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Mwatana for Human Rights

**Submission to the  
UN Committee on Economic, Social, and Cultural Rights  
for consideration before adopting the List of Issues with respect to Yemen  
on the 67th Pre-Sessional Working Group on 19 – 23 October 2020**

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**Mwatana for Human Rights** is an independent Yemeni organization dedicated to defending and protecting human rights by carrying out accurate and objective field investigations and research, providing legal support to victims, pursuing accountability and redress, conducting advocacy, raising awareness, and building capacity within and outside Yemen.

<https://mwatana.org/en>

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## I. Introduction

This submission covers the impacts of the current conflict, and acts attributable to the government of Yemen, its allies, or other parties to the conflict, on the rights to food, water, sanitation, health, and education as protected by the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>1</sup> For years, humanitarian agencies have described Yemen as the world’s largest humanitarian crisis, with millions facing malnutrition and potential famine, lacking access to clean water, suffering preventable diseases and outbreaks, being denied access to education, and struggling to get access to health care in a system on the verge of collapse—all amidst a failing economy. In July 2020, UN agencies warned that economic shocks, conflict, floods, desert locusts, and now COVID-19 were creating “a perfect storm” that could “reverse hard-earned food security gains in Yemen,” forecasting an “alarming increase” in people facing acute food insecurity.<sup>2</sup> The submission aims to inform the Committee about violations of economic, social, and cultural rights contributing to this acute crisis, based on original research and supporting data.

The Government of Yemen has international legal obligations to respect, protect, and fulfil the human rights of those within its territory.<sup>3</sup> The obligation to respect requires that states refrain from interfering, directly or indirectly, with the enjoyment of socioeconomic rights. The obligation to protect requires that states prevent third parties from interfering “in any way” with these rights. The obligation to fulfil requires states to take positive steps to ensure the population’s socioeconomic rights. Human rights law provides for progressive realization of socioeconomic rights where a state lacks resources, but immediate action must be taken to eliminate discrimination, to “take steps,” ensure non-retrogression, and to ensure minimum core obligations.

The obligation to protect is particularly important in Yemen because other states, including Saudi Arabia and United Arab Emirates (UAE)-led Coalition forces, are militarily active in Yemen. International law requires Yemen to protect against abuses by these states. Yemen cannot consent to acts on its territory that would be unlawful if Yemen itself carried out such acts. Yemen also cannot provide aid or assistance to other states, including to the Saudi/UAE-led Coalition, where such assistance contributes to breaches of human rights law.<sup>4</sup> Yemen must take appropriate measures to protect individuals against violations by other states or non-state actors operating in

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<sup>1</sup> Yemen acceded to the Covenant on February 9, 1987. International Covenant on Economic, Social and Cultural Rights, *adopted* 16 Dec., 1966, 993 U.N.T.S. 3 (entered into force 3 Jan. 1976) [hereinafter ICESCR].

<sup>2</sup> “Yemen sees return to alarming levels of food insecurity, *UNICEF, WFP, FAO & OCHA*, 22 July 2020, <https://www.unicef.org/press-releases/yemen-sees-return-alarming-levels-food-insecurity-unicef-wfp-fao-ocha>

<sup>3</sup> Comm. on Econ., Social & Cultural Rights, General Comment 3 on The Nature of State Parties’ Obligations, ¶ 10, U.N. Doc. E/1991/23 (14 Dec. 1990).

<sup>4</sup> Articles on Responsibility of States for Internationally Wrongful Acts, Arts. 16, 20; Report of the Special Rapporteur on extrajudicial, summary, or arbitrary executions (Christof Heyns), U.N. Doc. A/68/382, ¶ 38; cf. *Lopez Burgos v. Uruguay*, ¶ 12.3, *Celiberti de Casariego v. Uruguay*, ¶ 10.3 (“it would be unconscionable to so interpret the responsibility under article 2 of the Covenant as to permit a State party to perpetrate violations of the Covenant on the territory of another State, which violations it could not perpetrate on its own territory.”); *Soering v. United Kingdom*, App. No. 14038/88 (Eur. Ct. H.R. July 7, 1989).

Yemen, including by making adequate inquiries and putting in place sufficient safeguards to ensure that such acts on Yemeni territory comply with human rights law.<sup>5</sup>

Accordingly, this submission focuses on violations carried out by the government of Yemen, armed forces and groups under its control, and its allies, including Coalition forces. While the Committee's review will focus on the Government's treaty obligations, our submission also includes some examples of how the Ansar Allah (Houthi) armed group, which exercises de facto control and government-like functions in large swathes of Yemeni territory, has failed to respect and protect the human rights of people living in Yemen.

It is important to recognize that economic, social, and cultural rights are inextricably linked, and that violations of any one set of rights will impact others. For example, violations of the rights to water and sanitation and food harm the right to health, which can in turn harm the rights to education and work. The non-payment of salaries of many public servants, including teachers and health workers, not only violates labor rights but has also impacted Yemeni children's ability to enjoy their right to education, as schools have been forced to reduce hours or close, and the right to health in Yemen, with health facilities' capacity diminished as staff go unpaid.<sup>6</sup> Rising food and water costs have left many Yemeni families struggling to support their families and contributed to an increase in child marriage. Targeted attacks on cultural property, including targeting sites of historical, artistic, and spiritual value, impact the ability of Yemenis to take part in cultural life and can in turn have a negative effect on the right to mental health.<sup>7</sup> Because of the interdependence of rights, it is essential that recommendations and reforms are holistic and account for the need for action on all fronts.

While all civil, political, social, economic, and cultural rights are at risk or are presently being violated in Yemen, this submission focuses on a few key examples that demonstrate how economic, social and cultural rights practice in Yemen currently falls short of international human rights standards. The submission concludes with questions that we suggest the Committee ask the Government of Yemen, as well as recommendations important to uphold human rights in Yemen.

## **II. Right to food (Article 11)**

The parties to the conflict—the Yemeni government, the Saudi/UAE-led Coalition, Ansar Allah, and other armed groups—have violated the right to food, and used starvation as a weapon of war.<sup>8</sup>

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

<sup>6</sup> See Save the Children "Yemen's forgotten children. The urgent case for funding education and child protection", (April 2017), p. 2, <https://reliefweb.int/sites/reliefweb.int/files/resources/YEM-cx15-Brief-FundingEducation%26ChildProtection-April2017.pdf>; Medecins Sans Frontiers, Saving Lives Without Salaries. Government health staff in Yemen (2017), p. 5, <https://www.msf.org/yemen-government-health-staff-are-saving-lives-without-salaries>.

<sup>7</sup> Mwatana, *The Degradation of History: Violations of Yemen's Cultural History Committed by Warring Parties*, 15 November 2018, <https://mwatana.org/en/the-degradation-of-history-2/>.

<sup>8</sup> Mwatana, *Withering Life: Human Rights Situation in Yemen 2018*, July 2019, p. 11, <https://mwatana.org/wp-content/uploads/2019/07/Withering-Life-2.pdf>; Mwatana, *Woes of "Arabia Felix," Annual Report: Situation of Human Rights in Yemen 2017*, 15 May 2018, p. 18, <https://mwatana.org/wp-content/uploads/2018/08/The-Woes-of-Arabia-Felix-English-Version-1.pdf>; The Group of Eminent Experts expressed "concern" that the Government of Yemen and the de facto authorities had failed to meet their human rights obligations including the right to food,

They have impeded and blocked humanitarian supplies including food and nutritional supplements, blocked and closed ports and airports necessary for importing food, conducted airstrikes and shelling on food warehouses, and denied food to detainees and prisoners as a method of torture.

The World Health Organization and the World Food Programme estimate that 20 million Yemenis are food insecure—approximately 70 percent of the population. Of those, “nearly 10 million ... are one step away from famine” and almost 250,000 are on the brink of death from starvation.<sup>9</sup> In March 2020, UNICEF reported that around two million children under the age of five suffer from acute malnutrition and require treatment.<sup>10</sup>

### ***Obstruction of humanitarian supplies***

All parties to the conflict have engaged in the obstruction of humanitarian supplies, including food and nutritional supplements, which has a particularly acute impact given the millions of Yemenis already living under the threat of famine.<sup>11</sup> Both the Yemeni government and Ansar Allah have also denied visas and travel permissions as a way of delaying or denying humanitarian assistance to some areas.<sup>12</sup> Between March 2015 and March 2020, Mwatana documented at least 14 cases of the Saudi/UAE-led Coalition or forces loyal to the Coalition blocking humanitarian aid access.<sup>13</sup> Mwatana has also documented six incidents carried out by Popular Resistance forces and the Yemeni army in 2018, and 62 by the Ansar Allah (Houthi) armed group the same year.<sup>14</sup> For example:

- On October 11, 2017, guards at checkpoints under the command of Popular Resistance forces and pro-Hadi forces in the town of Turbah in Taizz at a road linking Taizz and Aden intercepted cargo trucks and demanded money for passage on. The truck drivers went on strike and did not move cargo for several days, which led to a shortage of food supplies in the city of Taizz and increased food prices.<sup>15</sup>

### ***Blockade and closure of ports and airports***

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and “deep concerns that starvation may have been used as a method of warfare by all parties to the conflict.”

A/HRC/42/17, ¶ 56, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/240/87/PDF/G1924087.pdf?OpenElement>.

<sup>9</sup> 10 million Yemenis ‘one step away from famine’, UN food relief agency calls for ‘unhindered access’ to frontline regions, *UN News*, 26 March 2019, <https://news.un.org/en/story/2019/03/1035501>.

<sup>10</sup> Yemen crisis: What you need to know, *UNICEF*, <https://www.unicef.org/emergencies/yemen-crisis>.

<sup>11</sup> Mwatana, *Withering Life*, *supra* note 8, p.82, <https://mwatana.org/wp-content/uploads/2019/07/Withering-Life-2.pdf>.

<sup>12</sup> Mwatana, *Attacks on Health Care in Yemen*, March 2020, p. 53, <https://mwatana.org/en/health-care-attacks/>.

<sup>13</sup> Mwatana, *Warring Parties Continue to Undermine Yemeni Lives*, 26 March, 2020, <https://mwatana.org/en/warring-parties-continue-to-undermine-yemeni-lives/>.

<sup>14</sup> Given the scope of the Committee’s review, this submission focuses on violations carried out by the Yemeni government, armed forces and groups under its control, and its allies, including Coalition forces. It includes some examples of Ansar Allah (Houthi) armed group violations, but more information on Ansar Allah violations and by additional armed groups opposing the government can be found in Mwatana’s other publications.

<sup>15</sup> Mwatana, *Woes of “Arabia Felix,” supra* note 8, p. 46.

The Coalition, with the consent of the Yemeni government, blocked major ports in Ansar Allah-controlled areas, severely restricting the flow of food, fuel, and medicine, since the conflict began in March 2015.<sup>16</sup> At the beginning of November 2017, the Coalition completely closed all air, sea, and land ports, easing some of these restrictions in late November 2017.<sup>17</sup> The Coalition also closed Sana'a International Airport to commercial flights in August 2016, also with the consent of the Yemeni government.<sup>18</sup> In early 2020, the airport opened for limited medical flights, but in mid-March, in response to the COVID-19 pandemic, both the Yemeni government and Ansar Allah announced a ban on flights for areas under their control, including medical flights. Only humanitarian flights continue.<sup>19</sup>

The Coalition's closure, with the support and consent of the Yemeni government, of Yemen's air and sea ports has crippled the delivery of humanitarian aid and limited Yemeni civilians' access to food, medicine, and fuel.<sup>20</sup> In Yemen, imported goods are indispensable for the survival of the population, as 90 percent of Yemen's food is imported. The severe access restrictions have thus aggravated the risk of famine.<sup>21</sup>

The Yemeni government's policy of consenting to the Coalition's closure and blockade of Yemeni ports and airports has failed to incorporate adequate protection for the right to food, as well as other rights protected by the Covenant.<sup>22</sup> The Yemeni government is obligated to take appropriate measures to protect individuals against violations by other states operating in Yemen, including

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<sup>16</sup> Human Rights Watch, *Yemen: Coalition Blockade Imperils Civilians*, 7 December 2017, <https://www.hrw.org/news/2017/12/07/yemen-coalition-blockade-imperils-civilians>.

<sup>17</sup> UN Human Rights Council, *Situation of human rights in Yemen, including violations and abuses since September 2014 - Report of the United Nations High Commissioner for Human Rights containing the findings of the Group of Eminent International and Regional Experts and a summary of technical assistance provided by the Office of the High Commissioner to the National Commission of Inquiry*, 17 August 2018, UN Doc. A/HRC/39/43, <https://undocs.org/A/HRC/39/43>; Human Rights Watch, *Yemen: Coalition Blockade Imperils Civilians*, *supra* note 16.

<sup>18</sup> Mwatana, *Submission to the United Nations Universal Periodic Review of Yemen*, 11 July 2018, p. 10, <https://mwatana.org/wp-content/uploads/2018/10/UNIVERSAL-PERIODIC-REVIEW-OF-YEMEN-2.pdf>; UN Human Rights Council, *Situation of human rights in Yemen*, *supra* note 17; Oxfam, *Closure of Yemen's main airport puts millions of people at risk*, 14 August 2016, <https://www.oxfam.org/en/press-releases/closure-yemens-main-airport-puts-millions-people-risk>.

<sup>19</sup> The New Humanitarian, "Yemen coronavirus lockdown to hamper relief effort," 17 March 2020, <https://www.thenewhumanitarian.org/news/2020/03/17/yemen-coronavirus-flights-lockdown>.

<sup>20</sup> Mwatana, *Submission to the United Nations Universal Periodic Review of Yemen*, *supra* note 18, p. 10; UN Security Council, *Final Report of the Panel of Experts on Yemen*, 26 January 2018, U.N. Doc. S/2018/68, [https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2018\\_68.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2018_68.pdf); see also Human Rights Watch, *Yemen: Coalition Blockade Imperils Civilians*, *supra* note 16.

<sup>21</sup> UN Human Rights Council, *Situation of human rights in Yemen, including violations and abuses since September 2014 Report of the United Nations High Commissioner for Human Rights*, 13 September 2017, UN Doc., A/HRC/36/33, [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A%2FHRC%2F36%2F33](https://ap.ohchr.org/documents/dpage_e.aspx?si=A%2FHRC%2F36%2F33); A man-made famine on our watch, *Norwegian Refugee Council*, 3 May 2017, <https://www.nrc.no/news/2017/may/a-man-made-famine-on-our-watch/>.

<sup>22</sup> "Violations of the right to food can occur through the direct action of States or other entities insufficiently regulated by States. These include... the prevention of access to humanitarian food aid in internal conflicts or other emergency situations." CESCR, *General Comment No. 12*, UN Doc. E/C.12/1999/5, ¶19.

by making adequate inquiries and putting in place sufficient safeguards to ensure that acts by other states on their territory comply with human rights law.<sup>23</sup>

### *Airstrikes and shelling*

Airstrikes and shelling by the Saudi/ UAE-led Coalition and their allied forces have destroyed food reserves. In the Al Hudaydah battle—a major Saudi/UAE-led coalition assault on the Ansar Allah-held port city—Coalition airstrikes and shelling destroyed warehouses owned by the World Food Programme causing a drastic increase in the price of food.<sup>24</sup> The Yemen Data Project has recorded air strikes on food storage facilities and food trucks.<sup>25</sup> The Coalition has also targeted civilian farms in its airstrikes. For example:

- At around 2 p.m. on Thursday, November 12, 2015, Saudi/UAE-led Coalition jets dropped a bomb on 65-year-old civilian Mohammed Saheli’s farm in Al-O’saila village, Haradh District, Hajjah Governorate. The coalition aircraft attack hit a group of young men who were fixing a water pump on the farm, killing two of them instantly and injuring the remaining three. The strike set the farm on fire.<sup>26</sup>

### *Rising food prices*

The collapsing economic situation, additional customs fees on imported goods and taxes imposed by the Ansar Allah (Houthi) armed group, and the fluctuation and depreciation of the Yemeni rial has caused a catastrophic increase in the price of food.<sup>27</sup> The Yemeni government has exacerbated the economic crisis by failing to provide consistent salary payments to government employees since 2016, particularly in Ansar Allah controlled areas (see Section VI for additional details).

## **III. Rights to water and sanitation (Articles 11, 12)**

At the start of 2019, the UN reported that 17.8 million people, two-thirds of Yemen’s population, lacked access to safe drinking water.<sup>28</sup> The sanitation situation is similarly dire, facilitating the

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<sup>24</sup> Mwatana, *Withering Life*, supra note 8, p. 23, 24.

<sup>25</sup> See data on airstrikes and targets at <https://www.yemendataproject.org/data.html>.

<sup>26</sup> Mwatana, “*Day of Judgement*”: *The Role of the US and Europe in Civilian Death, Destruction, and Trauma in Yemen*, March 2019, p. 61, [https://mwatana.org/wp-content/uploads/2019/03/Final-Design\\_Day-of-Judgment\\_Mwatana.pdf](https://mwatana.org/wp-content/uploads/2019/03/Final-Design_Day-of-Judgment_Mwatana.pdf).

<sup>27</sup> Mwatana, *Withering Life*, supra note 8, p. 24; Mwatana, *Woes of “Arabia Felix,”* supra note 8, p. 8; Yemen Monthly Economic Update January 2020, *World Bank*, <http://documents.worldbank.org/curated/en/320011582043995205/pdf/Yemen-Monthly-Economic-Update-January-2020.pdf>.

<sup>28</sup> *Humanitarian Crisis in Yemen Remains the Worst in the World, Warns UN*, UN News, 14 Feb 2019, <https://news.un.org/en/story/2019/02/1032811>.

rampant spread of life-threatening diseases. In 2018, Yemen experienced the largest outbreak of cholera in modern history.

Coalition strikes have destroyed water and sanitation facilities, causing water access to shrink and prices to skyrocket. The Ansar Allah (Houthi) armed group has also harmed access to water, placing landmines near water sources and endangering, injuring, or killing those who collect water. The severity of water scarcity in Yemen and the prevalence of attacks by government-allied forces on water and sanitation facilities make clear that the government of Yemen has not met its international legal obligations to, at a minimum, ensure access to “the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease” and “ensure personal security is not threatened when having to physically access to water.”<sup>29</sup> Its failure to enact systems through which it can monitor, prevent, and mitigate the impacts of the armed conflict on water and sanitation services constitute violations of the rights to water and sanitation.

### ***Destruction of water and sanitation facilities***

The Coalition has engaged in attacks on multiple water and sanitation facilities. For example:

- Mwatana documented a 2017 Coalition strike on a school in Sa’adah Governorate that decimated the school’s water tank and bathrooms, as well as a set of four strikes on a water project in Sa’adah Governorate in July 2018.<sup>30</sup> The water project, made up of a well, a storage tank, a solar power system, and water pumps and pipes, benefitted about 20 villages in the sub-district of Wadi Al Nushur. It had been built to combat drinking water shortages in the area. The attack destroyed the project’s control room and caused damage to pipes and the solar power system.<sup>31</sup>
- Mwatana has documented additional Coalition strikes on schools’ water and sanitation networks dating as far back as 2015, when an airstrike completely destroyed the water and sanitation networks at Al-Khansa Girls’ School in Al-Bayda governorate.<sup>32</sup>

Mwatana has also documented the destruction of water and sanitation facilities by UAE-backed Security Belt forces. Security Belt forces in Abyan Governorate destroyed the water and sanitation network in a school that it temporarily occupied from June to July 2017.<sup>33</sup>

### ***Landmines around water sources***

The use of landmines presents a significant danger to those fetching water for their families, a burden that falls predominantly on women and children.<sup>34</sup> In 2018, Mwatana documented 52 cases

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<sup>29</sup> Committee on Economic, Social, and Cultural Rights, *General Comment No. 15: The Right to Water*, 20 Jan. 2003, UN Doc. E/C.12/2002/11, p. 5.

<sup>30</sup> Mwatana, *Woes of “Arabia Felix,”* *supra* note 8, p. 93.

<sup>31</sup> Mwatana, *Withering Life*, *supra* note 8, pp. 83–84.

<sup>32</sup> Mwatana, *Day of Judgment: The Role of the US and Europe in Civilian Death, Destruction, and Trauma in Yemen*, [https://mwatana.org/wp-content/uploads/2019/03/Final-Design\\_Day-of-Judgment\\_Mwatana.pdf](https://mwatana.org/wp-content/uploads/2019/03/Final-Design_Day-of-Judgment_Mwatana.pdf), p. 87.

<sup>33</sup> Mwatana for Human Rights, *Submission to the United Nations: Universal Periodic Review of Yemen*, *supra* note 18, p. 21.

<sup>34</sup> The Group of Eminent Experts confirmed that Ansar Allah (Houthi) fighters emplaced anti-personnel landmines, including near water facilities. UN HRC, ‘*Situation of human rights in Yemen, including violations and abuses since*

of landmine-related deaths and injuries in Al Jawf, Taizz, Lahj, Shabwah, Al Bayda, Hajjah, Sa'adah, Al Hudaydah and Marib governorates.<sup>35</sup> The use of mines “kill[ed] at least 60 civilians, including eight women and 26 children, and wound[ed] at least 51 others, including 12 women and 21 children.” Mwatana found that Ansar Allah was responsible for at least 49 of these cases and could not identify the responsible party in the three remaining cases.

### *Water shortages and rising costs*

The Coalition’s obstruction of fuel supplies has had significant spillover effects on access to water. Between May and September 2017, Human Rights Watch documented seven instances in which the Coalition obstructed the delivery of fuel to ports held by Ansar Allah. Human Rights Watch described the restrictions as having “effectively shut[] water taps,” given that fuel is required in many places in order to operate water pumps.<sup>36</sup> Access to drinking water is limited throughout the country, and conditions are especially serious in Sana’a and Taizz.<sup>37</sup> Mwatana has described the conditions in Taizz, which has been under siege by Ansar Allah since 2015, as “catastrophic.”<sup>38</sup> By the end of 2017, the price of trucked water rose by 600 percent in some locations, and seven urban water networks had run out of fuel entirely, preventing sewage systems from operating and pumping clean water and making cities reliant on humanitarian aid organizations.<sup>39</sup> Interference with fuel continues. In 2019, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Mark Lowcock, repeatedly highlighted new government of Yemen regulations on commercial fuel imports, as well as Ansar Allah interference in fuel markets, as exacerbating fuel shortages.<sup>40</sup> By February 2020, Lowcock reported that fuel import volumes had been steadily increasing due to a UN-managed mechanism, but by late June, Lowcock again reported that fuel imports had been prevented from entering Hudaydah port for weeks due to a “political dispute over revenue management.”<sup>41</sup>

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*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, ¶ 45, [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/42/17](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/17).

<sup>35</sup> Mwatana for Human Rights, *Withering Life*, *supra* note 8, p. 46.

<sup>36</sup> Human Rights Watch, *Yemen: Coalition’s Blocking Aid, Fuel Endangers Civilians*, Human Rights Watch, 27 September 2017, <https://www.hrw.org/news/2017/09/27/yemen-coalitions-blocking-aid-fuel-endangers-civilians#>.

<sup>37</sup> Mwatana, *Withering Life*, *supra* note 8, p. 108.

<sup>38</sup> *Id.*

<sup>39</sup> Mwatana for Human Rights, *Woes of “Arabia Felix,” supra* note 8, pp. 45–46; *Submission to the United Nations about Universal Periodic Review of Saudi Arabia*, Mwatana for Human Rights, 29 March 2018, <https://mwatana.org/en/submission-to-the-united-nations/>.

<sup>40</sup> OCHA, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Mark Lowcock Briefing to the Security Council on the humanitarian situation in Yemen, 16 September 2019, <https://reliefweb.int/report/yemen/under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator-mark-21>.

<sup>41</sup> OCHA, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Mark Lowcock, Briefing to the Security Council on the humanitarian situation in Yemen - 18 February 2020, <https://reliefweb.int/report/yemen/under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator-mark-26>; OCHA, Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Mark Lowcock, Briefing to the Security Council on the humanitarian situation in Yemen, 24 June 2020,



#### **IV. Right to physical and mental health (Article 12)**

The conflict has significantly impacted the physical and mental health of millions of Yemenis. All parties to the conflict have engaged in targeted attacks on health facilities and medical personnel, killing and injuring medical workers, patients, and other civilians while also closing essential facilities or disrupting their ability to provide health services. These attacks have not only violated international humanitarian law but impacted the ability of millions of Yemenis to enjoy their right to available, accessible, quality, and acceptable health services, goods, and facilities.

In addition, Coalition port blockages and closures, as well as obstructions of humanitarian access and supplies carried out by both Ansar Allah and Yemeni government forces, have restricted the availability of medicine and other life-saving goods. Both Ansar Allah and Yemeni government allies have occupied medical facilities and used them for military purposes.

These actions have contributed to the virtual collapse of Yemen's already fragile health system, at a time when the country faces multiple disease outbreaks, including the COVID-19 pandemic. Years of failure to protect Yemen's health care system, or to prioritize policies consistently that would repair and rebuild it, have left Yemenis without adequate access to healthcare during a dangerous global and national health crisis.

##### ***Attacks on medical facilities and personnel***

All parties to the conflict have engaged in targeted attacks on protected health facilities and medical personnel. Mwatana and Physicians for Human Rights (PHR) documented 120 attacks carried out between March 2015 and December 2018, resulting in the deaths of at least 96 civilians and health care workers, including 10 children and six women, and wounding of at least 230 others, including 28 children and 12 women.<sup>42</sup> Of these attacks, Saudi/UAE-led Coalition forces carried out 35 aerial attacks on 32 different health facilities between 2015 and 2018. These attacks damaged or destroyed hospitals, clinics, vaccination centers, and other medical points across 10 governorates.<sup>43</sup> Mwatana and PHR also documented 46 cases of ground attacks impacting medical facilities in five governorates between 2015 and 2018, finding that the Ansar Allah (Houthi) armed group or pro-Ansar Allah forces were either directly responsible or implicated in 41 indiscriminate ground-launched attacks on civilian areas, many of which directly or indirectly affected medical facilities.<sup>44</sup> In addition, Mwatana and PHR reported cases where parties to the conflict, including Coalition forces and other forces affiliated with the government of Yemen, targeted health workers in at least nine hospitals, through measures such as threats, denial of payment, intimidation, injury, abduction, detainment, and/or killing.<sup>45</sup>

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<https://reliefweb.int/report/yemen/under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator-mark-28>.

<sup>42</sup> Mwatana for Human Rights, *Attacks on Health Care in Yemen*, *supra* note 12, p. 10.

<sup>43</sup> *Ibid*, p. 33.

<sup>44</sup> *Ibid*, pp. 40, 73-8.

<sup>45</sup> *Ibid*, p. 48.

Not only do these attacks cause high numbers of deaths and injury to both civilians and medical personnel, but also widespread disruptions to access and service provision. For example:

- On 15 August, 2016, a Coalition airstrike carried out on Médecins Sans Frontières (MSF)-supported Abs Governmental Hospital in Hajjah governorate killed 19 people and injured 24 others. It also severely damaged the emergency room, maternity ward, and pharmacy units, resulting in the closure of the facility for three months.<sup>46</sup> Before the attack, the facility served 100 to 150 patients per day, and was one of only a few health facilities serving the governorate.
- On June 14, 2017, Ansar Allah forces and forces affiliated with former president Saleh fired a shell into the intensive care unit at al-Jumhuri Hospital in Taiz governorate, damaging the unit's windows and water supply. The hospital's main electricity generator was destroyed in the attack, leading to the suspension of services.<sup>47</sup> Another hospital in Taiz, al-Thawra, has been the target of at least 45 documented attacks.

The damage and destruction of medical facilities led many to shut down due to a lack of funding, medicine, and staff. Those that remain operational lack specialists, essential equipment, and medicines to deal with not only conflict-related injuries but also outbreaks of communicable diseases affecting a large number of Yemenis, including diphtheria and cholera.<sup>48</sup> This is amplified by a conflict-related drop in vaccination and breakdown in the country's water and sanitation systems.<sup>49</sup> Further, due to the continued targeting of and failure to protect health professionals, medical staff are restricted in their ability to provide care and report working in constant fear and anxiety.<sup>50</sup> Many have been forced to leave dangerous areas where health services are urgently needed, and 95 percent of foreign medical professionals—who previously accounted for approximately 25 percent of the health workforce in Yemen—have now left the country.<sup>51</sup>

### ***Denying and restricting access to lifesaving goods***

Port blockages, the closure of Sana'a airport, and other incidents of obstruction of humanitarian access and supplies (see above at II) have had a crippling effect on the availability of medicine (in addition to fuel, humanitarian aid, and food) to Yemeni civilians, in particular those living in areas under Ansar Allah control, and have contributed to the further weakening of health services in Yemen. For example, in 2015 and 2016, when Taiz was surrounded and besieged by Ansar Allah forces and those affiliated with former president Saleh, it took MSF five months of "intense negotiations with officials" to get approval to deliver two trucks full of essential medical supplies—including chest tubes, anaesthetic drugs, fluid, sutures, and antibiotics—into Taiz, leaving the civilian population in that area to deal with extreme shortages in the meantime.<sup>52</sup>

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<sup>46</sup> *Ibid*, pp. 35-6.

<sup>47</sup> *Ibid*, p. 78.

<sup>48</sup> *Ibid*, p. 22.

<sup>49</sup> *Ibid*.

<sup>50</sup> *Ibid*, p. 50.

<sup>51</sup> *Ibid*.

<sup>52</sup> MSF, *Yemen: Medical Supplies Reach Hospitals in Besieged Taiz*, 19 January 2016, <https://www.doctorswithoutborders.org/what-we-do/news-stories/news/yemen-medical-supplies-reach-hospitals-besieged-taiz>. See also Mwatana, *Attacks on Health Care in Yemen*, *supra* note 12, p. 50.

Human Rights Watch has reported that restrictions on fuel to Ansar Allah-controlled areas has limited the ability to power hospital generators and pump water into homes.<sup>53</sup>

The Yemeni government is obligated to take appropriate measures to protect Yemeni's ability to enjoy their right to the underlying determinants of health. By consenting to the blockade and other restrictions on provision of essential services and supplies, the Yemeni government has significantly contributed to limiting civilian access to basic goods, water, shelter, and food, worsening the health situation of the approximately 14 million Yemeni citizens already at acute risk of disease and starvation.<sup>54</sup> Mwatana has also reported examples of health services being weaponized by various parties to deny care to certain populations in need, impose conditions on service providers, and prioritize the treatment of the members of armed groups or their supporters, in violation of human rights obligations in relation to non-discriminatory health care.<sup>55</sup>

### ***Military occupation and use of medical facilities***

Parties to the conflict have occupied medical facilities and used them for military purposes. Ansar Allah forces have repeatedly occupied health facilities. Pro-Yemeni government or Coalition forces have also occupied or stationed themselves in close proximity to medical facilities, endangering patients and staff, and cutting off safe access to health care at these locations. For example:

- In November 2016, Amnesty International reported pro-government forces deliberately stationed fighters and military positions near medical facilities in Taiz. Amnesty International also documented incidents of pro-government forces raiding and shutting down al-Thawra hospital in retaliation for hospital staff providing treatment to injured Ansar Allah (Houthi) fighters.<sup>56</sup>

In cases documented by Mwatana, takeovers of medical facilities have generally been accompanied by assaults on medical workers, eviction of health staff and patients, looting of equipment and medicine, and the positioning of armed groups in and around the relevant facility, leading to increased likelihood of attacks by other parties to the conflict.<sup>57</sup> Armed groups have also used control of medical facilities as a means of generating revenue, by imposing fees on civilians who need medical care. Such tactics have obvious detrimental effects on the ability of Yemenis to safely access non-discriminatory health goods and services.

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<sup>53</sup> Human Rights Watch, *Yemen: Events of 2018*, 2019, <https://www.hrw.org/world-report/2019/country-chapters/yemen>.

<sup>54</sup> Mwatana, *Withering Life*, *supra* note 8, pp. 82-4, Human Rights Watch, 2019, <https://www.hrw.org/world-report/2019/country-chapters/yemen>.

<sup>55</sup> Mwatana, *Attacks on Health Care in Yemen*, *supra* note 12, p. 44.

<sup>56</sup> Amnesty International, *Yemen: Hospitals and Medical Workers Under Attack by Anti-Houthi Forces in Taiz*, November 2016, <https://www.amnesty.org/en/latest/news/2016/11/yemen-hospitals-and-medical-workers-under-attack-by-anti-houthi-forces-in-taiz/>.

<sup>57</sup> Mwatana, *Attacks on Health Care in Yemen*, *supra* note 12, p. 44.

## *Mental health*

Persons living in Yemen have faced years of widespread and frequent exposure to harm, violence and conflict. The Columbia Law School Human Rights Clinic, together with Sana'a Center for Strategic Studies, has documented the ways that this exposure, compounded by a context of widespread food, water and economic insecurity, fractured social ties, and a lack of basic social services, creates a serious risk of pervasive mental health issues.<sup>58</sup> Despite this risk, there are minimal available public health services in Yemen aimed at promoting mental health and psychosocial well-being, and a severe shortage in appropriately trained mental health professionals. To date, the government of Yemen has taken little action to mitigate or respond to this situation through policies or programming and has failed to view mental health as a priority.

### **V. Right to education (Article 13)**

The impact of the war on education in Yemen has been particularly severe. According to UNICEF, “as the humanitarian situation continues to deteriorate, around 2 million children remain out of school” in Yemen.<sup>59</sup>

Article 54 of the Constitution of Yemen protects the right to education, and was made enforceable through the Law for General Education (Law No. 45 of 1992). Yemeni law makes primary education compulsory for children between ages 6 and 14.<sup>60</sup> However, over the course of the conflict, armed attacks on schools, the use of educational institutions as military bases, the recruitment of child soldiers, and the failure to pay teacher salaries have profoundly affected access to education seriously undermined the right to education for Yemeni children.<sup>61</sup>

Yemen has endorsed the Safe Schools Declaration, committing to protecting students, teachers, and schools during conflict.<sup>62</sup> The Government of Yemen in its 2019 Universal Periodic Review (“UPR”) accepted recommendations to strengthen and amend its domestic legislation to address the impact of ongoing armed conflict on the right to education.<sup>63</sup>

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<sup>58</sup> Sana'a Center for Strategic Studies et al, Yemen's obligations to respect, protect, and fulfil the right to mental health: Submission to the UN Universal Periodic Review for Yemen, January-February 2019, <https://sanaacenter.org/publications/main-publications/6789>; Sana'a Center for Strategic Studies et al, The Impact of the War on Mental Health in Yemen: A Neglected Crisis, 2017, [http://sanaacenter.org/files/THE\\_IMPACT\\_OF\\_WAR\\_ON\\_MENTAL\\_HEALTH\\_IN\\_YEMEN.pdf](http://sanaacenter.org/files/THE_IMPACT_OF_WAR_ON_MENTAL_HEALTH_IN_YEMEN.pdf).

<sup>59</sup> UNICEF, “If Not in School: The paths children cross in Yemen”, March 2018, , p. 2, [https://reliefweb.int/sites/reliefweb.int/files/resources/IF%20NOT%20IN%20SCHOOL\\_March2018\\_English.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/IF%20NOT%20IN%20SCHOOL_March2018_English.pdf).

<sup>60</sup> UNESCO, “Yemen Education and Literacy,” 27 November, 2016, <http://uis.unesco.org/en/country/ye?theme=education-and-literacy>.

<sup>61</sup> Human Rights Watch, “World Report 2020: Yemen”, January 2020, <https://www.hrw.org/world-report/2020/country-chapter/yemen>; UNICEF, “If Not in School: The paths children cross in Yemen”, March 2018, [https://reliefweb.int/sites/reliefweb.int/files/resources/IF%20NOT%20IN%20SCHOOL\\_March2018\\_English.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/IF%20NOT%20IN%20SCHOOL_March2018_English.pdf), pg 2.

<sup>62</sup> Mwatana, *Withering Life*, supra note 8, p. 70.

<sup>63</sup> UN Human Rights Council, Report of the Working Group on the UPR, Yemen, UN Doc No. A/HRC/41/9, 17 April, 2019.

### ***Attacks on schools and use of schools for military purposes***

Armed groups have occupied and used schools as military bases, endangering students who continue to attend the same facilities, and denying education to those whose schools are closed as a result.<sup>64</sup> Between March 2015 and December 2019, Mwatana documented more than 380 incidents of attacks on and impacting schools and educational facilities in Yemen.<sup>65</sup> Of those attacks, the Saudi/UAE-led coalition was responsible for 153 airstrikes on or impacting schools. Ansar Allah was responsible for 22 ground attacks, and government forces were responsible for eight. For example:

- On August 12, 2018, the 22nd Mechanized Brigade, which is loyal to President Hadi, fired cannons at Al Najah Primary and Secondary School for Girls in Al Jahmaliyah area in Salah district in Taizz governorate.<sup>66</sup>
- On November 9, 2017, a group affiliated to the Popular Resistance and Yemeni government forces stormed into Al-Salam Manaql School in Bani Al-Bukari Sub-district, in Jabal Habashi District, in Taizz Governorate. Over a year later, the school continued to be used as a military barracks for Popular Resistance forces and remained a target of Ansar Allah shelling.<sup>67</sup>

Mwatana also documented 171 instances of military use and occupation of schools, with Ansar Allah responsible for 131 of these incidents, forces loyal to President Hadi and affiliated Popular Resistance forces responsible for 30, and UAE-backed Southern Transitional Council forces responsible for 8, and Ansar al-Sharia responsible for one.

In its report released in September 2019, the Group of Eminent Experts on Yemen concluded that “In using schools for military purposes, including in occupying them, parties to the conflict may have further prevented the realization of the right to education, as guaranteed by both international humanitarian law and human rights law.”<sup>68</sup>

### ***Recruitment of child soldiers***

The Government of Yemen has a responsibility to ensure that all children realize their right to education to the fullest extent possible, and receive the mandatory education required by Yemeni law for children aged 6 to 14. However, both government forces and armed groups fighting alongside the government have recruited children to serve as soldiers or fighters.

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<sup>64</sup>War Child, “Being Kept Behind: The Impact of Conflict on the Education of Yemen’s Children”, 23 May 2019, [https://www.warchild.org.uk/sites/default/files/War\\_Child\\_UK\\_Yemen\\_Report\\_Being\\_Kept\\_Behind\\_FINAL\\_0.pdf](https://www.warchild.org.uk/sites/default/files/War_Child_UK_Yemen_Report_Being_Kept_Behind_FINAL_0.pdf)

<sup>65</sup> This data comes from Mwatana’s original field research, to be published in a forthcoming report.

<sup>66</sup> Mwatana, *Withering Life*, *supra* note 8, p. 71.

<sup>67</sup> *Ibid*, p. 92.

<sup>68</sup> UN HRC, ‘*Situation of human rights in Yemen, including violations and abuses since September 2014*’, *supra* note 34, ¶ 185.

In the 2019 UPR process, the Government of Yemen accepted several recommendations to put an end to recruitment of children in both state and non-state armed forces.<sup>69</sup> However, the government has done very little to implement them.

In 2018, Mwatana documented the cases of at least 1117 children recruited or used for military purposes. While Ansar Allah was responsible for the majority of these cases, forces loyal to President Hadi and affiliated popular resistance groups were responsible for 11% of these cases, with UAE-backed Security Belt and Hadhrami Elite forces responsible for 17% of the cases.<sup>70</sup> In 2019, Mwatana continued to document child recruitment by government and coalition forces, for example:

- On Saturday, June 29, 2019, a landmine exploded when a motorbike driven by a child recruited by forces loyal to President Hadi passed over it in Al Maslub district, Al-Jawf governorate. A relative of the recruited child said that he had been delivering food supplies to soldiers on his motorbike.
- Mwatana obtained a copy of the birth certificate of a 14-year-old child recruited by the UAE-backed Security Belt forces in Khanfir District, Abyan Governorate. The child's mother said, "I wanted my son to arm himself with the weapon of science and with the pen, but he was armed with the weapon of war because of the bad economic situation."
- On Saturday, September 28, 2019, Mwatana interviewed a child soldier with the UAE-supported Giants Brigades. The child said that the salaries paid to his recruited counterparts encouraged him to join the ranks of the fighters.

## **VI. Non-payment of salaries [Violation of Article 6, 7 and 8 on Labour Rights, Article 11 on the Right to an Adequate Standard of Living]**

The Group of Eminent Experts on Yemen has cited non-payment of salaries and related actions by the Government of Yemen, including moving the central bank from Sana'a to Aden in September 2016, as "infringing on the human rights of the population... [including] the right to work, the right to an adequate standard of living, including the right to food and water, and the rights to health and education."<sup>71</sup> As of late 2019, many public servants, including teachers, had reportedly gone over two years without regular salary payments, disrupting the school programs and schedules for millions of children.<sup>72</sup> The Group of Eminent Experts also cited reportedly aggressive tax collection in Ansar Allah-controlled areas as negatively impacting these rights.

Public sector salary issues affect one quarter of the population and making it very difficult for public sector employees and their families to afford food, medicine, and other necessities. Additionally, the Yemeni government adopted a particular procedure to pay the salaries of employees in the areas under the control of the Ansar Allah (Houthi) group, which requires

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<sup>69</sup> UN Human Rights Council, Report of the Working Group on the UPR, *supra* note 63.

<sup>70</sup> Mwatana, *Withering Life*, *supra* note 8, p. 50.

<sup>71</sup> UN HRC, *Situation of human rights in Yemen*, *supra* note 34, ¶ 55.

<sup>72</sup> Human Rights Watch, World Report 2020: Yemen, January 2020, <https://www.hrw.org/world-report/2020/country-chapters/yemen>.

employees to travel to Aden governorate with the status of “displaced person,” in order to receive their salaries.<sup>73</sup> Travelling to Aden requires a difficult journey from Ansar Allah-controlled areas, with those who travel risk detention at security points along the way, denial of entry by Security Belt forces who have, at various points, blocked citizens from northern areas entering Aden, or their physical security, due to the ongoing conflict.<sup>74</sup>

## VII. Questions and recommendations to the Government of Yemen

*We recommend the Committee ask the Government of Yemen:*

- What steps has the government taken to fulfill the minimum requirements to provide access to essential food, sufficiently high-quality water for drinking and other purposes, minimum primary health care, and basic education, on a non-discriminatory basis? What steps has it taken to prevent third parties, including the Coalition, from violating these rights?
- What steps has the government of Yemen taken to understand and account for the number of deaths due to hunger, preventable disease, lack of access to health care, or contaminated drinking water?
- What steps has the government taken to facilitate the receipt of food, nutritional supplements, medical supplies, and other humanitarian aid that supports and protects the provision of economic and social rights? What measures has the government taken to prevent third parties—including forces allied with the Yemeni government—from interfering with Yemenis’ rights to food, water, and physical and mental health, including through blockades and access restrictions on critical goods?
- What steps has the government taken to prevent unlawful attacks on food, water, health, and education-related infrastructure? Has the government raised the issue of attacks on these facilities and structures with Coalition allies responsible for such attacks, and if so, what has it done to help prevent further such attacks by allies?
- Has the government taken steps to rehabilitate or rebuild food, water, health or education-related infrastructure damaged or destroyed by the conflict, or requested support from its allies to rebuild and restore such facilities?
- What steps has the government taken to conduct thorough, credible, and transparent investigations into attacks on food production, storage and transportation facilities as well as farms; water facilities; medical facilities and personnel; and schools during the armed conflict and the use of school for military purposes? What steps has it taken to investigate military use of health facilities and schools? Does it request allies to investigate attacks they carried out that impacted these sites? What steps has it taken to hold those responsible to account?
- Does the government provide reparations for victims of violations of the rights to food, water and sanitation, physical and mental health and education? Has it asked, or does it plan to ask, its Coalition allies to provide redress for incidents where Coalition attacks or actions have impacted these rights?

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<sup>73</sup> Mwatana, *Interruption of Earnings and Salaries ... The Worst Economic Crisis in Yemen*, 27 May 2019, <https://mwatana.org/en/interruption-of-salaries/>.

<sup>74</sup> Id.; UN Human Rights Council, *Situation of human rights in Yemen*, *supra* note 17, ¶ 51.

- What measures has the government taken to prevent the recruitment of children and to facilitate the release of children already recruited by state forces and non-state armed groups?
- What progress has the government made towards making salary payments to public sector employees throughout Yemen, and removing obstacles towards receipt of salary payments?

***We ask the Committee to call upon the government of Yemen to:***

- Ensure that any transitional justice mechanism established to address the current conflict includes economic, social, and cultural rights violations in its mandate;
- Facilitate unimpeded access and movement of humanitarian aid, medical supplies, humanitarian workers, and life-saving commercial goods without interference or discrimination throughout Yemen, including supplies needed to maintain food production, water, health facilities, and fuel needed to operate water pumps and generators.
- End blockades, sieges and other actions that prevent or restrict humanitarian and essential commercial imports vital to protecting and ensuring the rights to food, clean water, sanitation, health, and education.
- Prevent the Coalition and any other allied forces from launching attacks that target or are likely to damage objects indispensable to the survival of the civilian population, including by adding and updating the inclusion of essential food, water, and health facilities, as well as functioning educational facilities, on no-strike lists; raising past attacks with allies; and advocating for investigations into past attacks and redress, where appropriate.
- Resume Yemeni civil servant salary payments to workers throughout the country, with a priority for health, education, sanitation, and other essential workers.
- Conduct credible, impartial, and transparent investigations into alleged gross violations of international human rights law and serious violations of international humanitarian law, including using starvation of civilians as a method of warfare, and appropriately prosecute personnel responsible; demand allies, including members of the Saudi/UAE-led coalition, do the same;
- Provide prompt, effective and adequate reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law, adopt a unified, comprehensive, and easily accessible mechanism for providing ex gratia (condolence) payments to civilians who suffer losses due to military operations, and ensure such processes are transparent, with sufficient information publicly released for independent monitoring. Demand allies, including members of the Saudi/UAE-led coalition, do the same.
- Support the establishment of a mechanism to rebuild health care facilities, schools, and essential water and food production facilities damaged and destroyed during the armed conflict across Yemen in a timely manner.
- Clear landmines in areas under the government's control, with a focus on those that fall along paths to or are otherwise near water sources.
- Cease use of health care facilities and schools for military purposes, cease placing military targets near these sites, and end practices that endanger staff, students, patients, and others who use these facilities for civilian purposes.