



**STATEMENT OF
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For a Hearing on:
**“Targeted Killing’ and the Rule of Law:
The Legal and Human Costs of 20 Years of U.S. Drone Strikes”**
Before the
Senate Judiciary Committee
February 9, 2022

*Except where otherwise noted, all of the information in this statement is from the Executive Summary of Mwatana for Human Rights report, *Death Falling From The Sky: Civilian Harm from the United States’ Use of Lethal Force in Yemen* (published in March 2021) and *Death by Drones: Civilian Harm from U.S. Targeted Killings in Yemen* (published in April 2015). Our organization has investigated civilian harm from U.S. lethal operations in Yemen since 2013 and advocated with the U.S. government on civilian protection, accountability and reparations for many years. Our most recent report shows that the U.S. continues to cause civilian deaths, injuries, and other harms to families and communities, with longstanding impacts.*

The full reports are available at:

<https://mwatana.org/wp-content/uploads/2021/03/Death-Falling-from-the-Sky-22.pdf>

<https://mwatana.org/en/death-by-drones/>

The United States has been using lethal force in Yemen for nearly two decades. Regardless of which president or party has controlled the White House, the United States has never fully investigated the civilian cost of its operations in Yemen, has never taken sufficient steps to review the efficacy of these operations, and has never provided civilian victims the acknowledgment, apology, and reparations they are owed. Twenty years after the U.S. began its secret and unaccountable killings in Yemen, the U.S. should, at long last, change towards a rights-respecting course.

I. The Civilian Impact of Recent U.S. Lethal Operations in Yemen

Mwatana documented, in detail, 21 operations carried out by the United States in Yemen between 2012 and 2019. **At least 64 Yemeni civilians, including 13 children and six women, were killed in these operations, and 20 wounded.** This is almost certainly an undercount.

Civilians were going about their everyday lives—driving to visit friends, bringing food to their families, sleeping in their homes—when killed or injured. These U.S. operations also caused other forms of deep and long-lasting civilian harm. The incidents led to adverse economic effects, killing primary breadwinners whose families relied on their incomes, and damaging and destroying important civilian property, including vehicles, homes, and livestock.

The operations also caused significant social and psychological harm. In a few cases, surviving members of families left their homes following U.S. operations, saying they felt unsafe and worried about future strikes. The 21 incidents include 19 airstrikes, all apparently conducted with unmanned aerial vehicles (drones), and two ground raids in eight Yemeni governorates— Abyan, Al Bayda, Shabwah, Hadramawt, Al Jawf, Dhamar, Sana’a and Ma’rib.

II. Mwatana’s Research Methodology

Mwatana for Human Rights has documented the civilian impact of the United States’ use of drones and other lethal force in Yemen for nearly a decade.¹ Our researchers—women and men

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

dedicated to working towards peace and justice in Yemen—use rigorous and peer-reviewed investigation methods to investigate alleged incidents. They continue to do this work despite the personal risks it involves, including traveling to remote areas during an ongoing conflict.

Mwatana researchers visit strike sites; interview survivors, family members, and witnesses; photograph weapons remnants; collect photographs and videos from relatives and community members; and examine documents that relate to witness accounts, including death certificates, birth certificates, medical reports, government and military statements, and other documents detailing where victims worked and studied, as well as the extent of harm they faced in these incidents.

Mwatana adopts a conservative approach to civilian casualties. The count presented here today—of at least 64 civilians killed and 20 wounded by U.S. operations in Yemen—includes only those civilians killed or wounded in specific attacks that have been thoroughly investigated by Mwatana. Further, Mwatana only counts people as civilians in instances where Mwatana finds no credible indication of any association with an armed group or armed force. Association or affiliation with Al Qaeda in the Arabia Peninsula (AQAP) or other armed groups would not alone render a person targetable under international law. The true civilian toll of U.S. operations in Yemen is far higher than that presented here today.

III. Ongoing Impact on Civilians in Yemen

For two decades, U.S. lethal operations have killed and injured civilians in Yemen and caused other types of deep and long-lasting civilian harm.

The 64 civilians killed by U.S. attacks all played important roles in their communities. Between 2017 and 2019, two of the men killed in U.S. strikes documented by Mwatana were teachers. One was described as “beloved” by his students. The other kept teaching even after civil servant salaries in Yemen stopped. Others killed by U.S. operations included university students, beekeepers, fishermen, drivers, laborers and housewives.

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

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

U.S. operations take a psychological toll on survivors and on impacted communities. A survivor told Mwatana that, while he had recovered physically, he continued to feel helpless and depressed a year and a half after a U.S. strike injured him and killed his younger cousin. A parent explained how children have continuing anxiety after U.S. attacks and can be afraid to be alone: “My six-year-old son wanted to go to the bathroom but then returned without going. When I

asked him the reason, he said, ‘I don’t want you all to die without me if the drone hits.’” Others drew links between family members’ trauma and the deterioration of their physical health.

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

Certain areas of Yemen have been particularly impacted by U.S. operations. Half of the operations Mwatana documented between 2017 and 2019 took place in the central Yemeni governorate of Al Bayda, and a third in or near Yakla village—a small, isolated mountainous part of Al Bayda governorate that lacks most basic services. People living in areas frequently targeted by U.S. strikes said that, despite U.S. government claims of drone strikes’ precision, people had grown to expect that drones were likely to strike and otherwise impact civilians, particularly in areas which had an AQAP presence.

The U.S. operations led to significant adverse economic effects for families. In many cases, civilian men killed by U.S. strikes left behind large families that relied on their incomes. A few of the men killed in the incidents were expatriate workers, and the money they sent home was an

important source of income for their families. After a U.S. strike killed a man who had worked painting houses in Saudi Arabia, his family reported struggling to make ends meet.

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

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

IV. Effects of U.S. Policy in Yemen

Witnesses from different parts of Yemen said that the continued civilian harm had caused anger towards the U.S. In a few cases, local communities organized public protests after attacks.

People told Mwatana that continued U.S. strikes on civilians increased their frustration and diminished their sense of safety and left them with the impression that the U.S. was indifferent toward civilian lives. After a U.S. strike killed two women in Al Bayda, one of whom was pregnant, a relative said, “We, as well as our women and children, have become an easy target for the American drone strikes while the international community stands idly by and nobody seems to care.” After a 2019 strike killed a civilian man, family members told Mwatana, “We are desperate in trying to get our voices heard. We are being killed in cold blood.”

The incidents Mwatana investigated raise serious concerns about the extent to which the United States is complying with international human rights law and, where applicable, international humanitarian law in Yemen. These cases raise concerns about who the U.S. deems targetable and what precautionary measures the U.S. is taking to protect civilians, including to verify that a person is in fact a lawful target. In the vast majority of operations documented, the U.S. killed and wounded men and boys, often in areas frequently targeted by U.S. operations.

While Mwatana found that some of the areas where the U.S. carried out the documented operations had an AQAP presence at the time of the attack or before it, Mwatana also repeatedly found that the individuals the U.S. was killing and wounding were civilians. The civilian men and boys that were killed left behind brothers, sisters, wives, children, siblings and friends.

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

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

Strikes that Mwatana documented also raise concerns that the U.S. is killing individuals when it would be feasible to capture them. In one strike, the person who was the apparent target regularly went to and from a military camp as part of his job. The military camp was under the control of the U.S.-allied Yemeni government. In other operations Mwatana documented, the U.S. killed or wounded other members of the U.S.-aligned Yemeni military or conducted operations in areas within reach of U.S. allies on the ground.

V. U.S. Response to Reports of Civilian Harm in Yemen

As part of Mwatana’s efforts to seek transparency, truth, and accountability, it, together with the Columbia Law School Human Rights Clinic, reported in detail the civilian harm documented in 12 incidents that took place between 2017 and 2019 to the U.S. military. These submissions, totaling more than 150 pages, were sent in December 2019 and November 2020 to U.S. Central Command.

Mwatana and the Clinic made significant efforts to seek a response from the military, including whether they could explain the strikes, and whether they would acknowledge civilian harm and provide reparation, compensation or other amends to civilians affected.

In April 2021, many months after the initial submissions, U.S. Central Command responded, noting harm in just two of the twelve incidents. The response acknowledged one new civilian death caused by a January 2019 drone strike in Yemen. In a statement a few months after the strike, the U.S. claimed “all strikes this year targeted AQAP terrorists.”² But, in reality, the strike killed a 67-year-old civilian man, Saleh Al Qaisi, who worked in Saudi Arabia and who supported his immediate and extended family.³ He was in Yemen visiting his family at the time of the strike. Even after acknowledging the U.S. strike had killed a civilian, the U.S. military said

² U.S. Central Command, Press Release, “CENTCOM Yemen Strike Summary Jan. 1 – Apr. 1, 2019,” April 1, 2019, available at: <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1801674/centcom-yemen-strike-summary-jan-1-apr-12019/>

³ Mwatana for Human Rights and the Columbia Law School Human Rights Clinic, Press Release, “U.S. Military Admits Killed Civilian in Yemen after NGO Investigations, But Refuses to Provide Remedy,” June 3, 2021, available at: <https://mwatana.org/en/us-military-admits-killed-civilian-in-yemen/>

it would not provide any condolence payment to the family, despite the significant suffering caused them.⁴

One of the 12 cases submitted to the U.S. concerned the January 2017 raid on Yakla, Yemen. In its response, U.S. Central Command told Mwatana and the Clinic that its findings of 12 civilian deaths were “broadly consistent” with Mwatana and the Clinic’s. They are not. Mwatana found at least 15 civilians were killed, and at least 5 civilians, all children, were wounded. Mwatana also documented property damage and social and psychological harm. Mwatana’s is one of the most conservative estimates on the civilian harm resulting from the raid.

In this case, too, U.S. Central Command implied that it would not provide condolence payments for the civilian harm out of concern these payments might benefit “terrorist” organizations. U.S. Central Command did not explain why making condolence payments to the families of civilians the U.S. had killed would support terrorism. In its latest civilian casualties report, reviewing 2020, the U.S. Department of Defense stated that it had not made any payments in the last year in any of the countries where it carried out operations, including Yemen.

In the vanishingly small number of cases in which the U.S. has acknowledged causing civilian harm in Yemen, the U.S. did not offer an apology to the families of those killed. Even where the U.S. acknowledged civilian deaths, it did not identify any of the civilians killed by name, age or gender. And the response to Mwatana and the Clinic only mentioned civilian deaths—not

⁴ U.S. Central Command, Letter to Mwatana for Human Rights and the Columbia Law School Human Rights Clinic, April 20, 2021, available at: <https://mwatana.org/wp-content/uploads/2021/06/CENTCOM-Mwatana-Response-4-20-2021.pdf>

civilian injuries, trauma, property damage, or the long-term harm of being attacked and falsely accused of being a terrorist.

In 10 of the 12 U.S. operations Mwatana sent to CENTCOM, the U.S. has yet to acknowledge any resulting civilian harm. The U.S. claimed these operations killed AQAP or Islamic State in Yemen (IS-Y) fighters and that the U.S. had killed “terrorists.” But the United States has regularly failed to account for civilian casualties or mislabeled civilians as lawful targets.

Following the news of a U.S. drone strike in Kabul that the U.S. military initially reported killed an ISIS facilitator but that in fact killed 10 civilians, including 7 children and a humanitarian aid worker, Mwatana and the Clinic wrote a letter to U.S. Secretary of Defense Lloyd Austin.⁵ The letter called for new investigations into reported civilian harm, apology and amends or reparations to families of civilians the U.S. has acknowledged killing or injuring in Yemen, and further steps needed to ensure accountability. To date, we have received no answer.

VI. Conclusion

For Yemenis who have been directly affected by U.S. lethal operations, it is nearly impossible to report civilian harm. None of the individuals Mwatana interviewed knew of any U.S. investigations into civilian harm in Yemen, nor had they been contacted by the United States in regards what had happened to them. None of the civilian victims reported having received compensation, condolence payments or other forms of amends.

⁵ Mwatana for Human Rights and the Columbia Law School Clinic, Letter to Secretary of Defense Lloyd Austin III, November 30, 2021, available at: <https://mwatana.org/en/civilian-deaths/>

To ensure a full and meaningful transformation of U.S. policy on Yemen that protects the right to life, including Yemenis' right to life, the U.S. should conduct a full review regarding the impact of its operations in Yemen. This review should examine the lawfulness and civilian impact of each operation undertaken since the United States began using lethal force in Yemen nearly two decades ago and take a hard look at whether these operations have been at all effective in making anyone safer. After this review, the U.S. should acknowledge each instance of civilian harm and the wider impact on the communities subjected to these operations, work to provide reparations, condolence payments, and other forms of amends, and ensure accountability where required. These steps could go a long way towards disrupting cycles of violence. They are absolutely necessary if the U.S. hopes to live up to its claimed commitment to uphold human rights and international law.