrogation by Emirati officers" and "accused of belonging to an armed gang." He suffered from skin diseases as a result of poor detention conditions, his father said. Nasser did not know what had happened to his brother.

Nasser and Mustapha's father said the raid and subsequent disappearance of his sons had psychological and economic impacts on the wider family. The wife of one of his sons miscarried. His youngest son, 11, stopped speaking. Another son had been suffering panic attacks since the raid. "They caused us severe damage," he said. "We lost huge sums in repairing the damage and following up on [my sons] that they detained."

Nasser was released in March 2020, after being detained for over two years. His brother remains disappeared.

An established obligation to provide reparation

States like Saudi Arabia, the UAE, and Yemen have an obligation to provide reparations in the event of a violation of international law. The International Law Commission's Draft Articles on State Responsibility synthesize the current state of international law:

- (1) The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act.
- (2) Injury includes any damage, whether material or moral, caused by the internationally wrongful act of a State.²¹⁰

As described in more detail in the International Law on Reparations section of this report, the State obligation to provide reparation applies in all cases of violations of international law, including IHRL and IHL. The commentary to the Draft Articles on State Responsibility notes that, “[t]hey apply to the whole field of the international obligations of States, whether the obligation is owed to one or several States, to an individual or group, or to the international community as a whole.”²¹¹

Given the established State obligation to provide reparation for breaches of IHL and IHRL, the following subsections focus on some of the ways in which such a violation of IHL or IHRL committed in Yemen could be attributable to a State, including Saudi Arabia, the UAE, and Yemen. As noted in the UN Basic Principles on the Right to a Remedy and Reparation, States “shall provide reparation to victims for acts and omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law.”²¹²

210 The Draft Articles “seek to formulate by way of codification and progressive development, the basic rules of international law concerning the responsibility of States for their internationally wrongful acts.” Draft Articles, *supra* note 98 at Article 31, General Commentary, para. 1.

211 *Id.* at General Commentary, para. 5.

212 UN Basic Principles, *supra* note 110 at para. 15. (emphasis added)

Saudi Arabia, the UAE, and Yemen have an obligation to provide reparations for international wrongs for which they are responsible

Saudi Arabia, the UAE and Yemen have an obligation to provide reparations for internationally wrongful acts carried out by their armed forces, by armed forces or armed groups acting on their instructions or under their direction or control, and to which they knowingly and significantly contributed.²¹³

Saudi Arabia, the UAE, Yemen, and other States participating in the conflict in Yemen are responsible for IHL violations carried out by their armed forces. A long-standing rule of international law dictates that a State is responsible for “all acts committed by persons forming part of its armed forces.”²¹⁴ This rule is an application of the general rule that States are responsible for the behavior of their organs.²¹⁵ The armed forces are a State organ, like other entities of the executive, legislative or judicial branch of government. The four Geneva Conventions acknowledge that State responsibility exists for IHL violations committed by a State’s armed forces, in addition to the requirement for States to prosecute individuals responsible for grave breaches.²¹⁶ Under customary IHL applicable in both international and non-international armed conflicts, a State is responsible for the conduct of its armed forces.²¹⁷

The Saudi/UAE-led Coalition is made up of multiple States conducting a joint military endeavor on Yemen’s territory. Saudi Arabia and the UAE have also supported and in some cases directed armed groups operating in Yemen. States are responsible

213 These same grounds for attributing responsibility would apply to other States operating in Yemen, including the United States (through its direct operations in Yemen or through its support to the Coalition), or to other States militarily supporting the Coalition (including through arms transfers). Draft Articles, *supra* note 98 at art. 16 and commentary.

214 Hague Convention (IV), *supra* note 57 at art. 3; Additional Protocol I, *supra* note 58, at art. 91.

215 Draft Articles, *supra* note 98 at art. 4.

216 Geneva Convention I, *supra* note 58, at art. 51, Geneva Convention II, *supra* note 58, at art. 52, Geneva Convention III, *supra* note 58, at art. 131, Geneva Convention IV, *supra* note 58, at art. 148,.

217 ICRC, Rule 149. Responsibility for violations of International Humanitarian Law, Customary IHL Database, ICRC Rule 149, (internal citations omitted). Available at https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule149.

for acts carried out by actors, including a person or group of persons, “acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.”²¹⁸ According to the Commentary of the Draft Articles, “[s]ituations can also arise where the organ of one State acts on the joint instructions of its own and another State, or there may be a single entity which is a joint organ of several States. In these cases, the conduct in question is attributable to both States.”²¹⁹ Thus, States within the Coalition would be responsible for international wrongs committed by armed forces and armed groups acting on their instructions or under their direction or control, even where those armed forces are that of another State or the armed group is in another territory.

Several States can be found responsible for the same act. In cases where an internationally wrongful act can be attributed to several States, each State is separately responsible for the resultant harm (although an injured party cannot recover more compensation than the damage suffered).²²⁰ In other contexts, States have been held responsible for violations they caused regardless of whether there were other contributory actors.²²¹ Where two or more States have jointly established a common organ—in this case, the Coalition—and where those States carry out an international wrong through that organ, each of the contributing States is responsible for the violation. This analysis is particularly relevant to Saudi Arabia and the UAE, which lead the Coalition and, jointly or separately, play a major role in military operations and appear to direct much of the Coalition's military strategy.

The internationally recognized government of Yemen would also have an obligation to provide reparation for wrongs related to Coalition operations in Yemen if, for example, the wrong was carried out by Yemen's armed forces, if Yemen knowingly and significantly contributed to the wrong (for example by providing intelligence to Saudi or UAE aircraft

218 Draft Articles, *supra* note 98 at art. 8.

219 *Id.* at 44.

220 Draft Articles, *supra* note 98 at art. 47 (Plurality of responsible States: “Where several States are responsible for the same internationally wrongful act, the responsibility of each State may be invoked in relation to that act. Paragraph 1: does not permit any injured State to recover, by way of compensation, more than the damage it has suffered; is without prejudice to any right of recourse against the other responsible States.”)

221 Where courts have established a violation of a legal obligation, courts have placed the burden of proof on States to demonstrate that it is not entirely liable for the relevant harm, and to prove which, if any, aspects of the relevant harm(s) are severable. See, e.g. *Zafiro Case, D. Earnshaw and Others (Great Britain) v. United States*, Reports of International Arbitral Awards V. VI 160, 30 Nov. 1925.

that then resulted in an unlawful attack), or if Yemen granted the Coalition elements of its governmental authority and Coalition States then carried out international wrongs while exercising that authority.²²² Despite indisputable evidence that Coalition States have carried out frequent international wrongs and caused massive civilian harm in Yemen, Yemen continues to contribute to Coalition military operations and to grant its consent to Coalition operations in Yemen. To date, the internationally recognized government has not only failed to take adequate steps to ensure that Coalition forces, its own forces, or allied forces cease their international law violations, but actively blocked efforts to secure accountability.

States can be responsible for an internationally wrongful act through an act or omission. The UN Basic Principles note that a State is obligated to “provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law.”²²³ The standard for imposing State responsibility varies across cases but knowledge of a violation and failure to act have been found to be sufficient.²²⁴

222 Under the Draft Articles, a State is responsible for acts by an actor that “is empowered by the law of that State to exercise elements of the governmental authority...provided the person or entity is acting in that capacity in the particular instance.” Draft Articles, *supra* note 98 at art 5. Paragraph seven of the Commentary for Article 5 clarifies that “an entity is covered even if its exercise of authority involves an independent discretion or power to act; there is no need to show that the conduct was in fact carried out under the control of the State.” *Id.* at art 5, para. 7. The Coalition undertook its military operations “in response to the request by the President of the Republic of Yemen, Abd Rabbo Mansour Hadi, for the protection of Yemen and its people and to help Yemen to counter terrorist organizations.” Invoking Art. 51 of the UN Charter—i.e., the exercise of a State’s right to self-defense—Yemen urged Coalition States to “provide immediate support in every form and take the necessary measures, including military intervention, to protect Yemen and its people from the ongoing Houthi aggression, repel the attack that is expected at any moment on Aden and the other cities of the South, and help Yemen to confront Al-Qaida and Islamic State in Iraq and the Levant.” It is unclear whether Yemen granted the Coalition authority by internal law. UN Security Council, Identical letters dated 26 March 2015 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General and the President of the UN Security Council, S/2015/217, 27 March 2015, https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_217.pdf.

223 UN Basic Principles, *supra* note 110 at para. 15.

224 Draft Articles, *supra* note 98 at art. 2.

Yemen has a responsibility to ensure reparations to those whose rights have been violated in its territory, regardless of Yemen's culpability for the wrong

In addition to its obligation to provide reparations for international wrongs for which it is responsible, the internationally recognized government of Yemen has responsibilities to people living in its territory, including the responsibility to ensure their right to reparation is realized, regardless of whether or not Yemen is responsible for the particular wrongful act.

The internationally recognized government has an obligation to respect, ensure respect for, and implement international human rights law and international humanitarian law and to respect, protect, and fulfil the human rights of those in its territory, including their right to remedy and reparation. This obligation emanates from treaties to which Yemen is a party, customary international law, and the domestic law of Yemen.²²⁵

Under the UN Basic Principles, the State where the wrong occurs, in this case Yemen, has particular responsibilities to ensure individuals receive reparations, even where the actor responsible for the harm—be it a State or non-State actor—is unwilling or unable to provide these reparations. Yemen should take steps to facilitate victims receiving reparations directly from responsible actors, including “enforce[ing] domestic judgements for reparation against individuals or entities liable for the harm suffered,” “endeavour[ing] to enforce valid foreign legal judgements for reparation,” and “provid[ing] under their domestic laws effective mechanisms for the enforcement of reparation judgements.”²²⁶ Even where the responsible parties are unable or unwilling to meet their own reparations obligations, under the UN Basic Principles framework, Yemen should “endeavour to establish national programmes for reparation and other

225 UN Basic Principles, supra note 110 at para. 1. Yemen has ratified numerous human rights treaties, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Economic, Social and Cultural Rights; and the Convention on the Rights of the Child. Yemen has also ratified all four Geneva Conventions, which require States to “respect and to ensure respect” for the Conventions “in all circumstances.” For more on Yemen’s IHL and IHRL treaty ratification status and resulting international law obligations, see the International Law on Reparations section of this report.

226 UN Basic Principles, supra note 110 at para. 16-17.

assistance to victims.”²²⁷

In addition, but closely linked to these reparations obligations, States, including Yemen, Saudi Arabia, and the UAE, have a duty to investigate IHL and IHRL violations and to prosecute those responsible for serious violations.²²⁸ When violations occur with impunity within Yemen’s borders, Yemen violates these obligations.



| A house destroyed by the Ansar Allah armed group in Al-Barman village, Al-Zahir District, Al-Bayda Governorate.

²²⁷ Id.

²²⁸ Id. at para. 4. See also the International Law on Reparations section of this report.

ALI AND HUSAM



With the shrapnel in my lung, I tire easily and can't do arduous work. If I try to remove it with an operation, that could lead to my death.



In October 2016, a Coalition airstrike on a crowded funeral hall in Sana'a killed or wounded many hundreds of civilians. It was one of the war's worst attacks and was carried out with US weapons.

In the face of significant pressure, including from the US and the UK, JIAT released a statement concluding that "appropriate action" should be taken "against those who caused the incident" and "compensation" offered to the families of the victims.

In 2020 and 2021, Mwatana interviewed five people affected by the 2016 airstrike about redress. All five said they had received no form of reparation, including compensation, from the Coalition or the internationally recognized government of Yemen.

For some, the airstrike caused long-term physical disabilities and they could no longer work. "Husam" (a pseudonym), a 30-year-old man who was seriously wounded by the airstrike, said:

"[The strike] destroyed my future. I haven't been able to go back to work because of my injury. With the shrapnel in my lung, I tire easily and can't do arduous work. If I try to remove it with an operation, that could lead to my death. And the burns changed my features. And out of my right ear I can't hear anything."

48-year-old “Ali” (pseudonym) said he and his son were injured in the strike. Ali now walks with crutches and the family is still paying for treatment for his son.

Since the airstrike, Ali has had difficulty providing for his family due to his disability. When asked if he had received any form of redress, Ali said, “No, I don’t know where to go.”

Ali said he wanted to see compensation for the harm done and assistance to help families meet their needs.

Others affected by the airstrike told Mwatana they wanted to see compensation, assistance with medical treatment, reparations, and criminal accountability.

The Ansar Allah (Houthi) armed group

The Iran-backed Ansar Allah (Houthi) armed group has not provided reparations to civilians whom they have harmed as a result of their international wrongs in Yemen. The following section provides a snapshot of the patterns of serious international humanitarian law violations and gross human rights violations committed by Ansar Allah, describes the limited steps Ansar Allah has so far taken to respond to the civilian harm it has caused in Yemen, analyzes these steps in light of international standards for reparations, and makes the case for Ansar Allah's responsibilities under international law to provide reparations to civilians it has harmed through its international law violations in Yemen.

Serious international humanitarian law violations and gross human rights violations

In September 2014, the Ansar Allah (Houthi) armed group took over Yemen's capital, Sana'a, and then rapidly advanced south. Since that time, Ansar Allah has controlled large parts of Yemen's territory, including territory that contains a significant portion of Yemen's civilian population.

Ansar Allah quickly consolidated control over state institutions, including the legal system and judiciary, in governorates under its control. In many cases, Yemen now has at least two parallel, formal governing structures—an Ansar Allah-held ministry and an internationally recognized government ministry; an Ansar Allah-held court system and an internationally recognized government court system; an Ansar Allah-created exchange rate and an internationally recognized government exchange rate. At the

same time, Ansar Allah has created parallel systems and bodies that operate outside of formal state institutions, including bodies meant, according to Ansar Allah, to play some form of redress-related role.

Since entering Sana'a and throughout the current conflict, Ansar Allah has committed frequent, repeated, and serious international humanitarian law violations and frequent, repeated, and gross international human rights abuses. Ansar Allah has carried out indiscriminate ground attacks, used antipersonnel landmines, indiscriminately laid antivehicle landmines, carried out extrajudicial killings and enforced disappearances, tortured, committed acts of sexual violence, recruited and used child soldiers, attacked protected civilian sites and objects, and significantly restricted humanitarian aid access. In areas under its control, Ansar Allah has undermined fundamental rights and freedoms, restricting the freedom of press, the freedom of expression, the freedom of religion, and the rights of women. In 2016, the UNSC Panel of Experts stated that Ansar Allah was violating IHL and had "committed a systematic pattern of attacks resulting in violations of the principles of distinction, proportionality and precaution."²²⁹ Members of Ansar Allah, including high-ranking leaders, appear to be responsible for war crimes.²³⁰

Ansar Allah has committed serious violations of IHL during the conduct of hostilities. Ansar Allah has used and occupied schools, hospitals, and other health and education facilities, endangering them and exposing them to attacks.²³¹ Ansar Allah has also indiscriminately fired artillery and rockets, including at densely populated residential areas. These and other Ansar Allah ground attacks have caused significant civilian harm, including killing and wounding many hundreds of civilians and damaging and destroying civilian property.²³²

Since 2014, Mwatana has documented at least 395 cases of apparent Ansar Allah ground shelling attacks that killed 369 civilians, including 165 children and 54 women, and injured at least 918 civilians, including 432 children and 126 women. Mwatana's

229 UNSC PoE 2016 Report, *supra* note 188 at para. 127.

230 See, e.g., UNGEE 2018 Report, *supra* note 49 at para. 108; UNGEE 2019 Report, *supra* note 176 at para. 96; UNGEE 2020 Report, *supra* note 7 at para. 105; UNGEE 2021 Report, *supra* note 160 at para. 87.

231 See, e.g., "Undermining the Future: Attacks on Yemen's Schools," Mwatana for Human Rights and Ceasefire Center for Civilian Rights (August 18, 2020), <https://mwatana.org/en/undermining-students-future/>.

232 See, e.g., UNGEE 2021 Report, *supra* note 176 at para. 30. The UNGEE has also stated its "concern that parties to the conflict, particularly the Houthis, continue to launch indiscriminate attacks prohibited under international humanitarian law. These are attacks not directed at a specific military objective."

documentation is by no means exhaustive. Mwatana only includes in its reports those civilian casualties that its researchers directly investigate and verify. The civilian toll from Ansar Allah shelling attacks since 2014 is almost certainly far higher.

Ansar Allah has significantly exacerbated Yemen's humanitarian crisis. Ansar Allah has besieged areas, preventing the flow of critical life-saving aid to civilians in need, with a particularly devastating impact on Taiz, Yemen's third largest city.²³³ Ansar Allah has also obstructed and looted humanitarian aid and critical life-saving supplies intended for civilians in areas under its control. Mwatana and Global Rights Compliance found that Ansar Allah used starvation as a weapon of war.²³⁴

Ansar Allah has laid landmines across Yemen, including antipersonnel landmines. Ansar Allah has left these mines unmarked and given little or no warning to civilians as to how to avoid mined areas. Ansar Allah-laid landmines have killed and wounded civilians and prevented civilian access to critical farmland and wells. Ansar Allah has acknowledged the application of the Anti-Personnel Mine Ban Convention, which prohibits the use of anti-personnel mines,²³⁵ but Mwatana and the UNGEE have continued to document, on a yearly basis, dozens of landmine explosions that cause civilian deaths and injuries, particularly among children.²³⁶ By 2021, Mwatana had documented at least 349 explosions of landmines planted by Ansar Allah that killed 295 civilians, including 123 children and 34 women and injured at least 492 civilians, including 224 children and 87 women.

Ansar Allah's practice of recruiting and using child soldiers—including children as young as seven—has been a constant in the conflict.²³⁷ Ansar Allah has used children for military and other purposes. Ansar Allah has often recruited children without the knowledge of their families. In 2017, some family members submitted complaints to the Public Prosecution Office in Sana'a to attempt to have their children returned to

233 The UNGEE investigated specific shelling attacks that devastated civilian lives. The majority of these attacks have been undertaken by the Houthis, with a small number attributed to the internationally recognized government of Yemen and the Coalition. The Houthis' response to the Group's last report denied responsibility. UNGEE 2021 Report, *supra* note 176 at para. 26.

234 See, e.g., *Starvation Makers*, *supra* note 180.

235 UNGEE 2019 report, *supra* note 176 at paras. 45-46.

236 See, e.g., "Concealed Killer: Fall of civilians by the landmines laid by the Ansar Allah Armed Group (the Houthis) and Saleh Forces," Mwatana for Human Rights (10 May 2017), <https://mwatana.org/wp-content/uploads/2017/10/Concealed-Killer-Report-En.pdf>.

237 UNGEE 2020 Report, *supra* note 7 at para. 74.

them. Since 2014, Mwatana has documented and verified at least 1808 cases of child recruitment by Ansar Allah. Ansar Allah has primarily recruited boys to fight, but has also recruited girls. Mwatana has documented many cases of Ansar Allah using boys to fight in frontlines and cases of boys dying while fighting.²³⁸

In territories under its control, Ansar Allah has governed strictly and ruthlessly. Ansar Allah has arbitrarily detained and disappeared scores of people, subjected those detained to cruel, inhuman and degrading treatment and torture, and denied men and women fair trial rights.²³⁹ Since 2014, Mwatana has documented 1107 cases of arbitrary detention, 481 cases of enforced disappearances and 167 cases of severe abuse, including abuse likely amounting to torture and involving 40 cases of deaths in detention, in facilities under Ansar Allah control.²⁴⁰

The UNGEE, Mwatana and others have also documented dozens of cases of sexual violence by Ansar Allah. Women, men, girls, and boys have been subjected to rape and other forms of sexual violence by Ansar Allah. In cases documented by Mwatana, most of those subjected to sexual violence lived in dangerous environments and were already vulnerable as members of a marginalized group, like working children, displaced people, or those with special needs.²⁴¹

Ansar Allah has also broadly restricted rights and freedoms, including the rights of women, civil society, religious minorities, and the press. Ansar Allah has, for example, expelled and prevented women from work, endangered women by preventing access to reproductive healthcare, and fanned the flames of misogyny.²⁴² Ansar Allah has also persecuted members of the Baha'i and Jewish religious communities.²⁴³ After years of pressure from human rights advocates, in 2020, the Ansar Allah Supreme Political

238 See e.g., Mwatana 2017 Report, *supra* note 183 at 85; Mwatana 2018 Report, *supra* note 176 at 50; Mwatana 2019 Report, *supra* note 176 at 48; Mwatana 2020 Report, *supra* note 176 at 58.

239 See, e.g., *In the Darkness*, *supra* note 178.

240 *In the Darkness*, *supra* note 178.

241 See Mwatana 2019 Report, *supra* note 176 at 62; Mwatana 2020 Report, *supra* note 176 at 84; UNGEE 2019 Report, *supra* note 176 at para. 62; UNGEE 2020 Report, *supra* note 7 at paras. 70-71, 73; UNGEE 2021 Report, *supra* note 176 at para. 59.

242 See, e.g., "Moments of Hell! Ansar Allah (Houthi) Group Practices Gravely Undermine Women's Rights," Mwatana for Human Rights (March 8, 2022) <https://mwatana.org/en/undermine-women/>.

243 See, e.g., UNGEE 2020 Report, *supra* note 6 at para. 82; UNGEE 2021 Report, *supra* note 176 at paras. 52-53; Mwatana 2017 Report, *supra* note 183 at paras. 80-81; Mwatana 2018 Report, *supra* note 176 at 104-5; Mwatana 2020 Report, *supra* note 176 at 119.

Council overturned a death sentence issued against Hamed bin Haydara, a leader of the Baha'i community, and five other Baha'i men that had been arbitrarily imprisoned for years. But, Ansar Allah conditioned their release on leaving Yemen.²⁴⁴ Ansar Allah leadership continues to use violent, incendiary, and discriminatory language against religious minorities.²⁴⁵

This is by no means a comprehensive review of the international law violations committed by Ansar Allah during the ongoing conflict in Yemen. It serves as a brief and incomplete snapshot. Mwatana, the UNGEE, and other human rights organizations have investigated, documented, and reported on serious violations of IHL and gross abuses of IHRL by Ansar Allah for years, while civilians have sought to communicate the devastating impact these violations have had on them, their families, and their communities. Ansar Allah's responses to date have been grossly inadequate.



Landmines, photographed in June 2018, that were cleared from Dhubab District, Taiz Governorate. Ansar Allah has laid landmines across the governorate.

244 UNGEE 2021 Report, supra note 176 at para. 52; Mwatana 2020 Report, supra note 176 at 119.

245 UNGEE 2021 Report, supra note 176 at para. 53.

HAIDARI AND SALMA



We have no choice but to take risks and go out to search for a living. I took the risk and lost my feet, and just today my father went out looking for firewood.



On Saturday, April 20, 2019, at approximately 10:00 a.m., a landmine exploded while Haidari Ibrahim, a 14-year-old boy, was herding sheep in Al-Moddiah Mountain, Dhubab District, Taiz Governorate. Ansar Allah had laid landmines in the area. Haidari lost both his legs as a result of the explosion.

Haidari said he was accompanying his cousin, shepherding sheep, when he stepped on the landmine: "I lost both feet, I became handicapped. I cannot play, herd or go to school anymore."

Even after the landmine explosion, Haidari's family continued to enter areas that Ansar Allah had mined. Residents rely on the areas for water, herding and firewood. Other residents told Mwatana that, since Ansar Allah laid the mines, they had limited access to sources of water, areas for herding, and farms.

Haidari said, "We have no choice but to take risks and go out to search for a living. I took the risk and lost my feet, and just today my father went out looking for firewood."

Haidari's family has struggled to access food or fresh water and to continue their livelihoods since Ansar Allah mined these areas. His mother, 50-year-old Salma

Qassem, said, “Ansar Allah forcibly deported us from the Al-Omari area and they did not provide us with food, water, medicine, or even tents. We work in herding and collecting firewood. There is no other source of food for us and areas other than Al-Omari do not have drinkable water and firewood and pasture is very scarce.” Haidari said no area in the district is safe from landmines: “We were displaced from the Al-Omari area to Al-Saiman because there are less landmines in Al-Saiman, but there is no safe place in Dhubab. Ansar Allah planted landmines everywhere.”

Landmines remain spread out across the district and civilians have no way of knowing, where exactly mines might be located. Haidari explained, “Landmines are not guarded. No signs of their whereabouts are posted and no efforts have been made to remove them.” Salma explained the danger: “Landmines explode constantly, threatening our lives and the lives of our livestock. There are no maps of these landmines and there are no signs that distinguish them. We do not discover where they are until they explode or when they are exposed by torrents or winds.”

Ansar Allah’s indiscriminate use of anti-vehicle landmines and use of banned anti-personnel landmines has caused significant civilian harm to Haidari, Salma and hundreds of others in Yemen.²⁴⁶ Describing the impact that the landmines had on their lives, Salma said, “Our suffering started with landmines since 2015, and our suffering continues until now. We can no longer cultivate, herd or log wood.”

Mwatana is unaware of any efforts on Ansar Allah’s part to provide assistance or reparations to civilian victims of Ansar Allah landmine use, including by, for example, providing compensation to civilians harmed or providing maps of mined areas to facilitate demining and prevent further civilian harm.

²⁴⁶ For more on Ansar Allah’s landmine use, see, e.g., Starvation Makers, *supra* note 180; “Concealed Killer: Fall of civilians by the landmines laid by the Ansar Allah Armed Group (the Houthis) and Saleh Forces,” Mwatana for Human Rights (10 May 2017), <https://mwatana.org/wp-content/uploads/2017/10/Concealed-Killer-Report-En.pdf>; “Yemen: Houthi Landmines Claim Civilian Victims,” Human Rights Watch, (September 8, 2016), <https://www.hrw.org/news/2016/09/08/yemen-houthi-landmines-claim-civilian-victims>.

JUBRAN



I saw that he
lost a lot of
weight and
was very
tired.



Ansar Allah arrested “Jubran” (a pseudonym) on March 20, 2015 in Sana’a. He was taken from one of the streets in Sana’a and disappeared. He was 14 years old.

Jubran’s father said, “I searched everywhere and in all police stations, but they all told me they did not know where he is.”

Eight months after Jubran disappeared, his father received a call from the Ansar Allah National Security Bureau (now the Ansar Allah Security and Intelligence Agency). The person on the phone said that Jubran was being held in the National Security Bureau’s building. Jubran’s father went to visit. He told Mwatana, “I saw that he lost a lot of weight and was very tired.”

Later, Jubran was transferred to the Ansar Allah Political Security Office and his case referred to court. But, the judicial process was exceptionally slow, his family said. Sometimes, there would be no court sessions for many months. In December 2019—more than four years after his initial arrest, an appeals court upheld a first instance court’s acquittal of Jubran. But, by 2021, Jubran, who had spent his final years of childhood imprisoned by Ansar Allah, remained detained.

A lawyer that worked on Jubran’s case reached out to one of Ansar Allah’s redress-related bodies, the Redress Committee. The Redress Committee’s first reaction, the lawyer said, was to refer her back to the Ansar Allah Security and Intelligence Agency, which had detained and already refused to release Jubran.

The lawyer told the Redress Committee that the Security and Intelligence Agency was

not complying with the court order to release Jubran—that was why she was reaching out to Ansar Allah’s redress body, which Ansar Allah had claimed was meant to redress wrongs committed by the group. The head of the Redress Committee said it was not their “specialty” to “force” the security departments to release detainees, the lawyer said. After the call, the lawyer made three different appointments with the Redress Committee in an effort to get them to follow-up on the case. No Redress Committee members ever showed up for any of the appointments.

In interviews, other lawyers called attention to the ineffectiveness of the Ansar Allah Redress Committee to provide assistance in cases of abusive detention when “security” was involved. Mwatana and others have documented regular human rights abuses by Ansar Allah security agencies and Ansar Allah-controlled prosecution and judicial processes.²⁴⁷

²⁴⁷ See, e.g., “Courts for Abuse: A case study of Yemen’s Specialized Criminal Courts,” Mwatana for Human Rights (September 2021), <https://mwatana.org/en/unfair-trials/l/>; In the Darkness, *supra* note 178; “Yemen:Houthi Hostage-Taking,” Human Rights Watch, (September 25, 2018), <https://www.hrw.org/news/2018/09/25/yemen-houthi-hostage-taking>.

Limited efforts to investigate and respond to civilian harm

In areas under its control, Ansar Allah has created multiple, overlapping bodies that Ansar Allah claims are designed to respond to civilian harm for which the group is responsible. Mwatana focused its research on two principal redress-related bodies: The Redress Committee and the Authority to Lift Injustice.

The Ansar Allah Redress Committee and the Ansar Allah Authority to Lift Injustice were both publicly tasked with hearing complaints against Ansar Allah members and petitions for assistance and redress.²⁴⁸ Both the Redress Committee and the Authority to Lift Injustice are attached to prominent Ansar Allah leaders.²⁴⁹ The Redress Committee is attached to the office of Abdulmalik al-Houthi, while the Authority to Lift Injustice is attached to the office of Mahdi al-Mashat, the Ansar Allah Supreme Political Council President.

Ansar Allah-affiliated sites began publicizing the Redress Committee in late 2017. Ansar Allah announced that the Redress Committee would “start its work receiving complaints from citizens against any Ansar Allah supervisor or member.”²⁵⁰ A few months later, another post claimed the Redress Committee’s mission was to provide “redress to society from any member of Ansar Allah, regardless who it is.”²⁵¹ Ansar Allah established a local Redress Committee in each governorate under its control. In early 2018, a member of the Ibb Governorate Redress Committee told a local news site that the Ibb Redress Committee had received 800 complaints and resolved 400.²⁵²

248 There is evidence that other bodies preceded and existed alongside these two. On October 4, 2021, for example, Ansar Allah reported that “the Citizens’ Complaints Committee” had suspended 46 security officials, received nearly 300 complaints against security officials, and issued a number of warnings. Ansar Allah, “The Citizens’ Complaints Committee in Ibb and Saada suspend 53 officers,” October 4, 2021, <https://sa24.co/show14704112.html>.

249 The bodies’ power appears to depend, at least in part, on that leader and how committed that leader is to the entity’s work.

250 Osama Sari (@osamasari77), Twitter, February 1, 2021, 9:12PM, <https://twitter.com/osamasari77/status/959142472269156360?lang=ar>; Ibb News, “Ibb: Meeting with Head of Ibb Redress Committee,” February 15, 2018, <http://www.ibb-news.com/?p=40039>; December 25, 2017 Facebook post on file with report authors. Human rights lawyers in Yemen told Mwatana they first heard about the Redress Committee earlier. Some lawyers said that they had heard about the Redress Committees from colleagues or through word of mouth in 2016.

251 Sari, *supra* note 301.

252 Each governorate-level committee has a president and a few other members, who are mostly judges. Ibb News, “Ibb: Meeting with Head of Ibb Redress Committee,” February 15, 2018, <http://www.ibb-news.com/?p=40039>.

In mid-2018, Ansar Allah announced the re-activation of the Authority to Lift Injustice, a separate body that had been established in 2011 but fallen defunct.²⁵³ Mahdi Al-Mashat announced the new version of the Authority to Lift Injustice in 2018.²⁵⁴ Ansar Allah sites said the Authority to Lift Injustice had jurisdiction to hear petitions from individuals seeking intervention from the Ansar Allah president to “end their injustice” and “redress” it.²⁵⁵ The 2018 announcement did not explain what, if any, relationship the Authority to Lift Injustice had with the Redress Committee.

Towards the end of 2020, Ansar Allah announced that the Authority to Lift Injustice would be merging with the Redress Committee. An Ansar Allah official claimed that “the formal merging” of the Redress Committee and the Authority to Lift Injustice would facilitate lifting injustice and providing redress, while another described the expansion of the Authority to Lift Injustice as “a quantum leap for redress for citizens.”²⁵⁶ In 2020 and 2021, the Redress Committees in some governorates changed their names to the Authority to Lift Injustice.²⁵⁷ Human rights lawyers and victims seeking redress from Ansar Allah told Mwatana that, throughout 2020 and 2021, they saw no significant change, other than the name.²⁵⁸ Serious problems remained.

According to the UN Basic Principles, reparations should be “adequate, effective, and prompt.”²⁵⁹ In order for Ansar Allah reparations efforts to be credible, Ansar Allah

253 Presidential Decree No. 96 of 2019 announced the head and members of the Authority to Lift Injustice. The Authority to Lift Injustice was originally established in 2011 under former president Saleh. According to the March 19, 2011 presidential decree, the Authority to Lift Injustice is a technical advisory body to the president. In addition to a number of other tasks, the Authority to Lift Injustice is meant to examine, analyze, and recommend action based on complaints raised by individuals regarding government overstep or abuse. See, e.g. “Presidential Decree Establishing the Authority to Lift Injustice,” Saba Net, March 19, 2011, <https://www.saba.ye/ar/news238021.htm>.

254 See, e.g., Ansar Allah, “President of the Supreme Political Council Publishes Decree Amending Decree that Established the Authority to Lift Injustice,” May 13, 2018, <https://www.ansarollah.com/archives/160609>; “Decision Published Appointing Members of the Authority to Lift Injustice,” Saba Net, May 5, 2019, <https://saba.ye/ar/news535377.html>.

255 See, e.g., Ansar Allah reporting on the Authority to Lift Injustice in 2019 and 2020, including at: <https://www.ansarollah.com/archives/248543>; <https://www.ansarollah.com/archives/294387>; <https://www.ansarollah.com/archives/387044>.

256 “Office of the Presidency Inaugurates Branches of the Authority to Lift Injustice in Yemen’s Governorates,” Saba Net, November 17, 2020, <https://www.saba.ye/ar/news3116496.htm>.

257 This occurred, for example, in Al Mahwit in September 2020 and in Hajjah in December 2020. By the beginning of 2021, the Redress Committee changed its name to The Authority to Lift Injustice in Ibb governorate and changed their official documents to reflect the name change.

258 For more on the report’s methodology, see the Methodology section above.

259 UN Basic Principles, *supra* note 110 at para. 15.

would first have to carry out investigations that meet international standards into its own IHL and IHRL violations. To meet international standards, investigations must be independent, impartial, prompt, thorough, effective, credible, and transparent.²⁶⁰ Responses to civilian harm by Ansar Allah's redress-related bodies have not begun to approach these standards.

Ansar Allah's redress-related bodies are decidedly non-transparent. According to lawyers who interacted with the Redress Committee or the Authority to Lift Injustice in different governorates, there is no clear basis for how either Ansar Allah body chooses cases to consider, whether or not to take action, and whether and when to make recommendations to other Ansar Allah entities.²⁶¹ Most lawyers interviewed, who said they primarily approached the bodies seeking their intervention to push for an arbitrarily detained person's release, said that the bodies were not widely known and that they had learned about them through word of mouth or by chance.

Ansar Allah's redress-related system is extremely opaque. For those who have heard about one or either of the bodies, the difference between the Redress Committee and the Authority to Lift Injustice was and remains unclear, both to human rights lawyers assisting victims and to victims of Ansar Allah abuse themselves.²⁶² Through interviews, Mwatana found that the work of the Redress Committee and the Authority to Lift Injustice varied from governorate to governorate and by the Ansar Allah members on each committee. One lawyer that interacted with the Redress Committee said that he understood the Redress Committee was technically able to receive any type of complaint against an Ansar Allah supervisor, Ministry of Defense or Ministry of Interior official, or sheikh, but that it also took on cases of tribal arbitration in villages and districts and between sheikhs in his governorates. In two governorates, lawyers told Mwatana that the Redress Committee involved itself in land disputes. Disputes over land in Yemen

260 See UNGEE 2019 Detailed Findings, *supra* note 136 at para. 872, (citing Human Rights Committee, General Comment 36 (2018), *supra* note 30 at para. 28.

261 One lawyer said that he had never heard of the Redress Committee and had interacted only with the Authority to Lift Injustice. Meanwhile, lawyers in six other governorates said that they had solely interacted with the Redress Committee until late 2020, at which point these committees began to change their names to the Authority to Lift Injustice.

262 Some lawyers referred to the entity that they had interacted with as the "Redress and Injustice Committee," combining the names of both. It remains unclear whether both bodies continue to operate individually in some governorates or whether the announced merger was completed.

usually provide a chance for significant profit for the mediator.²⁶³

Perhaps most fundamentally, there is no clear, transparent basis for who might be eligible for any form of assistance or redress from these Ansar Allah bodies. All of the lawyers Mwatana interviewed for this report, despite having directly interacted with either the Redress Committee or the Authority to Lift Injustice, said it remained unclear to them what types of redress a person might seek from these bodies. The lawyers were unaware of any documents laying out the structures, powers and functions of the Redress Committee or the Authority to Lift Injustice, including how to submit complaints, what types of complaints to bring before the bodies, and what forms of assistance or redress the bodies might offer. When asked about the bodies' procedures, one lawyer said, "I do not have any documents about the committee. All of the committee's communications are oral, and the committee does not provide any written notes." Another said the process is informal: "There are no formal instructions with the Committee." The bodies were not transparent about their investigations (including what their investigations entailed) and communicated the results of their investigations and decisions orally, by telephone, or during in-person meetings, the lawyers said. They were unaware of any written decisions by the bodies and compared them to other tribal mediation and reconciliation processes in Yemen.

Ansar Allah's redress-related bodies are significantly lacking in credibility. In Mwatana's experience, the vast majority of people harmed by Ansar Allah had not heard that Ansar Allah had announced bodies to hear petitions against members of the group. When told about the bodies, civilians harmed by Ansar Allah and interviewed by Mwatana for this report said they had no faith that Ansar Allah would credibly investigate its own forces, provide any form of accountability, or provide any form of reparation.

Where the Ansar Allah bodies have made public statements about actions taken,

263 Land disputes often involve landlords, who have the ability to pay a significant amount of money during the mediation process. The mediator also may receive a cut of the sale, or some other payment, if the sale occurs. One of the lawyers explained that the Redress Committee was technically meant to consider complaints against Ansar Allah officials but that it had "interfered in other cases that have nothing to do with the group....That Committee, due to the high price of land in the governorate, has been involved in land issues for personal interest."

these statements have often not been supported by actual events.²⁶⁴ At the level of individual cases, the bodies also lacked credibility. According to one lawyer, who was working on behalf of victims of torture, the Redress Committee had given her three different appointments for which they did not show up, the last of which was in March 2021. The first appointment was in a public park in mid-January. When the lawyer arrived, she only found the guard of the park. He gave her a number to contact. In an interview, the lawyer said, “I don’t know where their office is. Every time they give a wrong appointment in a different place.” In another case, a civilian was detained in November 2019 due to a personal dispute with an Ansar Allah official over a plot of land. The victim’s son filed a complaint and the Redress Committee promised to begin procedures, then did nothing. Poor communication and a record of promise-breaking came up repeatedly in interviews, with lawyers and victims saying this significantly reduced the credibility of Ansar Allah’s redress-related bodies.

The Ansar Allah redress-related bodies do not operate independently or impartially. Both the Redress Committee and the Authority to Lift Injustice are made up of Ansar Allah members. One lawyer said, “The committee consists of four members belonging to the Ansar Allah group. In my opinion, this is one of the shortcomings of the committee because its members are not neutral.” A few lawyers noted that members of the bodies previously or simultaneously held positions in the Ansar Allah-controlled criminal justice system, including as judges, or were serving as Ansar Allah supervisors in the area. The lawyers explained that, to their knowledge, petitions to these bodies were usually brought on behalf of those arbitrarily detained or forcibly disappeared. Ansar Allah judges, supervisors, and their colleagues are likely implicated in complaints relating to detention-related abuse.

Both the Redress Committee and the Authority to Lift Injustice conduct their work through direct communication with other relevant Ansar Allah agencies, including security agencies. In late 2020 and 2021, the new branches of the Authority to Lift Injustice met with local authorities in various governorates, including security agencies,

264 For example, the President of the Ibb Redress Committee indicated that the Committee would hear complaints against fighters and that the Committee was tasked with achieving “redress for society, in general for any act committed by a fighter against a citizen.” The Ibb Committee president said the Committee had to wait until a fighter returned from the frontlines to consider complaints against him. But, Mwatana did not identify any cases in which any committee, Ibb included, heard cases against fighters related to the conduct of hostilities, for example from a person wounded by an Ansar Allah-laid landmine or from someone whose home was damaged or destroyed by an Ansar Allah shelling attack. Ibb News, “Ibb: Meeting with Head of Ibb Redress Committee,” February 15, 2018, <http://www.ibb-news.com/?p=40039>.

discussing with them how to “share information” and “cooperate.”²⁶⁵ One lawyer said the Redress Committee in his governorate made decisions by majority, discussing the decision with the governor, the Security Administration and Preventive Security.

Lawyers noted that the Ansar Allah redress-related bodies have agreed to look into detention-related abuse, then appeared to accept security agencies’ allegations about people detained at face value and ceased to work on the case. One lawyer, who first interacted with the Redress Committee in October 2019 and has filed at least five abusive detention cases with the Committee, said that members of the Committee were suspicious of civil society. He said, “The response of some of them was positive and others was negative. Whenever I met them, they wrangled through vague questions in order to obtain information about how we got information about detention cases, how we met the detainees, who allowed us, and how we reached the families.”

This lack of independence and impartiality can lead to credible fear of reprisals. The UN Basic Principles state that victims should have “safety from intimidation and retaliation, as well as that of their families and witnesses, before, during and after judicial, administrative, or other proceedings that affect the interests of victims.”²⁶⁶ After receiving a petitioner’s information, the Ansar Allah redress-related bodies appear to have repeatedly shared this information with the authorities implicated in the abuse. It is unclear what, if any, protections are in place to protect individuals from retaliation and reprisal.

Ansar Allah’s redress-related bodies have exposed petitioners to risk, including abuse related to that which the original petition was based on—for example exposing an abusively detained person to further cruel treatment in detention. One lawyer who worked with families to submit petitions to the Redress Committee raised concerns about possible retaliation: “We do not know if there is any way to file grievances against the Redress Committee. We also do not know if there was any attempt for revenge, as the victims are still in detention until now.” When asked about what, if any, process there was to appeal the bodies’ decisions, lawyers said that there was no process for appeal and that the people in charge of the committees were not qualified and had no knowledge of the law.

265 See, e.g. “Discussing the plan of the Amran Authority to Lift Injustice,” Saba Net January 18, 2021, <https://www.saba.ye/ar/news3124940.htm>; “Discussing the mechanism to open the Authority to Lift Injustice in Hodeida,” Saba Net, November 19, 2020, <https://www.saba.ye/ar/news3118067.htm>.

266 UN Basic Principles, *supra* note 110, at para. 12(b).

Ansar Allah redress-related bodies were repeatedly described in interviews with both human rights lawyers and victims harmed by Ansar Allah as thoroughly ineffective. Even in the limited cases in which the Ansar Allah redress-related bodies intervened, the bodies almost always failed to provide any form of assistance. The human rights lawyers interviewed by Mwatana, who were most often working with families and advocating for the release of the arbitrarily detained or information on the disappeared, said they turned to the Ansar Allah bodies after they had exhausted other avenues—for example, through the courts.

The Ansar Allah bodies very rarely, if ever, helped the lawyers achieve their goals. One lawyer said he heard about the Redress Committee “by chance” in September 2018. He contacted them in November 2019 about an arbitrary detention case and was ignored. He repeatedly petitioned them on arbitrary detention cases and was rebuffed. “I do not believe that the Redress Committee is able to achieve actual redress,” he said.

Another lawyer began contacting the Redress Committee in 2017 about cases of arbitrary detention and enforced disappearance. On behalf of affected families, the lawyer requested that specific individuals be released, that their families be allowed to visit them, that their torture be stopped, that medical professionals be allowed in to examine them, and that they be given access to medical treatment. The Redress Committee told the lawyer that they would look into the cases, but “most of the families weren’t hopeful the Committee would be able to provide solutions.” The lawyer said:



Before this [Redress] Committee, there were several committees working on cases of arbitrary detentions and war prisoners, but according to some members of the Redress Committee, the previous committees did not have a real impact.

All we received back [from the Redress Committee] were promises that never happened... It was like the previous committees.



One lawyer, who submitted six complaints to the Redress Committee, said two of a total of about six people arbitrarily detained or disappeared were released, but that it was unclear to what extent, if any, their releases were tied to the intervention of the Redress Committee.

Another lawyer said he had gone to the Redress Committee in 2020 with a man whose brother was arbitrarily detained. When the head of the governorate-level Redress Committee called the supervisor of the nearby Central Prison asking him to either charge or release the man's brother, the supervisor refused. When the Redress Committee head introduced himself to the supervisor, the supervisor said, "Who are you? We do not know your Committee! I will only release him upon orders from [an Ansar Allah leader in the area]." The supervisor then ended the call. The lawyer said, "Through that experience I realized that the committee had no role or authority to do anything." A lawyer elsewhere said that in his governorate the issue was the head of the committee, not the committee's authority. In his view, given its connection to Abdulmalik al-Houthi, the Redress Committee had the power to act, but the head of the committee simply chose "not to respond to any complaint."

The calculation as to whether to approach the redress-related bodies—in the hope of finding any form of assistance—or to avoid them—out of fear of exposing those still detained to retaliation—repeatedly came up in interviews.

Grossly inadequate assistance to civilians

Ansar Allah's responses to civilian harm have so far been grossly inadequate. Its redress-related bodies have mostly failed to investigate Ansar Allah's potential violations and ignored the vast majority of Ansar Allah victims. For the civilians who have been able to access Ansar Allah's redress-related bodies, these bodies have failed to provide reparation, including in the face of serious IHL violations and gross IHRL violations committed by the group. While Ansar Allah's redress-related bodies may have assisted civilians in a tiny number of cases, in most cases, those who accessed the bodies received no form of ascertainable assistance at all.

Neither the Redress Committee nor the Authority to Lift Injustice appears to provide compensation or other financial payments to civilian victims. In 2018, a member of the Ibb Redress Committee told a local news site that the Committee provided redress

through “mediation/satisfaction, litigation or compensation.”²⁶⁷ None of the lawyers interviewed by Mwatana, including a lawyer in Ibb, had heard that the committees or any other Ansar Allah entity had provided compensation or financial payments to those harmed by the group.

Relatives of those subjected to detention abuse by Ansar Allah said their families had not received any financial compensation from Ansar Allah. On the contrary, they paid large amounts of money—for transportation, bribes, and fees demanded by various Ansar Allah authorities—to follow up on their relatives’ cases. Most lawyers said that the redress-related bodies did not require payment, but one lawyer said that in their governorate “members of the committees used to ask for amounts of money from the families of the victims in return for following up in their cases.”

Ansar Allah and its redress-related bodies have also not provided satisfaction, for example through apologies or truth-telling, rehabilitation (for example providing physical and mental healthcare for those tortured) or guarantees of non-recurrence. Ansar Allah’s violations are ongoing. As noted above, some of those that brought petitions related to detention-related abuse before the redress-related bodies were subsequently subjected to further detention-related abuse.

In one case that Mwatana documented, the Redress Committee appeared to play a limited role in restitution. In March 2019, Ansar Allah members arrested a man from his home, a small house made of hay, and transferred him to the local Security and Intelligence Agency. Guards at the detention facility tortured him for about three days. He was eventually released after about three months in detention. The Agency refused to return his car, which had been confiscated when he was arrested. The family filed a petition to the Redress Committee about the case. Eventually, the man’s car was returned to him, but he did not receive any other reparation, including an apology, acknowledgment of the harm done to him, financial compensation, or rehabilitation. He was tortured during detention, and said he remained afraid of reprisals from Ansar Allah. This is the only case Mwatana was able to identify in which either the Redress Committee or the Authority to Lift Injustice played a role in restitution.²⁶⁸

267 Ibb News, “Ibb: Meeting with Head of Ibb Redress Committee,” February 15, 2018, <http://www.ibb-news.com/?p=40039>.

268 For more on the report’s methodology, see Methodology section above.

Mwatana regularly interviews people subjected to various forms of abuse by Ansar Allah. Neither they nor the lawyers interviewed by Mwatana expressed any hope that these Ansar Allah redress-related bodies would provide effective redress. One lawyer said, “Although the committee is called the Redress Committee, we did not find redress from it except for those who have personal power against them. Redress is only for people with power and the ability to find evidence and present it with confidence.” The lawyer explained that only those with money or powerful allies had any chance of receiving any form of redress from Ansar Allah and only those with some other form of protection, for example through their tribe, could present evidence of abuse to Ansar Allah officials without the real possibility that Ansar Allah would retaliate.

Ansar Allah—through its redress-related bodies and otherwise—has not thoroughly investigated its violations. After more than five years of evidence had accrued of the group’s violations and the harm done to civilians, Ansar Allah told the UNGEE that their “armed forces [had]...not committed any crimes requiring compensation to victims,”²⁶⁹ and claimed that “no member of the military force has been proven responsible for violations related to international human rights law or international humanitarian law.”²⁷⁰ The UNGEE drew the following conclusion about Ansar Allah’s persistent unwillingness to credibly investigate its own abuses:

The continuing failure by the de facto authorities to undertake appropriate investigations, notwithstanding several years of consistent reporting by the Group of Experts, indicates either an alarming neglect or willful blindness as to the seriousness of violations being committed by their personnel.²⁷¹

Despite repeatedly denying their own wrongdoing, Ansar Allah has called on others to provide reparation and justice. In 2014, after Ansar Allah had taken over the capital Sana’a by force, Abdulmalik al-Houthi said, “Yemenis deserve justice.” He even made

²⁶⁹ In 2020, the Group of Experts sought further information concerning any reparations schemes in place, as well as details of any distributed payments to victims of violations. Ansar Allah did not respond. UNGEE 2020 Detailed Findings, *supra* note 8 at para. 408.

²⁷⁰ UNGEE 2021 report, *supra* note 176 at para. 77.

²⁷¹ *Id.*

specific reference to southerners' right to redress, claiming Ansar Allah would stand with them until the justice they yearned for was established.²⁷²

In 2020, Ansar Allah released a "comprehensive vision" that included a detailed list of the forms of redress the Coalition was "required" to provide.²⁷³ In a section entitled "Reconstruction and Compensation," Ansar Allah argued that the Coalition should provide reparation and compensation to victims of the conflict. Yet, in at least one case, Ansar Allah retaliated against people who received payments from the Coalition. More than a year and a half after a Coalition airstrike killed nearly two dozen people and wounded nearly 100, the Coalition and the internationally recognized government provided condolence payments to some of those affected. Ansar Allah disappeared men who accepted payments.

Throughout its 2020 "comprehensive vision to end the war," at no point did Ansar Allah acknowledge its own international law violations and obligations, nor indicate any intention to provide reparations or assistance to civilian victims it had harmed.²⁷⁴

272 See, e.g., Full text of the speech by Abdulmalik Al Houthi published by Al Watan Voice on September 24, 2014, available at: <https://www.alwatanvoice.com/arabic/news/2014/09/24/595545.html>.

273 "Document suggesting a comprehensive solution to end the war against the Yemeni Republic" (April 2020) on file with report authors.

274 The document also did not define "those harmed," including, for example, distinguishing between civilians and combatants. Id.

AKBAR



I saw a
mark on his
forehead
and when I
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inside.



In February 2019, “Akbar” (a pseudonym), a 23-year-old student studying computer technology, was detained at Al Hanjar checkpoint in Taiz. He was disappeared for weeks. His family was unable to visit him for months.

When his family was finally able to visit, Akbar’s father said, “I saw a mark on his forehead and when I asked about it, he said that he was tortured inside.” Akbar was slapped, kicked, and stripped of his clothes and had cold water thrown at him, his father told Mwatana.

A lawyer that was helping the family said the governorate’s Security and Intelligence Agency told her about the Authority to Lift Injustice, one of Ansar Allah’s redress-related bodies.

The lawyer met with the Authority to Lift Injustice in the Security Department’s building and submitted a written legal note about Akbar, who had been detained without an arrest warrant and remained detained without charge.

Three days after the meeting, a member of the Authority to Lift Injustice called the lawyer and claimed that Akbar and another detained man that the lawyer was helping were recruits working for Coalition forces. The lawyer said that the man who heads the Authority to Lift Injustice in Taiz, who used a nickname rather than his real name, as is common for Ansar Allah officials, insisted that Akbar worked with the Coalition and so deserved his fate.

The lawyer said, “I made clear to them that this information is incorrect and that both [Akbar and the other man] are civilians. But the committee...endorsed the allegations of the Security and Intelligence Agency.”

The lawyer and Akbar’s family kept working to secure his release.. When Akbar was eventually released nearly a year later, in January 2020, he needed medical treatment and had to wear sunglasses while outside. He had spent almost 10 months without sun exposure.

The Authority to Lift Injustice played no ascertainable role in securing Akbar’s release, the lawyer said. To date, Akbar has received no assistance or reparation from Ansar Allah for the harms he suffered. He was never officially charged with a crime.

SUHAIB

"Suhaib" (a pseudonym) went missing in Ansar Allah-controlled territory in 2017 while travelling in search of work.

When he set out, Suhaib told his father that he would call him as soon as he arrived at his destination. After three days without receiving a call, Suhaib's father started contacting relatives. They said Suhaib had not arrived. The family began to fear Suhaib had been detained by Ansar Allah along the way.

Suhaib's father began searching for his son in Al Baydha, Dhamar and Ibb governorates. In March 2020, Suhaib's family petitioned the Redress Committee for his release.

The Redress Committee took the family's contact numbers and promised to deliver the petition to the head of the Redress Committee. Suhaib's brother said that the Redress Committee "told me we will look into your brother's case, but we cannot intervene with the security persons."

A year later, the family had heard nothing from the Redress Committee or the relevant authorities.

In March 2021, a lawyer who assisted the family said, "We did not receive any response from the committee, neither verbally nor in writing. They took contact numbers from the victim's family members and promised to communicate with them within a short period. They did not contact any of the family members so far."

Suhaib remains disappeared.

An emerging obligation to provide reparation

States responsible for violating international law are required to make reparation for the harm caused, including for IHL and IHRL violations committed during conflict. Similar to States, there is an emerging principle in international law that non-State armed groups, particularly that exercise control over territory, that are parties to an armed conflict, and that have violated IHL or IHRL, should provide reparation to those harmed as a result of their international wrongs.

Ansar Allah is a party to the non-international armed conflict in Yemen, during which both international humanitarian law and international human rights law continue to apply. Ansar Allah is an organized non-State armed group with a chain of responsible command, with control over territory, and with the capacity to both wage war and exercise effective control over the population in the territory under its control.

While the consequences that flow from non-State armed group's breaches of their international law obligations continue to be subject to much debate, the following is clear: Ansar Allah, as a group, has international law obligations. Specifically, Ansar Allah has obligations under international humanitarian law, including Common Article 3, Additional Protocol II and customary IHL, as well as international human rights law. Ansar Allah, as a group, has frequently and repeatedly violated these international law obligations, which has resulted in significant harm to civilians in Yemen. It is a general principle of international law that reparations be provided by a wrongdoer in the case of a breach of an international legal obligation. As such, Ansar Allah's international law breaches should result in an obligation for the group to make reparation to the civilians it has harmed in Yemen.

Ansar Allah is bound by international humanitarian law and international human rights law

Non-State armed groups that are parties to an armed conflict are bound by international humanitarian law.²⁷⁵ It is generally accepted today that IHL rules, including those in Common Article 3 to the Geneva Conventions, Additional Protocol II and customary IHL, bind non-State armed groups. For decades, international tribunals have acknowledged that non-State armed groups that are parties to an armed conflict are bound by IHL. For example, in 1998, the Appeals Chamber of the Special Court for Sierra Leone (SCSL) held:

It is well-settled that all parties to an armed conflict, whether states or non-state actors, are bound by international humanitarian law, even though only states may become parties to international treaties. Customary international law represents the common standard of behaviour within the international community, thus even armed groups hostile to a particular government have to abide by these laws.²⁷⁶

States have historically recognized non-State armed groups as “belligerents or insurgents,” reflecting an acceptance that these actors have obligations under international law.²⁷⁷

Once party to a non-international conflict, a non-State armed group is, at a minimum, bound by CA 3 and customary IHL. Common Article 3 of the Geneva Conventions of 1949, applicable in “the case of armed conflict not of an international nature,” imposes

²⁷⁵ For more on the international legal framework applicable to the armed conflict in Yemen, including to non-state armed groups, see the International Law on Reparations section above.

²⁷⁶ SCSL, Prosecutor against Sam Hinga Norma, Decision on Preliminary Motion Based on Lack of Jurisdiction (Child Recruitment), Case No. SCSL 2004-14-AR72(E), 31 May 2004, para. 22.

²⁷⁷ Clapham, *supra* note 336 at 5.

obligations on “each Party to the conflict.”²⁷⁸ The term “Party to the conflict” in Common Article 3 has generally been interpreted to include non-State armed groups.²⁷⁹ Non-state armed groups are also bound by Additional Protocol II where a non-State armed group has a sufficient degree of organization, including a responsible command, territorial control, and the capacity to sustain military operations.²⁸⁰



| Civilians in Dhubab District, Taiz Governorate in June 2018 who lost limbs due to Ansar Allah-laid landmines.

²⁷⁸ Geneva Convention I, *supra* note 58 at art. 3.

²⁷⁹ See, e.g., Andrew Clapham, *The Rights and Responsibilities of Armed Non-State Actors: The Legal Landscape & Issues Surrounding Engagement*, 5 (2012); Liesbeth Zegveld, *The Accountability of Armed Opposition Groups*, 9 (2002); Annyssa Bellal, ‘International Law and Armed Non-State Actors in Afghanistan’ (2011) 93 *International Review of the Red Cross* 47, 55.

²⁸⁰ AP II, art. 1. In addition, some UN experts have argued that sufficiently organized non-State armed groups “possess under customary international law the power to enter into binding international agreements” and that acceptance by such groups of general international principles and rules “can be inferred from the provisions of some of the Agreements” they have signed. Ansar Allah has signed the Stockholm Agreement, an international agreement. Helen Lackner, *Yemen. Failed Attempts To Restore Peace*, *Orient XXI*, January 31, 2020, <https://orientxxi.info/magazine/yemen-failed-attempts-to-restore-peace,3586>. The UN-established International Commission of Inquiry on Darfur found that non-State armed groups “that have reached a certain threshold of organization, stability and effective control of territory, possess international legal personality.” Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General Pursuant. January 25, 2005. See also Katharine Fortin & Jann Kleffner, *Military Operations and the Notion of Control Under International Law*, 316 (2021) (“armed groups often commit themselves to humanitarian norms in the context of peace agreements.”). Non-State actors have also made commitments to abide by international law through unilateral declarations, such as Deeds of Commitment signed through the NGO Geneva Call, with whom Ansar Allah currently works. Geneva Call, *Where We Work*, <https://www.genevacall.org/where-we-work/> (Last Accessed October 24, 2021).

In addition to IHL obligations, some non-State armed groups also have IHRL obligations.²⁸¹ UN experts have found that non-State armed groups can have human rights obligations when they exercise effective control over a territory and population and have the capacity to ensure respect for human rights,²⁸² as is the case for Ansar Allah. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions concluded that non-State armed groups may have similar roles to States in upholding international human rights law based on three criteria: “(i) the nature and extent of the [actor’s] control, (ii) the level of [the actor’s] governance and (iii) consequently, the extent

281 See, e.g., Jean Marie Henckaerts & Cornelius Wiesener, Human Rights Obligations of Non-State Armed Groups: An Assessment Based on Recent Practice, in *International Humanitarian Law and Non-State Actors: Debates, Law and Practice* 1–451 (Ezequiel Heffes, Marcos D. Kotlik, & Manuel J. Ventura eds., 2019), <http://dx.doi.org/10.1007/978-94-6265-339-98>; “Joint Statement by Independent United Nations Human Rights Experts on Human Rights Responsibilities of Armed Non-State Actors,” UN Special Procedures, (February 25, 2021), <https://www.ohchr.org/en/press-releases/2021/02/joint-statement-independent-united-nations-human-rights-experts-human-rights>. as distinct entities, might be required to provide reparations for their violations of international humanitarian law. It shows that the possibility of holding armed groups to reparations is marked by uncertainty in international law. This complex question calls for clarification. In building on these observations, the article explores how the duty to provide reparations by armed groups could be operationalized as a matter of *lex ferenda*. This exercise involves examining how such a duty could be conceptualized and put into practice. From this discussion, a multi-faceted proposal emerges, which draws upon existing approaches in international law and responds to the particular challenges presented by armed groups. The article ends by considering the implications of the proposal.

“author”:{“dropping-particle”:“”,“family”:“Herman”,“given”:“Olivia”,“non-dropping-particle”:“”,“parse-names”:false,“suffix”:“”},“container-title”:“International Review of the Red Cross”,“id”:“ITEM-1”,“issued”:{“date-parts”:[[“2021”]],“page”:“1-24”,“title”:“Beyond the state of play: Establishing a duty of non-State armed groups to provide reparations”,“type”:“article-journal”,“locator”:“9-10”,“uris”:[“http://www.mendeley.com/documents/?uuid=330ab13b-7a95-49ad-96f6-83d7f6c086e9”]},“id”:“ITEM-2”,“itemData”:{“DOI”:“10.1007/978-94-6265-339-9”,“ISBN”:“9789462653399”,“abstract”:“This book challenges the traditional approach to international law by concentrating on international humanitarian law and placing the focus beyond States: it reflects on current legal, policy and practical issues that concern non-State actors in and around situations of armed conflict. With the emergence of the nation-State, international law was almost entirely focused on inter-State relations, thus excluding - for the most part - non-State entities. In the modern era, such a focus needs to be adjusted, in order to encompass the various types of functions and interactions that those entities perform throughout numerous international decision-making processes. The contributions that comprise this volume are oriented towards a broad readership audience in the academic and professional fields related to international humanitarian law, international criminal law, international human rights law and general public international law.”,“author”:{“dropping-particle”:“”,“family”:“Henckaerts”,“given”:“Jean Marie”,“non-dropping-particle”:“”,“parse-names”:false,“suffix”:“”},{“dropping-particle”:“”,“family”:“Wiesener”,“given”:“Cornelius”,“non-dropping-particle”:“”,“parse-names”:false,“suffix”:“”},“container-title”:“International Humanitarian Law and Non-State Actors: Debates, Law and Practice”,“editor”:{“dropping-particle”:“”,“family”:“Heffes”,“given”:“Ezequiel”,“non-dropping-particle”:“”,“parse-names”:false,“suffix”:“”},{“dropping-particle”:“”,“family”:“Kotlik”,“given”:“Marcos D.”,“non-dropping-particle”:“”,“parse-names”:false,“suffix”:“”},{“dropping-particle”:“”,“family”:“Ventura”,“given”:“Manuel J.”,“non-dropping-particle”:“”,“parse-names”:false,“suffix”:“”},“id”:“ITEM-2”,“issued”:{“date-parts”:[[“2019”]],“page”:“1-451”,“publisher”:“T.M.C. Asser Press”,“title”:“Human Rights Obligations of Non-State Armed Groups: An Assessment Based on Recent Practice”,“type”:“chapter”,“uris”:[“http://www.mendeley.com/documents/?uuid=e01afc5d-e236-4f4d-97c4-aa80e3f3c131”]},“mendeley”:{“formattedCitation”:“Olivia Herman, <i>Beyond the state of play: Establishing a duty of non-State armed groups to provide reparations</i>”,“font-variant:small-caps;”>Int. Rev. Red Cross 1–24, 9–10 (2021

282 Special Rapporteur NSA Right to Life Report, *supra* 51 at 7-12.

of their capacity.”²⁸³

The UN Security Council, its President, and the UN General Assembly have increasingly asserted that non-State armed groups must abide by international law, including international human rights law.²⁸⁴ These UN bodies and entities have repeatedly denounced serious violations of IHL and IHRL by non-State armed groups.²⁸⁵ The UN Human Rights Council has also called on non-State armed groups to abide by their obligations under international law and denounced international law violations by non-State armed groups,²⁸⁶ as have a number of UN commissions of inquiry, including the International Independent Commission of Inquiry on the Syrian Arab Republic, the Panel of Experts on Accountability in Sri Lanka, the United Nations Fact-Finding Mission on the Gaza Conflict, and the United Nations Group of Eminent Experts on Yemen.²⁸⁷

UN experts have repeatedly found Ansar Allah to be bound by both IHL and IHRL.²⁸⁸ The UNGEE on Yemen has repeatedly called on Ansar Allah to abide by their obligations under IHL and IHRL and found that Ansar Allah committed violations of IHL during the conflict and of IHRL in the areas over which they exercise control.²⁸⁹ UN Special Procedures have written to Ansar Allah leaders and noted that, “in addition to [Ansar Allah’s] obligations under international humanitarian law, the Houthi movement, as de

283 Special Procedures Letter to Ansar Allah, *supra* 40 at 7, (citing Special Rapporteur NSA Right to Life Report, *supra* note 51).

284 *Id.* See also Special Rapporteur NSA Right to Life Report, *supra* note 51 at paras. 10-14 (“Over the past two decades, there have been over 125 UN Security Council resolutions, approximately 65 UN General Assembly resolutions and over 50 statements by the President of the UN Security Council pertaining to the human rights obligations or other related responsibilities of armed non-State actors”); Jessica S Burniske, Naz K Modirzadeh and Dustin A Lewis, *Armed Non-State Actors and International Human Rights Law: An Analysis of the Practice of the U.N. Security Council and U.N. General Assembly - Briefing Report with Annexes*, Harvard Law School Program on International Law and Armed Conflict, 2017; Annyssa Bellal, *Human Rights Obligations of Armed Non-State Actors: An Exploration of the Practice of the UN Human Rights Council*, Geneva Academy of International Humanitarian Law and Human Rights, 2016.

285 The ILA Committee on Reparations for Victims of Armed Conflict found that these repeated denouncements “support the idea that [non-State armed groups] are bound by these rules.” ILA Reparation Principles, *supra* note 128 at art. 5, commentary para. 3.

286 Special Rapporteur NSA Right to Life Report, *supra* 51 at para. 15.

287 *Id.* at paras. 16-18.

288 Special Procedures letter to Ansar Allah, *supra* 40 at 7-11; UNGEE 2020 Report, *supra* note 7 at paras. 12, 30, 88-92. UN Human Rights Council, Resolution adopted by the Human Rights Council on 29 September 2017 [36/31]. Human rights, technical assistance and capacity-building in Yemen], 29 September 2017, A/HRC/RES/36/31, https://www.ohchr.org/Documents/HRBodies/HRCouncil/GEE-Yemen/List_of_issues_2019_TO_houthis_EN.pdf. GEE Detailed Findings, *supra* note 136, at paras. 46-47, 49.

289 See, e.g., UNGEE 2021 report, *supra* note 176 at paras. 86-87.

facto authority, is responsible to respect and ensure the human rights of individuals in the territories under their control.”²⁹⁰ The UN Special Rapporteurs additionally noted that when a non-State armed group has control over a territory, IHRL obligations apply.²⁹¹

The UNSC Panel of Experts has found that Ansar Allah has IHL obligations.²⁹² The Panel has repeatedly reported on Ansar Allah’s violations of IHL, and in 2016 reported that Ansar Allah “violated international human rights law.”²⁹³ In 2017, “[t]he Panel concluded that the Houthis... violated international humanitarian law and human rights law and norms.”²⁹⁴ The Panel wrote in 2019 that “[t]he norms of international human rights law should therefore be respected by the Houthi forces,”²⁹⁵ and found that Ansar Allah had violated IHL and IHRL.²⁹⁶ In its 2022 report, “[t]he Panel investigated 17 cases concerning 50 victims of violations of international humanitarian law or international human rights law in respect to detention, including sexual violence and torture by the Houthiauthorities.”²⁹⁷

The UN Security Council has repeatedly called on parties to the conflict in Yemen to comply with their respective obligations under IHL and IHRL. The UN Security Council

290 Special Procedures Letter to Ansar Allah, *supra* note 40 at 4.

291 *Id.*

292 UNSC PoE 2015 Report, *supra* note 42 at para. 62 (“the customary rules of international humanitarian law are applicable and must be observed by all parties, including the armed non-State actors. Given further the level of organization of the Houthi forces and the control of territory reached with the takeover of Amran in July 2014, the threshold for the application of Protocol II to the Geneva Conventions has been reached with regard to the armed conflict between the Houthi forces and the Yemeni army.”).

293 UNSC PoE 2016 Report, *supra* note 188 para. 144 (referring to Ansar Allah as “Houthi-Saleh forces.”). <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/076/17/PDF/N1807617.pdf?OpenElement>. See also *id.* at Annex 58 (“Since taking over...Houthi-Saleh forces have undertaken a number of measures... Serious breaches of human rights law have occurred.”).

294 UN Security Council, Letter dated 27 January 2017 from the Panel of Experts on Yemen addressed to the President of the UN Security Council, S/2018/193, 31 January 2017, para. 3, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/075/92/PDF/N1807592.pdf?OpenElement>.

295 UN Security Council, Letter dated 25 January 2019 from the Panel of Experts on Yemen addressed to the President of the UN Security Council, S/2019/83, 25 January 2019, para. 133, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/006/48/PDF/N1900648.pdf?OpenElement>.

296 *Id.* at paras. 145-157. (“The Panel investigated an attack...by Houthi forces, in violation of international humanitarian law The Panel investigated 25 cases of violations of international humanitarian law and international human rights law in association with deprivation of liberty committed by the Houthi forces.”).

297 UN Security Council, Letter dated 25 January 2022 from the Panel of Experts on Yemen addressed to the President of the UN Security Council, S/2022/50, 26 January 2022, para. 120, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/415/62/PDF/N2141562.pdf?OpenElement>.

and its President have repeatedly “call[ed] on all parties to comply with their obligations under international law, including applicable international humanitarian law and international human rights law.”²⁹⁸ In a March 2015 Statement by the President²⁹⁹ and in UN Security Council Resolution 2216 (2015),³⁰⁰ both of which explicitly mentioned Ansar Allah’s role in the escalating conflict,³⁰¹ the UN Security Council and its President called on all warring parties to comply with IHL and IHRL. The UN Security Council has either “call[ed]” for or “reaffirm[ed]” the “need for all parties to comply with their obligations under international law, including international humanitarian law and international human rights law,” in more than half a dozen resolutions on Yemen since 2016.³⁰² Resolution 2564 of 2021 further stated that the UN Security Council was not only “[r]eaffirming the need for all parties to comply with their obligations under international law,” but also “underlining the need to ensure accountability for violations of international humanitarian law and violations and abuses of human rights in Yemen.”³⁰³ The UN Security Council has also found members of Ansar Allah to have

298 See, e.g., UN Security Council, UN Security Council resolution 2216 (2015) [on cessation of violence in Yemen and the reinforcement of sanctions imposed by resolution 2104 (2014)], S/RES/2216 (2015), 14 April 2015, para. 9, [https://undocs.org/en/S/RES/2216\(2015\)](https://undocs.org/en/S/RES/2216(2015)).

299 UN Security Council, Statement by the President of the UN Security Council, S/PRST/2015/8 (2015), 22 March 2015, 3, <https://undocs.org/S/PRST/2015/8>.

300 UN Security Council, UN Security Council resolution 2216 (2015) [on cessation of violence in Yemen and the reinforcement of sanctions imposed by resolution 2104 (2014)], 14 April 2015, S/RES/2216 (2015), para. 9, [https://undocs.org/en/S/RES/2216\(2015\)](https://undocs.org/en/S/RES/2216(2015)).

301 UN Security Council, UN Security Council resolution 2216 (2015) [on cessation of violence in Yemen and the reinforcement of sanctions imposed by resolution 2104 (2014)], S/RES/2216 (2015), 14 April 2015, preamble, [https://undocs.org/en/S/RES/2216\(2015\)](https://undocs.org/en/S/RES/2216(2015)) (“Alarmed at the military escalation by the Houthis in many parts of Yemen.”).

302 See UN Security Council, UN Security Council resolution 2266 (2016) [on the situation in Yemen], S/RES/2266 (2016), 24 February 2016, preamble, [https://undocs.org/S/RES/2266\(2016\)](https://undocs.org/S/RES/2266(2016)); UN Security Council, UN Security Council resolution 2342 (2017) [on the situation in the Middle East], S/RES/2342 (2017), 23 February 2017, preamble, [https://undocs.org/en/S/RES/2342\(2017\)](https://undocs.org/en/S/RES/2342(2017)); UN Security Council, UN Security Council Resolution 2402 (2018), S/RES/2402 (2018), 26 February 2018, preamble [https://undocs.org/S/RES/2402\(2018\)](https://undocs.org/S/RES/2402(2018)); UN Security Council, UN Security Council resolution 2451 (2018), 21 December 2018, S/RES/2451 (2018), at para. 10, [https://undocs.org/S/RES/2451\(2018\)](https://undocs.org/S/RES/2451(2018)); UN Security Council, UN Security Council resolution 2456 (2019), S/RES/2456 (2019), 26 February 2019, preamble, [https://undocs.org/en/S/RES/2456\(2019\)](https://undocs.org/en/S/RES/2456(2019)); UN Security Council, UN Security Council resolution 2511 (2020), S/RES/2511 (2020), 25 February 2020, preamble, [https://undocs.org/en/S/RES/2511\(2020\)](https://undocs.org/en/S/RES/2511(2020)); UN Security Council, UN Security Council resolution 2564, S/RES/2564 (2021), 25 February 2021, preamble, [https://undocs.org/en/S/RES/2564\(2021\)](https://undocs.org/en/S/RES/2564(2021)).

303 UNSC Resolution 2564 (2021), *supra* note 368 at preamble.

violated international law.³⁰⁴

Ansar Allah is bound by an emerging principle that non-State armed groups should provide reparations to victims of their international wrongs

The UN Basic Principles and Guidelines on the Right to a Remedy, which focus on the rights of individual victims of serious IHL violations and gross IHRL violations to reparation,³⁰⁵ recognize that the obligation to provide reparation can fall on non-State armed groups.³⁰⁶

Principle 15 of the UN Basic Principles states that “[i]n the case where a person, a legal person or other entity is found liable for reparation to a victim, such party should provide reparation to the victim.”³⁰⁷ Special Rapporteur van Boven, one of the principle contributors to the development of the UN Basic Principles, indicated in his introductory note that the drafters discussed the question of non-State armed groups and their obligations and that there was general support for obligating armed groups who exercise effective control over a certain territory and population to provide reparations.³⁰⁸ He explained:

It was generally felt that non-State actors are to be held responsible for their policies and practices, allowing victims to seek redress and reparation on the basis of legal liability and human solidarity, and not on the basis of State responsibility... It is a victim-oriented perspective that was kept in mind in extending, albeit in a modest and cautious way, the scope of the Principles and Guidelines to include the responsibility and liability of non-State actors.³⁰⁹

304 In Resolution 2564 (2021), the UN Security Council added Ansar Allah member Sultan Saleh Aida Aida Zabin to its sanctions list for engaging “in acts that threaten the peace, security, and stability of Yemen, including violations of applicable international humanitarian law and human rights abuses in Yemen.” Resolution 2564 (2021), *supra* note 368 at Annex.

305 For a longer discussion of the UN Basic Principles and their status under international law, see the International Law on Reparations section above.

306 See Moffett, *supra* note 197 at 430; van Boven, *supra* 112 at 1, 3; Herman, *supra* note 109 at 7.

307 UN Basic Principles, *supra* note 110 (emphasis added).

308 Van Boven, *supra* 112 at 1, 3. See Herman, *supra* note 109 at 7.

309 Van Boven, *supra* 112 at 3 (emphasis added).

Van Boven's description of the UN Basic Principles' negotiating history adds strong support to the argument that, when the UN Basic Principles' text notes that, when liable, 'other entit[ies]' should provide reparation to victims, 'other entity' is intended to include non-State armed groups.³¹⁰

Other international law and UN experts have found that non-State armed groups should provide reparations to victims when they violate international law.³¹¹ In a 1998 report on the causes of conflict and the promotion of durable peace and sustainable development in Africa, the UN Secretary-General recommended that "combatants be held financially liable to their victims under international law where civilians are made the deliberate target of aggression."³¹² In Sudan, the Darfur Commission found that non-State armed groups had a duty under international law to provide compensation to their victims.³¹³ In drafting the ILA Principles on Reparation, the ILA Committee on Reparations for Victims of Armed Conflict recognized that non-State armed groups could be responsible for reparations to injured parties when the armed group violates IHL.³¹⁴ Article 5(2) of the ILA Principles on Reparation specifies that "responsible parties" who may be responsible for reparations include non-State armed groups.³¹⁵ The ILA Commentary further considers that article 75 of the Rome Statute, which provides for reparations to victims, including victims of international wrongs by individuals fighting on behalf of an armed group, can be seen as "an expression of the emerging regime of responsibility of non-State actors."³¹⁶

310 Van Boven's sizeable contribution to the UN Basic Principles should be recalled in considering the weight of his introduction. Indeed, the UN Basic Principles are often referred to as the Van Boven/Bassiouni Principles. See, e.g., Marten Zwanenburg, *The Van Boven/Bassiouni Principles: An Appraisal*, 24 NETH. Q. HUM. Rts. 641 (2006).

311 See, e.g., Herman, *supra* note 109 at 10; Moffett, *supra* note 197 at 11.

312 UN Secretary-General, *Report on the causes of conflict and the promotion of durable peace and sustainable development in Africa*, A/52/871-S/1998/317, 13 April 1998, § 50, <https://undocs.org/A/52/871>.

313 Darfur Commission, *supra* note 342 at para. 600.

314 ILA Reparations Principles, *supra* note 128 at art. 5.

315 "ARTICLE 5 Responsible Party 1. For the purposes of the present Declaration, the term "responsible party" means States and International Organizations responsible for a violation of rules of international law applicable in armed conflict. 2. Responsible parties may also include non-State actors other than International Organizations responsible for a violation of rules of international law applicable in armed conflict. Such responsibility is without prejudice to the responsibility of States and International Organizations under international law for violations of such rules committed by non-State actors." *Id.*

316 *Id.* at art. 5, commentary para. 3.

Several UN Special Rapporteurs have stated that non-State armed groups that control and govern territory and have obligations under IHRL have a duty to provide remedy for violations of human rights law. A number of Special Rapporteurs specifically noted this obligation in an October 2020 letter to Ansar Allah, stating that “[i]nsofar as human rights obligations are directly applicable to it, the non-State armed group is under a duty to provide effective remedies to victims in situations of alleged violations of customary human rights law and alleged serious violations of customary humanitarian law, including through the effective investigation of alleged violations.”³¹⁷

As noted in the International Law on Reparations section above, the UNGEE has repeatedly called on Yemen's warring parties, including Ansar Allah, to provide reparations to civilian victims.³¹⁸

In terms of attribution, international law violations carried out by individuals fighting on behalf of a non-State armed group are, from a practical perspective, often attributed to that group in a manner similar to that for States, e.g. when committed by individuals fighting on behalf of the group or acting on its instructions or under its direction or control. Non-State armed groups that are a party to a conflict must respect international humanitarian law and must operate under a “responsible command.”³¹⁹ While international judicial bodies have traditionally focused on the responsibility of individuals for actions taken while fighting on behalf of non-State armed groups,³²⁰ others already consider non-State armed groups responsible qua collective for actions that can be attributed to the group, including actions taken by individuals leading the group or by individuals fighting on the group's behalf. States, UN organs, including the UN Security Council, UN expert bodies and commissions, and non-governmental organizations have considered non-State armed groups answerable for international

317 Special Procedures letter to Ansar Allah, *supra* 40 at 11.

318 Specific cites to UNGEE reports are included in the International Law on Reparations section above.

319 ICRC, Rule 149. Responsibility for violations of International Humanitarian Law, Customary IHL Database, ICRC Rule 149, (internal citations omitted). Available at https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule149. The ICRC does note that “but the consequences of such responsibility are not clear.”

320 See, e.g., Liesbeth Zegveld, *The Accountability of Armed Opposition Groups in International Law*, Cambridge University Press, Cambridge (2002), 223. Ron Dudai, *Closing the gap: symbolic reparations and armed groups*, 785 (2011).

law violations at the group level.³²¹ States and United Nations bodies already monitor compliance with IHL and IHRL by non-State armed groups and sanction non-State armed groups who commit violations.³²² As of April 2022, the UN Security Council had 255 “entities

321 Jann K. Kleffner, *The collective accountability of organized armed groups for system crimes*, in *System Criminality in International Law* 238–269, 250 (2009). or with the involvement, of a collective entity, a ‘system’, which constitutes a central element of the enabling context for their commission. Accordingly, the examination of crimes of genocide, crimes against humanity and war crimes would remain incomplete if one were to lose sight of this systemic environment and were to conceive of these crimes as solely a matter of criminal responsibility, with its focus on individual perpetrators. However, such an examination would run the risk of perpetuating incompleteness, were it to be limited to the state as the only conceivable ‘system’. The assumption that the collective environment, in which policies of genocide, crimes against humanity and war crimes are implemented or condoned, is a state, may be justifiable in historical terms. In the past, it was, as a rule, states which constituted the collective environment for system crimes. Indeed, when the Nuremberg Tribunal held that system crimes are committed ‘by men, not by abstract entities’, it was clear at the time that the ‘abstract entity’ in question was meant to be a state. It is equally undisputed that the state retains a central role in that respect also today. More recent instances in which system crimes were or continue to be committed – Rwanda, Burma and Zimbabwe to name just a few – bear unequivocal witness to this fact.”, “author”: “[“dropping-particle”: “”, “family”: “Kleffner”, “given”: “Jann K.”, “non-dropping-particle”: “”, “parse-names”: false, “suffix”: “”], “container-title”: “System Criminality in International Law”, “id”: “ITEM-1”, “issued”: [“date-parts”: [“2009”]], “note”: “Cited in Moffett\n\npaper topic is to examine the framework of international legal accountability of non-state systems, focusing on NSAGs”, “page”: “238-269”, “title”: “The collective accountability of organized armed groups for system crimes”, “type”: “chapter”, “locator”: “250”, “uris”: [“http://www.mendeley.com/documents/?uuid=53c6af35-f928-44cd-a71f-089d99cb20b5”]], “mendeley”: {“formattedCitation”: “Jann K. Kleffner, <i>The collective accountability of organized armed groups for system crimes</i>, <i>in</i> System Criminality in International Law 238–269, 250 (2009

322 Id. at 255. or with the involvement, of a collective entity, a ‘system’, which constitutes a central element of the enabling context for their commission. Accordingly, the examination of crimes of genocide, crimes against humanity and war crimes would remain incomplete if one were to lose sight of this systemic environment and were to conceive of these crimes as solely a matter of criminal responsibility, with its focus on individual perpetrators. However, such an examination would run the risk of perpetuating incompleteness, were it to be limited to the state as the only conceivable ‘system’. The assumption that the collective environment, in which policies of genocide, crimes against humanity and war crimes are implemented or condoned, is a state, may be justifiable in historical terms. In the past, it was, as a rule, states which constituted the collective environment for system crimes. Indeed, when the Nuremberg Tribunal held that system crimes are committed ‘by men, not by abstract entities’, it was clear at the time that the ‘abstract entity’ in question was meant to be a state. It is equally undisputed that the state retains a central role in that respect also today. More recent instances in which system crimes were or continue to be committed – Rwanda, Burma and Zimbabwe to name just a few – bear unequivocal witness to this fact.”, “author”: “[“dropping-particle”: “”, “family”: “Kleffner”, “given”: “Jann K.”, “non-dropping-particle”: “”, “parse-names”: false, “suffix”: “”], “container-title”: “System Criminality in International Law”, “id”: “ITEM-1”, “issued”: [“date-parts”: [“2009”]], “note”: “Cited in Moffett\n\npaper topic is to examine the framework of international legal accountability of non-state systems, focusing on NSAGs”, “page”: “238-269”, “title”: “The collective accountability of organized armed groups for system crimes”, “type”: “chapter”, “locator”: “255”, “uris”: [“http://www.mendeley.com/documents/?uuid=53c6af35-f928-44cd-a71f-089d99cb20b5”]], “mendeley”: {“formattedCitation”: “<i>Id.</i> at 255.”, “plainTextFormattedCitation”: “Id. at 255.”, “previouslyFormattedCitation”: “<i>Id.</i> at 255.”, “properties”: {“noteIndex”: 448}, “schema”: “https://github.com/citation-style-language/schema/raw/master/csl-citation.json”} For examples of the UN Security Council finding Ansar Allah and the Southern Transitional Council responsible at the group level, see notes 358–370 and accompanying text. The United States and European Union both sanction non-State armed groups. EU Terrorist List, European Council & Council of the European Union, <https://www.consilium.europa.eu/en/policies/fight-against-terrorism/terrorist-list/>, (last accessed December 27, 2021); U.S. Dep’t of State, Bureau of Counterterrorism, Foreign Terrorist Organizations, <https://www.state.gov/foreign-terrorist-organizations/> (last accessed December 27, 2017).

and other groups” on its sanction list, including Ansar Allah, in addition to 701 individuals.³²³

UN expert investigations regularly attribute wrongs committed by members or leaders of a non-State armed group to the group. The UNGEE, for example, has attributed the commission of wrongs by individual members of non-state armed groups to Ansar Allah and the Southern Transitional Council.³²⁴ As an example outside of Yemen, the Independent International Commission of Inquiry on the Syrian Arab Republic has attributed individuals’ actions, such as executions or detentions, to ISIS as a collectivity.³²⁵ In a 2001 report on the protection of victims in armed conflict, the UN Secretary General recommended that “in its resolutions the UN Security Council should emphasize the direct responsibility of armed groups under international humanitarian law.”³²⁶

At a minimum, the members of a non-State armed actor can be held responsible for providing reparations to victims of international crimes they commit, including those involving violations of IHL. This is reflected in the practice of the ICC, which can order any convicted person to provide reparations to victims of their crimes and “suggests that an individual may also be a duty-bearer under international law in terms of victim reparation.”³²⁷ The ICC has ordered individuals to provide reparations for crimes committed while leading a non-State armed group. For example, in Al-Mahdi, the ICC convicted the defendant of war crimes committed during a non-international armed conflict as a member of a non-State armed group and ordered the defendant provide

323 The UN Security Council also provides narrative summaries of why entities are listed, which discusses actions that entities are responsible for see <https://www.un.org/securitycouncil/sanctions/narrative-summaries>; “UN Security Council Renews Arms Embargo, Travel Ban, Asset Freeze Imposed on Those Threatening Peace in Yemen, by 11 Votes in Favour, None against, 4 abstentions,” United Nations, 28 February 2022, <https://www.un.org/press/en/2022/sc14810.doc.htm>.

324 See cites to UNGEE reporting throughout this report, in particular in the *The Ansar Allah (Houthi) armed group* section above.

325 Katharine Fortin & Jann Kleffner, *Military Operations and the Notion of Control Under International Law*, 315–316 (2021).

326 UN Secretary-General, *Report on the protection of civilians in armed conflict*, S/2001/331, 30 March 2001, Recommendation 9, <https://undocs.org/S/2001/331>.

327 Furuya, *supra* note 121 at 64.

reparations.³²⁸ In practice, the ICC has treated members of non-State armed groups essentially the same as State agents.³²⁹

Ansar Allah's responsibility for international law violations and emerging obligation to provide reparations does not erase the internationally recognized government of Yemen's responsibilities to ensure the right to reparation of all victims of serious violations of IHL and gross violations of IHRL in Yemen. This understanding is in line with the UN Basic Principles, which requires the State where the wrong occurred, in this case Yemen, to ensure victims' right to reparation even where it is not responsible for the international wrong and to endeavor to provide reparation where the responsible party, for instance Ansar Allah, is unable or unwilling to meet its obligation of reparation.³³⁰

328 The defendant was convicted for committing war crimes defined in art. 8(2)(e) of the Rome Statute, a list of "[o]ther serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law." Case Information Sheet: Situation in the Republic of Mali, The Prosecutor v. Ahmad Al Faqi Al Mahdi, International Criminal Court, July 2021, <https://www.icc-cpi.int/CaseInformationSheets/Al-MahdiEng.pdf>; The Prosecutor v. Ahmad Al Faqi Al Mahdi, Reparations Order, 17 August 2017, T.Ch., [icc-01/ 12-01/15-236](https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/12-01/15-236) (Al Mahdi Reparations Order) paras. 83, 90, <https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/12-01/15-236>.

329 See, Dudai, *supra* note 392 at 785 ("In terms of accountability, international criminal law applies to members of armed groups almost without distinction from State agents, and the Rome Statute of the International Criminal Court (ICC) has confirmed that members of armed groups can be held criminally responsible for war crimes, crimes against humanity (which are defined there as attacks that take place pursuant to or in furtherance of 'a State or organizational policy'), and genocide. The International Criminal Tribunal for the former Yugoslavia (ICTY) and the SCSL have prosecuted members and leaders of armed groups. The ICC's first indictment was against a member of an armed group, not against a State leader or official, and as of April 2011 members of armed groups remain a majority (fourteen out of twenty-two) of the individuals indicted by the ICC.").

330 UN Basic Principles, *supra* note 110 at para. 16-17.

ABDUL KHALEQ, HARITH, AKRAM AND TAWFIQ



Our hands were tied behind our backs, and then we were hung from the roof for a whole day. The place here is cold and we see the sun only twice every six months.



On June 9, 2015, at about 04:00 am, armed men working for Ansar Allah arrested nine journalists.³³¹

In April 2020, Ansar Allah sentenced four of the journalists to death. Abdul Khaleq Imran, Harith Humaid, Akram Al-Walidi, and Tawfiq Al-Mansouri remain detained and at risk of execution.

When Ansar Allah arrested the journalists, the journalists worked for a variety of news outlets, some of which opposed Ansar Allah and some aligned to the Islah political party. They had been using a room in a hotel to work, due to the availability of electricity and internet.

Ansar Allah first took the journalists to local police stations, where the men were held for about two weeks. After, the journalists disappeared. Their families continued to look for them. For about a month, Ansar Allah did not inform the families where the men were being held, nor allow visits or any form of communication.

331 For more on the journalists, see, e.g., "Urgent Appeal: Arbitrary Detention, Enforced Disappearance and Torture of Yemeni Journalists in Sana'a by Ansar Allah; Four Sentenced to Death," Mwatana for Human Rights (October 13, 2020), <https://mwatana.org/en/urgent-appeal/>; UNGEE 2021 report, supra note 176 at para. 58.

After about a month, someone told the families that the journalists were being held in Sana'a's Criminal Investigation Department (CID). CID officials had previously denied holding the men. While detained at the CID, guards beat and tortured some of the journalists, including Abdul Khaleq and Tawfiq. Guards in the prison suspended them from the ceiling, electrically shocked them, beat them with wooden boards and chains, kicked and slapped them, prevented them from urinating, and verbally abused and humiliated them. The people torturing them would ask questions or accuse them of things, like assisting the Coalition. If they denied this, the men would hit them until they confessed, the journalists said.

Later, without informing their families, the CID transferred the journalists to a different facility. The journalists were again disappeared. After significant follow-up, a Mwatana lawyer was able to meet with some of the journalists, who said they had again been mistreated, including being beaten with sticks, kicked and slapped, prevented from urinating, and held in overcrowded dark cells. The men appeared very thin, pale, and weak. One told Mwatana, "Our hands were tied behind our backs, and then we were hung from the roof for a whole day. The place here is cold and we see the sun only twice every six months."

Over the next three years, the journalists were transferred to different facilities, began a hunger strike, and were repeatedly denied family and lawyer visits. Their physical and mental health deteriorated. The families repeatedly asked that Ansar Allah officials release the journalists and put forward requests for their release to the public prosecutor, the Ansar Allah detainee committee, other high-level Ansar Allah officials, and Ansar Allah's redress-related bodies.

Ansar Allah officials repeatedly promised to release the men. For example, in January 2016, the Ansar Allah Legal Commission, under the office of Abdulmalik Al Houthi, issued an order for the release of the journalists. The order was not implemented. A few days afterwards, family members said that four of the journalists were beaten and denied health care. A lawyer met with some of the men. They had bruises and other visible signs of beating on their knees, face, and back.

In December 2019, four and half years after their initial arrest, the Specialized Criminal Court in Sana'a, under Ansar Allah authority, held its first trial session against the journalists. The journalist's lawyer was not informed of the session.

On April 11, 2020, the Specialized Criminal Court sentenced Abdul Khaleq, Harith, Akram, and Tawfiq to death. The Court sentenced the other five journalists to imprisonment, but decided time had already been served and ordered they be placed under police surveillance for three years. They remained detained, until released in a prisoner exchange many months later.

Ansar Allah has not provided any of the journalists, including those that have been released, with any form of reparation for the arbitrary detention, enforced disappearance, torture, and other abuses to which Ansar Allah subjected them. All nine journalists had illnesses and medical conditions caused or aggravated by their detention conditions. One of the journalists said some of the men had been given aspirin or painkillers to mitigate pain after mistreatment, rather than being taken to a hospital or allowed to see a doctor. Abdul Khaleq, Harith, Akram, and Tawfiq remain imprisoned and at risk of execution. Mwatana has repeatedly called for their immediate and unconditional release. Other civil society and human rights organizations have also documented and reported on the mistreatment of the journalists and called for their release.



The journalists, Harith Humaid, Abdul Khaleq Imran, Akram Al-Walidi, and Tawfiq Al-Mansouri, who were arbitrarily detained by the Ansar Allah (Houthi) armed group in 2015 and later sentenced to death. They remain detained.

Others

This report focuses on the reparations obligations of a few major warring parties in Yemen, namely: the Ansar Allah (Houthi) group, the internationally recognized government of Yemen, Saudi Arabia, the United Arab Emirates, and other Coalition States.

The conflict in Yemen involves additional actors, including other non-State armed groups that control and govern territory, other States taking a direct role in fighting, and States that provide military aid and assistance to those taking part in hostilities, even if not parties to the conflict themselves. These actors have also committed international wrongs during the ongoing conflict. Where they violate international law, these actors have obligations to provide reparations to those harmed.

The Southern Transitional Council

The UAE-backed Southern Transitional Council, a non-State armed group active in southern Yemen, has committed repeated violations, including recruiting child soldiers, attacking hospitals, health centers, and medical personnel, carrying out arbitrary detentions and enforced disappearances, conducting extrajudicial killings, committing sexual violence, restricting humanitarian access and targeting their critics and perceived opponents.³³² During research for this report, Mwatana did not identify any significant STC-specific reparations-related mechanisms or processes.

332 On STC violations, see e.g., Starvation Makers, *supra* note 180 at 55; Mwatana 2019 Report, *supra* note 176 at 18-22; UNGEE 2020 Report, *supra* note 7 at para. 44; Mwatana 2018 Report, *supra* note 176 at 17; UNGEE 2018 Report, *supra* note 49 at para. 84.

While not thoroughly examined in this report, the STC's reparations obligations would likely follow a similar analysis as that done for Ansar Allah, as a non-state armed actor engaged in a non-international armed conflict, with an organized chain of responsibility, controlling and governing territory, and both militarily and governmentally capable of ensuring respect for human rights. The STC has directly clashed with internationally recognized government forces and taken control of several governorates. In 2019, the STC signed the Riyadh Agreement with the internationally recognized government. The agreement nominally reintegrated the STC into the government, but the STC continued to govern the territory it controlled. In 2022, President Hadi ceded his executive authority to a new presidential council which included STC leaders.³³³

The United States

The United States has been using lethal force in Yemen for nearly two decades. US military operations that targeted and killed people in Yemen began under the Bush administration, dramatically expanded during the Obama administration, and expanded further during the Trump administration. In 2017, during President Trump's first year in office, the number of US airstrikes in Yemen soared, before reverting back to approximately the same rate seen in the last years of the Obama administration. US drone strikes and other attacks have killed and injured many civilians in Yemen.³³⁴

The United States has also provided intelligence, logistical support, training, aerial refueling, and significant arms to the Coalition since the current conflict began.³³⁵ In 2021, the Biden administration announced it would "end support for offensive operations in the war in Yemen" and suspend "relevant arms sales," but would continue "defending"

333 See Ben Hubbard, Yemeni Leader Hands Power to New Body as His Saudi Backers Seek to End War, *New York Times*, April 7, 2022, <https://www.nytimes.com/2022/04/07/world/middleeast/yemen-presidential-council.html>. If, through the presidential council or down the line, the STC becomes a part of the Yemeni state, other reparations obligations might apply. For example, Article 10(1) of the Draft Articles on State Responsibility says that the conduct of a non-State armed group which then becomes the government of a State is considered to be State conduct. Draft articles, *supra* note 98. There is dispute to the extent this would apply to conduct of armed groups who, as part of a peace process, are invited to join a power sharing government. Luke Moffett, "Beyond Attribution: Responsibility of Armed Non-State Actors for Reparations in Northern Ireland, Colombia and Uganda", in Noemi Gal-Or, Cedric Ryngeart and Math Noortmann (eds), *Responsibilities of the Non-State Actor in Armed Conflict and the Market Place*, Brill Nijhof, Leiden/Boston, 2015, 323, 327, n. 12 (2015).

334 For a report on civilian deaths from U.S. drone strikes, see *Death Falling from the Sky*, *supra* note 14.

335 *Death Falling from the Sky*, *supra* note 14 at 8.

Saudi Arabia against “missile attacks, [drone] strikes and other threats from Iranian supplied forces in multiple countries.”³³⁶ Later, the US said it would continue selling weapons to the UAE and “defensive” weapons to Saudi Arabia.³³⁷ Organizations, including Mwatana, have found that US weapons have been used repeatedly in Coalition airstrikes that amount to serious violations of international humanitarian law.³³⁸ The United States has neither provided reparations for the civilian harms it has caused directly nor those it took part in through its assistance to the Saudi/UAE-led Coalition.³³⁹

States aiding or assisting warring parties, including through arms transfers

In addition to the United States, a range of other States have militarily supported the warring parties to the armed conflict in Yemen.

Ansar Allah has received political and military support from Iran.³⁴⁰ In late 2020, Iran sent an “ambassador” to Sana’a.³⁴¹ In its January 2021 report, the UNSC Panel of Experts found that “[a]n increasing body of evidence suggests that individuals or entities in the Islamic Republic of Iran supply significant volumes of weapons and components to the Houthis.”³⁴²

336 Rebecca Kheel, “Biden announces end to US support for offensive operations in Yemen,” *The Hill* (April 2, 2021), <https://thehill.com/policy/defense/537346-biden-to-announce-end-to-us-support-for-offensive-operations-in-yemen>.

337 Michael Crowley and Edward Wong, “U.S. Is Expected to Approve Some Arms Sales to U.A.E. and Saudis,” *New York Times* (April 14, 2021), <https://www.nytimes.com/2021/04/14/us/politics/arms-sales-uae-saudi-arabia.html>.

338 See, e.g., “Day of Judgment: The Role of the US and Europe in Civilian Death, Destruction, and Trauma in Yemen,” Mwatana for Human Rights (May 5, 2019), https://mwatana.org/wp-content/uploads/2019/03/Final-Design_Day-of-Judgment_Mwatana.pdf; Hiding Behind the Coalition, *supra* note 9; Kristine Beckerle, “US Officials Risk Complicity in War Crimes in Yemen,” *Just Security* (May 4, 2017), <https://www.justsecurity.org/40518/officials-risk-complicity-war-crimes-yemen/>.

339 Death Falling from the Sky, *supra* note 14.

340 Robinson, *supra* note 4; “Global Conflict Tracker,” Council on Foreign Relations, <https://www.cfr.org/global-conflict-tracker/conflict/war-yemen>.

341 “Yemen’s Houthis want to strengthen Iran ties, Minister tells Tehran’s new ambassador,” *Reuters* (October 27, 2020), <https://www.reuters.com/article/yemen-security-iran-int-idUSKBN27C1WF>.

342 UNSC PoE 2021 Report, *supra* note 10 at paras. 20-23.

States like the United Kingdom (UK) and France, among others, have provided arms and, in some cases, other forms of military support to the Saudi/UAE-led Coalition. Between 2015 and 2019, the UK sold over £4 billion (US\$5.65 billion) worth of arms to Saudi Arabia.³⁴³ After a brief pause in sales following a 2019 UK Court of Appeals ruling that declared the Government's failure to conduct due diligence on arms exports to Saudi Arabia unlawful,³⁴⁴ the UK Government announced in July 2020 that it would continue arms sales to Saudi Arabia.³⁴⁵

A State which "aids or assists" another in an internationally wrongful act is internationally responsible for doing so if the State did so "with knowledge of the circumstances of the internationally wrongful act" and if the act would be internationally wrongful if committed by the assisting State.³⁴⁶ In Yemen, the UNGEE found, "States may be held responsible for providing aid or assistance for the commission of international law violations."³⁴⁷ A State responsible for an international wrong, including through aid or assistance, has an obligation to make reparation for the damage caused.³⁴⁸

343 "UK: Arms to Saudi Arabia ruling welcomed as rare piece of good news for Yemen," Amnesty International, (June 20, 2019), <https://www.amnesty.org.uk/press-releases/uk-arms-saudi-arabia-ruling-welcomed-rare-piece-good-news-yemen>. See also "A Shameful Relationship: UK Complicity in Saudi State Violence," Campaign Against Arms Trade (April 1, 2016), <https://caat.org.uk/resources/a-shameful-relationship-uk-complicity-in-saudi-state-violence>; "UK arms exports to Saudi Arabia," Action On Armed Violence (November 11, 2018), <https://aoav.org.uk/2018/uk-arms-export-to-saudi-arabia/>; Jamie Doward, "UK hides extent of arms sales to Saudi Arabia," The Guardian, (June 23, 2018), <https://www.theguardian.com/world/2018/jun/23/uk-hides-arms-trade-saudi-arabia--yemen>.

344 *R (on the application of Campaign Against Arms Trade) v. The Secretary of State for International Trade* [2019] EWCA Civ 1020. The UK House of Commons also requested the Government to suspend arms sales in 2016. See "The use of UK manufactured arms in Yemen: First Joint Report of the Business, Innovation and Skills and International Development Committees of Session 2016–17," House of Commons (September 15, 2016), <https://publications.parliament.uk/pa/cm201617/cmselect/cmbis/679/679.pdf>.

345 "Statement by Secretary of State for International Trade," UK Parliament (July 7, 2020), <https://questions-statements.parliament.uk/written-statements/detail/2020-07-07/HCWS339>.

346 See, e.g. Draft Articles, *supra* note 98 at art. 16 and commentary.

347 UNGEE 2019 Report, *supra* note 176 at para. 92.

348 See International Law on Reparations section above.



Conclusion

The Saudi/UAE-led Coalition, the internationally recognized government of Yemen, Ansar Allah, and other warring parties have taken lives, devastated families, wrecked cities, ruined agricultural land, and unsettled the future of millions across the country. The warring parties continue to do so.

The call for reparations is a call for justice for the millions of civilian lives lost, ruined, and disrupted during the ongoing conflict. The costs of war should not fall on those who do not participate in hostilities.

The people of Yemen have a legal and moral right to have the harms done to them repaired by those who caused these harms. The warring parties in Yemen have a legal and moral responsibility to provide these reparations. Nearly eight years after the conflict began, no warring party has fulfilled this responsibility.

This report has sought to draw attention to both the right of civilians in Yemen to receive reparations and the obligation of the warring parties to provide these reparations. It remains to be seen whether those with power and influence—from other States to global civil society—will stand with the Yemeni civilians struggling to see their right to reparation realized.



Annexes

Saudi/UAE-led Coalition and internationally recognized government condolence payment receipt

اتحاد القوات المشتركة
اللجنة المشتركة للنظر في منح المساعدات
المستحقين في اليمن
(٢٧٣)

الرقم :
التاريخ :
المرفقات :
الموضوع : سند استلام مساعدات طوعية

سند استلام
(جرحي - وفيات - ممتلكات)

انا المدعو ()
استلمت مبلغ وقدره ()
المشتركة للنظر في المساعدات الطوعية في اليمن نتيجة للإخطاء غير المقصودة للعمليات العسكرية
للتحالف في اليمن والتي نتج عنها ()
في حادثة ()
بمدينة () بمديرية () بمحافظة (تعز) وعلى ذلك جرى التوقيع وبالله التوفيق .

المستلم
الاسم :
التوقيع :
تاريخ الاستلام :

المسلم
الاسم :
التوقيع :
تاريخ الاستلام :

المصدق / (تعز)
الاسم :
التوقيع :

I, the claimant (---), national number (---), received an amount of (---), Saudi Riyals as voluntary assistance from the Joint Committee to Grant Voluntary Humanitarian Assistance to Those Harmed in Yemen as a result of unintentional mistakes from Coalition military operations in Yemen that resulted in (---) in the incident of (---) in the city of (---) in the District of (---) in the Governorate of (---) and for this I sign below.

***Mwatana letters to Saudi Arabia, the UAE, Yemen
and the Coalition Forces, dated January 13, 2022***

Separate letters were addressed and sent to:

- Saudi Arabia: Salman bin Abdulaziz Al Saud, King of Saudi Arabia , and Mohammed bin Salman Al Saud, Crown Prince, Deputy Prime Minister and Minister of Defense of Saudi Arabia
- United Arab Emirates: Khalifa Bin Zayed Al Nahyan, President of the United Arab of Emirates, and Mohammed Bin Zayed Al Nahyan, Crown Prince of the Emirate of Abu Dhabi and Supreme Commander of the United Arab Emirates Armed Forces
- Yemen: Abdurabu Mansoor Hadi, President of the Republic of Yemen, and Mohammed Ali Al Magdashi, Minister of Defense and Military Adviser to the President
- Arab Coalition Forces: Motlaq Bin Salim Al Azmee'a, Commander of the Joint Forces of the Arab Coalition in Yemen, and Turki Al Maliki, Official Representative of the Arab Coalition in Yemen

Translation of the letter from the original Arabic follows.

Subject: Reparations to Civilians Harmed by the Yemeni Government and the Saudi/UAE-Led Coalition

We are writing to seek information on the steps that the Yemeni Government and the Coalition have taken, jointly or separately, to ensure that reparations (including access to justice, adequate compensation, and access to information on mechanisms for reparations) are provided to civilian victims of international human rights law and international humanitarian law violations for which the Yemeni Government and Coalition are responsible.

Mwatana has been conducting research to understand what measures the Yemeni Government and the Coalition have taken to provide reparations to civilian victims of such violations. We have identified three main bodies that appear to deal with this issue: the National Commission of Inquiry, the Joint Incidents Assessment Team (JIAT), and the Joint Committee to Grant Voluntary Aid. Based on our research, the Yemeni Government and the Coalition have provided financial payments to victims of an extremely limited number of airstrikes. Mwatana identified a number of people harmed in these same airstrikes who did not receive payments.

Civilian victims of airstrikes are indeed often in need of assistance after attacks, but so too are civilian victims of other violations committed by the Government and Coalition forces—for example arbitrary detentions, enforced disappearances, and torture. In the rare airstrike incidents where victims received payments, the payments were referred to as “voluntary aid” and came without apologies, acknowledgment of the harm done or accountability measures against persons responsible for violations. Victims were asked to sign papers referring to the strikes as Coalition “mistakes.” Though the National Commission of Inquiry has looked at broader patterns of violations, it continues to lack structural independence. Moreover, there is a lack of clarity regarding the status of the casefiles that the National Commission has reportedly transferred to the public prosecution’s office since 2017. Particularly, it remains unclear whether any of these cases have been taken up for criminal investigation or prosecution before the courts.

The Yemeni Government, Saudi Arabia, the UAE and other member states of the Coalition are obliged to provide full reparation for violations of international human rights law and international humanitarian law, including directly to civilian victims. It is a general principle of international law that where an international wrong has been

committed, reparation is owed.

Multiple international human rights treaties recognize individuals' right to an effective remedy, including the right to reparation. According to the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, reparations must be "adequate, effective and prompt" and "proportional to the gravity of the violations and the harm suffered." Full and effective reparations include different forms, including restitution (reestablishment of the prior situation), compensation (financial payment), rehabilitation, satisfaction (including measures such as public apologies, acknowledgment of the harm done, the search for the disappeared, and judicial sanctions against persons responsible for violations), and guarantees of non-repetition. Even in the absence of an international law violation, civilians will be in need of assistance for losses that occur during conflict.

Article (6) of the Yemeni Constitution states that the Republic of Yemen confirms its adherence to the UN Charter, the UDHR, the Charter of the Arab League, and customary international law. Yemeni law provides for compensation to be provided to those harmed as a result of a wide variety of crimes and other violations. For example, Article (48) of the Yemeni Constitution provides for compensation to victims of rights violations, stating that where the right to freedom and dignity has been violated, the law will "determine the appropriate compensation for any harm the person suffers as a result of such a violation."

The Yemeni Government, Saudi Arabia, the UAE and other member states of the Coalition have violated international law repeatedly and consistently failed to provide reparations to civilian victims. We urge the Yemeni government, Saudi Arabia, the UAE and other member states of the Coalition to provide civilian victims with credible remedies for violations of international human rights law and international humanitarian law that have occurred during the conflict as a matter of urgency. Credible remedies include:

- (i) equal and effective access to justice;
- (ii) adequate, effective and prompt reparation for harm suffered, and;
- (iii) access to relevant information concerning violations and reparation mechanisms.

As noted above, we are writing to seek additional information on steps taken, jointly or separately, by the Yemeni Government, Saudi Arabia, the UAE, and other member states of the Coalition to provide reparations to civilian victims of violations committed by their forces. Specifically, we seek information related to the following questions:

- 1) What steps have the Yemeni Government, Saudi Arabia, the UAE, and/or other member states of the Coalition taken to ensure reparations for civilian victims of violations of international human rights law and international humanitarian law committed by their forces? Please share any written procedures available to the public that explain how civilian victims can file complaints or request reparations, the locations where the public can access these mechanisms, and any relevant laws or procedures regarding the types of complaints and requests that can be filed.
- 2) Have the Yemeni Government, Saudi Arabia, the UAE, and/or other member states of the Coalition provided reparations to any civilian victims of violations of international law committed by their forces between March 26, 2015 and the present? Please provide a detailed list of cases, including information about the forms of reparations provided (including non-financial measures such as public apologies), the amount of any financial payments provided, the mechanisms through which reparations were provided (for example, through the judicial system or through mechanisms established by the Yemeni government or the Coalition), the number of beneficiaries and the types of violations or abuses that affected them.
- 3) What steps, if any, have the Yemeni Government, Saudi Arabia, the UAE, and/or other member states of the Coalition taken to provide civilians harmed by their conduct, even in the absence of international law violations, with assistance? Please provide specifics.
- 4) Please provide further information on the roles of the National Commission, JIAT, the Joint Committee for Voluntary Aid, and any other relevant body in providing financial payments to civilian victims in Yemen. How do the respective bodies identify civilian victims? Are there procedures by which civilian victims can directly access these bodies to request assistance, including in cases where civilian victims were overlooked in initial distributions? What are the respective roles of the Yemeni Government and Coalition officials in the process? Who decides to which incidents and to which victims to provide financial payments and in what amounts? What is the nature of the “voluntary aid” provided?

- 5) Have the Yemeni Government, Saudi Arabia, the UAE, and/or other member states of the Coalition conducted investigations into allegations of violations committed by the Yemeni Government and Coalition forces, including Coalition-backed proxy forces? If yes, what were the results of each investigation? Has any person affiliated with the Yemeni government or Coalition been found responsible for international law violations as a result of these investigations? Who were the persons found responsible? What was their position within the Yemeni government or Coalition and what was their nationality? Were they held accountable for their actions and if so, how? Did the civilian victims obtain compensation or any other form of reparation in these cases?
- 6) The National Commission of Inquiry reportedly referred a number of casefiles for which investigations had been completed to the Yemeni public prosecutor's office. Please provide details on the current status of all these cases. Particularly, how many have led to the opening of criminal investigations and prosecutions? Have any cases been referred to the relevant courts? If so, please provide further specifics on each of these proceedings, including as to the charges, the identity of the suspects, the amount of convictions, and the imposed sentences. Have any of these cases resulted in the granting of reparations to the civilian victims? Please provide details.
- 7) Please explain how the Yemeni Government and member states of the Coalition ensure that complaints related to abuse and requests for reparations submitted through the judicial system or any other mechanism are not obstructed, including by the allegedly responsible individual(s), and how the Yemeni Government and member states of the Coalition ensure that the people who file complaints or requests are protected from any possible reprisals.

We would be grateful to receive your replies by February 28, 2022 in order to reflect your position in our upcoming reporting. We thank you for your cooperation.

Signed,

Radhya Al-Mutawakel

Chairperson, Mwatana for Human Rights

January 13, 2022

***Mwatana letter to the Ansar Allah (Houthi)
armed group, dated January 13, 2022***

The letter was addressed and sent to:

- Abdulmalik Al Houthi, Leader of Ansar Allah group, Mahdi Al Mashat, President of the Supreme Political Council of Ansar Allah group, and Mohammed Ali Al Houthi, Head of the Revolutionary Committee of Ansar Allah group

Translation of the letter from the original Arabic follows.

Subject: Reparations to Civilians Harmed by Ansar Allah

We are writing to seek information on the steps that the Office of the Presidency, the Political Council, the Revolutionary Committee or any other relevant authorities in areas controlled by Ansar Allah have taken to ensure that reparations (including access to justice, adequate compensation, and access to information on mechanisms for reparations) are provided to civilian victims of violations of international human rights law and international humanitarian law committed by Ansar Allah and individuals affiliated with Ansar Allah.

Mwatana has been conducting research into what, if any, measures Ansar Allah has taken to provide reparations to civilian victims of such violations of international law. While Mwatana found that two Ansar Allah mechanisms—the Redress Committee and the Authority to Lift Injustice—have heard some petitions related to detention-related abuses, neither of these mechanisms provided proper redress or reparation to victims

in any of the cases examined by Mwatana.

In many cases, family members sought assistance from the Redress Committee or the Authority to Lift Injustice to secure the release of their loved ones who were being arbitrarily detained by Ansar Allah. However, the bodies rarely appeared able to facilitate their release. Mwatana found no evidence that the Redress Committee or the Authority to Lift Injustice provided other forms of reparations to civilian victims, for example compensation or apologies. In addition, Mwatana found no indication that Ansar Allah has sought to provide reparations to victims harmed by other types of Ansar Allah conduct, for example civilians injured by landmines or civilians harmed by indiscriminate shelling attacks.

Ansar Allah leaders have stated on multiple occasions that they will abide by both domestic law and international law. It is a general principle of international law that where an international wrong has been committed, reparation is owed.

Multiple international human rights treaties recognize individuals' right to an effective remedy, including the right to reparation. According to the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, reparations must be "adequate, effective and prompt" and "proportional to the gravity of the violations and the harm suffered." Full and effective reparations include different forms, including restitution (reestablishment of the prior situation), compensation (financial payment), rehabilitation, satisfaction (including measures such as public apologies, acknowledgment of the harm done, the search for the disappeared, and judicial sanctions against persons responsible for violations), and guarantees of non-repetition. Even in the absence of an international law violation, civilians will be in need of assistance for losses that occur during conflict.

Yemeni law, including the Yemeni constitution and the Yemeni penal code, provides for compensation to be provided to those harmed as a result of a wide variety of crimes and other legal violations when committed by either government or private actors.

Ansar Allah has consistently failed to provide reparations to victims. We urge Ansar Allah to provide civilian victims with credible remedies for violations of international human rights law and international humanitarian law that have occurred during the

conflict as a matter of urgency. Credible remedies include:

- (i) equal and effective access to justice;
- (ii) adequate, effective and prompt reparation for harm suffered, and;
- (iii) access to relevant information concerning violations and reparation mechanisms.

As noted above, we are writing to seek additional information on steps taken by Ansar Allah to provide reparations to civilians harmed by Ansar Allah and individuals affiliated with Ansar Allah. Specifically, we seek information related to the following questions:

- 1) What steps has Ansar Allah taken to ensure that civilian victims of violations committed by Ansar Allah and individuals affiliated with Ansar Allah are provided reparations? Please provide specifics and a detailed list of cases, including information about the forms of reparations provided (including non-financial measures such as public apologies), the amount of any financial payments provided, the mechanisms through which reparations were provided (for example, through the judicial system or through mechanisms established by Ansar Allah), the number of beneficiaries and the types of violations or abuses that affected them.
- 2) What steps, if any, has Ansar Allah taken to provide civilians harmed by the group and individuals affiliated with it, even in the absence of international law violations? Please provide specifics.
- 3) Has Ansar Allah conducted investigations into allegations of violations committed by Ansar Allah and individuals affiliated with them? If yes, what were the results of each investigation? Has any Ansar Allah official, member or affiliated person been found responsible for international law violations as a result of these investigations? Who were the persons found responsible? What was their position within, or affiliation to, Ansar Allah? Were they held accountable for their actions, and if so, how? Did the civilian victims obtain compensation or any other form of reparation in these cases?
- 4) Please list any mechanism, process or judicial avenue that is available, in areas under Ansar Allah control, for civilian victims to file complaints against, or to

request reparations from, Ansar Allah and individuals affiliated with Ansar Allah for their violations of international law. For each mechanism, process or judicial avenue, please share any written procedures available to the public that explain how civilian victims can file complaints or request reparations, the locations where the public can access these mechanisms, and any relevant laws or procedures regarding the types of complaints and requests that may be filed.

- 5) Please explain how Ansar Allah ensures that complaints related to abuse and requests for reparations submitted through the judicial system or any other mechanism are not obstructed, including by the allegedly responsible individuals, and how Ansar Allah ensures that the people who file complaints or requests are protected from any possible reprisals.

We would be grateful to receive your replies by February 28, 2022 in order to reflect your position in our upcoming reporting. We thank you for your cooperation.

Signed,

Radhya Al-Mutawakel

Chairperson, Mwatana for Human Rights

January 13, 2022

Mwatana letter to the Southern Transitional Council, dated January 13, 2022

The letter was addressed and sent to:

- Aidaroos Qassem Al-Zubaidi, President of the Southern Transitional Council

A copy of the letter was sent to:

- Mohammed Bin Zayed Al Nahyan, Crown Prince of the Emirate of Abu Dhabi and Supreme Commander of the United Arab Emirates Armed Forces

Translation of the letter from the original Arabic follows.

Subject: Reparations to Civilians Harmed by the Southern Transitional Council

We are writing to seek information on the steps that the Southern Transitional Council and any other relevant authorities in areas controlled by the STC have taken to ensure that reparations (including access to justice, adequate compensation, and access to information on mechanisms for reparations) are provided to civilian victims of Southern Transitional Council violations of international human rights law and international humanitarian law.

Mwatana has been conducting research into what, if any, measures the Southern Transitional Council has taken to provide reparations to civilian victims of its international law violations. To date, Mwatana has not identified any reparations provided by the Southern Transitional Council to civilian victims, nor any mechanism or process

established by the Southern Transitional Council in areas under its control to provide reparations to civilian victims for violations committed by the Southern Transitional Council and individuals affiliated with it.

It is a general principle of international law that where an international wrong has been committed, reparation is owed.

Multiple international human rights treaties recognize individuals' right to an effective remedy, including the right to reparation. According to the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, reparations must be "adequate, effective and prompt" and "proportional to the gravity of the violations and the harm suffered." Full and effective reparations include different forms, including restitution (reestablishment of the prior situation), compensation (financial payment), rehabilitation, satisfaction (including measures such as public apologies, acknowledgment of the harm done, the search for the disappeared, and judicial sanctions against persons responsible for violations), and guarantees of non-repetition. Even in the absence of an international law violation, civilians will be in need of assistance for losses that occur during conflict.

We therefore urge the relevant authorities within the Southern Transitional Council to provide civilian victims with credible remedies for violations of international human rights law and international humanitarian law that have occurred during the conflict as a matter of urgency. Credible remedies include:

- (i) equal and effective access to justice;
- (ii) adequate, effective and prompt reparation for harm suffered, and;
- (iii) access to relevant information concerning violations and reparation mechanisms.

As noted above, we are writing to seek additional information on steps taken by the Southern Transitional Council forces to provide reparations to civilians harmed by them. Specifically, we seek information related to the following questions:

- 1) What steps has the Southern Transitional Council taken to ensure that civilian victims of violations committed by the Southern Transitional Council forces

are provided reparations? Please provide specifics and a detailed list of cases, including information about the forms of reparations provided (including non-financial measures such as public apologies), the amount of any financial payments provided, the mechanisms through which reparations were provided (for example, through the judicial system or through mechanisms established by the Southern Transitional Council, the number of beneficiaries and the types of violations or abuses that affected them.

- 2) What steps, if any, has the Southern Transitional Council taken to provide civilians harmed by the Southern Transitional Council forces, even in the absence of international law violations, with assistance? Please provide specifics.
- 3) Has the Southern Transitional Council conducted investigations into allegations of violations committed by its forces? If yes, what were the results of each investigation? Has any Southern Transitional Council official, member or affiliated person been found responsible for international violations as a result of these investigations? Who were the persons found responsible? What was their position within, or affiliation to, the Southern Transitional Council? Were they held accountable for their actions, and if so, how? Did the civilian victims obtain compensation or any other form of reparation in these cases?
- 4) Please list any mechanism, process or judicial avenue that is available, in areas under Southern Transitional Council control, for civilian victims to file complaints against, or to request reparations from, the Southern Transitional Council forces for their violations of international law. For each mechanism, process or judicial avenue, please share any written procedures available to the public that explain how civilian victims can file complaints or request reparations, the locations where the public can access these mechanisms, and any relevant laws or procedures regarding the types of complaints and requests that may be filed.
- 5) Please explain how the Southern Transitional council ensures that complaints related to abuse and requests for reparations submitted through the judicial system or any other mechanism are not obstructed, including by the allegedly responsible individual(s), and how the Southern Transitional Council ensures that the people who file complaints or requests are protected from any possible reprisals.

We would be grateful to receive your replies by February 28, 2022 in order to reflect your position in our upcoming reporting. We thank you for your cooperation.

Signed,

Radhya Al-Mutawakel

Chairperson, Mwatana for Human Rights

January 13, 2022

List of Acronyms and Abbreviations

- AP I or Additional Protocol I – Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts
- AP II or Additional Protocol II – Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-international Armed Conflicts
- CA3 – Common Article 3 of the Geneva Conventions
- IAC – International Armed Conflict
- ICCPR – International Covenant on Civil and Political Rights
- ICJ – International Court of Justice
- IHL – International Humanitarian Law
- IHRL – International Human Rights Law
- JIAT – Joint Incident Assessment Team
- Joint Committee – Joint Committee To Grant Voluntary Humanitarian Assistance To Those Harmed In Yemen
- KSA – Kingdom of Saudi Arabia
- Lowenstein Clinic – Allard K. Lowenstein International Human Rights Clinic, Yale Law School
- Mwatana – Mwatana for Human Rights
- NCIAVHR – National Commission to Investigate Alleged Violations of Human Rights
- NIAC – Non-International Armed Conflict
- OCHA – United Nations Office for Humanitarian Affairs
- PCIJ – Permanent Court of International Justice
- SR – Saudi Riyal
- STC – Southern Transitional Council
- UAE – United Arab Emirates
- UN – United Nations
- UNGEE – United Nations Group of Eminent Experts
- UNHRC – United Nations Human Rights Council
- UNSC PoE – United Nations Panel of Experts
- UNSC – United Nations Security Council

RETURNED TO ZERO

The Case for Reparations to Civilians in Yemen

The Saudi/UAE-led Coalition, the internationally recognized government of Yemen, Ansar Allah, and other warring parties have taken lives, devastated families, wrecked cities, ruined agricultural land, and unsettled the future of millions across the country. The warring parties continue to do so.

The call for reparations is a call for justice for the millions of civilian lives lost, ruined, and disrupted during the ongoing conflict. The costs of war should not fall on those who do not participate in hostilities.

The people of Yemen have a legal and moral right to have the harms done to them repaired by those who caused these harms. The warring parties in Yemen have a legal and moral responsibility to provide these reparations. Nearly eight years after the conflict began, no warring party has fulfilled this responsibility.

This report has sought to draw attention to both the right of civilians in Yemen to receive reparations and the obligation of the warring parties to provide these reparations. It remains to be seen whether those with power and influence—from other States to global civil society—will stand with the Yemeni civilians struggling to see their right to reparation realized.



Mwatana
for Human Rights

**Lowenstein International
Human Rights Clinic
Yale Law School**