



Mwatana for Human Rights



SOS-Torture Network

**Joint Submission on the United Arab Emirates  
to the 74<sup>st</sup> Session of the  
UN Committee Against Torture**

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Date of submission: [June 13, 2022]

**Mwatana for Human Rights** (Mwatana) is an independent Yemeni organization that advocates for human rights through the documentation of civilian harm, the provision of legal support to victims, and through advocacy and legal action. Mwatana has worked extensively to document civilian harm caused by all warring parties in Yemen Mwatana reports on human rights violations by using objective, rigorous and peer-reviewed field investigations and research. <https://mwatana.org/en>

**OMCT** is a non-governmental organization that works with 200 member organisations to end torture and ill-treatment, assist victims, and protect human rights defenders at risk wherever they are. OMCT makes up the largest global group actively standing up to torture in over 90 countries. It works to protect the most vulnerable members of our societies, including women, children, indigenous peoples, migrants and other marginalized communities. To achieve this, OMCT advocates with governments to change or implement their laws and policies, helps victims seek justice and strives to hold perpetrators to account. <https://www.omct.org/>

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## List of acronyms

AI	Amnesty International
AQAP	Al-Qai'da in the Arabian Peninsula
GEE	Group of Eminent International and Regional Experts on the situation of human rights in Yemen
HRW	Human Rights Watch
ISIS	Islamic State of Iraq and Syria
IS-Y	Islamic State in Yemen
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OMCT	World Organisation Against Torture
PoE	Panel of Experts on Yemen
STC	Southern Transitional Council
UAE	United Arab Emirates
UNSC	United Nations Security Council

## 1. Introduction

1. We write in advance of your upcoming review of the United Arab Emirates' (UAE) compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Convention") in the context of the armed conflict in Yemen, to which the UAE is a State party.
2. Mwatana for Human Rights (Mwatana) provides legal support, through specialized lawyers, to victims of arbitrary detention, enforced disappearance, and torture in various areas of Yemen under the control of the different warring parties. Although the efforts of Mwatana's Legal Support Unit have contributed to the release of dozens of victims, many victims are still subjected to enforced disappearance and arbitrary detention by all sides to the conflict.
3. Based on primary research that Mwatana conducted with survivors of detention-related abuses and their families, this submission demonstrates that the UAE ran unofficial detention facilities in Yemen, and that UAE and UAE-backed Yemeni forces have arbitrarily arrested, forcibly disappeared, and tortured Yemeni civilians, and held detainees in cruel, inhuman and degrading conditions. This submission also demonstrates that individual perpetrators have not been held to account, and victims of these violations are left without any form of redress, both in Yemen and in the UAE. Based on these findings, it calls for the UAE to abide by its international legal obligations under the Convention; stop committing and assisting or instigating abuses, including torture; conduct serious investigations; prosecute those responsible; and provide effective redress to victims.
4. Through this submission, the submitting organisations have faith in the Committee's endeavor to address torture and other gross human rights violations perpetrated under UAE control in Yemen and to bring justice to victims and their families.

## 2. Methodology

5. This submission focuses on the failure of the UAE to implement the Convention in the context of its military intervention, as a leading member of the Saudi-led Coalition in the Yemeni armed conflict. The submission is based on information collected by Mwatana's field researchers and legal support lawyers in Yemen between 2015 and 2022. Mwatana's researchers use rigorous and peer-reviewed investigation methods to investigate alleged incidents. They interview former victims, family members, and witnesses; and collect supporting documents that relate to victims or witness accounts. All cases documented by Mwatana's field researchers and legal support lawyers are reviewed and cross-checked by Mwatana's central research team. In addition to the field researchers and field lawyers, Mwatana's central research and legal support teams also conducts periodic field visits to different governorates to further investigate particular cases. Mwatana chooses cases to investigate based on the existence of civilian harm and regardless of the party that conducted the attack. Mwatana selected 38 sample incidents of detention-related torture and ill-treatment cases that have a nexus to the armed conflict in Yemen, perpetrated by the UAE and/or UAE-backed forces. The real names of victims, witnesses or their families are not included in the submission to uphold their confidentiality, and to ensure their safety and security. Rather, pseudonyms are provided.
6. In addition, the submission draws from secondary sources, including United Nations reports of the UNSC Panel of Experts on Yemen ("PoE") and the Group of Eminent International and Regional Experts on the situation of human rights in Yemen ("GEE"), among other bodies, along with other

reports published by independent non-governmental organizations, such as Mwatana for Human Rights, Amnesty international (“AI”) and Human Rights Watch (“HRW”).

### 3. Background

#### 3.1 The armed conflict in Yemen

7. The armed conflict in Yemen broke out in September 2014, when the Ansar Allah (Houthi) armed group took control of the Yemeni capital, Sanaa, by force. On 21 February 2015, Yemeni President Abdrabbuh Mansur Hadi fled to Aden, in southern Yemen, which he declared the country’s temporary capital. After Ansar Allah forces broke into the city of Aden, President Hadi left the country and fled to Riyadh, Saudi Arabia.
8. The conflict entered a new phase with the announcement on 26 March 2015 of the start of a military campaign by a coalition of nine countries, led by Saudi Arabia and the UAE, to support President Hadi and his government against the forces of Ansar Allah, which allied with former president Ali Abdullah Saleh.<sup>1</sup>
9. The armed violence between the internationally recognized government of Yemen and the Ansar Allah (Houthi) armed group is recognized as amounting to a non-international armed conflict. Given that the Saudi/UAE-led Coalition operates in Yemen with the consent of the Yemeni government, the Coalition’s involvement does not alter this classification of the armed conflict.<sup>2</sup> All parties to the conflict are obligated to comply with international humanitarian law, including Common Article 3 to the Geneva Conventions of 1949, Additional Protocol II of 1977, and customary international law. International human rights law continues to apply during situations of armed conflict.
10. The Coalition, particularly the UAE, supported and empowered local armed groups that are more loyal to these international forces than to President Hadi’s government. In separate rounds of fighting in January 2017, January 2018, and August 2019, Aden and other cities even witnessed clashes between forces loyal to President Hadi and UAE-backed forces.
11. The war between the two main parties to the conflict, in addition to these internal conflicts, have cast a shadow over the human rights situation and have multiplied and exacerbated the practices of arbitrary detention, enforced disappearance and torture. All parties exercising influence over territory in Yemen continue to marginalize the role of the public prosecution offices, the judiciary, and law enforcement institutions. At the same time, warring parties have occasionally used judicial institutions as tools of conflict, to further their aims or their persecution and harassment of perceived opponents, in violation of the principles of justice and due process. Despite numerous UN efforts to broker peace, including ceasefires and peace talks, Yemen has been in conflict since.
12. The intervention of the Coalition intensified the war, creating a major humanitarian crisis in Yemen. The Coalition-imposed restrictions on Yemen through a naval blockade and the closure of Sana’a International Airport, among other airports in Yemen, have restricted the import of relief supplies. Ansar Allah has also promulgated and engaged in other detrimental economic policies,

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<sup>1</sup> Mwatana for Human Rights, University Network for Human Rights & PAX, "[Day of Judgment: The Role of the US and Europe in Civilian Death, Destruction, and Trauma in Yemen](#)", Report, 2019, p. 6.

<sup>2</sup> Sari Arraf, “The War Report: Armed Conflicts in 2017”, *Geneva Academy*, March 2018, p. 144.

including the withholding of salaries; funneling taxes collected from the population to fund their war efforts.<sup>3</sup> Such measures have a disproportionate impact on the civilian population,<sup>4</sup> whereby the population remains deprived of essential objects indispensable to its survival. Starvation in Yemen is regarded by the UN Group of Eminent Experts as inhuman treatment that can amount to a war crime.<sup>5</sup> Other violations of international criminal law, and violations of international humanitarian law and human rights law, including arbitrary arrests, enforced disappearances, and torture, committed by all parties to the conflict in Yemen, have been reported by UN agencies and human rights organizations.<sup>6</sup>

13. Since the escalation of the conflict in 2014, the situation of Yemen's civilian population has been so appalling that the UN qualifies it as the world's worst humanitarian crisis.<sup>7</sup> According to the UN, in 2021, an estimated 20.7 million of Yemenis, 66% of the total population, need humanitarian assistance and unless the conflict de-escalates, the situation is expected to continue deteriorating.<sup>8</sup> Food insecurity and malnutrition are the main drivers behind the number of people in need, followed closely by access to basic water and sanitation.<sup>9</sup>

14. In December 2020, OCHA estimated that out of the 233,000 deaths that can be attributed to the conflict, around 131,000 deaths would have been from indirect causes such as "lack of food, health services and infrastructures".<sup>10</sup> Between January and September 2021, 1498 additional civilian casualties were reported, "including 401 children and 228 women, and at least 16 attacks affecting schools and hospitals. Large-scale destruction of civilian homes and infrastructure has created shelter needs."<sup>11</sup>

### 3.2 The UAE in Yemen

15. The UAE, a key member of the Saudi-led coalition, has contributed significantly to the military operations carried out by the Coalition in Yemen. In 2015, the UAE played a major role in taking back Aden and other governorates in the south of Yemen from the Houthis. In mid-2019, the UAE announced the withdrawal of its forces from Yemen, while still continuing its air operations, leaving a minimal

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<sup>3</sup> See generally "The Yemen Review: Starvation, Diplomacy, and Ruthless Friends, Annual Review 2018," Sana'a Center for Strategic Studies (2018), pp. 33, 41, [http://sanaacenter.org/files/TYR\\_Annual\\_2018\\_en.pdf](http://sanaacenter.org/files/TYR_Annual_2018_en.pdf).

<sup>4</sup> HRC, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/42/17, 9 August 2019, para. 53.

<sup>5</sup> HRC, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/42/17, 9 August 2019, para 56. Also see Mwatana for Human Rights and Global Rights Compliance, *Starvation Makers, The Use of Starvation by Warring Parties in Yemen*, September 2021, available at <https://mwatana.org/en/starvation-makers/>

<sup>6</sup> See e.g. Mwatana for Human Rights, "Study on the Situation of Detention Centers in Yemen", Report, 2019, p.18; HRW, "Yemen: UAE Backs abusive Local Forces", 22 June 2017, <https://www.hrw.org/news/2017/06/22/yemen-uae-backs-abusive-local-forces>; AI, *God Only Knows If He's Alive: Enforced Disappearance and Detention Violation in Southern Yemen*, July 2018, <https://www.amnesty.org/en/documents/mde31/8682/2018/en/> ; HRC, *Situation of human rights in Yemen, including violations and abuses since September 2014*, Report of the Group of Eminent International and Regional Experts on Yemen, A/HRC/45/6, 28 September 2020; Mwatana for Human Rights and Global Rights Compliance, *Starvation Makers, The Use of Starvation by Warring Parties in Yemen*, September 2021, <https://mwatana.org/en/starvation-makers/>

<sup>7</sup> World Food Programme, *Yemen, the world's worst humanitarian crisis*.

<sup>8</sup> OCHA, *Humanitarian Needs Overview, Yemen*, February 2021, pp. 6-7.

<sup>9</sup> 16.2 million people will go hungry in 2021 including five million people facing emergency conditions and around 50,000 that are already experiencing famine. Over 15.4 million Yemeni are also in need of support to access basic water and sanitation needs. OCHA, *Humanitarian Needs Overview, Yemen*, February 2021, p. 6.

<sup>10</sup> UN News, *UN humanitarian office puts Yemen war dead at 233,000, mostly from 'indirect causes'*, 1 December 2020. See also HRC, *Report of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/45/6, 28 September 2020, para.15 (estimating the number in "many thousands of people").

<sup>11</sup> OCHA, *Global Humanitarian Overview 2022, Yemen*, <https://gho.unocha.org/yemen>

presence in a few governorates. However, some 90,000 UAE-backed fighters remained on the ground.<sup>12</sup> In 2021, the PoE documented that UAE personnel were still present on the West Coast, as well as in other parts of Yemen, including Hadramawt, Aden and Shabwah,<sup>13</sup> although it appears that Coalition troops completely withdrew from Shabwah by the end of 2021.<sup>14</sup>

16. The UAE-backed Southern Transitional Council (“STC”) and the affiliated Security Belt forces controlled the city of Aden, while the Elite forces operated in Hadhramawt governorate. These forces supervised unofficial detention sites, in addition to the sites supervised by Coalition forces. Detentions by the Coalition forces, in particular the UAE and its allies, were used as part of a crackdown on the Yemeni Congregation for Reform Party<sup>15</sup>, and aimed at ending the presence of the party in the southern provinces.

17. Hundreds of people were arbitrarily arrested, disappeared and tortured on the accusation of belonging to extremist organisations such as al-Qaeda or ISIS. The UAE and its allies also used detentions to suppress any opposition. Activists who criticized the Coalition’s operations and practices have been detained. The Coalition paid sums of money for collaborators who reported suspicious people or behavior, which encouraged people looking to settle personal accounts or earn money to report on individuals, and led to further abuses. After August 2019, Security Belt and Elite forces hostile to the Hadi government also committed a number of abuses against individuals accused of working or cooperating with government forces.

18. As this submission shows, detainees were subjected to different forms of torture and cruel, inhuman and degrading treatment, including beating, kicking, burning, waterboarding, hanging, deprivation of water and food, preventing them from performing religious rituals, and sexual abuse.

### 3.3. UAE-backed forces

19. The UAE has been claiming to fight, with UAE-backed Yemeni forces, terrorist and extremist groups such as al-Qai’da in the Arabian Peninsula (AQAP), and the armed group calling itself the Islamic State in Yemen (IS-Y).<sup>16</sup> Its influence expanded over the security sector in Yemen, with Yemeni forces directly reporting to the UAE government: “UAE-backed forces [...] operate largely outside the control of the [Yemeni] government, answering directly to the UAE”.<sup>17</sup> Starting in 2015, the UAE recruited, trained and paid most of the forces affiliated with the STC, which is in a military confrontation with the Government of Yemen in some governorates, thus undermining the authority of the Government and threatening peace and security.<sup>18</sup>

20. The UAE formed the Security Belt Forces, the Shabwani Elite Forces and the Hadramawt Elite Forces. The UAE also selected these Forces’ commanders, recruited and trained the troops, paid salaries

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<sup>12</sup> HRC, *Situation of human rights in Yemen, including violations and abuses since September 2014, Report of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/45/6, 28 September 2020, para 17.

<sup>13</sup> UNSC, Letter dated 22 January 2021 from the Panel of Experts on Yemen addressed to the President of the Security Council, S/2021/79, Annex 5, table 5.1 (footnote 12).

<sup>14</sup> UNSC, Letter dated 25 January 2022 from the Panel of Experts on Yemen addressed to the President of the Security Council, 26 January 2021, S/2022/50, Annex 4, table 4.2.

<sup>15</sup> The Yemeni Congregation for Reform Party, also called al-Islah, is the main Yemeni Islamist party and is, as such, one of the main UAE targets.

<sup>16</sup> AI, *God Only Knows If He’s Alive: Enforced Disappearance and Detention Violation in Southern Yemen*, July 2018, <https://www.amnesty.org/en/documents/mde31/8682/2018/en/>, p. 8.

<sup>17</sup> *Ibid.*

<sup>18</sup> UNSC, Letter dated 22 January 2021 from the Panel of Experts on Yemen to the President of the Security Council, S/2021/79, para 31.



and provided weapons, equipment and logistics. In addition, these Forces worked with the UAE on joint operations and took orders and instructions from UAE troops.<sup>19</sup> Between June and November 2019, these Forces underwent changes. The Security Belt Forces in Aden affiliated themselves with the STC in August, while the Shabwani Elite Forces fragmented.<sup>20</sup> Although the UAE withdrew from Yemen in mid-2019,<sup>21</sup> in 2020, the PoE documented the continued support of the UAE to the STC and affiliated forces, including the Security Belt Forces and the Shabwani Elite Forces.<sup>22</sup> According to the PoE, in 2020, the UAE was “still in a position to exert a minimum level of command” on the commanders of the Shabwani Elite Forces and the Security Belt Forces through the STC.<sup>23</sup>

21. Although, following its withdrawal, the UAE remained part of the Coalition and continued to conduct counter-terrorism operations, it is difficult to attribute which of the Government of Yemen or the UAE had overall command and control of these forces after the UAE withdrawal, as the Government of Yemen kept wavering its position on its command over the former UAE-affiliated forces.<sup>24</sup> As a result of the lack of clarity on the exact dates of the changes in the authority for command and control, as well as the opacity of the UAE when it comes to its role with regards these forces, accountability for violations committed by them is difficult to establish.<sup>25</sup> The UAE must provide the CAT with clear information on its involvement in Yemen since its withdrawal, and on its role vis-à-vis the armed forces it supported.

22. To better understand the complexity of these local armed groups and to highlight their direct involvement in prohibited acts of torture and ill-treatment, it is important to closely dissect their structure, chain of command and affiliation. It is worth mentioning that, after its withdrawal in 2019, the UAE continued to provide political, financial and military support to the UAE-backed forces and other armed forces, such as the West Coast Joint Forces.

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<sup>19</sup> UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen addressed to the President of the Security Council, S/2020/70, Annex 8, table 2.

<sup>20</sup> UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen addressed to the President of the Security Council, S/2020/70, Annex 8, para 27.

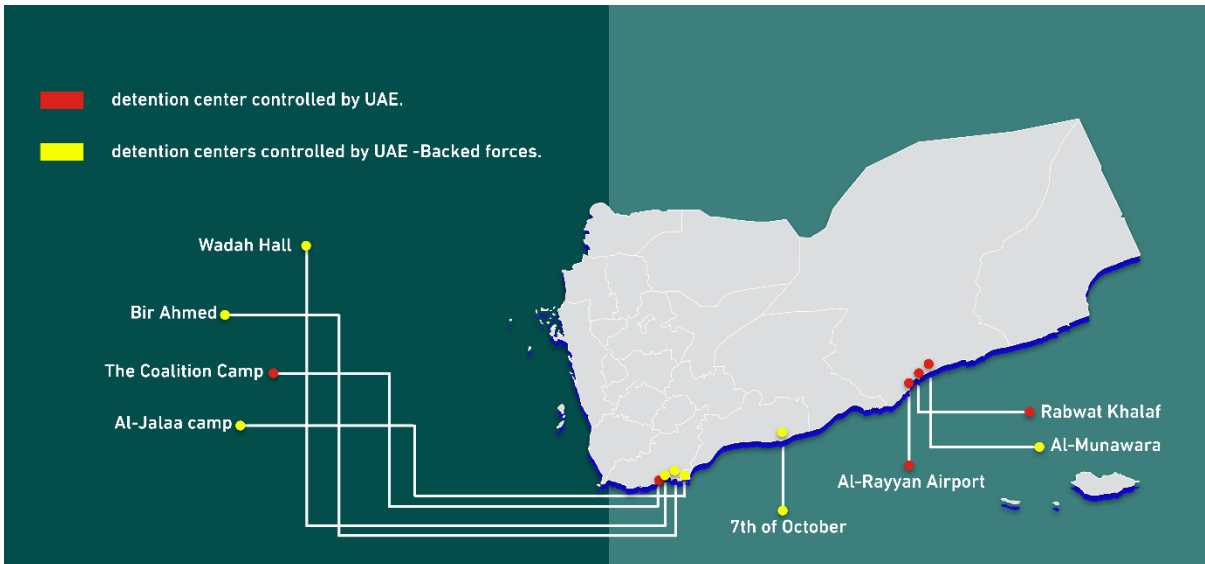
<sup>21</sup> SANAA Center for Strategic Studies, *Starvation, Diplomacy and Ruthless Friends: The Yemen Annual Review 2018*, January 2019.

<sup>22</sup> UNSC, Letter dated 22 January 2021 from the Panel of Experts on Yemen to the President of the Security Council, S/2021/79, para 30.

<sup>23</sup> UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen addressed to the President of the Security Council, S/2020/70, Annex 8, para 27.

<sup>24</sup> UNSC, Letter dated 22 January 2021 from the Panel of Experts on Yemen addressed to the President of the Security Council, S/2021/79, Annex 5, para 19.

<sup>25</sup> UNSC, Letter dated 22 January 2021 from the Panel of Experts on Yemen addressed to the President of the Security Council, S/2021/79, Annex 5, para 20.



23. ***The Security Belt Forces:*** The Security Belt Forces (SBF) controlled Aden, Lahj, and parts of Abyan governorate. The SBF have been responsible for significant detention-related abuses.

24. Although some SBF commanders were appointed by President Hadi in 2016, the PoE observed that these commanders had been selected by the UAE before they got appointed by the President, and that the UAE was also involved in the recruitment of individuals into the SBF.<sup>26</sup> SBF informed the Panel that they received instructions and orders from the UAE, especially in relation to arrest and detention operations of alleged AQAP members.<sup>27</sup> Further evidence that led the Panel to conclude that Yemen had no control over the SBF was the letter dated 20 March 2018 from the Permanent Representative of Yemen to the United Nations, addressed to the President of the Security Council, stating that Yemeni authorities had no command or control over these Forces, although the letter did not mention that the UAE had such control: “The Security Belt Forces in Aden, Lahij and Abyan, and the Hadrami Elite Forces and Shabwani Elite Forces, described in the report as military proxy forces, were formed on the basis of regional and tribal backgrounds. Those forces and their leaders are not under the command and control of or subordinate to the official Yemeni security and military establishment.<sup>28</sup> The Panel concluded that between 2016 and August 2019, SBF “were not under the operational control of the GoY”, and that “the Panel received evidence that specific military operations were either conducted jointly or that persons arrested by SBF were immediately transferred to the UAE, in a manner that demonstrated a degree of operational control, at minimum for specific operations”.<sup>29</sup> From August 2019, the SBF affiliated themselves to the UAE-backed STC, which exercised operational control over these forces, and continued to do so until at least until December 2019.<sup>30</sup>

25. ***The Hadrami Elite Forces:*** These UAE-funded forces were formed in early 2016. They exercised control over southern parts of Hadramaw t. As explained by the PoE, “[I]like the SBF, the Hadrami Elite Forces are better paid than their regular Yemeni army counterparts and operate outside the

<sup>26</sup> UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen to the President of the Security Council, S/2020/70, annex 8, table 8.1.

<sup>27</sup> UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen to the President of the Security Council, S/2020/70, annex 8, table 8.1.

<sup>28</sup> UNSC, Letter dated 20 March 2018 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council, S/2018/242, p. 4.

<sup>29</sup> UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen to the President of the Security Council, S/2020/70, annex 8, table 8.1.

<sup>30</sup> UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen to the President of the Security Council, S/2020/70, annex 8, table 8.1.

Yemeni military command-and-control structure”,<sup>31</sup> although the UAE denied having effective control or command over them. The UAE informed the Panel that the Coalition has provided “military, financial and training assistance” and “intelligence, logistic information and aerial intervention” to the Hadrami Elite Forces, which are under the control of the legitimate Yemeni Armed Forces.<sup>32</sup> This statement was refuted by the government of Yemen, which denied any control over them.<sup>33</sup>

26. Although the UAE did not specify which State of the Coalition supported the Hadrami Forces, the PoE had enough data to conclude that the UAE had effective control over them, providing them with salaries, training, weapons and direction. The Panel concluded that “[w]hile nominally under the command of the legitimate Government, [the Hadrami Elite Forces] are effectively under the operational control of the United Arab Emirates, which oversees ground operations in Mukalla”.<sup>34</sup> Until at least June 2019, the Hadrami Elite Forces received instructions and orders from the UAE.<sup>35</sup> In the 2022 report of the PoE, according to discussions the Panel had with the STC and the Government of Yemen in August and November 2021, both the UAE and the Yemeni government claimed control over the Hadrami Elite Forces.<sup>36</sup>

27. ***The Shabwani Elite Forces:*** These forces were formed and funded in late 2016 by the UAE. The Shabwani units were located in Shabwah involved in alleged operations against AQAP and IS in Yemen. The PoE found that they operated outside the Yemeni military command and control structure, and undermined the authority of the government of Yemen.<sup>37</sup>

28. At least until June 2019, they received instructions and orders from the UAE, who also provided them with salaries, training and logistical support. They also conducted joint arrest and detention operations, as well as detainee transfers, with the UAE.<sup>38</sup> The Shabwani Elite Forces fragmented in August 2019.<sup>39</sup>

29. On the current level of control directly exerted by the UAE on commanders of the Shabwani Elite Forces, the Panel could not firmly attribute the direct chain of command to the UAE, considering it to be “unclear”. Nevertheless, in 2020, the Panel established that the UAE was still exerting a minimum level of command over the Shabwani Elite Forces through the STC.<sup>40</sup> In 2021, the Panel documented that, although UAE support scaled down in the second half of 2020, the UAE continued to provide financial and military support to the Shabwani Elite Forces.<sup>41</sup> It appears that, at the end of

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<sup>31</sup> Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council, S/2018/594, para. 57.

<sup>32</sup> Letter dated 27 January 2017 from the Panel of Experts on Yemen addressed to the President of the Security Council, S/2017/81, para. 134.

<sup>33</sup> UNSC, Letter dated 20 March 2018 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council, S/2018/242

<sup>34</sup> *Ibid.*, para 132.

<sup>35</sup> UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen to the President of the Security Council, S/2020/70, annex 8, table 8.3.

<sup>36</sup> UNSC, Letter dated 25 January 2022 from the Panel of Experts on Yemen addressed to the President of the Security Council, 26 January 2021, S/2022/50, footnote 46.

<sup>37</sup> Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council, S/2018/594, para. 58.

<sup>38</sup> UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen to the President of the Security Council, S/2020/70, annex 8, table 8.3.

<sup>39</sup> UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen addressed to the President of the Security Council, S/2020/70, Annex 8, para 27.

<sup>40</sup> *Ibid.* para. 27.

<sup>41</sup> UNSC, Letter dated 22 January 2021 from the Panel of Experts on Yemen to the President of the Security Council, S/2021/79, para 32.

2021, the UAE withdrew from the Shabwah region.<sup>42</sup> However, there is no information available on the links the UAE maintained with the Shabwani Elite Forces after that date.

30. ***The Southern Transitional Council (STC)***: In May 2017, the Security Belt Forces, Shabwani and Hadrami Elites have affiliated themselves to the STC, rupturing all links with the government of Yemen. The STC inherited the entirety of the military forces established by the UAE in Aden and other southern governorates.<sup>43</sup> The STC is backed by the UAE, and it is through the STC that the UAE maintains a minimum control of all security forces mentioned above in addition to other military brigades which also are affiliated with the STC.<sup>44</sup>
31. Several clashes have taken place between the Yemeni Government and the STC over the control of different areas of Aden, Abyan and Shabwah. On 28 and 29 August 2019, the UAE launched air strike attacks under the pretext of responding to a terrorist threat against the forces of the Coalition. These strikes had the objective to support the STC-affiliated troops, including the SBF, as the government of Yemen was regaining control of Aden.<sup>45</sup>
32. With the Riyadh Agreement of 5 November 2019, stating that the Kingdom of Saudi Arabia would oversee the implementation of the agreement and supervise armed forces until they are integrated into the Ministry of Defense of Yemen, the SBF, the Shabwani and the Hadrami Elite Forces continued to operate under the STC, although it is unclear until which date. The UAE should provide clear information in that regard.
33. The STC claimed that all its military and security forces were integrated into the Yemeni Government forces in Yemen, while the Government of Yemen denied this was the case.<sup>46</sup> Even after UAE withdrawal, the UAE continued to influence the Yemeni conflict through the STC, having control over several non-State armed groups, including the SBF, as well as Shabwani and Hadrami Elite Forces, by providing direct training, capacity building, logistics assistance and salaries.<sup>47</sup> STC forces were trained by the Emirati army after the official withdrawal, and Shabwani Forces were re-trained by the UAE and deployed at al-Alam Camp as well as the Balhaf gas facility.<sup>48</sup> The UAE also supported the Hadrami Forces in Barshid camp in Mukalla.<sup>49</sup> In 2021, the UAE informed the PoE that it continued to support Yemeni counter-terrorism forces, while the PoE also documented the continuing support of the UAE for the STC, as well as some forces affiliated with it, including continuing political support to the

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<sup>42</sup> The withdrawal of Coalition forces was reported from Ataq Airport and Al-Alam Camp in Shabwah in October and November 2021. Clashes between the Shabwani Elite Forces and pro-government forces took place, resulting in pro-government forces taking control of Al-Alam Camp. See UNSC, Letter dated 25 January 2022 from the Panel of Experts on Yemen addressed to the President of the Security Council, 26 January 2021, S/2022/50, Annex 4, table 4.2.

<sup>43</sup> HRC, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/48/20, 13 September 2021, footnote 59.

<sup>44</sup> See, e.g., Aljazeera, [Yemen: What is the Southern Transitional Council?](#), 26 April 2020; HRW, Yemen: UAE-Backed Forces Torture Journalist, 22 February 2021, <https://www.hrw.org/news/2021/02/22/yemen-uae-backed-forces-torture-journalist>; The Arab Gulf States Institute in Washington, [The UAE's Three Strategic Interests in Yemen](#), 24 February 2022, <https://agsiw.org/the-uaes-three-strategic-interests-in-yemen/>;

<sup>45</sup> Reuters, [UAE carries out air strikes against Yemen government forces to support separatists](#), 29 August 2019, <https://www.reuters.com/article/us-yemen-security-idUSKCN1VJ17F>; also see UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen addressed to the President of the Security Council, S/2020/326, Annex 8, table 8.1.

<sup>46</sup> UNSC, Letter dated 25 January 2022 from the Panel of Experts on Yemen addressed to the President of the Security Council, 26 January 2021, S/2022/50, para 34.

<sup>47</sup> Ibrahim Jalal, [The UAE may have withdrawn from Yemen, but its influence remains strong](#), Middle East Institute, 25 February 2020, <https://www.mei.edu/publications/uae-may-have-withdrawn-yemen-its-influence-remains-strong>

<sup>48</sup> Ahmed al-Sharjabi, [HADI'S DAYS ARE NUMBERED. ONLY ACCOUNTABILITY, TRANSPARENCY, AND REFORM CAN STOP YEMEN'S DECLINE](#), Yemen Policy Center, November 2021, <https://www.yemenpolicy.org/hadis-days-are-numbered-only-accountability-transparency-and-reform-can-stop-yemens-decline/>

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

leadership of the STC.<sup>50</sup> The STC also informed the Panel that the UAE or the Coalition coordinated joint military operations with the Government of Yemen, and that the STC did not receive instructions from the Government of Yemen or the Ministry of Defence.<sup>51</sup> However, in October 2021, the UAE denied having operational control over the STC.<sup>52</sup>

#### **4. The applicability of the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment to UAE and UAE-backed forces**

34. The UAE is bound by its obligations under the CAT in the context of its military operations in Yemen. The UAE ratified the CAT in 2012, prior to the start of the armed conflict in Yemen, and can be held responsible for violations of the CAT even outside of its national territory.

##### **4.1. The extraterritorial applicability of the Convention Against Torture**

35. The review of the alleged violations of the Convention against Torture committed by the UAE, as a leading member of the Coalition supporting the internationally recognized Government of Yemen, requires determining whether the Convention applies to military operations taking place outside of the national territory.

36. The Convention against Torture includes several provisions that deal with the obligations of States parties regarding acts of torture and ill-treatment in “any territory under their jurisdiction.” The notion of jurisdiction is central to determine the extraterritorial scope of the Convention’s applicability.

37. Under international law, the scope of the notion of “jurisdiction” has been defined by the International Court of Justice as follows: “the jurisdiction of States is primarily territorial, it may sometimes be exercised outside the national territory.”<sup>53</sup> In this regard, a State can exercise its authority beyond its national territory and shall, while doing so, comply with its obligations under international human rights treaties, including the Convention against Torture. The Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment explains that “jurisdiction clauses in human rights treaties are best understood as referring to the extent of a State’s factual authority or control over territory or persons. A State is responsible for violations of human rights when, in respect of the conduct alleged, the victim was brought under the effective control of, or affected by those acting on behalf of, the State.”<sup>54</sup>

38. In its General Comment No.2, the CAT states that “the concept of ‘any territory under its jurisdiction’, linked as it is with the principle of non-derogability, includes any territory or facilities and must be applied to protect any person, citizen or non-citizen without discrimination subject to the de

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<sup>50</sup> UNSC, Letter dated 22 January 2021 from the Panel of Experts on Yemen to the President of the Security Council, S/2021/79, paras 30-31.

<sup>51</sup> UNSC, Letter dated 25 January 2022 from the Panel of Experts on Yemen addressed to the President of the Security Council, 26 January 2021, S/2022/50, para 25.

<sup>52</sup> UNSC, Letter dated 25 January 2022 from the Panel of Experts on Yemen addressed to the President of the Security Council, 26 January 2021, S/2022/50, footnote 27.

<sup>53</sup> Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice (ICJ), 9 July 2004..

<sup>54</sup> UN General Assembly, Torture and other cruel, inhuman or degrading treatment or punishment : note / by the Secretary-General, 7 August 2015, A/70/303, para 17.

jure or de facto control of a State party.”<sup>55</sup> The CAT adds that “the State’s obligation to prevent torture also applies to all persons who act, de jure or de facto, in the name of, in conjunction with, or at the behest of the State party. It is a matter of urgency that each State party should closely monitor its officials and those acting on its behalf and should identify and report to the Committee any incidents of torture or ill-treatment as a consequence of anti-terrorism measures, among others, and the measures taken to investigate, punish, and prevent further torture or ill-treatment in the future, with particular attention to the legal responsibility of both the direct perpetrators and officials in the chain of command, whether by acts of instigation, consent or acquiescence.”<sup>56</sup>

39. It is important to recall the conclusions and recommendations of the CAT to the United States of America (USA) according to which “[t]he Committee reiterates its previously expressed view that this includes all areas under the de facto effective control of the State party, by whichever military or civil authorities such control is exercised. The Committee considers the State party’s view that those provisions are geographically limited to its own de jure territory to be regrettable.”<sup>57</sup>

40. While the preceding makes clear that the UAE remains bound by its human rights obligations under the Convention in respect of UAE agents and UAE-controlled detention facilities in Yemen, the question whether the same applies to Yemeni proxies requires further analysis. Less restrictive than the notion of effective control, the notion of overall control may be better suited to determine whether the UAE is bound by the Convention in respect of its Yemeni proxies and whether their wrongful actions might thus engage the international responsibility of the UAE. Especially after the withdrawal of UAE troops from Yemen in mid-2019, it might be hard to argue that Yemeni armed groups referred to in this report were acting “on the instructions of”, or “under the direction or control of” the UAE.”<sup>58</sup> In relying on the overall control notion, the opening of a serious responsibility gap for those acting under the UAE’s control can be prevented. Indeed, under the notion of “overall control”, it is not necessary for the State to issue instructions for the commission of acts prohibited under international law.<sup>59</sup> In *Tadic*, the ICTY’s Appeals Chamber distinguished between the situation of “individuals acting on behalf of a State” from that of “individuals making up an organised and hierarchically structured group, such as a military unit or [...] armed bands of irregulars or rebels.”<sup>60</sup> The tribunal specified that acts of such groups are attributed to the State when “the group as a whole [is] under the overall control of the State.”<sup>61</sup> Therefore, the State can be held responsible for acts performed by the group “independently of any State instructions, or even contrary to instructions.”<sup>62</sup> The tribunal added that “[i]n order to attribute the acts of a military or paramilitary group to a State, it must be proved that the State wields overall control over the group, not only by equipping and financing the group, but also by coordinating or helping in the general planning of its military activity. Only then can the State be held internationally accountable for any misconduct of the group.”<sup>63</sup> As detailed in this report, the UAE provided training, as well as financial and military support to various military forces, in addition to conducting joint arrest

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<sup>55</sup> UN Committee Against Torture (CAT), General Comment No. 2: Implementation of Article 2 by States Parties, 24 January 2008, CAT/C/GC/2, para 7.

<sup>56</sup> *Ibid.*

<sup>57</sup> UN Committee Against Torture (CAT), UN Committee against Torture: Conclusions and Recommendations, United States of America, 25 July 2006, CAT/C/USA/CO/2, para 15. .

<sup>58</sup> International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, Article 8, November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1

<sup>59</sup> *Prosecutor v. Dusko Tadic (Appeal Judgement)*, IT-94-1-A, International Criminal Tribunal for the former Yugoslavia (ICTY), 15 July 1999, para 131.

<sup>60</sup> *Prosecutor v. Dusko Tadic (Appeal Judgement)*, IT-94-1-A, International Criminal Tribunal for the former Yugoslavia (ICTY), 15 July 1999, para 120.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Prosecutor v. Dusko Tadic (Appeal Judgement)*, IT-94-1-A, International Criminal Tribunal for the former Yugoslavia (ICTY), 15 July 1999, para 121.

<sup>63</sup> *Prosecutor v. Dusko Tadic (Appeal Judgement)*, IT-94-1-A, International Criminal Tribunal for the former Yugoslavia (ICTY), 15 July 1999, para 131.

and detention operations, in Yemen. Thus, such UAE-backed forces satisfy the notion of overall control and enable us to determine the possible attribution of State responsibility to the UAE for violations of the Convention committed, in the context of overseas operations, by these UAE-backed Yemeni forces, in addition to those perpetrated by UAE agents.

41. This conclusion is strengthened by the opinion of other reputable bodies. In *Ilaşcu and others v. Moldova and Russia*, where the factual situation was similar to that of the UAE involvement in Yemen, the ECtHR took into consideration the military and political support provided by Russia to set up the separatist regime on Moldova's territory, as well as the participation of Russia's military personnel in fighting, to conclude that Russia's responsibility was engaged in respect of unlawful acts committed by the Transnistrian separatists. The Court also noted that "even after the ceasefire agreement [...] the Russian Federation continued to provide military, political and economic support to the separatist regime, thus enabling it to survive by strengthening itself and by acquiring a certain amount of autonomy vis-à-vis Moldova."<sup>64</sup> This decision is particularly relevant in assessing the responsibility of the UAE for violations committed by UAE-backed Yemeni armed groups after its withdrawal in 2019.
42. More importantly, the Working Group on Arbitrary Detention's opinion on al-Khiam prison is highly relevant here. In determining whom of the Government of Lebanon, the Government of Israel or to the South Lebanon Army (SLA) was responsible for arbitrary detention of persons at al-Khiam, the Working Group stated that "a State may be held to be legally imputable for acts committed by individuals or groups of individuals who, while not officials of the State, are de facto acting on its behalf",<sup>65</sup> and concluded that the SLA, while being the administrator of the al-Khiam prison, was acting on behalf of the IDF.<sup>66</sup> In reaching this conclusion, the Working Group determined that the IDF had overall control over the SLA, providing the SLA with financial and logistical assistance; training; cooperation for the release of detainees, the gathering of intelligence, the transfer of information, etc.; as well as coordination of military activity, maintaining a military presence, even in small numbers.<sup>67</sup>
43. In addition to the overall control argument, it could be argued that the UAE violated its obligations under the Convention by being complicit to acts committed by its proxies in Yemen through training, arming, equipping, and financially and otherwise supporting these forces.<sup>68</sup> In doing so, it acted in complicity with the forces committing the abuses.
44. It should therefore be concluded that the UAE is bound by the Convention in the context of its operations in Yemen, including refraining from committing acts of torture and ill-treatment; preventing torture by its own agents or others acting on their behalf or with their support or acquiescence; and investigating, extraditing or prosecuting, and punishing the perpetrators; as well as providing appropriate redress to the victims.

## 4.2 The applicability of the Convention against Torture to the armed conflict in Yemen

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<sup>64</sup> *Ilaşcu and Others v. Moldova and Russia*, 48787/99, Council of Europe: European Court of Human Rights, 8 July 2004, para 382.

<sup>65</sup> UN Economic and Social Council, CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF: TORTURE AND DETENTION, Report of the Working Group on Arbitrary Detention, 28 December 1999, E/CN.4/2000/4, para 14.

<sup>66</sup> UN Economic and Social Council, CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF: TORTURE AND DETENTION, Report of the Working Group on Arbitrary Detention, 28 December 1999, E/CN.4/2000/4, para 18.

<sup>67</sup> UN Economic and Social Council, CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF: TORTURE AND DETENTION, Report of the Working Group on Arbitrary Detention, 28 December 1999, E/CN.4/2000/4, para 17.

<sup>68</sup> ICJ, Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Merits), judgment of 27 June 1986.

45. Given the report's scrutiny of the UAE's compliance with the Convention within the Yemeni conflict context, there is a need to determine whether the Convention applies to situations of armed conflict, which are traditionally regulated by international humanitarian law. In this regard, it is important to establish, *prima facie*, that torture is prohibited at all times and in all situations and that armed conflicts, whether international or non-international, do not derogate from this prohibition. Article 2(2) of the Convention is unequivocal: "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture." The General Comment No. 2 of the Committee further explains that the exceptional circumstances mentioned in Article 2 include "any threat of terrorist acts or violent crime as well as armed conflict, international or non-international."
46. Moreover, international human rights law applies at all times, irrespective of whether there is peace or an armed conflict. In an armed conflict, international human rights law is applicable concurrently with international humanitarian law. The International Court of Justice confirmed that "the protection offered by human rights conventions does not cease in case of armed conflict". The Court explained that both human rights law and international humanitarian law, as *lex specialis*, are applicable.<sup>69</sup>
47. Additionally, the Report of the GEE established that "international human rights law is concurrently applicable with international humanitarian law... Human rights obligations of non-State armed groups and member States of the coalition may arise insofar as they exercise control over certain areas or facilities"<sup>70</sup>.
48. The Committee confirmed that the obligations derived from the Convention are applicable to any State party under its jurisdiction in time of peace as well as in time of an armed conflict: "The State party should recognize and ensure that the Convention applies at all times, whether in peace, war or armed conflict, in any territory under its jurisdiction and that the application of the Convention's provisions are without prejudice to the provisions of any other international instrument"<sup>71</sup>.
49. In light of the above, acts of torture and other ill-treatment by UAE officials and Yemeni forces under its control, committed at all times and in all places, constitute violations of customary international law, international humanitarian law, and international human rights law, including of the Convention against Torture, which the UAE is bound to uphold.<sup>72</sup>
50. Thus, the Convention is applicable. The provisions derived from the Convention are binding on the UAE in the context of the ongoing armed conflict in Yemen. The Committee is therefore competent to examine under the provisions of the Convention any alleged acts of torture and ill-treatment carried out in any territory under the jurisdiction of the UAE, such as UAE-controlled detention sites and armed forces, in the context of the UAE's military involvement in the armed conflict in Yemen.

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<sup>69</sup> See ICJ Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons; ICJ Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory; ICJ Case Concerning Armed Activities on the Territory of the Congo (DRC v. Uganda).

<sup>70</sup> A/HRC/42/17, para. 12.

<sup>71</sup> CAT/C/USA/CO/2, para. 14.

<sup>72</sup> The prohibition against torture is well established under customary international law as *jus cogens* (the highest standing in customary law, superceding all other treaties and customary laws that are not *jus cogens*). It is contained in the Geneva Conventions, as well as in Article 7 of the ICCPR, and codified in the European Convention for the Protection of Human Rights and Fundamental Freedoms, the African Charter on Human and Peoples' Rights, and the American Convention on Human Rights. Under international criminal law, torture may constitute a war crime or a crime against humanity when committed as part of a widespread or systematic attack against a civilian population.



## 5. Torture and ill-treatment in detention facilities controlled by the UAE and UAE-backed forces

51. The UAE conducted, supported and directed Yemeni forces carrying out counterterrorism and security campaigns in several Yemeni governorates. In that context, the UAE has been involved in widespread enforced disappearances, torture and ill-treatment of detainees. Enforced disappearances, which have been documented by the PoE, as well as various local and international organizations such as Mwatana, HRW and AI,<sup>73</sup> are recognised as creating circumstances conducive to torture and ill-treatment.

52. While the PoE estimated that, as of 1 November 2017, over 200 detainees were in custody of UAE forces in Yemen,<sup>74</sup> the UAE has denied maintaining detention facilities in Yemen. Instead, the UAE has claimed that all detainees have been kept in “facilities and prisons under the authority of the legitimate Government”.<sup>75</sup> However, in 2016 and 2017, the PoE investigated violations in detention facilities administered and supervised exclusively by the UAE, including Bureiqa Base, al-Rayyan and Shabwah.<sup>76</sup> In 2018, the GEE also reported that “detainees have been subjected to torture and other cruel treatment in facilities such as the Al Rayyan and Bureiqa facilities (controlled by the United Arab Emirates); the 7 October facility in Abyan, Lahij Central Prison and Al Mansoura Prison (controlled by Security Belt Forces)”<sup>77</sup> and that “[t]he Group ha[d] reasonable grounds to believe” that the Governments of Yemen, the UAE and Saudi Arabia were responsible for human rights violations that may amount to rape, degrading and cruel treatment, torture and outrages upon personal dignity.<sup>78</sup> In addition, HRW reported that the UAE might have moved high-profile detainees outside Yemen, including to a base it has in Eritrea.<sup>79</sup>

53. In 2017, HRW documented at least 38 cases of people who were arbitrarily detained and forcibly disappeared by UAE-backed security forces. It concluded that “[t]he Security Belt and Hadrami Elite forces have used excessive force during arrests and raids, detained family members of wanted suspects to pressure them to ‘voluntarily’ turn themselves in, arbitrarily arrested and detained men and boys, detained children with adults, and forcibly disappeared dozens [...] Former detainees and family members also told Human Rights Watch that some detainees had been abused or tortured inside detention facilities, most often through heavy beatings with officers using their fists, their guns or other metal objects. Others mentioned electric shocks, forced nudity, threats to the detainees or their family members, and caning on the feet.”<sup>80</sup>

54. In 2018, AI issued a report based on an investigation of 51 cases of deprivation of liberty by the UAE military or UAE-backed Yemeni security forces in several Yemeni governorates between March 2016 and May 2018. The report found that most of these cases involved enforced disappearance, as

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<sup>73</sup> See e.g. HRW, “Yemen: UAE Backs abusive Local Forces”, 22 June 2017, <https://www.hrw.org/news/2017/06/22/yemen-uae-backs-abusive-local-forces>; AI, *God Only Knows If He’s Alive: Enforced Disappearance and Detention Violation in Southern Yemen*, July 2018, <https://www.amnesty.org/en/documents/mde31/8682/2018/en/>. Mwatana also documented at least 327 cases of enforced disappearance in the areas controlled by Emirati forces and UAE-backed groups between May 2016 and April 2020. See Mwatana for Human Rights, *In the Darkness, Abusive Detention, Disappearance and Torture in Yemen’s Unofficial Prisons May 2016-April 2020*, June 2020, available at <https://mwatana.org/en/in-the-darkness/>.

<sup>74</sup> UNSC, Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council, S/2018/594, para 167.

<sup>75</sup> *Ibid.*, Annex 62, para 4.

<sup>76</sup> *Ibid.*

<sup>77</sup> HRC, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/39/43, 17 August 2018, para. 70.

<sup>78</sup> *Ibid.*, para. 73.

<sup>79</sup> HRW, Yemen: UAE Backs Abusive Local Forces, 22 June 2017, available at: <https://www.hrw.org/news/2017/06/22/yemen-uae-backs-abusive-local-forces>].

<sup>80</sup> *Ibid.*

well as a range of other serious violations of international humanitarian law and international human rights law, including torture, ill-treatment and deaths in custody. AI's investigation concluded that this "is a small sample of a wider pattern of detention-related abuses in an environment of impunity and barriers to justice."<sup>81</sup>

55. In 2020, the GEE reported that the UAE forces continued to perpetrate arbitrary detention and torture at the secret detention facility in the Al-Burayqa coalition base in Aden, until their withdrawal from Yemen in mid-2019. The Group verified two cases in which UAE forces raped one man and subjected one boy to another form of sexual violence.<sup>82</sup> Furthermore, the Group investigated sexual violence committed against migrants arrested by UAE-backed Security Belt Forces and detained on "national security" grounds at makeshift facilities in Lahij and Aden between March and July 2019. The report concluded that "Security Belt Forces had raped five women and four girls and subjected 12 boys and three men to forced nudity and two women and two girls to other forms of sexual violence. One survivor recounted being raped on multiple occasions over 13 days by a total of 28 soldiers. Rapes included gang rape by multiple male soldiers."<sup>83</sup> The Group also had "serious concerns" about other rape allegations of 30 women and girls and three boys.<sup>84</sup>
56. In 2021, the PoE continued to investigate cases of arbitrary arrest and detention, enforced disappearance and torture involving forces of the UAE, and received evidence that three people were detained in Balhaf, Al-Rayyan Airport and a location close to Dubbah oil port, among others; sites that were all still under the control of the UAE.<sup>85</sup>
57. Given the Government of Yemen's broad invitation for the Coalition to intervene in the conflict, the PoE questioned the legal authority of the UAE to engage in arrests and deprivation of liberty in Yemen, and found that this authority was "unclear". Neither the government of Yemen nor the UAE provided relevant clarifications to the Panel; which as a result concluded that this is presumably because both countries failed to acknowledge UAE detentions, "and to provide a clarification on UAE authority would invariably necessitate an acknowledgment of UAE detentions".<sup>86</sup> The Panel also noted that both the Yemeni government and the UAE refused to conduct credible investigations into such abuses or to provide any form of accountability.<sup>87</sup> Although the government of Yemen has the authority to revoke, limit or clarify the boundaries of its consent to the UAE intervention in Yemen in order to further their compliance with international law, it failed to do so.<sup>88</sup>
58. Mwatana documented 152 cases of torture in detention facilities controlled by the UAE or by UAE-backed forces, taking place between May 2016 and May 2022. A brief description of these detention sites is included below. The witness accounts included below show that torture took place at the time of the arrests, as well as in detention. Also, almost every single survivor documented by Mwatana reported being held in conditions that may amount to cruel, inhuman or degrading treatment, as described in the following sections.

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<sup>81</sup> AI, *God Only Knows If He's Alive: Enforced Disappearance and Detention Violation in Southern Yemen*, July 2018, <https://www.amnesty.org/en/documents/mde31/8682/2018/en/>, p.4.

<sup>82</sup> HRC, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/45/6, 28 September 2020, para 66.

<sup>83</sup> *Ibid*, para 69.

<sup>84</sup> *Ibid*.

<sup>85</sup> UNSC, Letter dated 25 January 2021 from the Panel of Experts on Yemen to the President of the Security Council, S/2022/50, 26 January 2021, para 102; UNSC, Letter dated 22 January 2021 from the Panel of Experts on Yemen to the President of the Security Council, S/2021/79, para 127.

<sup>86</sup> UNSC, Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council, S/2018/594, Annex 62, para 19.

<sup>87</sup> *Ibid*, para 171.

<sup>88</sup> *Ibid*.

## 5.1 Presentation of the detention facilities

59. The Detention facilities presented in this section either controlled by the UAE or by UAE-backed forces are samples of unofficial detention facilities where torture happened, it should not mean that those facilities are the only unofficial facilities or where torture happens.

### ***Detention facilities controlled by the UAE :***

60. **Al-Rayyan:** Al-Rayyan International Airport in Mukalla District in Hadhramawt Governorate was transformed into an unofficial detention facility in 2015, managed by Emirati Forces and their affiliated armed groups and known as Al-Rayyan Prison.<sup>89</sup> In early 2019, detainees were transferred from Al-Rayyan prison to the Central Prison in Mukalla, where their families were allowed to visit them for the first time. A lawyer told Mwatana that not all detainees who had been held at Al-Rayyan were transferred to the Central Prison, with a number of them remaining disappeared. Al-Rayyan was still under UAE control in 2021.<sup>90</sup>

61. **The Coalition Camp:** The Coalition Camp, also known as the Coalition Base or the UAE Forces' Headquarters and the Coalition Base, was an unofficial detention facility run by Emirati forces (now replaced by Saudi Forces) in the Al Bureiqa District in Aden Governorate.<sup>91</sup>

62. **Rabwet Khalf:** Rabwet Khalf is an unofficial detention facility controlled by UAE forces and used by them as a military base. It is situated on a highly surveilled mountain overlooking Mukalla city and Harbour. The detention facility was renovated in 2016, with the arrival of the Coalition forces in Mukalla. Detainees in Rabwet Khalf include political detainees and alleged terrorists.

### ***Detention facilities controlled by UAE-Backed Forces:***

63. **7th of October prison:** The SBF in Abyan governorate, affiliated with the UAE-backed STC, are responsible for the management of the 7th of October prison in the Rawa' area in Khanfir District in Abyan.<sup>92</sup> The 7th of October prison is an unofficial detention site located in a facility originally constructed in the seventies as an ammunition factory. In 2012, it was rehabilitated and converted into a camp for the 119th Infantry Brigade. After forces loyal to President Hadi and the Saudi/UAE-led Coalition took control of Abyan governorate in 2015, the Abyan SBF turned this facility into a detention facility.

64. **Al Jalaa Camp:** The Al Jalaa Camp is under the control of the First Support and Backup Brigade of the UAE-backed STC. The facility is located in Bureiqa District, Aden Governorate. Inside Al Jalaa, there are at least two detention sites, one of which is a tin building and the other is a dilapidated underground cellar.<sup>93</sup>

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<sup>89</sup> Mwatana, *In the Darkness: Abusive Detention, Disappearance and Torture in Yemen's Unofficial Prisons*, June 2020, p.13, <https://mwatana.org/wp-content/uploads/2020/06/In-the-Darkness.pdf>

<sup>90</sup> UNSC, Letter dated 25 January 2021 from the Panel of Experts on Yemen to the President of the Security Council, S/2022/50, 26 January 2021, para 102.

<sup>91</sup> Mwatana, *In the Darkness: Abusive Detention, Disappearance and Torture in Yemen's Unofficial Prisons*, June 2020, p.12, <https://mwatana.org/wp-content/uploads/2020/06/In-the-Darkness.pdf>

<sup>92</sup> *ibid*, p.14.

<sup>93</sup> *ibid*, p.12.

65. **Waddah Hall:** The UAE-backed STC controls the Aden Security Department that directs police and other security forces in Aden. The Aden Security Department's Counter-Terrorism Division used two underground halls, in addition to individual detention rooms, as an unofficial detention site in the Attawahi District in Aden Governorate.<sup>94</sup> The Wadah Hall is also known as the Anti-Terrorism Unit.

## **5.2 Arbitrary arrest, torture and ill-treatment in detention facilities controlled by the UAE**

### **Al-Rayyan Airport**

66. Emirati forces turned the Al-Rayyan International Airport in Mukalla city in Hadramawt Governorate into an unofficial detention facility. Between May 2016 and May 2022, Mwatana investigated at least 48 cases of arbitrary detention including 13 of torture at the Al-Rayyan detention site. Former detainees said that they were held in dark and narrow cells in which they could barely move, and were subjected to different forms of physical and psychological torture, including prolonged solitary confinement, deprivation of food and water, beatings, electrocution, and threats, in addition to witnessing the torture of others. Some were subjected to various forms of sexual violence such as forced nudity, beatings on the genitals, rape and threats of rape. They were denied medical care.

67. For example, Firas was arrested along with his father from his home at the beginning of May 2016 by Yemeni and UAE soldiers, whom he identified as "Elite and Alliance Forces". He was first taken to the Republican Palace in Hadramawt and interrogated by an Emirati officer, while handcuffed and blindfolded. He was asked questions about Al-Qaeda and beaten with a metal rod on his back, causing him long-term injuries. During interrogations, Emirati officers gave him wine and when he refused to drink it, he was beaten with an electric cord. They gave him a wire and ordered him to hold it while his hands and feet were still tied up and he was blindfolded, and they dragged him with it. When he fell, he was beaten so hard that his hearing was affected. He was then transported to another location and beaten on the way, before being brought to Al-Rayyan. While in Al-Rayyan, he was interrogated and tortured. He was beaten, forced to drink alcohol and to kneel to the Emirati flag. He witnessed elderly detainees being subjected to forced nudity and beaten; others died under torture. He was only given one meal per day and insufficient water; he had to drink urine twice because of extreme thirst. He got sick, which led him to vomit and urinate blood. When some detainees asked the jailors to get him medical assistance, they were beaten by masked soldiers. He was unable to communicate with his family for more than a year. He was released in October 2017, after he signed a document without knowing its content. As a result of his detention, his wife divorced him, and he lost his job. He also suffered from physical impacts due to the torture he was subjected to. He has difficulty moving and sitting down. When he sought medical help, doctors to whom he told what had happened to him refused to document the abuse in a medical report, out of fear of reprisals.

68. Samir was called for interrogation on 23 May 2016 at the Second Military Area. After interrogation, he was transferred to Al-Rayyan prison, where he was detained for 5 months, during which he was always blindfolded and handcuffed. Emirati officers interrogated him twice. He was held in a crowded cell where the detainees could not move. He explained that the heads of the detainees would inadvertently hit each other because they could not see each other, as they were all blindfolded.

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<sup>94</sup> *Ibid*, p.11.

The detainees were not allowed to talk. If they did, they were beaten. At night, they heard the cries and screams of other detainees who were being tortured. They were not able to sleep as a result. The survivor heard the jailors threaten detainees with the rape of their wives and sisters. During his detention, he was not allowed to receive visitors. He was released in October 2016 after he pledged not to join extremist groups, not to make any statement regarding his detention, and to attend whenever he was called for interrogation. When released, he had lost more than 15 kilos, and he was left in the street without shoes.

69. Some people who have been arbitrarily arrested remain in detention. Mwatana interviewed their relatives. For example, Sadek was arrested on 8 October 2016 by masked soldiers who took him to an unknown location in a military vehicle of the Hadrami Elite. He was disappeared for at least a year, during which he was tortured. When his relatives were able to visit him after his transfer to Mukalla Central Prison, in 2019, they learned that he had been subjected to various types of physical and psychological torture in the Al-Rayyan detention site. There, he was initially held in solitary confinement in a cell measuring approximately one square meter. Then, he was transferred to a group cell without light. His eyes were blindfolded and his feet tied all the time. He was allowed to use the restroom once a day. He was beaten with sticks and sharp tools on the head and back. He was stripped of his clothes; a sharp object was jammed into his penis; and he was threatened with rape. After his transfer to Al-Munawara prison (the Central Prison in Mukalla), his file was referred to the Specialized Criminal Court. On 8 July 2019, he was acquitted, but the detention facility administration requested a surety from a businessman to release him, which he has not been able to provide until he was finally released in first quarter of 2022.

70. Adnan was arrested on 18 June 2017, while on his way out of the mosque. He was beaten on the head during the arrest. He was taken to Rabwat Khalf, where he was detained for 3 months. According to his wife, he was beaten, raped, and held in solitary confinement during his detention. He was afterwards taken to Al-Rayyan, where he was further tortured. He was fiercely beaten on his head and suffered from meningitis and epilepsy. He was also beaten on his genitals to forbid him from procreating. Adnan was released in late 2018.

71. Amir was arrested by the Hadrami Elite forces in September 2016, when they stormed the hospital where he worked. His family only learned of his whereabouts after 6 months. They were able to visit him in Al-Munawara prison, where he was transferred after his detention in Al-Rayyan. He told his family that, while in Al-Rayyan, he was kicked and beaten with sticks and batons, electrocuted, doused with water, and made to roll on thorns. He was not given sufficient food, only one meal a day. He was held in unsanitary conditions, and was not allowed to receive visitors.

72. On 23 May 2016 at approximately 5 a.m., Abdalbaker was arrested at his house by men in military uniforms. He was beaten and threatened with a weapon. He was handcuffed and blindfolded and taken to Al-Rayyan in a military vehicle. He was accused of belonging to Al-Qaeda. During his detention in Al-Rayyan, he was not allowed family visits. When transferred to Al-Munawara, a family member visited him and found him skinny, with traces of torture on his body.

### **The Coalition Camp**

73. The Coalition Camp in Aden is also called the Coalition Base or the UAE forces' headquarters. It consists of a group of cargo containers, in which detainees were held. Between May 2016 and April 2020, Mwatana documented at least 15 cases of arbitrary detention including 8 of torture in the Coalition Camp. Detainees at the Camp were interrogated and tortured. They were exposed to extreme

temperatures, subjected to severe beatings, electrocution, the use of dogs to scare them, strip searches, forced nudity, and forced injections with medications.

74. For example, in May 2017, the Counter-Terrorism Forces raided a house and arrested Mohsen Mohammad. He was taken to Waddah Hall, where he stayed for one day. He was then transferred to the Coalition Camp. When he arrived there, he was strip searched by Emirati officers, including a search of his anal cavity. He was held in a cargo container. He was not provided with any information on why he was being held, and was not allowed to contact his family until he was transferred to Bir Ahmed prison in October 2017. He was released in July 2018.

75. Nasser and his brother, who was then a minor, were also arrested by the Counter-Terrorism forces in December 2017. They shot at Nasser's brother during the arrest. Nasser was first taken to Waddah Hall and days later, he was transferred to the Coalition Camp. There, Emirati officers interrogated and beat him, accusing him of belonging to an armed gang. He suffered from skin diseases as a result of poor detention conditions. His family was unaware of his whereabouts for three months, until he was transferred to Bir Ahmed prison. He was released in March 2020 but his younger brother remains disappeared.

76. The violations documented by Mwatana are supported by UN reports. For example, in its 2018 report, the PoE found that "UAE military forces have engaged in violations of IHL and IHRL when it engaged in arbitrary arrest and detention, torture, ill-treatment, enforced disappearances and threats to commit the above acts, and other violations of fundamental guarantees of detainees".<sup>95</sup> The Panel found that UAE forces were responsible for beatings, electrocution, suspension, imprisonment in a 'cage' in the sun, sexual violence, ill-treatment, denial of timely medical treatment in Bureiqa, al-Rayyan Airport and Balhaf, administered and supervised exclusively by the UAE.<sup>96</sup> According to the Panel, the UAE inflicted these abuses to obtain information or to punish individuals.<sup>97</sup> In its 2019 report, the Panel confirmed that these violations continued throughout the following year.<sup>98</sup> The GEE also investigated cases of sexual violence committed by the UAE, including rape of male detainees. It reported that: "At the Bureiqa coalition facility [also known as the Coalition Camp], detainees described being interrogated while naked, bound and blindfolded, sexually assaulted and raped".<sup>99</sup> Many detainees at Bureiqa were electrocuted, hanged by the arms and legs, subjected to sexual violence, and detained in solitary confinement for long periods of time.<sup>100</sup> Sexual violence perpetrated against detainees in Bureiqa included anal and oral rape, and gang rape. The UN PoE reported that "such violence was used regularly in conjunction with other forms of torture and ill-treatment to humiliate detainees, force confessions and forcibly recruit them, as indicated by 12 verified cases of rape of six men and one boy, multiple sexual assaults, and forced nudity."<sup>101</sup>

## Rabwat Khalf

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<sup>95</sup> Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council, S/2018/594, Annex 62, para 21.

<sup>96</sup> *Ibid*, paras 20, 23.

<sup>97</sup> *Ibid*, para 20.

<sup>98</sup> UNSC, Letter dated 25 January 2019 from the Panel of Experts on Yemen addressed to the President of the Security Council, S/2019/83, para 142.

<sup>99</sup> HRC, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/39/43, 17 August 2018, para. 71.

<sup>100</sup> HRC, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/42/17, 9 August 2019, para 65.

<sup>101</sup> *Ibid*, para 67.

77. Mwatana documented 17 cases of arbitrary detention including 9 cases of torture in the unofficial detention facility Rabwat Khalf. Detainees were held in tiny, dark solitary confinement cells for prolonged periods of time. Torture methods used against them include beatings, whipping, electrocution, choking, removing the nails, starvation, sleep deprivation, as per the accounts of the families of several detainees, detailed herein.
78. Adil was arrested in September 2018, when he was out in a coffee shop with his friends. He was detained in Rabwat Khalf for three months before being transferred to Al-Munawara Central Prison. In Rabwat Khalf, he was insulted, slapped, kicked, electrocuted, had his nails removed, and was subjected to food and sleep deprivation. He was held in a minuscule solitary confinement cell for three days, standing, because the cell was too small to sit or lie down. This abuse was intentionally inflicted on him for the purpose of forcing him to reveal the whereabouts of his cousin, an alleged member of Al-Qaeda.
79. Mustafa was arrested in March 2018 and detained in Rabwet Khalf for around three months, prior to being transferred to Criminal Research Directorate Prison in Ba'aboud, and subsequently to the Al-Munawara Central Prison. He was accused of belonging to Al-Qaeda and to have participated in the assassination attempt against the mayor of Hadramout. He was slapped, kicked, electrocuted, had his nails removed, was sleep and food deprived, was held in a dark solitary confinement cell for two months, where he could not sit or lie down. The room was filled with water. He was beaten with sticks and whipped on his whole body.
80. Khalil was arrested on 2 October 2020 at around 10 p.m. by the Hadrami Elite forces, and detained in Rabwat Khalf for three months. While there, he was interrogated and tortured to force admit to the accusations against him. He was subjected to sleep and food deprivation. He was not given sufficient water. He was detained in a one square meter solitary confinement cell for several days. He was also subjected to electric shocks, and was choked with wires, beaten with sticks, and kicked fiercely. He was denied visits. After being first transferred to the Criminal Security for one day, and afterwards to the Al-Munawara Central Prison, his whereabouts were eventually communicated to his family, which was allowed to visit him.
81. The United Nations and other highly reliable organizations have also reported similar fact patterns supporting the accounts of the survivors documented by Mwatana. The PoE documented joint arrest operations conducted by UAE-backed Yemeni and UAE forces. In most cases, the arrests were performed by Yemeni forces, which then directly transferred the arrested people to UAE custody.<sup>102</sup> These arresting forces included the Hadrami Elite Forces, the Director of General Security of Aden, the Security Belt in Aden, and the Shabwani Elite Forces, who then transferred detainees they arrested to UAE custody. The Panel also documented transfers from Bureiqa to Bir Ahmed I, and from Bir Ahmed I to Bir Ahmed II.<sup>103</sup> The Panel noted that the lack of transparency of these transfers as well as the denial by UAE authorities of the existence of certain detention sites create an environment conducive for enforced disappearance.<sup>104</sup> More recently, the PoE investigated the case of an individual who was tortured during his detention in a UAE base located in Bureiqa,<sup>105</sup> as well as other cases of torture by the Security Belt and the Shabwani Elite Forces.<sup>106</sup>

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<sup>102</sup> UNSC, Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council, S/2018/68, Annex 62, para 7 and 8.

<sup>103</sup> *Ibid*, para 9.

<sup>104</sup> *Ibid*, para 10.

<sup>105</sup> UNSC, Letter dated 27 January 2020 from the Panel of Experts on Yemen to the President of the Security Council, S/2020/70, para 100.

<sup>106</sup> *Ibid*, para 101.

82. The GEE has also investigated multiple cases of torture and ill-treatment involving the UAE and affiliated forces. Some of these cases have taken place at Bir Ahmed Prison II, and other unofficial detention sites controlled by the Security Belt and Shabwah Elite Forces.<sup>107</sup> The Group had “reasonable grounds to believe” that the UAE was involved in cases of torture and ill-treatment, including sexual violence, which may lead to criminal responsibility for the war crimes of torture, cruel and inhuman treatment, outrages upon personal dignity and rape, among others.<sup>108</sup>
83. Other independent sources have documented similar cases of torture and ill-treatment committed by UAE-backed forces. HRW reported that the Security Belt Forces had arbitrarily arrested and abused dozens of people, using excessive force during arrests, including beatings with their guns and forcing entry into homes.<sup>109</sup> When unable to find the suspect, they arrested their family members to put pressure on the suspect to turn himself in.<sup>110</sup> Family members were also beaten during arrests. HRW further reported that people arrested by the Hadrami Elite Forces were tortured before being transferred to al-Rayyan Airport, controlled by the UAE.<sup>111</sup>
84. According to AI, UAE-backed security forces disappeared hundreds of people. Families, activists and Hadi government officials have indicated that those arrested are not just individuals allegedly linked to terrorist groups. Instead, many arrests are based on “unfounded suspicions and personal vendettas.”<sup>112</sup> Those targeted include “former fighters who fought in the 2015 battles to rout the Huthis from the south and who are now seen as a threat; sympathizers and members of the Hadi-aligned al-Islah Party, Yemen’s Muslim Brotherhood branch; as well as activists and critics of the coalition.”<sup>113</sup>

### 5.3 Arbitrary detention and torture in detention facilities controlled by UAE-backed forces

85. Despite the level of control exercised by the UAE over Yemeni forces, such as the Security Belt and Elite forces, there is no evidence that the UAE has taken any appropriate precautions required under international law, including the Convention against Torture, to prevent abuses committed by these actors.<sup>114</sup> To the contrary, the PoE has found collusion between Yemeni and UAE forces on measures adopted to collect information from the detainees. They also found that the same detainees were often subjected to torture and ill-treatment by both Yemeni and UAE forces.<sup>115</sup> These findings suggest that the UAE not only directly engage in torture and ill-treatment, but also enable Yemeni forces operating with the UAE to engage in the same violations with impunity.<sup>116</sup>
86. Mwatana documented numerous cases of abuse in detention facilities controlled by UAE-backed forces. For example, in 2019, Mwatana documented 4 incidents of torture committed by

<sup>107</sup> HRC, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/42/17, 9 August 2019, para 65.

<sup>108</sup> *Ibid*, para 68.

<sup>109</sup> HRW, Yemen: UAE Backs Abusive Local Forces, 22 June 2017, available at: <https://www.hrw.org/news/2017/06/22/yemen-uae-backs-abusive-local-forces> [accessed 4 April 2022].

<sup>110</sup> *Ibid*.

<sup>111</sup> *Ibid*.

<sup>112</sup> AI, *God Only Knows If He’s Alive: Enforced Disappearance and Detention Violation in Southern Yemen*, July 2018, <https://www.amnesty.org/en/documents/mde31/8682/2018/en/>

<sup>113</sup> *Ibid*.

<sup>114</sup> UNSC, Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council, S/2018/68, Annex 62, para 11 and 15. .

<sup>115</sup> *Ibid*, para 11 and 15.

<sup>116</sup> *Ibid*, para. 16.



Security Belt forces in Abyan governorate, including two deaths in detention.<sup>117</sup> In 2020, Mwatana documented 26 cases of torture by the STC in Abyan, Aden and Lahj governorates, including two deaths in detention.<sup>118</sup> Some specific examples are detailed below.

87. Other independent sources have reported similar cases of abuse, including sexual violence. The GEE reported that UAE forces raided Bir Ahmed prison and perpetrated sexual violence. In March 2018, around 200 detainees were stripped naked in a group while UAE personnel forcibly examined their anuses. During this search, multiple detainees were raped digitally and with tools and sticks.<sup>119</sup>

## 7th of October

88. Between May 2016 and May 2022, Mwatana investigated at least 55 cases of arbitrary detention including 30 cases of torture, including 4 deaths in detention, at the 7th of October prison. The Security Belt forces arbitrarily arrested and detained people, and denied them their right to communicate with their relatives and lawyers. People held in the 7th of October prison were detained in dark unsanitary cells with no ventilation or light, or in solitary confinement for prolonged periods of time. They were subjected to severe beatings, deprivation of food and water, burning with cigarettes and denial to perform their religious rites.

89. Cases of torture during the arrest, before being taken to the 7th of October prison, were also reported. In one case, Luai was arrested on 15 January 2017 by men in military uniforms and taken to an area near the beach. He was told that he was wanted by the head of the Security Belt Forces in Zinjibar. He was blindfolded and handcuffed. He was beaten with the butts of rifles and thrown on the floor. The arresting forces put sand in his mouth and his eyes. They also wet a cloth with sea water and covered his mouth and nose, while they poured water on his face. While they were doing that, they told him to give them the names of members of Al-Qaeda. When he responded that he did not belong to Al-Qaeda, they burned him using a lighter. They also tried to drown him in the sea. They took him to the 7th of October prison at around 2 a.m., where he was first held in a solitary confinement cell, before being transferred to a cell with 16 other people, where he remained until 25 March 2017. The cell was dirty, with no light, and smelled like mold.

90. As explained above, people detained in the 7th of October prison were subjected to various forms of torture. For example, on 6 August 2017 at 11 p.m. Eight armed men from the SBF, some in military uniforms and others in civilian clothes, raided a house and arrested Bilal, accusing him of belonging to Al-Qaeda and for talking badly about the head of the security forces. During the arrest, he was beaten with the butts of rifles until he lost consciousness. He was taken to the 7th of October prison and put in a solitary confinement cell. When his wife went to visit him on 17 August 2017, she stated that he looked as if he had been “sick for years”. He told her that he was being held in an extremely hot cell without ventilation or light, in complete silence, where he could not differentiate day from night. He had been beaten with rifles and batons during interrogations carried out by SBF, and doused with very hot water. His face was swollen and bruised from the beating.

91. While detained in 7th of October between September 2016 and January 2017, Khalid was subjected to torture. He was held, handcuffed and with his legs tied, in a solitary confinement cell for a month, without ventilation or light and insufficient food. During interrogations, he was beaten on his

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<sup>117</sup> Mwatana, *Without Accountability: Human Rights in Yemen in 2019*, Annual Report, p.58.

<sup>118</sup> Mwatana, *A Tragedy Without Justice: Human Rights in Yemen in 2020*, Annual Report, p. 78.

<sup>119</sup> HRC, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/39/43, 17 August 2018, para.71.

head, burned with cigarettes, and his eyebrows were plucked to force him to admit that he had attacked a checkpoint.

92. Mohab was arrested in June 2017 at 11 p.m. by security forces belonging to the “Arab Alliance” and transported to the 7th of October prison. He was held in a solitary confinement cell for 10 days. During interrogations, he was accused of being a member of Al-Qaeda and asked to give the names of members of the organization he was in contact with. He was doused with hot water, was beaten with the butts of rifles, and kicked with military boots. He was given insufficient food and water, and was held in a dirty cell without ventilation.

93. On 24 September 2016, Hossam was woken up at 6:30 a.m. by soldiers in front of his house. One soldier asked him to take him on his motorcycle to the 7th of October prison. When he arrived there, his motorcycle and mobile phone were taken away from him. He was put in a solitary confinement cell and told that he was accused of belonging to Al-Qaeda, which he denied. He was ordered to clean the cells and collect the containers used by detainees to urinate since the cells did not have bathrooms. He was beaten with sticks and rifles. The jailors threatened to kill him. They also removed his clothes and doused him with cold water. He was made to walk in the prison while blindfolded. The jailors laughed at him whenever he fell on the floor. He was made to sleep on the floor and was sometimes denied food. He was forbidden to pray.

94. Witnesses said that after being tortured, detainees’ bodies were dumped in the yard of Al-Razi Hospital in the Ja’ar area in Khanfir District. For example, on June 24, 2018, Mohammad was stopped at an Abyan security checkpoint and was beaten by the checkpoint commander. He was transported aboard a brown pickup vehicle without license plates with ten armed Security Belt men to the 7th of October prison. Witnesses who requested anonymity said that on 10 July 2018 at about 4:30 a.m., a brown pickup truck with ten people on it, belonging to the Security Belt, arrived at al-Razi hospital. The men on the truck dumped the body of a man in the hospital courtyard and drove away. Mwatana received a picture of the man’s body. It was stained with blood and both eyes were smashed. He had broken teeth and six gunshot wounds on his body, one of which was in the genitals. His feet, bound with iron chains, bore signs of electrocution. The body was returned to the family and buried. The hospital refused to draft a report, claiming it could not because the body had been found in the hospital yard and had not entered the hospital. Later, the family received threatening letters asking them to leave their home and claiming their son was a terrorist.

95. Further, on 31 March 2019, Yehya was arrested by the Security Belt in Abyan and transported to the 7th of October prison. His relative described that he was blindfolded, beaten and kicked during the arrest, and was accused of belonging to al-Qaeda. Another detainee confirmed that he was detained with him at the 7th of October prison. On 6 April 2019, the man’s body was found in the courtyard of Al-Razi Hospital. A witness, who was at the hospital that morning, said that a corpse arrived with signs of torture, a rope hanging around the neck, and the fingernails and toenails removed. The man was not tried or sentenced, and the 7th of October prison authorities did not provide details on how he had died.

## **Al Jalaa Camp**

96. Mwatana verified at least 20 cases of torture in the Al Jalaa camp between May 2016 and April 2022. The First Support and Backup Brigade, affiliated with the UAE-backed STC, carried out arrest campaigns, raided homes at night, and took the people arrested to Al Jalaa camp, accusing them of belonging to armed religious groups. These campaigns increased after the killing of the First Support and Backup Brigade commander in August 2019. Detainees in Al Jalaa were subjected to physical and

psychological torture, including severe beatings, suspension by the wrists, extraction of nails, electrocution, hammering of the legs, feet and hands, crucifixion, forced nudity, and threats of rape of female relatives. The following cases provide examples of these acts of torture and ill-treatment.

97. After midnight on 27 April 2018, gunmen affiliated with the First Support and Backup Brigade stormed a house, broke the door of one of the apartments, and arrested Saad. When his brother, Baligh, asked the reason for the raid, they arrested him too. The two brothers were taken to Al Jalaa. They remained forcibly disappeared for three months, during which they were tortured. The men were then transferred to Bir Ahmed detention facility in Aden, where their family was able to visit them for the first time in August 2018. Their younger brother said that Saad had his fingernails all removed, his legs and feet had been hammered, he had been electrocuted and was confused, and his feet were swollen. Baligh had also been subjected to electrocution while in Al Jalaa, his fingernails were removed and his feet had been hammered. He told his brother that he was crucified naked, and was threatened with the rape of his mother and sister. Relatives of the two men said that the conditions in Bir Ahmed were also bad, and that the men urgently needed specialized medical care which prison officials refused to provide. One of them needed surgery to avoid the amputation of his feet.

98. In another case, which took place on 10 March 2018, masked soldiers in military uniforms arrived in three First Support and Backup Brigade military vehicles and stormed a house in Aden city. They fired on the door of the house, destroyed the furniture, and looted gold, money and electronic devices. They took Ramzi, tied him up and forcibly disappeared him for four months. His family only learned of his whereabouts when he was transferred to Bir Ahmed prison in or around mid-July 2018. When his wife went to visit him, he told her that he was first taken to Al-Jalaa Camp, where he was beaten with iron bars, particularly on his leg where he had an old injury, which increased his pain. He was accused of pledging allegiance to ISIS and participating in the killing of imams. He was threatened with the rape of his wife, and was forced to place his fingerprints, while blindfolded, on papers without knowing their content.

99. Walid was arrested in January 2018 by six or seven masked soldiers affiliated with the STC, and taken to Al-Jalaa. He was accused of belonging to ISIL and having participated in terrorist operations. During interrogations, he was beaten with electric wires and kicked to force him to admit to the accusations against him, which he did. Three months later, he was transferred to Bir Ahmed, where his family was able to visit him. They hired a lawyer and managed to get him released. His file was referred to the criminal court. Although he denied the accusations against him, the tribunal based its decision on the admissions he had made under torture. This was despite the fact that he had a medical report attesting that he had been tortured. He was still on trial at the time of his interview with Mwatana.

100. On 9 April 2018, at 2:30 a.m., a group of soldiers jumped over the fence of Karim's house. Despite his mental disability, they beat him with the butts of rifles, pushed him on the ground, and arrested him. Then they arrested his brother and beat him too. The arrests took place in the presence of the Commander of the 1st Support and Backup Brigade, who ordered the search of the two houses. They were taken to Al-Jalaa Camp on the accusation of belonging to Al-Qaeda. They were subjected to torture while they were there. During interrogations, they were suspended to the ceiling by the wrists for a prolonged period of time, beaten and electrocuted. After the arrest of her sons, their mother went to the house of the Minister of Interior. When she was denied entry, she doused herself with petrol and lit herself on fire.

101. On 9 May 2018, Taher was beaten and arrested by the 1st Support and Backup Brigade when he asked about the reason for the arrest of two of his friends. He was transferred to Al Jalaa. In July 2018, he contacted his family and informed them that he had been transferred to Bir Ahmed. When his

mother visited him, he told her that while at Al Jalaa, he was detained in an underground cell where he was tortured. He was suspended by the wrists for 11 hours daily, while beaten and electrocuted, his fingernails and toenails were removed, and nails were hammered into his hands. The torture was inflicted on the person to make him confess to the killing of imams and to force him to fingerprint documents while he was blindfolded. He and other detainees were also threatened that they would be transferred to the coalition and executed.

102. Saeed was less than 18 years old when he was arrested in February 2018 by STC forces and taken to Al-Jalaa Camp. During interrogations, he was insulted, kicked, beaten with wires, notably on the soles of his feet, and had his fingernails removed to force him to fingerprint an admission that he was a killer.

## **Waddah Hall**

Between May 2016 and May 2022, Mwatana verified at least 35 cases of arbitrary detention including 22 cases of torture, and at least 2 deaths in detention in Waddah Hall. Interviews conducted by Mwatana revealed that detainees were held in rooms without ventilation, and that the water and food rations they were given were not sufficient. At least three people became sick with cholera and died in detention, as a result of the lack of medical care. Detainees were subjected to torture, including severe beatings, stoning, deprivation of food, nail removal, electrocution, punching holes in a person's feet with an electric drill, forced nudity, and threats to rape relatives.

103. The case of Mazen, who was a social activist, is an example of this type of treatment. On 27 September 2019, he was arrested by masked men in civilian clothes, and detained in Wadah Hall. He was forced to stand for hours with his arms up, and was beaten during interrogation while in this stress position. He was forced to make a confession on camera, in which he said that he was one of the founders of an armed group and was involved in weapon trafficking.

104. Some detainees died as a result of torture during their detention at the Waddah Hall, as was the case of both Saleh and Hassan. On 16 September 2016, Security Belt forces arrested and blindfolded Saleh. They disappeared him for one year and three month, when his family learned of his death. A witness who was detained with Saleh in Waddah Hall said that Saleh was interrogated and tortured. He was beaten with rifles and kicked with military shoes. He was hung with iron cables, electrocuted, had his nails pulled out and his hair plucked. Signs of torture were visible on his back and abdomen, and his face was constantly swollen and bruised. He was sometimes unable to speak due to the pain, and when he was unable to walk to the torture room, soldiers dragged him there. He was denied medical care. He died as a result of torture on 2 January 2018. Other detainees were ordered to dig a grave for him and bury him in the courtyard of Waddah Hall. They were not allowed to perform any religious rites as part of the burial.

105. In the case of Hassan, he was arrested by Security Belt forces on 27 April 2017, on the accusation of belonging to Al Qaeda. He was taken to the Coalition Prison in the Al Buraiqa District in Aden for a week, and then transferred to Waddah Hall. Witnesses told Mwatana that Hassan was held in a solitary confinement cell for three months, and tortured. After his transfer to a group cell, he continued to be repeatedly interrogated and tortured. He was beaten with rifles on his head and body, and kicked in the face with military shoes. His head was swollen and full of bruises; he lost his appetite and was often unable to speak. He was hit with a big stone on various parts of his body, and was electrocuted. He was thrown back in the cell with bloody wounds. He died in the cell as a result of torture on 11 January 2018. Other detainees were ordered to dig a grave for him, and buried him with

his clothes, without being allowed to pray. They were threatened with death if they disclosed what happened to Hassan.

## Other detention facilities

106. Cases of torture and ill-treatment, as well as deaths in detention, have also been documented by Mwatana in various other detention facilities controlled by UAE-backed forces, mainly forces affiliated with the STC. These forces include the Security Belt Forces, the Hadrami and the Shabwani Elite Forces.
107. For example, Ibrahim was arrested on 25 August 2016 at 4:30 a.m. from his home by UAE-backed STC soldiers. Before arresting him, they searched the whole house. He was taken to Al-Mansoura, then transferred to **Al-Ribat** and finally to Bir Ahmed. While in Al-Ribat in Lahij, he was interrogated and tortured. He was beaten with the butts of rifles and with rods. He was also electrocuted. While in **Al-Mansoura Central Prison**, he was also tortured but not as harshly and as often. When his relatives visited him there, he broke down and told them that he wanted to commit suicide. He suffered from food deprivation and was denied medication for his medical condition.
108. Rafiq, a journalist working with a foreign delegation was arrested in September 2020 at a checkpoint. He was also taken to **Al-Mansoura Central Prison**, where he was interrogated and tortured. He was slapped, kicked and beaten with studded wires. The interrogators wanted him to admit that he was in communication with other countries such as Qatar.
109. Around 20 soldiers from the anti-terrorism forces, affiliated with the STC, raided the home of Rahim and took him to **Al-Fateh prison** in al-Tawahi. They accused him of being the leader of an armed gang. From February to May 2020, he was held in a cell without light nor ventilation. He was severely beaten and not given sufficient food. He was also subjected to forced nudity, and doused with cold water.
110. Ali was arrested for sodomy from the hospital where he worked. He was taken to **Al-Arish prison**, administered by the STC, at the end of January 2021. He was insulted and beaten with rifles on his back.
111. In February 2021, Omar was arrested by forces affiliated with the STC and taken to the **Khanfar Search Directorate**, where he was detained for a week. He was accused of stealing money and plane tickets from an STC officer. He was blindfolded, was forced to walk on thorns, and was beaten with rifles. He was forced to confess with a gun pointed on his head. At the time of the interview with Mwatana, he was still detained at the central prison in Zanjibar, where he was transferred a week after his arrest.
112. On 5 April 2021, soldiers of the Second Military Area arrested two men Jabar and a 14 year old child for their participation in demonstrations. The two men were taken to the **Air Force Camp** in Abyan and were beaten with sticks and rifles. One of them got severely injured in the head as a result of the beating. All were released within hours.
113. At the end of October 2021, Jamil was arrested from his home and taken to **Jabal Khanfar prison**, controlled by security forces affiliated with the STC. He was accused of stealing money and ammunitions, among other things, and was tortured. He was beaten on the soles of his feet with a stick, and on his whole body with rifles and cords. He was also electrocuted.

114. In January 2022, two armed soldiers affiliated with the STC arbitrarily arrested Arif, accusing him of dealing drugs. He was detained in **Shaikh Othman police station**, where he was insulted and beaten. He was held in a very hot and dirty crowded cell.
115. Mwatana documented cases of death in detention. For example, on 20 October 2021, the director of **Hukula prison**, under the control of the security forces affiliated with the STC, summoned Shahid to interrogate him. He was accused of stealing weapons and belonging to Ansar Allah. Under torture, Shahid gave the name of two other men who were also arrested and arbitrarily detained. They were beaten with sticks and cables, and electrocuted. One of them died as a result of torture.
116. Also, on 8 September 2021, Rachid was arbitrarily arrested at a military checkpoint controlled by the STC forces on suspicion of belonging to Ansar Allah. He was shot at and injured in the leg during the arrest. STC soldiers took him to a hospital, where he was treated for his injuries on the trunk of the military vehicle, while he was handcuffed. Then, they transferred him to the **9th Brigade Command**. On the same day, he died in obscure circumstances.

## 5.4 Cruel, inhuman or degrading treatment in detention facilities controlled by the UAE or UAE-backed forces

117. Almost all detainees whose cases were documented by Mwatana were held in conditions that may amount to cruel, inhuman or degrading treatment. They were held in overcrowded dark cells with no ventilation, had no access to adequate sanitation, and were given insufficient amounts of food and water. They were denied medical care, and were forbidden to perform religious rites.
118. Firas' case, described above, is an example of such treatment. While in Al-Rayyan, he was forced to drink alcohol, although this is not allowed by his religion. He did not have access to sufficient food and water, and had to drink urine twice because of extreme thirst. Although he got very sick, he was denied medical care. He was also not allowed to communicate with his family for more than a year. Samir, who was also detained in Al-Rayyan, was held in a cell so crowded that the detainees could not move, and their heads would inadvertently hit each other. He stated that detainees were blindfolded during their whole detention and were not allowed to talk to each other. They were unable to sleep because of the screams of other detainees being tortured. They were also regularly threatened with the rape of their female relatives.
119. Nasser, who was held at the Coalition Camp, suffered from skin diseases as a result of poor detention conditions. At the Al-Mansoura Central prison, Ibrahim was denied medication for his medical condition. The family of Saad and Baligh, the two brothers who were detained at Al Jalaa Camp, said that the men urgently needed specialized medical care - one of them needed a surgery to avoid the amputation of his feet - but that prison officials refused.
120. At the 7th of October prison, Bilal was held in an extremely hot cell without ventilation or light, in complete silence, where he could not differentiate day from night; while Hossam was made to sleep on the floor, was sometimes denied food, and was forbidden to pray. In Rabwet Khalf, Khalil was subjected to sleep, food, and water deprivation. Arif was also held in a cell that was very hot, dirty, and crowded, while at the Shaikh Othman police station. Al-Fateh prison, Rahim was held in a cell without light nor ventilation, and was not given sufficient food.

121. Saleh died in Waddah Hall as a result of torture. Other detainees were ordered to dig a grave for him and bury him in the courtyard of Waddah Hall. They were not allowed to perform any religious rites as part of the burial. The same happened in the case of Hassan.

## **6. Lack of accountability and redress for victims of torture and ill-treatment involving UAE agents and UAE-Backed forces**

122. Despite the severity of the violations committed by UAE and UAE-backed forces, no efforts have been deployed to hold perpetrators accountable or to provide any form of redress to victims and their families.

123. The PoE noted that widespread and systematic violations committed by the UAE in Yemen are inconsistent with the country's international obligations, contributing to violations by both the UAE and Yemeni forces, while the denial of UAE involvement in arrests and detentions "offers them protection and the ability to operate without any foreseeable consequences".<sup>120</sup> As a result, victims of those violations are denied any forms of redress.

### **6.1 Legal and practical obstacles preventing victims to access justice in Yemen**

124. The arbitrary arrests and detentions in unofficial facilities by the UAE or UAE-Backed forces are taking place despite the Yemeni Constitution prohibiting arrests, searches and detentions without a judicial warrant or an order from the prosecution, and requiring that no person be detained in sites not previously designated by law.<sup>121</sup> The Constitution also prohibits torture and other inhumane treatment<sup>122</sup> and offers procedural guarantees<sup>123</sup> that were not provided to the detainees in the detention facilities listed above, which are not under the control of the public prosecutor. Furthermore, Article 6 of the Constitution requires that the United Nations Charter, the Universal Declaration of Human Rights, the Arab League Charter, and generally recognised rules of international law be implemented and respected. These include protections against enforced disappearance. In addition, Article 166 of Law No. 12, 1994 concerning Crimes and Penalties criminalises torture by public employees when used to force a confession, making it punishable by 10 years of imprisonment. Article 168 also prohibits the use of brutality by public employees.

125. However, cases documented by Mwatana show that detainees have been forcibly disappeared, which leaves them outside the protection of the law. For example, in the previously discussed case of a man, who was arrested on 10 March 2018 and held in Al Jalaa, his relatives stated that they filed a report with the Aden Governorate Security Administration, which denied having any connection with this detention facility. The family searched in police stations, places of detention and military camps, but authorities denied holding him in all these locations. He was tortured and ill-treated during his enforced disappearance.

126. The torture and ill-treatment inflicted on detainees by UAE agents in Yemen, as described in the previous sections, may amount to war crimes and crimes against humanity. However, Yemen has

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<sup>120</sup> UNSC, Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council, S/2018/68, para 169

<sup>121</sup> Yemeni Code of Criminal Procedure, Art 172, and Yemen Constitution, Article 48 Para A,B.

<sup>122</sup> Yemen Constitution, Article 48 Para B.

<sup>123</sup> Yemen Constitution, Article 48 Para C.

not ratified the Rome Statute of the International Criminal Court. Yemen's Republican Decree for Law No. 12 of 1994 Concerning Crimes and Penalties does not encompass international crimes.<sup>124</sup> Only Law No. 21 of 1998 relative to military offences and penalties makes a reference to war crimes but not crimes against humanity. This law applies only to Yemeni military personnel, and therefore not to other actors such as UAE agents. As the Eminent Group of Experts noted, a judicial reform is needed to fully address the range of violations amounting to international crimes and applicable modes of liability.<sup>125</sup>

127. Additionally, the judicial system in Yemen has proven to be ineffective against warring parties.<sup>126</sup> In 2020, the GEE reported that, "[i]n many areas of the country, the justice system is virtually paralysed."<sup>127</sup> In the case of the two brothers arrested on 27 April 2018 and detained in Al-Jalaa, described above, the family followed up on the case of one of the brothers with the specialized criminal court in Aden, a court under the the control of the internationally recognized government, which charged him with manufacturing explosives and carrying out acts of hooliganism, without specifying what these acts were. Later, his file was referred to the Specialized Criminal Court in Aden. No hearing was held. As for the other brother, he was accused of "witnessing a murder without assisting," even though the security forces had not sought to arrest him during the raid until after he asked them the reason his brother was being taken. He was released on 20 July 2019.

128. Other violations of the right to a fair trial, including the denial of access to a lawyer, as well as the use of torture as a means of obtaining confessions, have been recorded across Yemen, at the specialised criminal courts and elsewhere.<sup>128</sup> Indeed, as previously discussed, Mwatana documented the case of Walid, arrested in January 2018 and detained in Al Jalaa. When on trial, the tribunal based its decision on the admissions he had made under torture, despite the fact that he had a medical report attesting that he had been tortured. These findings are further confirmed by the work of the GEE, which held that: "serious violations of international human rights law are occurring within the administration of justice in Yemen, in particular through the politicization of the system, the regular denial of fair trial rights, attacks on judicial officers and the imposition of the death penalty in a manner contrary to international law."<sup>129</sup>

129. The GEE made repeated calls to the Yemeni authorities to conduct investigations into alleged violations, prosecute those responsible, and provide effective remedy to victims, but to no avail.<sup>130</sup> The Group questioned the commitment of the authorities to accountability.<sup>131</sup> At the same time, the Group noted that the Yemeni justice system "lacks the means and capacity to conduct prosecutions in a manner consistent with international human rights law."<sup>132</sup> The judicial system in Yemen faces issues with "corruption, inadequate protection of fair trial rights, discrimination against women and attacks and serious threats to judicial actors"; it also lacks appropriate victim and witness protection

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<sup>124</sup> "Yemen: Republican Decree for Law No 12 for the Year 1994 Concerning Crimes and Penalties," Republic of Yemen, <https://www.refworld.org/docid/3fec62f17.html>. The decree penalizes some starvation-related conduct, including intentional impairment to agricultural products that lead to severe damage to production or noticeable shortage of consumer goods (Article 150); poisoning or damaging water to the extent that it causes severe damages to public health (Article 140); intentional destruction of a structure leading to the collapse of the national economy (Article 147); or intentional slaughter of or infliction of severe harm to, without any reason, someone else's livestock (Article 320).

<sup>125</sup> HRC, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/45/6, 28 September 2020, para 98.

<sup>126</sup> Mwatana for Human Rights, *UN Human Rights Council: Prioritize Yemen Accountability and Redress*, Press Release, September 29, 2020, <https://mwatana.org/en/prioritize-yemen-accountability-and-redress/>.

<sup>127</sup> HRC, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/45/6, 28 September 2020, para 87.

<sup>128</sup> HRC, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/45/6, 28 September, para 91.

<sup>129</sup> *Ibid*, para 93.

<sup>130</sup> *Ibid*, para 94.

<sup>131</sup> *Ibid*, para 97.

<sup>132</sup> *Ibid*, para 98.



mechanisms.<sup>133</sup> The Group further noted that it had concerns regarding the thoroughness and credibility of findings of investigations conducted by the Joint Incident Assessment Team, a body set up by the Coalition whose mandate is to conduct investigations examining air strikes, not relating to detentions.<sup>134</sup>

130. Mwatana has previously noted that “even if the national court system were to be rehabilitated, significant reforms, likely extending over many years, would be required to align substantive and procedural rules with international standards.”<sup>135</sup> Accordingly, Yemen’s domestic justice system, as it stands, is not an appropriate place to seek justice for conflict-related violations which have occurred in Yemen.<sup>136</sup>
131. Other accountability mechanisms have also proven to be ineffective. The Yemeni National Commission of Inquiry, whose mandate is to investigate all alleged violations of human rights law and IHL since 2011 and to identify the perpetrators, has faced serious challenges in fulfilling its mandate, mainly due to its lack of structural independence. In fact, the National Commission of Inquiry’s commissioners were appointed by and report to the Coalition-backed government.<sup>137</sup> Its completed investigations have not led to the prosecution of any alleged perpetrators.<sup>138</sup> It is thus fair to conclude that victims do not have access to justice and redress in Yemen for crimes committed by the UAE or UAE-backed forces.

## 6.2 Legal and practical obstacles preventing victims to access justice in the UAE

132. The UAE ratified the Convention on 25 June 2012 Pursuant to Federal Decree No. 73 of 2012. Yet, the UAE has not ratified the Optional Protocol to the Convention (OPCAT). Thus, there is no question of establishing a National Preventive Mechanism (NPM) at the domestic level to monitor places of detentions in accordance with the OPCAT. Moreover, the UAE has not accepted the individual complaint procedure of the CAT or any other Treaty Bodies.
133. Under domestic law, torture is prohibited in Article 26 of the UAE’s Constitution: “Personal liberty shall be guaranteed to all citizens. No person may be arrested, searched, detained or imprisoned except as provided by law. No one shall be subjected to torture or indignity.” The Constitution further provides in Article 28 that: “The infliction of physical or mental harm on an accused person is prohibited.”

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<sup>133</sup> *Ibid*, para 98.

<sup>134</sup> *Ibid*, para 96.

<sup>135</sup> Mwatana for Human Rights, *UN Human Rights Council: Prioritize Yemen Accountability and Redress*, Press Release, September 29, 2020, <https://mwatana.org/en/prioritize-yemen-accountability-and-redress/>.

<sup>136</sup> HRC, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/45/6, 28 September 2020, para. 98 (“Although the Yemeni justice system bears the largest potential caseload in relation to violations committed in Yemen, the Group of Eminent Experts is concerned that it presently lacks the means and capacity to conduct prosecutions in a manner consistent with international human rights law. Even prior to the current conflict, the system’s operation was compromised by the legacy of executive control experienced during the regime of former President Ali Abdallah Saleh. It faced issues with respect to, inter alia, corruption, inadequate protection of fair trial rights, discrimination against women and attacks and serious threats to judicial actors. The conflict has only exacerbated the situation. Additionally, victims, witnesses and judicial actors lack sufficient protection against reprisals in politically sensitive cases. On a technical level, Yemeni law requires reform to be able to address the full range of violations amounting to international crimes and applicable modes of liability. While less information is available in relation to the military justice system, the Group considers it would in all likelihood be even less compliant with human rights than its civilian counterpart”).

<sup>137</sup> Mwatana for Human Rights and Global Rights Compliance, *Starvation Makers, The Use of Starvation by Warring Parties in Yemen*, September 2021, p.24, available at <https://mwatana.org/en/starvation-makers/>

<sup>138</sup> *Ibid*.

134. In addition, the following articles of the Penal Code of the UAE criminalize torture and ill-treatment by public officials:

Article 242: “Any public official who uses torture, force or threats against an accused person, a witness or an expert, either directly or through an intermediary, for the purpose of obtaining a confession to an offence, or coercing the person into making a statement or providing information about an offence or concealing facts shall be sentenced to a fixed term of imprisonment.”

Article 243: “Any public official who, with respect to a convicted person, imposes or orders the imposition of a penalty that is more severe than that imposed by law or different to the penalty to which the person was sentenced shall be sentenced to imprisonment for a term of up to 5 years.”

Article 245: “All public officials or persons entrusted with a public service who use the authority of their office to subject others to cruel treatment, offend their decency or cause them bodily harm shall be sentenced to imprisonment for a minimum term of 1 year and/or to a minimum fine of Dh 10,000.”

Article 259: “Without prejudice to the provisions of article 242, anyone who uses torture, force or threats, or who offers or promises a gift or advantage of any kind in order to induce a person to conceal facts or make a false statement or provide incorrect information to any judicial authority shall be sentenced to imprisonment for a term of up to 1 year and a fine of up to Dh 5,000.”

135. Although domestic law, including the Constitution of the UAE, prohibits and seeks to combat torture and other forms of ill-treatment, there are several points of concern:

- The definition of torture in domestic law does not fully comply with the one provided in article 1 of the Convention against Torture. The *actus reus* of torture in UAE law does not consider the degree of harm that should be “severe pain or suffering whether physical or mental.” Further, the UAE Penal Code does not comply with the Convention when it comes to defining the motives of torture, which have to be based, not only on the purpose of obtaining confessions or obtaining information, but on any other purpose like punishing the person and also “on discrimination of any kind”;
- UAE domestic law lacks a provision that excludes the crime of torture from any statute of limitations;
- The punishments for the crime of torture, as stipulated by the UAE Penal Code, are not severe enough to dissuade the recurrence of torture. Moreover, they fail to comply with the principle of proportionality of punishment, which requires the punishment to be proportionate to the gravity of the offence and the degree of responsibility of the offender.

136. Importantly, the Penal Code clearly provides its extraterritorial application to the crimes of torture and ill-treatment committed by UAE nationals outside the national territory. More specifically, domestic penal law applies to the pursuit and punishment of the author of such acts upon their return to the UAE. Indeed, article 22 of the Penal Code states that, “[e]very citizen who commits, while outside the State, an act that is considered a crime according to the provisions of this law, whether as an actor or a partner, is punished according to its provisions if he returns to the country, and that act was punishable according to the law of the country in which it occurred.” The provision, which forms a recognition of the active personality principle, puts forward three cumulative conditions:

- The suspect must be an UAE citizen;
- The double criminalization of the act in UAE law and the domestic law of the State on whose territory the crime was committed. As discussed above, torture is also prohibited under Yemen’s

domestic law, particularly in Article 47 of the Constitution, Article 166 of law n° 12-1994 on Penal law, and Articles 6 and 16 of law n° 13-1994 on criminal procedure;

- The return of the perpetrator to the UAE.

137. If these conditions are fulfilled, Article 23 of the Penal Code provides that: “A criminal prosecution shall be brought against a perpetrator abroad by the Attorney General only.”

138. The discussion shows that, under domestic law, the UAE has a duty to investigate and prosecute any national upon their return, where such person has been allegedly involved in acts of torture and ill-treatment in Yemen. As explained above, the GEE, the PoE, as well as several international and national NGOs have publicly denounced the perpetration of torture and ill-treatment by UAE agents and Yemeni forces acting on the order, direction, or with the active support of the UAE. This should have given rise to the opening of investigations by the UAE judiciary according to art. 12 of the Convention; the violation of art. 12 leading to a subsequent violation of art. 14 of the Convention. However, to date, no UAE officials have been held accountable for crimes of torture or ill-treatment perpetrated in Yemen.

139. Additionally, the Coalition’s Joint Incidents Assessment Team, composed by members of the Coalition, including from the UAE, suffers from the same lack of transparency, independence and impartiality, leaving the families of the victims without access to justice.<sup>139</sup> The Joint Incidents Assessment Team does not constitute an effective legal avenue for victims. As mentioned by HRW, “the JIAT appears only to have investigated coalition airstrikes, but not other alleged violations of international law by coalition members, such as UAE abuses against people in detention”.<sup>140</sup>

## Recommendations

**Mwatana and OMCT recommend the Committee to request from the UAE the following information:**

- The measures taken by the UAE to prevent arbitrary detention, enforced disappearance, torture and ill-treatment of individuals at the hands of UAE forces or Yemeni forces actively supported by the UAE;
- The kind of support brought by the UAE to the Shabwani Elite Forces, the Security Belt Forces, the Hadrami Elite Forces and the Southern Transitional Council;
- The steps taken by the UAE to end the existence of unofficial detention facilities in Yemen;
- The steps taken by the UAE towards the implementation of the Convention against Torture by their forces and UAE-Backed forces in Yemen;
- The steps taken by the UAE to improve detention conditions in detention facilities administered by the UAE and by UAE-backed forces in Yemen, especially with the spread of COVID-19;
- The steps taken by the UAE to conduct thorough, credible and transparent investigations into cases of torture and ill-treatment, to provide reparation to victims of torture perpetrated by UAE forces and by Yemeni armed groups trained, financed, armed and supported by the UAE, and to hold those responsible to account in relation to torture and ill-treatment allegedly perpetrated by UAE forces or UAE-Backed forces in Yemen.

**Mwatana and OMCT kindly ask the Committee to call upon the UAE to:**

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<sup>139</sup> *Ibid.*

<sup>140</sup> HRW, Hiding Behind the Coalition: Failure to Credibly Investigate and Provide Redress for Unlawful Attacks in Yemen, 24 August 2018, available at <https://www.hrw.org/report/2018/08/24/hiding-behind-coalition/failure-credibly-investigate-and-provide-redress-unlawful>

### **Reform its domestic laws**

- Bring domestic law fully in line with the Convention.

### **End abuse**

- Immediately halt the practice of enforced disappearance, arbitrary arrest and detention, and the use of torture and other forms of cruel, inhuman and degrading treatment;
- Promptly cease all kind of support (financial, training, arms, etc.) to Yemeni armed groups involved in cases of enforced disappearance, arbitrary arrest and detention, torture and other forms of cruel, inhuman and degrading treatment;
- Detain children only as a last resort and for the shortest appropriate time, and ensure that children are not detained in the same facilities as adults;
- Close all unofficial detention facilities operated or supervised by the UAE or under the overall control of the UAE in Yemen and transfer any people remaining in UAE or proxy forces' custody to the Yemeni government for review of their continued detention and, where relevant, trial;
- Publicly acknowledge all detention facilities operated or supervised by the UAE or under the overall control of the UAE in Yemen, including their locations, people detained in them, and any deaths in custody;

### **Resolve disappearances and ensure family access to persons detained in facilities operated or supervised by the UAE or by UAE-backed groups in Yemen**

- Ensure families are able to communicate with and visit their detained relatives;
- Communicate and provide information to family members of detainees, including any transfer to a medical facility or another place of detention, and any illness or death, including related to COVID-19;
- Create and maintain prison registries and records in all sites of detention, including the date, time and place of arrest of each person held, along with their name, the reason for the detention, and the name of the unit or entity responsible for the detention. Make these records available to families and lawyers, as well as those who have a legitimate interest in the matter. Document all transfers of detainees, including outside the country, in these records;
- Publish official lists of all detainees who died in detention facilities and prisons, listed in this report, and issue death certificates for all detainees known to have died in custody based on thorough forensic examinations and make these documents readily accessible to families.

### **End obstruction**

- Cease interference with the Yemeni Public Prosecution and judiciary;
- Respect the Public Prosecution and judiciary's role in monitoring, supervising and reviewing detention policy and practice, as required under Yemeni law, and ensure all detention facilities are subject to the monitoring and supervision of the Public Prosecution, and respect and implement Public Prosecution release orders;
- Ensure affiliated armed groups and security and law enforcement agencies controlled by the UAE are responsive to requests for information from family members of those detained or disappeared and have systems in place to allow family visits;
- Provide immediate and unhindered access and cooperation to human rights organizations, lawyers, and independent observers, including to monitor conditions of detention and, where relevant, provide legal support and advice to detainees.

### **Provide accountability and redress**

- Suspend members of UAE security forces against whom there are credible allegations of serious humanitarian law violations or human rights abuses;
- Conduct prompt, serious and impartial investigations into credible allegations of grave violations of torture and ill-treatment by forces operating under the UAE's overall control, authority or

with its consent or support, appropriately prosecute individuals credibly implicated in international crimes, and impose disciplinary actions and other penalties where appropriate

- Take all necessary steps to ensure that the complainants and witnesses are protected against all ill-treatment or intimidation as a consequence of their complaints or any evidence given;
- Provide appropriate redress to victims of arbitrary detention, enforced disappearance, torture and ill-treatment, including providing guarantees that such violations will not be repeated;
- Ratify the Optional Protocol to the Convention against Torture (OPCAT);
- Accept the individual complaint procedure of the CAT.