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Submitted by: - Mwatana Organization for Human Rights
- Columbia Law School Human Rights Clinic

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Mwatana for Human Rights

Mwatana Organization for Human Rights, established in April 2013, is an independent Yemeni organization dedicated to defending and protecting human rights. Mwatana operates by carrying out accurate and objective field investigations and research in order to detect and stop human rights violations.

Organization website:

<http://www.mwatana.org/en>



COLUMBIA LAW SCHOOL

HUMAN RIGHTS CLINIC

The Columbia Law School Human Rights Clinic works in partnership with civil society organizations and communities to advance human rights around the world, and educates the next generation of social justice advocates. The Clinic conducts fact-finding, legal and policy analysis, litigation, trainings, and advocacy.

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I. Summary

1. Mwatana Organization for Human Rights (Mwatana) and the Columbia Law School Human Rights Clinic (the Clinic) jointly submit this report to inform the examination of Saudi Arabia during its Universal Periodic Review. This submission focuses on international human rights and humanitarian law concerns related to Saudi Arabia's involvement in the war in Yemen.
2. Thousands of Yemeni civilians have been killed and injured and numerous civilian buildings and infrastructure destroyed and damaged in Yemen since Saudi Arabia and its coalition partners intervened in Yemen in March 2015.⁽¹⁾ As of 14 December 2017, the U.N. Office of the United Nations High Commissioner for Human Rights (OHCHR) estimated that 5,558 civilians had been killed and 9,065 injured in the conflict.⁽²⁾
3. Mwatana has documented numerous Saudi-led airstrikes in which civilians have been killed and injured, and civilian homes, markets, parks, hospitals, and schools destroyed.⁽³⁾ Mwatana's investigations raise serious concerns about Saudi Arabia's compliance in these cases with its legal obligations under international human rights law (IHRL) to respect the rights of the Yemeni population to life, health, food, and housing,⁽⁴⁾ which continue to apply in armed conflict and to Saudi Arabia's actions in Yemen.⁽⁵⁾ There are also serious concerns about Saudi Arabia's compliance with the principles of distinction, proportionality, and precautions in attack enshrined in international humanitarian law (IHL).⁽⁶⁾

(1) See Joint Statement from Agency Heads: WHO Director General Dr. Tedros Adhanom, UNICEF Executive Director Anthony Lake and WFP Executive Director David Beasley, UN Leaders Appeal for Immediate Lifting of Humanitarian Blockade in Yemen – Millions of Lives at Imminent Risk (Nov. 16, 2017) (https://www.unicef.org/media/media_101496.html).

(2) U.N. OHCHR Press Briefing on Yemen and Gaza (Dec. 19, 2017) (<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22551&LangID=E>).

(3) See Mwatana: The Saudi-led Coalition Has Been Targeting Civilians in Yemen for Two Years, MWATANA ORGANIZATION FOR HUMAN RIGHTS (Mar. 24, 2017), <http://www.mwatana.org/en/2432017608>; see also MWATANA ORGANIZATION FOR HUMAN RIGHTS, BLIND AIR STRIKES: CIVILIAN VICTIMS OF SAUDI ARABIA-LED COALITION'S AIR STRIKES IN YEMEN (2015), <http://www.mwatana.org/en/1320164466> (hereinafter, together, *Mwatana Reports*).

(4) G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948) [hereinafter UDHR] arts. 3, 25; ICESCR, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel*, ¶31, U.N. Doc. E/C.12/1/Add.90 (May 23, 2003) ("The Committee repeats its position that even in a situation of armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights, as part of the minimum standards of human rights, are guaranteed under customary international law and are also prescribed by international humanitarian law.")

(5) Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. Rep.1996, ¶ 25; Principle 9, Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, 29/4 NETH. Q. HUM. RTS. 578 (2011) (hereinafter *Maastricht Principles*); UN Committee on Economic, Social and Cultural Rights (ICESCR), General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

(6) Common Article 3 of the Four Geneva Conventions (ratified by Saudi Arabia on May 18, 1963); Additional Protocol II to the Four Geneva Conventions (ratified by Saudi Arabia on August 21, 1987), arts. 13-15.

4. In addition, Saudi Arabia's closure of air, land, and sea ports in Yemen has had a crippling effect on the delivery of humanitarian aid, as well as on Yemeni civilians' ability to access to food, medicine, and fuel that are indispensable for the survival of the population.⁽⁷⁾ As Yemen is highly reliant on imported goods,⁽⁸⁾ these restrictions have hindered Yemenis' access to vital healthcare, exacerbated the risk of famine, and accelerated the spread of the cholera epidemic.⁽⁹⁾ Under international law, Saudi Arabia is obliged to facilitate impartial humanitarian assistance and to respect Yemenis' rights to health.⁽¹⁰⁾ Taken together, Saudi Arabia's actions in Yemen—the poorest country in the Arab world—have contributed significantly to what the United Nations has described as the “worst humanitarian crisis in the world.”⁽¹¹⁾
5. This submission presents concerns regarding two issues: (1) Saudi-led coalition airstrikes in Yemen, and (2) the impact of the Saudi-led coalition's restrictions on the delivery of aid and access to medical treatment. The submission also sets out questions for Saudi Arabia and recommendations to improve its compliance with its obligations under IHRL and IHL.

(7) U.N. Security Council, Final report of the Panel of Experts in accordance with paragraph 6 of resolution 2266, Chapter VIII, U.N. Doc. S/2018/68 (Jan. 26, 2018) (hereinafter 2018 Panel Report); see also Yemen: Coalition Blockade Imperils Civilians UN Should Sanction Senior Saudi Leaders, HUMAN RIGHTS WATCH (Dec. 7, 2017), <https://www.hrw.org/news/2017/12/07/yemen-coalition-blockade-imperils-civilians>.

(8) Joint Statement, *supra* note 1; The United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), HUMANITARIAN RESPONSE PLAN (2018), https://reliefweb.int/sites/reliefweb.int/files/resources/20180120_HRP_YEMEN_Final.pdf.

(9) Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Yemen, including violations and abuses since September 2014*, U.N. doc. A/HRC/36/33 (Sept. 13, 2017) (hereinafter OHCHR Yemen Report) ¶ 77 (“The imposition by the parties to the conflict of sieges, blockades and restrictions on movement had a severe impact on the availability of goods and services and their accessibility by the civilian population... Many people could not purchase medicine or food, even where they were available. Those circumstances accelerated the spread of cholera and other diseases and increased the risk of famine.”); Human Appeal et al., *Statement by the humanitarian community on the blockade in Yemen*, RELIEFWEB (Nov. 16, 2017), https://reliefweb.int/sites/reliefweb.int/files/resources/20180120_HRP_YEMEN_Final.pdf; Norwegian Refugee Council, *A man-made famine on our watch*, NRC (May 3, 2017), <https://www.nrc.no/news/2017/may/a-man-made-famine-on-our-watch/>; Tom Miles, *U.N. blames warring sides for Yemen's 'man-made' cholera 'catastrophe'*, REUTERS (June 22, 2017), <https://www.reuters.com/article/us-yemen-cholera/u-n-blames-warring-sides-for-yemens-man-made-cholera-catastrophe-idUSKBN19D1EX>; Abduljabbar Zeyad, *Crisis That Has Yemen On Brink Of Famine is A 'Man-Made Disaster'*, UN, THE GLOBE AND MAIL (Aug. 1, 2017), <https://www.theglobeandmail.com/news/world/crisis-that-has-yemen-on-brink-of-famine-is-a-man-made-disaster-un/article35860735/>.

(10) Additional Protocol II, *supra* note 6, art. 18(2); 1 INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC), CUSTOMARY INTERNATIONAL HUMANITARIAN LAW (2005) (hereinafter ICRC Customary IHL Study), Rule 55; UDHR, *supra* note 4; Maastricht Principles, *supra* note 5; CESCR, General Comment No. 14, *supra* note 5.

(11) Joint Statement, *supra* note 1.

II. Airstrikes: Civilian casualties and damage to civilian objects

6. Mwatana and other organizations have investigated numerous Saudi-led coalition airstrikes in Yemen. Many of the cases documented by Mwatana may amount to violations of the rights to life, health, and an adequate standard of living, and possibly war crimes.⁽¹²⁾

Civilian casualties and the right to life

7. As a party to the armed conflict in Yemen, Saudi Arabia is obliged to respect the principles of distinction, proportionality, and precautions in attack.⁽¹³⁾ Any violation of these principles will also be a violation of Saudi Arabia's human rights obligation to respect Yemenis' right to life, which continue to apply where it exercises "effective control of the activities that caused the damage and consequent violation of human rights."⁽¹⁴⁾
8. Mwatana's investigations of airstrikes⁽¹⁵⁾ and investigations by other human rights organizations, as well as of the United Nations, strongly suggest that Saudi Arabia is violating these obligations.⁽¹⁶⁾ Examples of specific cases documented by Mwatana—among many—that raise serious legal concerns include:⁽¹⁷⁾
- On 22 September 2015, an airstrike hit the Abdullah Al-Wazir School in the Bani Hushish District in Sana'a governorate—four bombs hit the school area, three of which exploded inside the school, and one just outside the school. Mwatana did not find any indication that the school was used for any military purpose before the airstrike,⁽¹⁸⁾ in which three

(12) See Mwatana Reports, *supra* note 3; ICRC Customary IHL Study, Rule 156; UDHR, *supra* note 4, arts. 3, 25.

(13) Common Article 3 & Protocol II, *supra* note 6.

(14) *Environment and Human Rights*, Advisory Opinion OC-23/17, Inter-Am. Ct. H.R. (ser. A) No. 23 (Nov. 15, 2017) (hereinafter IACHR *Environment and Human Rights*); U.N. Charter preamble & arts. 1(3), 55-56; UDHR, *supra* note 4, art. 3; *also* International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, *supra* note 5, ¶ 25; G.A. Res. 56/83, Articles on Responsibility of States for Internationally Wrongful Acts (Dec. 12, 2001), arts. 16, 18; International Court of Justice, *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 1971 ICJ Rep 16, ¶ 131 (June 21); UN Human Rights Committee (HRC), *Draft General Comment No. 36: The Right to Life (Art. 6 of the Covenant)*, adopted on First Reading during the 120th Session of the Human Rights Committee, ¶ 66; African Commission on Human and Peoples' Rights, *General Comment No. 3: The Right to Life (Art. 4 of the Charter)*, (Nov. 4-18, 2015), ¶ 14.

(15) Between March 2015 and December 2017, Mwatana documented at least 211 air strikes resulting in an estimated 1,704 civilian deaths, including 570 children and 238 women, and 2,031 civilian injuries, including 414 children and 227 women.

(16) See Mwatana Reports, *supra* note 3.

(17) *Id.*

(18) *Id.*

civilians, including two children, were killed, and a woman and a child were seriously injured.⁽¹⁹⁾

- On 8 October 2016, the Saudi-led coalition hit the funeral of the Al-Rowaishan family in Sana'a, resulting in at least 84 civilian deaths and 550 civilian injuries.⁽²⁰⁾ While the funeral was attended by some political and security leaders, including those affiliated with the Houthis and former Yemen president Ali Abdullah Saleh, the large numbers of civilian casualties raise serious concerns about Saudi compliance with the principles of proportionality and precautions in attack.⁽²¹⁾
- On 16 March 2017, a Saudi-led coalition attack hit a civilian boat transferring Somali civilians and refugees from Kharaz camp in Ras al-Ara, Lahj governorate killing 31 and injuring 37, including women and children.⁽²²⁾

9. Mwatana's findings are consistent with the findings of other human rights organizations⁽²³⁾ and those of the United Nations Panel of Experts on Yemen (the U.N. Panel).⁽²⁴⁾ The U.N. Panel investigated ten separate strikes by the Saudi-led coalition that took place between January and December 2017, and determined that it "could not find any evidence of the presence of high-value targets that would justify the

(19) Id.

(20) This is a conservative estimate. The U.N. carried out at least two investigations into the strike. One investigation concluded that it resulted in 827 civilian fatalities and injuries (U.N. Security Council, Final report of the Panel of Experts in accordance with paragraph 6 of resolution 2266, Chapter VIII, U.N. Doc. S/2017/81 (Jan. 31, 2017) (hereinafter 2017 Panel Report), ¶ 125), while another concluded that at least 132 civilians were killed and 695 injured (OHCHR Yemen Report, ¶ 29).

(21) Id. See also OHCHR Yemen Report, ¶¶ 29-31 ("Based on the circumstances, including the prior announcement and public nature of the funeral, as well as the timing of the strike, coalition forces should have been aware of the high risk of civilian casualties inherent in carrying out such a strike."); 2017 Panel Report, supra note 20, ¶¶ 121-125. A joint independent assessment team (the JIAT) appointed by the coalition to investigate incidents acknowledged that the strike was by the coalition, had resulted in "several" casualties, and claimed that the strike was based on faulty intelligence and not in compliance with coalition procedures. See Ryan Goodman, Full Text: Saudi-Led Coalition's Statement of Explanation on Funeral Hall Bombing in Yemen, JUST SECURITY (Oct. 15, 2016), <https://www.justsecurity.org/33615/full-text-saudi-led-coalitions-statement-explanation-funeral-hall-bombing-yemen/>. The U.N. Panel of Experts has expressed concern about the lack of transparency regarding the JIAT, also "observ[ing] that there needs to be further examination of some of these cases to eliminate any doubts relating to violations of IHL by the Saudi Arabia-led coalition. In this context, the Panel highlights the different findings of the Panel and JIAT and the contradictions between statements of the Saudi Arabia-led coalition and the JIAT on the Saudi Arabia-led coalition's responsibility and rationale for some air strikes." 2018 Panel Report, supra note 7, Annex 59.

(22) Mwatana Reports, supra note 3; See also UAE: Clarify Role in Deadly Attack on Refugee Boat, HUMAN RIGHTS WATCH (Aug. 13 2017), <https://www.hrw.org/news/2017/04/13/uae-clarify-role-deadly-attack-refugee-boat>.

(23) See HUMAN RIGHTS WATCH, 2018 WORLD REPORT, YEMEN (2017) <https://www.hrw.org/world-report/2018/country-chapters/yemen>; see also Yemen: Civilians at mercy of sniping, shelling and airstrikes – Zeid, OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (Feb. 12, 2018), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22651&LangID=E>.

(24) The Panel was established to support the work of the U.N. Security Council Sanctions Committee on Yemen. The Committee was established pursuant to Security Council Resolution 2140 (2014) to oversee the sanctions measures imposed by the Security Council. The Committee's mandate was expanded in Resolution 2216 (2015). More information is available at: <https://www.un.org/sc/suborg/en/sanctions/2140>.

collateral damage at these target sites.”⁽²⁵⁾ For eight of ten strikes between January and December 2016, the U.N. Panel “consider[ed] it almost certain that the coalition did not meet IHL requirements of proportionality and precautions in attack,” and that “some of the attacks may amount to war crimes.”⁽²⁶⁾ The U.N. Panel found that these 20 strikes resulted in the deaths of at least 449 people, including at least 100 women and 85 children.⁽²⁷⁾

■ ***Civilian infrastructure damage, forced displacement, and the rights to health, education, an adequate standard of living, and water and sanitation***

- 10.** Under IHL, civilian objects, including residential buildings, schools, and hospitals, are protected from attack for so long as they are not used for military purposes.⁽²⁸⁾ Under IHRL, Saudi Arabia is obligated to respect the rights to health, education, an adequate standard of living, and water and sanitation.⁽²⁹⁾ Even in armed conflict, warring parties have minimum core obligations to respect these rights and refrain from acts that would violate these rights.⁽³⁰⁾ Saudi Arabia is obliged to respect these rights both within and outside its territory whenever its acts or omissions bring about foreseeable effects on the enjoyment of economic, social, and cultural rights.⁽³¹⁾
- 11.** Saudi-led coalition airstrikes have destroyed and severely damaged civilian infrastructure, including schools, residential buildings, markets, public parks, and hospitals, and resulted in the displacement of the civilian population, raising serious concerns about Saudi Arabia’s compliance with its international legal obligations. Some examples documented by Mwatana include:
- From 15-18 August 2015, the Saudi-led coalition carried out six airstrikes in Sada’a governorate, resulting in severe damage to residential buildings and the

(25) 2018 Panel Report, *supra* note 7, ¶¶ 160-163.

(26) 2017 Panel Report, *supra* note 20, ¶ 127.

(27) See generally 2018 Panel Report, *supra* note 7; 2017 Panel Report, *supra* note 20.

(28) Additional Protocol II, *supra* note 6, art. 11; ICRC Customary IHL Study, *supra* note 10, Rule 28.

(29) UDHR, *supra* note 4, art 25. Also, the UN CESCR has issued guidance on a number of aspects of the right to an adequate standard of living, namely on food, water and housing, see ICESCR General Comment 3: *The Nature of States Parties Obligations*, ¶ 10, E/1991/23 (1990); ICESCR General Comment 15: *The Right to Water* (arts. 11 and 12 of the Covenant), ¶ 3, E/2003/22 (2002); ICESCR General Comment 4: *Article 11(1): The Right to Adequate Housing*, ¶¶ 8(b), 8(d) and 11, E/1992/23 (1991); ICESCR General Comment 14, *supra* note 5, ¶¶ 4, 5, 11, 12(b), 34, 36 and 51.

(30) ICESCR, *General Comment No. 14*, *supra* note 5; see also Katherine H. A. Footer and Leonard S. Rubenstein, *A Human Rights Approach to Health Care in Conflict*, 95 (899) INTERNATIONAL REVIEW OF RED CROSS 167 (2013).

(31) Maastricht Principles, *supra* note 5, Principle 9; IACHR, *Environment and Human Rights*, *supra* note 14.

displacement of multiple families, as well as 22 civilian deaths.⁽³²⁾

- The 22 September 2015 airstrike on Abdullah Al-Wazir School in the Bani Hushish District, Sana'a governorate referenced above severely damaged the school and led to the suspension of its education functions for months.⁽³³⁾
- On 15 August 2016, a Saudi-led coalition airstrike hit a Médecins Sans Frontières (MSF) hospital that was solely for civilian use in northern Yemen.⁽³⁴⁾ This airstrike led to MSF's decision to evacuate from six hospitals in Hajjah and Saad'a governorates—further worsening access to medical care in Yemen.⁽³⁵⁾ The attack was “the fourth and deadliest on any MSF-supported facility during this war and there have been countless attacks on other health facilities and services all over Yemen.”⁽³⁶⁾

12. In January 2017, the U.N. Panel concluded that “violations associated with the conduct of the air campaign are sufficiently widespread to reflect either an ineffective targeting process or a broader policy of attrition against civilian infrastructure.”⁽³⁷⁾

(32) Mwatana Reports, *supra* note 3. Additional cases of civilian displacement and the death of displaced civilians have been documented by the United Nations and other NGOs, see HUMAN RIGHTS WATCH, YEMEN: COALITION AIRSTRIKES DEADLY FOR CHILDREN (Sept. 12, 2017), <https://www.hrw.org/news/2017/09/12/yemen-coalition-airstrikes-deadly-children>; William Spindler, UNHCR shocked and saddened by civilian deaths in Taizz, Yemen, UNHCR (July 19, 2017), <http://www.unhcr.org/en-us/news/press/2017/7/596f25f64/unhcr-shocked-saddened-civilian-deaths-taizz-yemen.html>; OHCHR, Press briefing notes on Yemen (July 21, 2017), <http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21899&LangID=E>.

(33) Mwatana Reports, *supra* note 3.

(34) Médecins sans Frontières, MSF internal investigation of the 15th August attack on Abs hospital Yemen: Summary of the findings, MSF (Sept. 27, 2016), http://www.msf.org/sites/msf.org/files/yemen_abs_investigation.pdf; Mwatana Reports, *supra* note 3.

(35) Yemen: Indiscriminate bombings and unreliable reassurances, MÉDECINS SANS FRONTIÈRES (Aug. 18, 2016), <http://www.msf.org/en/article/yemen-indiscriminate-bombings-and-unreliable-reassurances-saudi-led-coalition-force-msf>.

(36) *Id.*

(37) 2017 Panel Report, *supra* note 20, ¶ 131.

III. Severe Restrictions on Humanitarian Aid and Access to Medical Treatment

13. The severe restrictions imposed by the Saudi-led coalition on the supply of humanitarian aid and goods to Yemen, and on the ability of Yemenis to access medical treatment abroad, raise serious concerns about Saudi Arabia's compliance with international law.
14. IHL protects the rights to life, as well to food, and to health.⁽³⁸⁾ These obligations continue to apply in situations of armed conflict.⁽³⁹⁾ Under IHL, Saudi Arabia is obliged to facilitate the rapid and unimpeded passage of impartial humanitarian relief for civilians in need.⁽⁴⁰⁾ Saudi Arabia is further prohibited from attacking, destroying, removing, or rendering useless objects indispensable to the survival of the civilian population.⁽⁴¹⁾
15. Since March 2015, Saudi Arabia and its coalition partners have imposed severe restrictions on Yemen's seaports, airports, and land borders.⁽⁴²⁾ Yemen is highly dependent on imported goods.⁽⁴³⁾ The restrictions have contributed to a dire humanitarian crisis:⁽⁴⁴⁾ seven million Yemenis are at acute risk of famine, and the country is facing the world's largest recorded cholera epidemic.⁽⁴⁵⁾
16. Key restrictions include:
 - Beginning in March 2015, Saudi Arabia and the coalition severely restricted access to Hodeidah seaport, a key entry point into northern Yemen through which over 80

(38) UDHR, *supra* note 4, arts 3, 25; Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 (ratified by Saudi Arabia on 26 January 1996), arts. 6, 24; League of Arab States, Arab Charter on Human Rights, Sept. 15, 1994, art. 5; International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, *supra* note 5; Human Rights Council Res. 7/14, the Right to Food (May 22, 2008); ICESCR, *General Comment No. 14*, *supra* note 5 ("States must refrain 'from limiting access to health services as a punitive measure, e.g. during armed conflicts in violation of international humanitarian law,' see ¶ 34); ICESCR, *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)* (May 12, 1999); G.A. Res. 64/159 (March 10, 2010) (stating that States "must not prevent access to humanitarian food aid," see ¶ 12).

(39) International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, *supra* note 5; *Maastricht Principles*, *supra* note 5, Principle 9.

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

(41) Additional Protocol II, *supra* note 6, art. 14; ICRC Customary IHL Study, *supra* note 10, Rule 53.

(42) Human Rights Watch, *supra* note 7; Yemen: Saudi-led Coalition's Closure of Ports Cuts the Remaining Life Artery, MWATANA (Nov. 12 2017), <http://www.mwatana.org/en/12112017671>.

(43) *Ensuring Yemen's lifeline: the Criticality of All Yemeni Ports*, UN OCHA (Nov. 13, 2017) <https://reliefweb.int/map/yemen/ensuring-yemen-s-lifeline-criticality-all-yemeni-ports-13-nov-2017-enar>.

(44) Lift blockade of Yemen to stop "catastrophe" of millions facing starvation, says UN expert, UN OHCHR (Apr. 12, 2017) <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21496&LangID=E>.

(45) Kate Lyons, Yemen's cholera outbreak now the worst in history as millionth case looms, THE GUARDIAN (Oct. 12, 2017), <https://www.theguardian.com/global-development/2017/oct/12/yemen-cholera-outbreak-worst-in-history-1-million-cases-by-end-of-year>. The situations of cholera in Yemen has now caused over 2,250 deaths, see Joint Statement, *supra* note 1. Oxfam, Yemen being pushed ever closer to famine: 1,000 days of war and a crippling blockade is starving its people, RELIEFWEB (Dec. 19, 2017), <https://reliefweb.int/report/yemen/yemen-being-pushed-ever-closer-famine-1000-days-war-and-crippling-blockade-starving-its>.

per cent of Yemen's food, medicine, and fuel were imported.⁽⁴⁶⁾ Between March-August 2015, the Saudi-led coalition intermittently closed the port⁽⁴⁷⁾ and a Saudi-led coalition attack on the port in August 2015 reduced the port's capacity.⁽⁴⁸⁾ Since then, the port has operated intermittently and under varying degrees of restrictions.⁽⁴⁹⁾

- From August 2016, Saudi Arabia, together with other coalition states and the Yemeni government, closed Sana'a International Airport, the only remaining operating airport in Yemen's northern territories, to all commercial flights.⁽⁵⁰⁾ The airports at Hodeidah and Taiz were closed when the conflict began in 2015.⁽⁵¹⁾
- Between 3-23 November 2017, the Saudi-led coalition enforced a closure of Yemen's seaports, airports, and land borders.⁽⁵²⁾ Although Saudi Arabia and coalition states eased this closure, human rights organizations report that restrictions on the delivery of aid and commercial goods continue.⁽⁵³⁾

(46) Joint Statement, *supra* note 1.

(47) Based on information provided to Mwatana from a credible source.

(48) Reuters, *Arab coalition bombs Yemen's Hodeidah port*, AL-ARABIA (Aug. 18, 2015), <http://english.alarabiya.net/en/News/middle-east/2015/08/18/Arab-coalition-bombs-Yemen-s-Hodeidah-port.html>; Mohammed Ghobari, *Yemen's war-damaged Hodeidah port struggles to bring in vital supplies*, REUTERS (Nov. 24, 2016), <http://news.trust.org/item/20161124155556-1m4ub/>. Saudi Arabia and coalition states were reported to have denied entry of various equipment necessary to restore the port's capacity, such as cranes, until January 2018, see Human Rights Watch, *supra* note 7.

(49) Based on information provided to Mwatana from a credible source.

(50) Mwatana, *supra* note 42; Associated Press, *Thousands of Yemenis stranded after Saudis close airport*, FOX NEWS (Aug. 23, 2016), <http://www.foxnews.com/world/2016/08/23/thousands-yemenis-stranded-after-saudis-close-airport.html>.

(51) Based on information provided to Mwatana by a credible source.

(52) See Human Rights Watch, *supra* note 7; see also 2018 Panel Report, *supra* note 7, ¶¶ 188-191; Yemen: Border closure shuts down water, sewage systems, raising cholera risk, ICRC (Nov. 17, 2017), <https://www.icrc.org/en/document/yemen-border-closure-shuts-down-water-sewage-systems-raising-cholera-risk>.

(53) Human Rights Watch, *supra* note 7. ACTION AGAINST HUNGER (IN COORDINATION WITH OTHER 16 ORGANIZATIONS), *NGOs URGE COMPLETE OPENING OF YEMEN'S HODEIDA PORT - A JOINT STATEMENT FROM 17 INGOS OPERATING IN YEMEN* (Jan. 16 2018), <https://www.actionagainsthunger.org/story/ngos-urge-complete-opening-yemen-hodeida-port>. In addition, based on information provided to Mwatana from a credible source, three of the four ports comprising Hodeidah port complex (Mokha port, Ras Essa port, and Al-Saleef port) are closed.

Restrictions on humanitarian aid and the supply of basic goods: impacts on the rights to life, health, and food

- 17.** IHRL protects the population's rights to life, health, and food,⁽⁵⁴⁾ and IHL obligates parties to facilitate rapid and unimpeded access of impartial humanitarian relief.⁽⁵⁵⁾
- 18.** The restrictions imposed by the Saudi-led coalition on Yemen's land, air, and sea ports have obstructed the delivery of humanitarian aid and commercial goods necessary for the survival of the civilian population, severely impacting Yemenis' right to resources indispensable to their survival.⁽⁵⁶⁾ These restrictions have worsened the humanitarian crisis:
- In 2016, reports from non-governmental organizations claimed that the Saudi-led coalition's denial of three shipments to Hodeidah seaport significantly delayed the delivery of life-saving medical supplies intended for 300,000 patients, resulting in the deaths of children.⁽⁵⁷⁾ One of the shipments arrived more than 80 days later after it was rerouted and delivered via land.⁽⁵⁸⁾
 - In 2018, the U.N. Panel found that over 750,600 tons of humanitarian aid and commercial cargo were blocked or redirected from Yemen as a result of the complete naval and aerial closure of Yemen during November 2017.⁽⁵⁹⁾
- 19.** The Saudi-led coalition's closure of Yemen's land, sea, and airports has had a significant impact on Yemenis' access to food, water, and sanitation. Due to restrictions on fuel imports, Yemenis have suffered from an acute fuel shortage that has prevented

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

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

(56) UDHR, *supra* note 4, art. 25; ICESCR, General Comment No. 12, *supra* note 38.

(57) SAVE THE CHILDREN, SAUDI DELAYS YEMEN AID KILLING CHILDREN (Mar. 1, 2017), <https://www.savethechildren.org.uk/news/media-centre/press-releases/saudi-delays-yemen-aid-killing-children>.

(58) *Id.*

(59) 2018 Panel Report, *supra* note 7, ¶ 188. See also U.N. OCHA, Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation Update 2 (Nov. 16, 2017), <https://reliefweb.int/report/yemen/yemen-impact-closure-seaports-and-airports-humanitarian-situation-situation-update-2-16>. According to the U.N. Verification and Inspection Mechanism, as of November 15, 2017, the closure of Yemen's port of Hodeidah stopped 29 vessels carrying over 300,000 tons of food and 192,000 tons of fuel from entering Yemen.

sewage systems in six cities from operating and pumping clean water,⁽⁶⁰⁾ and has dramatically increased the price of food and safe drinking water.⁽⁶¹⁾

20. Saudi-led coalition restrictions on imports and aid have further impacted the right to health. As of December 2017, a shortage of fuel and drinking water has led to only half of Yemen's hospitals being functional and severely limited the ability of Yemenis to seek necessary medical treatment.⁽⁶²⁾ Healthcare services and sanitation facilities—drastically impacted by fuel shortages—are necessary to effectively address the cholera epidemic.⁽⁶³⁾ In addition, the interruption and delays of medical supplies and objects to relieve the suffering population further enabled the spread of diphtheria.⁽⁶⁴⁾

21. The restrictions imposed by the Saudi-led coalition have had a particularly harsh impact on children. According to U.N. estimates, 1.8 million children in Yemen are acutely malnourished and over 400,000 Yemeni children “face an increased risk of death” due to acute malnutrition.⁽⁶⁵⁾ Additionally, children under five amount to over 28% of new suspected cholera cases.⁽⁶⁶⁾ The shipment of life-saving medical equipment intended for over 14,000 children suffering from cholera and malnutrition was significantly delayed due to restrictions imposed by the Saudi-led coalition on Hodeidah seaport.⁽⁶⁷⁾

(60) Yemen: As threat of famine looms, UN urges Saudi-led coalition to fully lift blockade of Red Sea ports, UN NEWS, (Dec. 2, 2017), <https://news.un.org/en/story/2017/12/638132-yemen-threat-famine-looms-un-urges-saudi-led-coalition-fully-lift-blockade-red>.

(61) See Human Rights Watch, *supra* note 7; see also Humanitarian Response Plan, *supra* note 8.

(62) See Human Rights Watch, *supra* note 7.

(63) As early as 2015 the International Committee of the Red Cross warned about the impact of fuel shortages on the Yemeni health system. See Yemen: Health system crippled, fuel shortage alarming, ICRC (Apr. 30, 2015), <https://www.icrc.org/en/document/yemen-health-system-crippled-fuel-shortage-alarming>; In November 2017, the ICRC reportedly said that the “lack of fuel has a ‘cascading impact on several vital sectors’ - water and sanitation as well as health and food, as prices have risen sharply”. See Stephanie Nebehay, Yemen fuel crisis leads Red Cross to buy fuel ‘as resort,’ REUTERS (Nov. 29, 2017), <https://uk.reuters.com/article/uk-yemen-security-aid/yemen-fuel-crisis-leads-red-cross-to-buy-fuel-as-last-resort-idUKKBN1DT1FE>.

(64) UN OCHA, Yemen: Impact of the closure of seaports and airports on the humanitarian situation - Situation Update, RELIEFWEB, (Nov. 23, 2017), <https://reliefweb.int/report/yemen/yemen-impact-closure-seaports-and-airports-humanitarian-situation-situation-update-3-23>.

(65) UNICEF, BORN INTO WAR: 1,000 DAYS OF LOST CHILDHOOD (Jan. 2018), https://www.unicef.org/infobycountry/files/UNICEF_Report_Born_Into_War_Final_en.pdf.

(66) UNICEF, YEMEN HUMANITARIAN SITUATION REPORT, (Nov. 30 2017), <https://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20Yemen%20Humanitarian%20Sitrep%20November%202017.pdf>.

(67) See Save the Children, *supra* note 57.

■ ■ *Restrictions on access to medical treatment, and the rights to life and health*

- 22.** Since August 2016, the closure of Sana'a airport to civilian flights by the Saudi-led coalition and Yemen has restricted Yemenis' ability to seek medical treatment abroad and their right to access healthcare under IHRL.⁽⁶⁸⁾ Under IHL, Saudi Arabia is also obliged to facilitate access to medical treatment for the wounded and sick.⁽⁶⁹⁾
- 23.** The closure of Sana'a airport to civilian flights has had a particularly grave impact on Yemenis' right to health because it is a critical access point to medical care for many Yemeni civilians. The Norwegian Refugee Council, citing data from the Ministry of Health office in Northern Yemen, estimated that over 10,000 Yemenis died because they were unable to travel abroad for medical treatment due to the closure of Sana'a International Airport and the lack of accessible alternative routes.⁽⁷⁰⁾ Human rights organizations estimate that approximately 7,000 Yemenis travelled abroad to seek medical care each year before the outbreak of conflict, and that those numbers increased significantly⁽⁷¹⁾ due to the collapse of the Yemeni health system as a result of the war.⁽⁷²⁾
- 24.** Mwatana and other human rights organizations have documented how travel conditions through Yemen to alternative airports or land crossings are extremely difficult, with travel times of between nine and 30 hours by land to reach alternative airports in Aden and Seiyun on roads that cross dangerous check-points manned by parties on all sides of the conflict, and those traveling need to avoid closed military zones.⁽⁷³⁾
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- (68) UDHR, supra note 4, arts. 3 and 25(1); Convention on the Rights of the Child, art. 24, supra note 38; League of Arab States, Arab Charter on Human Rights, supra note 41, art. 5; ICESCR, General Comment No. 14, supra note 5; Report of the Special Rapporteur on the right to health, supra note 54.
- (69) Common Article 3, supra note 6; Human Rights Council, Report of the independent international committee of inquiry on the Syrian Arab Republic, ¶ 264, U.N. doc. A/HRC/28/69 (Feb. 5, 2015).
- (70) See Norwegian Refugee Council, supra note 75.
- (71) By the end of 2016, it was assessed that 20,000 Yemenis were deprived of accessing medical treatment for life-threatening conditions. See UN Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin Yemen Issue 19, RELIEFWEB (Dec. 19, 2016), https://reliefweb.int/sites/reliefweb.int/files/resources/yemen_humanitarian_bulletin_issue_19_december_2016.pdf
- (72) Human Appeal et al., Yemen Crisis: Closure of Sana'a airport – One year of aggravated suffering, RELIEFWEB (Aug 9, 2017), <https://reliefweb.int/report/yemen/yemen-crisis-closure-sana-airport-one-year-aggravated-suffering>; Norwegian Refugee Council, Yemen airport closure killed more people than airstrikes, NRC (Aug 9, 2017), <https://www.nrc.no/news/2017/august/yemen-airport-closure-killed-more-people-than-airstrikes/>.
- (73) See Human Rights Watch, supra note 7. See also 2018 Panel Report, supra note 7, Annex 70, ¶ 1 (“[Sana’a] airport has continued to be inaccessible to commercial flights since August 2016. This has created significant humanitarian issues for those who are chronically ill, who cannot leave the country to seek medical treatment by alternative routes, and whose access to medical care has been affected by the conflict; and for those with protection concerns or who are fleeing persecution and cannot travel via other means.”).

IV. Recommendations

- Saudi Arabia should make all efforts to arrive at a peaceful solution to the conflict;
- Saudi Arabia must immediately cease all military operations in Yemen until a full and timely review is conducted of the legality and impact of Saudi Arabia's operations in Yemen;
- Saudi Arabia should take immediate measures to fulfill its obligations to take all feasible precautions before an attack;
- Saudi Arabia must immediately halt all military operations which are disproportionate, indiscriminate, and impact civilian infrastructure or objects needed for the survival of the civilian population;
- Saudi Arabia must ensure unimpeded and rapid delivery of humanitarian aid and the supply of all goods necessary for the survival of the Yemeni population, including by immediately opening all Yemeni ports. This involves opening Sana'a Airport to all humanitarian and commercial flights, and allowing humanitarian aid to enter through Hodeidah seaport and other entry points to Yemen;
- Saudi Arabia must ensure that any restrictions on Yemenis' travel abroad are provided by law and are necessary and proportionate to achieve a legitimate objective, and accordingly do not restrict Yemenis' right to access urgent medical care;
- Given concerns about investigations by the Saudi-led coalition's investigative mechanism, the Joint Incidents Assessment Team, Saudi Arabia must initiate prompt, thorough, effective, independent, impartial, and transparent investigations into credible allegations of violations, including those documented by civil society groups;
- Saudi Arabia must extend full and transparent access and cooperation to the Group of Eminent International and Regional Experts on Yemen;
- Saudi Arabia must hold accountable those found to be responsible for any wrongdoing; and
- Saudi Arabia must provide remedies to all victims in Yemen, including those who have suffered physical and mental health harm due to unlawful airstrikes and restrictions on land, air and sea ports, by providing prompt, adequate, and effective reparations in accordance with international human rights and humanitarian law.

■ ■ Questions

- Given credible allegations that a number of Saudi-led coalition strikes have violated international law, what steps is Saudi Arabia taking to ensure respect for the right to life and to protect civilians in Yemen?
- Given Saudi Arabia's obligations to monitor civilian casualties, what measures is Saudi Arabia taking to track and assess civilian harm?
- In light of Saudi Arabia's duty to investigate credible allegations of international law violations, what steps has Saudi Arabia taken and what steps is it planning to take to investigate and respond to allegations, including by publishing the results of investigations and explaining what disciplinary and criminal accountability actions have been taken?
- What steps has Saudi Arabia taken and what steps is it planning to take to ensure unimpeded access to humanitarian aid, particularly to prevent famine and address the cholera epidemic, given its obligations under international law to facilitate unimpeded access to humanitarian assistance?
- What steps has Saudi Arabia taken and what steps is it planning to take to ensure that Yemenis can freely access necessary medical treatment abroad?
- What was Saudi Arabia's military rationale and legal justification for preventing the entry into Yemen of dozens of ships in 2015 and 2016 even though the U.N. Verification and Inspection Mechanism had authorized their entry?
- What steps has Saudi Arabia taken and what steps is it planning to take to ensure that victims' right to remedy are respected? How many victims have received a remedy, and what were the remedies?

V. Contacts

Mwatana Organization for Human Rights

Radhya Almutawakel, ralmutawakel@mwatana.org

Abdulrasheed Al-Faqih, alfaqihr@mwatana.org

Osamah E. Alfakih, oalfakih@mwatana.org

Dairi Street,

Sana'a, Yemen

Phone number: +967-146-4987

Columbia Law School Human Rights Clinic

Sarah Knuckey, sarah.knuckey@law.columbia.edu

Alex Moorehead, amoorehead@law.columbia.edu

Rahma Hussein, rah2210@columbia.edu

Tamar Luster, tl2797@columbia.edu

Junteng Zheng, junteng.zheng@columbia.edu

Sophia Wistehube, smw2209@columbia.edu

Rachel Fleig-Goldstein, rmf2152@columbia.edu

Nia R. Morgan, nrm2142@columbia.edu

435 West 116th Street

New York, NY, 10027, USA

Phone number: +1(212) 854-1571

