



UNITED STATES OF AMERICA

Shadow Report

Death From Above

The Traumatic Effect of Drone Operations on Civilians Living Under the Drones

Report submitted to the Committee against Torture in the context of the review of the periodic report for the United States of America

Alkarama Foundation – 17 October 2014

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2. Executive Summary

Between July and September 2014, Alkarama conducted a survey on a representative sample of individuals living in Yemen, in areas where drone operations are being carried out by the United States (hereinafter "U.S."). The study aimed at evaluating the level of Post-traumatic stress disorder (hereinafter "PTSD") symptoms amongst civilians. After screening more than 100 individuals, men and women, boys and girls, we found strong common patterns of anxiety, stress, paranoia, insomnia and other specific trauma symptoms across gender and age. The specificity of the study is that it entails individuals who have lost a direct family member to a drone attack as well as individuals who have not but still live under drones. We found that these two groups are suffering from the very same kind of symptoms and at the same level of severity. We concluded that the very simple fact of living under drones has psychological consequences that derive from the constant fear of being killed or having a relative being killed.

The counterpart of these findings is that the lack of transparency and certainty of the American legal framework governing the use of drones is at the root cause of the trauma syndromes and disorders shown by the civilian population in Yemen. From the legal uncertainty surrounding the use of drones stems a perpetual existential uncertainty in the civilians' minds as they can never know if and when they will be targeted by a drone strike.

The constant fear and anxiety deriving from this real threat of being hit, or having a loved-one hit by such drone attacks is so serious, deep, and widespread that it amounts to a form of cruel, inhuman and degrading treatment in the sense of article 16 of the Convention against Torture (hereinafter "CAT"). Showing that the Convention is applicable to drone operations carried out by the U.S. in Yemen as well as to their consequences, we believe that the State party is responsible for the trauma inflicted to the civilian population living under drones.

With this study, we wish to close the gap between the abstraction of a man sitting behind a screen triggering the strike and the concrete constant mental suffering of civilians on the ground by showing the direct causal link between one side and the other. The U.S. must understand that drone operations have direct consequences on Yemeni civilians in terms of mental integrity which amounts to cruel, inhumane and degrading treatment, as defined by the Convention against Torture.

3. Introduction

A civilian in Pakistan described drones operations as amounting to a "slap in the darkness"¹. This image speaks about the feeling of betrayal and treachery that is perceived by the civilians living in zones where drone operations are being carried out. This very feeling of fear of being killed without knowing the reason why or within during one's sleep has been prevalent in the PTSD screening study Alkarama conducted in Yemen from July to September 2014. Through the presentation of the study and its result as well as a discussion on the causes and legal consequences of the intense trauma expressed by Yemeni civilians, Alkarama wishes to contribute to the upcoming review of the periodic report for the United States of America by the Committee against Torture.

The List of Issues and the previous answers provided by the US government highlighted two issues that are at the basis of the present submission. These two issues are the extraterritorial applicability of the Convention and the non-derogability of the interdiction of torture, inhumane and degrading treatment, both in times of war or peace². Drawing upon Alkarama's previous and recent research on the effect of drone strikes in Yemen, we wish to close the causal gap between the mental distress shown by the civilians and the U.S. drone policy.

¹ Robert Greenwald and Brave New Film: *UNMANNED: America's Drone Wars*, Documentary film released in October 2013.

² Committee against Torture, Forty-third session, *List of issues prior to the submission of the fifth periodic report of the United States of America*, CAT/C/USA/Q/5, 20 January 2010, para.3.

4. Background of Drone Operations

4.1 Historical Outlook

Yemen's current president, Abd al-Rab Mansour al-Hadi, came to power in February 2012 following a mass revolution by the Yemeni population. He replaced Ali Abdallah Saleh who had ruled the country for 33 years. The current president has reinforced Yemen's ties with the United States, placing large regions of Yemen territory at the disposal of the U.S. and encouraging its military intervention in the country, including by attributing the responsibility of attacks to the U.S. directly. This has increased tensions within the population which does not support American air strikes as it has been shown in numerous reports from NGOs including the previous Alkarama's report on the International Law violations raising from US drone operations in Yemen³.

From the first air strike in November 2002 until the month of May 2013, between 134 and 226 U.S. military operations have been conducted in Yemen, including strikes by aircraft, drone missiles, or attacks launched from warships stationed in the Gulf of Aden⁴. However, the exact number of operations is unknown due to the secrecy surrounding the United States' military interventions in Yemen. As such, the number of casualties is also unknown. In a study of civilian victims of U.S. attacks in Yemen by Yemeni journalist Ali Al-Sha'bani, he notes the difficulty of obtaining accurate information about the number of strikes and people affected. In 2012, he counted 109 air strikes in nine provinces, causing the deaths of 490 people, including 390 civilians⁵.

Missile strikes, allegedly by U.S. drones, have now been reported in twelve of Yemen's 21 governorates, with according to the highest estimation 1432 people killed in strikes since 2002, including 220 civilians, amongst them 43 children according to data compiled by the London-based Bureau of Investigative Journalism⁶. Beginning in 2009, the Obama administration made drone strikes its go-to method for killing members of Al Qaeda in the Arabian Peninsula (hereinafter "AQAP"), causing a spike in reports of drones in Yemen⁷.

4.2 A purposely Blurry Legal Framework of Drone Operations in Yemen

Although several questions rise as to the legality of drones attack themselves, the point of this report is to discuss the effects of the surrounding legal blurriness on the civilian population living under drones. Indeed, the lack of clarity and certainty of the legal framework governing the use of drones by U.S. are at the root cause of the trauma syndromes and disorders shown by the civilian population in Yemen.

The legal framework surrounding drone operations is unclear and lack legal certainty and the definition of terms that are used to define the legal standards are extremely broad. In other words, unclearness and uncertainty are not only blurring the structure of the law applicable but also its content, i.e. the definitions of terms and standards. This situation is worsened by the secrecy surrounding drone policy concerning for example the exact number of strikes, the names of possible targets and the selection process of these targets.

We will highlight several issues that are directly linked to the point we are making in this report:

³ Alkarama, License to kill; why the American Drone War in Yemen violates international law, September 2013.

⁴ These figures were established by the Bureau of Investigative Journalism which gathers credible information on clandestine operations by the U.S. in Yemen, Pakistan and Somalia. <http://www.thebureauinvestigates.com/>

⁵ Ali Al-Sha'bani, (in Arabic only - Civilian Victims of American Aviation in Yemen), in "The United States' War on Yemen Drone Attacks" Report submitted to the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terror, Alkarama foundation with the cooperation of Hood, 3 June 2013, p.3.

⁶ "Get the data: Drone wars", Bureau of Investigative Journalism, data on 16 October 2014 available at: <http://www.thebureauinvestigates.com/category/projects/drones/drones-graphs/>

⁷ Vivian Salama, "Death From Above: How American Drone Strikes Are Devastating Yemen", *Rolling stone Magazine*, 14 April 2014. Available at: <http://www.rollingstone.com/politics/news/death-from-above-how-american-drone-strikes-are-devastating-yemen-20140414#ixzz3GEFtACru>

First, if the question of the applicable legal framework to drone operations in Yemen, whether International Humanitarian Law (hereinafter "IHL") or Human rights Law (hereinafter "HRL") is still debated, we argue that Human Rights Law does not cease to apply in times of armed conflict. We additionally argue that the interdiction of torture and inhumane treatment is applicable at all time and that no exceptional circumstances whatsoever justifies a violation a this *jus cogens* norm, neither war nor counter-terrorism.

Secondly, the few official documents explain the legal standards used in drone operations that were made publicly available⁸ fail to clarify the legal basis of drone operations. The Department of Justice (hereinafter "DoJ") White paper on the "Lawfulness of a Lethal Operation Directed against a U.S. Citizen who is a Senior Operational Leader of Al Qa'ida or An Associated" describes the legal rationale behind drone strikes as follow:

Where the "following three conditions are met, (...): (1) an informed; high level official of the U.S. government has determined that the targeted individual poses an imminent threat of violent attack against the Unites States; (2) capture is infeasible, and the United Sates continues to monitor whether capture becomes feasible; and (3) the operation would be conducted in a manner consistent with applicable law of war principles"⁹.

The DoJ White paper states that in addition to strikes being carried out in foreign countries which either gave their consent to such or are proven to be unwilling or unable to incapacitate the individual causing an imminent threat, the U.S. "retains its authority to use for against al-Qa'ida and associated forces outside the area of active hostilities when it targets a senior operational leader of the enemy forces who is actively engaging in planning operations to kill Americans". It however adds that any U.S. operations would be part of the non-international armed conflict between the U.S. and al Qa'ida, even if it were to take place away from the zone of active hostility". This extremely broad definition of the territorial criteria of IHL applicability is rather bewildering since the applicability of International Humanitarian Law is based on *ratione territoriae* criteria that have to be limited to the zone of active conflict area. Such an approach is largely contested¹⁰ as it expands the state of war beyond the territory of the actual parties to a conflict and allows U.S. drones to strike whenever they want anywhere in the world.

Lastly, the legal policy explained by the DoJ carries dangerous flaws concerning the definition of terms used in order to decide on the legality of a drone attack. First, it does not provide the criteria for assessing who is a "senior operational member of Al Qa'ida" and the process through which U.S. authorities define someone as such¹¹. Secondly, the interpretation of what is an "imminent threat" given by the DoJ has rendered the concept of imminence meaningless. Indeed, according to the DoJ, the "condition that an operational leader present an "imminent" threat of violent attack against the United States does not require the United States "to have clear evidence that a specific attack on U.S. persons and interests will take place in the immediate future."¹² The concept of imminence, by its very nature and definition must be instant, overwhelming and leaving no means for deliberation¹³. This definition combines with the elements described above participate to the lack of clarity, certainty and safeguard surrounding the use of lethal force.

⁸ Department of Justice White Paper "Lawfulness of a Lethal Operation Directed Against a U.S. Citizen Who is a Senior Operational Leader of Al Qa'ida or An Associated Force, available at: http://upload.wikimedia.org/wikipedia/commons/7/74/020413_DOJ_White_Paper.pdf

⁹ Department of Justice White Paper "Lawfulness of a Lethal Operation Directed Against a U.S. Citizen Who is a Senior Operational Leader of Al Qa'ida or An Associated Force, p.1

¹⁰ Moreover, IHL as a legal framework made for the exceptional circumstances of armed conflict should be based on restrictive interpretation of any extension of its temporal or territorial expansion. See: Ms. Christine Beerli, ICRC Vice-President, Keynote Address on the opinion of ICRC on The Scope of Application of International Humanitarian Law, *Proceedings of the Bruges Colloquium*, 13th Bruges Colloquium 18-19 October 2012 available at: https://www.coleurope.eu/sites/default/files/uploads/page/collegium_43_webversie.pdf

¹¹ We will discuss the issues rising from the choice of targets and their consequent on the mental health of civilians living under drones in section 5.3. of this report.

¹² Department of Justice White Paper "Lawfulness of a Lethal Operation Directed Against a U.S. Citizen Who is a Senior Operational Leader of Al Qa'ida or An Associated Force, p.7.

¹³ Special Rapporteur, *Study on Targeted Killings*, *supra* note 598, para. 45.

We argue that the blurriness described above is intentional and results in repeated violations of both IHL and HRL including the Convention against Torture. We will further explain in this study how these legal loopholes are at the very source of the mental suffering of the civilian population living under drones.

5. Alkarama Civilian PTSD Screening Study in Yemen

From 9 to 16 February 2013, London-based forensic psychologist Peter Schaapveld conducted a research during a fact-finding mission to Yemen on the psychological impact of drone strikes. He reported that 92 percent of the population sample he examined was found to be suffering from post-traumatic stress disorder – with children being the demographic most significantly affected. Women, he found, claimed to be miscarrying from their fear of drones. Dr Schaapveld reported that the population is hugely suffering and an entire generation is being traumatised¹⁴. In terms of results, Dr Schaapveld study shows that “virtually all interviewed were found to be suffering from formal abnormal psychological conditions. The majority (71%) were found to be suffering from Post-Traumatic Stress Disorder (PTSD). Other severe abnormal psychological conditions were found including Anxiety, Depression, dissociative experiences, panic reactions, hysterical-somatic reactions, exaggerated fear responses and abnormal grief reactions”¹⁵.

In the same spirit and after conducting research in 2012 and 2013 on the consequences of drone attacks on civilian in Yemen and their legal consequences, Alkarama decided to survey a representative sample of individuals who live in areas where drone operations are being carried out by the United States. Our goal was to add an element that we consider as crucial and lacking in previous studies: we show that whether or not the individual has lost a direct family member as a result of a drone attack he/she will show the same kind of syndromes. We thus argue that the very simple fact of living under these drones have psychological consequences that are no different from those caused by the loss of a relative. In this sense, we argue that the fear of being killed or having a relative being killed by a drone at any moment and without knowing the reasons that might cause such a death is so intense that it amounts to inhumane and degrading treatment in the sense of article 16 of the Convention against Torture.

5.1 Methodology

From July to September 2014, Alkarama conducted a study to assess the level of Post-traumatic Stress Disorders (PTSDs) amongst the civilian population living in villages in drone operations zones in Yemen, using the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association¹⁶.

We designed the screening in such a way that the panel chosen represents equally men and women, each age category, as well as individuals who have suffered directly from drone casualties through the loss of one of their relatives, and individuals who have not. A different PTSD screening for children¹⁷ has been used in this study in order to take into account the peculiar way children develop PTSDs.

For both adults and children, the PTSD survey included a preliminary introduction in order to ensure that the respondents know what a drone, and a drone attack are, as well as ensuring that they are aware of drone operations being carried out in their region.

The surveys, which were first translated from English into Arabic, were conducted by Alkarama’s research team in Yemen. The interviews were conducted in the village of Qawl, in the district of Jahana, region of Sana’a, as well as in the village of Al Sirin in the district of Sanhan, region of Sana’a.

¹⁴ Speaker’s briefing, Dr Peter Schaapveld, 5 March 2013, available at <http://appgondrones.wordpress.com/>

¹⁵ *Ibid*, p.1.

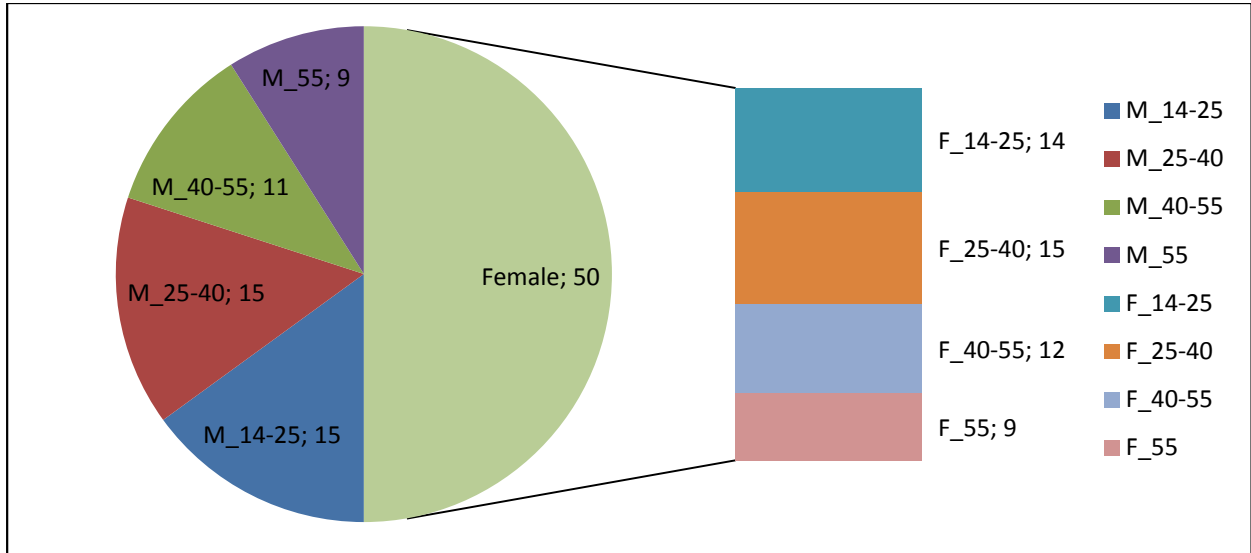
¹⁶ Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition. Washington, DC, American Psychiatric Association, 1994.

¹⁷ See Foa, E.B., Johnson, K.M., Feeny, N.C., & Treadwell, K.R.H. (2001). The child PTSD symptom scale (CPSS): A preliminary examination of its psychometric properties. *Journal of Clinical Child Psychology*, 30, 376-384.

Both villages are situated in the South-East of Sana'a and are in regions where drone operations are carried out by the United States against alleged Al Qaida militants.

100 adults – amongst whom 50 women and 50 men – as well as 27 children – amongst them 13 girls and 14 boys – were randomly chosen in these two villages. Amongst adults, 62% have lost a family member and 38 have not. Amongst children, 15 have lost a family member and 12 have not. All children are aged between 10 to 14 years old¹⁸.

The following chart shows the age and gender repartition of the adult sample:



1. Age and gender distribution amongst adult respondents

Chart explanation: For a total of 100 adults, 50 are female, 50 are male. Amongst female respondents: 14 are aged between 14 and 25 years old (F_14-25); 15 are aged between 25 and 40 years old (F_25-40); 12 are aged between 40 and 55 years old (F_40-55); and 9 are aged 55 and older (F_55). Amongst male respondents: 15 are aged between 14 and 25 years old (M_14-25), 15 are aged between 25 and 40 years old (M_25-40); 11 are aged between 40 and 55 years old (M_40-55); and 9 are aged 55 and older (M_55).

The questions asked from the PTSD survey were closed-ended: the respondent was asked a question and he/she had the choice between answering Yes/No or not giving an answer. However, the screening ends with an open ended section for the interviewer to assess the respondent's link between his PTSD and drones attacks based on their personal interaction. This section allowed us to collect valuable qualitative data in addition to the quantitative data collected from the PTSD questionnaire itself. The questionnaires are attached to this report as Annex 1. Screening for Post Traumatic Stress Disorder for adults respondents and Annex 2. Screening for Post Traumatic Stress Disorder for children respondents.

In order to understand the following charts, this table explain the codes used in the charts to designate specific groups of respondents depending on gender and on whether or not the respondent lost a family member to a drone attack:

Female adults	Results for the total of adult female respondents
Male adults	Results for the total of adult male respondents

¹⁸ Although we do have a children respondent who was aged 9 and a half at the time of the screening.

Male adults VF	Results for the total of adult male respondents who had lost an immediate family member due to a drone strike
Female adults VF	Results for the total of adult female respondents who had lost an immediate family member due to a drone strike
Female adults not VF	Results for the total of adult female respondents who had not lost an immediate family member due to a drone strike
Male adults not VF	Results for the total of adult female respondents who had not lost an immediate family member due to a drone strike
All VF	Results for the total of adult female and male respondents who had lost an immediate family member due to a drone strike
All not VF	Results for the total of adult female and male respondents who had not lost an immediate family member due to a drone strike

Table 1: Codes for charts concerning adults

In order to fully understand the charts, this table is explaining the codes used in all the charts concerning children:

All girls	Results for the total of girls respondents
All boys	Results for the total of boys respondents
Boys VF	Results for the total of boys respondents who had lost an immediate family member due to a drone strike
Girls VF	Results for the total of girls respondents who had lost an immediate family member due to a drone strike
Girls not VF	Results for the total of girls respondents who had not lost an immediate family member due to a drone strike
Boys not VF	Results for the total of boys respondents who had not lost an immediate family member due to a drone strike
All children VF	Results for the total of boys and girls respondents who had lost an immediate family member due to a drone strike
All children not VF	Results for the total of boys and girls respondents who had not lost an immediate family member due to a drone strike

Table 2: Codes for charts concerning children

In this study, we will focus on the common trends showing the presence of strong PTSD syndromes such as anxiety, fear, repeated nightmares and insomnia, intense physical and emotional distress, paranoia, depression and sadness.

5.2 Findings

We will present the findings separately for adults and children even if all respondents show common patterns of PTSD symptoms. We will also focus especially on the effect on the most vulnerable people. Indeed, we argue that in order to assess the level of suffering of a victim of inhumane and degrading treatment, one should take into account subjective elements like the particular vulnerabilities of the victim or cultural sensitivity.

5.2.1 Common patterns

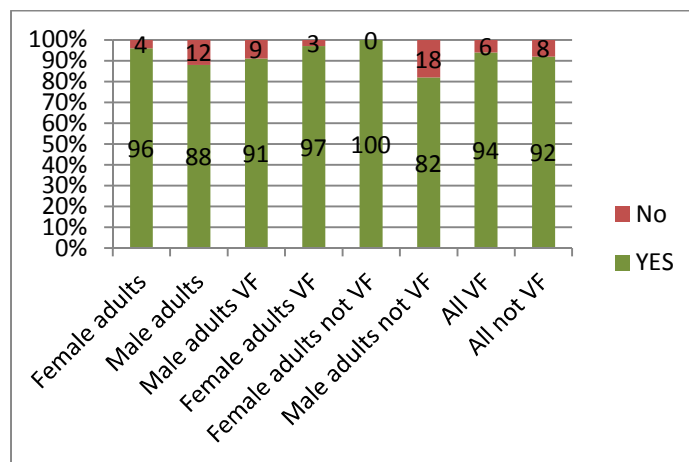
Common patterns amongst all respondents regardless of age, gender or whether or not they lost an immediate family member as a consequence of drone strike show the following symptoms:

- Constant anxiety;
- Constant fear to be killed or to have a relative killed by a drone attack;
- Sleep related troubles including insomnia, nightmares and enuresis for children;
- Deep emotional distress especially when drone operations resume;

- Depression and sadness;
- Anger and frustration toward the Yemeni and US governments;
- Feelings of detachment from the ordinary world;
- Feelings of being not worthy of protection or attention from the government;

Civilians who witnessed drone attacks on the ground are particularly subjected to constant fear and insomnia. Even civilians who don't have casualties in their families express trauma syndromes in their everyday lives. We also see comments underlying a "desire for revenge" amongst men. The sounds of aerial vehicles make them stop the everyday activities they are carrying out during the day and if they hear such a sound during the night, they say they suffer from insomnia¹⁹. A recurring pattern is the feeling that of disregard for their human dignity by both the USA and the Yemeni government.

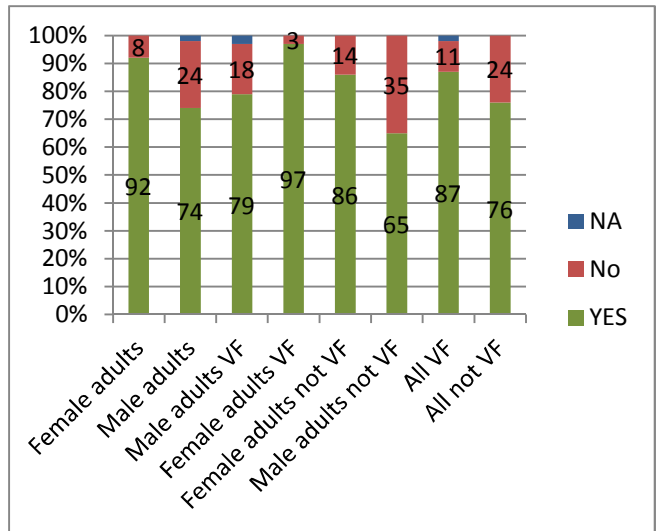
As explained above fear that a drone might attack them or their relatives or community is extremely high across categories. To the question "Are you afraid that a drone attack might harm you, or your family, or your community?" 92% answered yes. The following chart show the prevalence especially amongst women but the results stays extremely for each category:



2. Comparative chart Q. 9: Are you afraid that a drone attack might harm you, or your family, or your community?

Sleep deprivation is a common pattern across all categories of respondents. Indeed 83 % of the individuals answered yes to question 22: "Are you troubled by sleeping problems?".

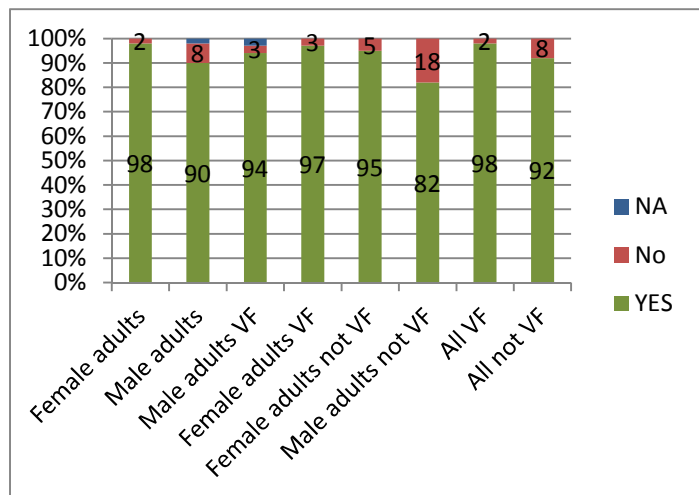
¹⁹ More symptoms were reported. For example, Ahmed a young farmer who hadn't lost a family member to drone attacks says that he cannot stay in the kitchen because of the sound emitted by the fridge in the kitchen makes him particularly anxious because it gives him the feeling that there is a drone above him. Other respondents complained of increased blood pressure when they hear that drone operation are resuming in the region of after hearing about a drone attack.



3. Comparative chart for Q. 22: "Are you troubled by sleeping problems?"

Our surveyors noted that "the common denominator in most of the cases is the feeling that life has no value and that the death could happen at any moment and without apparent reason. This shared feeling is hindering most of the everyday activities in the villages, and result in constant anxiety and fear. The deterioration of the living conditions in general as well as the lack of health care services and the mental suffering of the populations are aggravating the general feeling of hopelessness, frustration and anxiety. For example, all the respondents used expressions such as "futility of life" in order to describe their detachment from life.

These symptoms are revealed by common trends in answers to questions like "do you have repeated, distressing memories, or dreams?" to which 97% of adult respondents answered positively. In the same vein, 94% of adult respondents answered yes to question 14: do you act or feel as if the event – i.e. drone attack - were happening again (flashbacks or a sense of reliving it). All categories show the same symptom regardless of whether they directly experienced as witnesses or as relatives of casualties as this comparative chart shows:

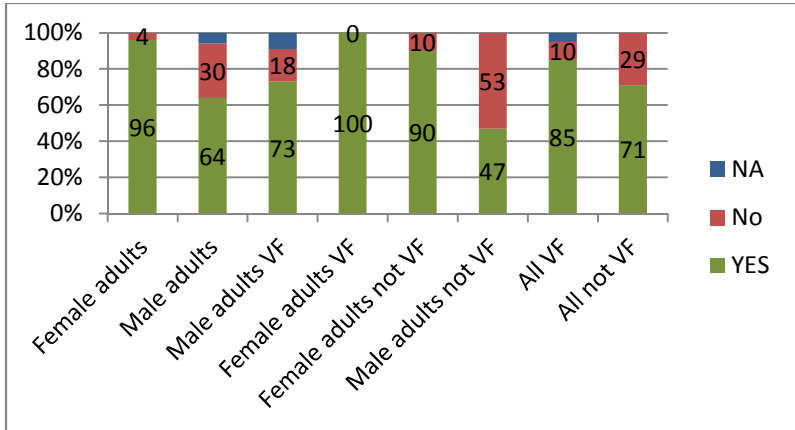


4. Comparative chart for Q. 14: Acting or feeling as if the event were happening again (flashbacks or a sense of reliving it)

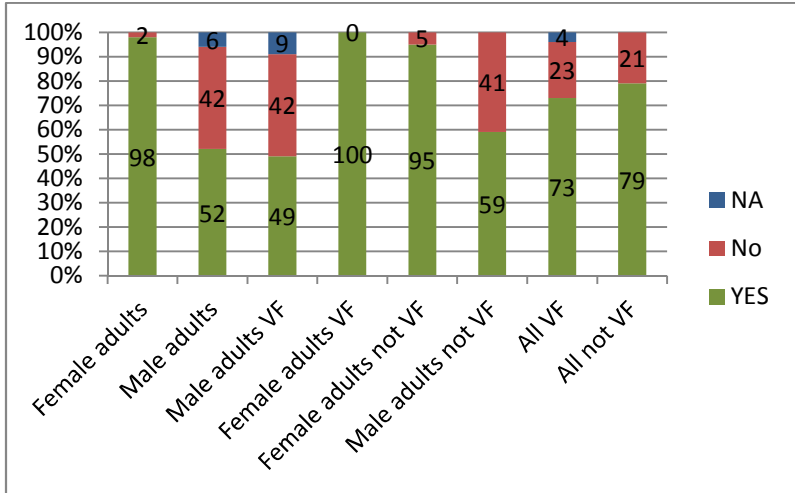
The constant fear of being targeted or having a relative targeted can also be seen in answers to questions asking if the respondent is most of time feeling "on guard" or he/she has an exaggerated startle response to a sudden noise. **It shows the constant tension in which the population**

lives. Thus 80% of adults answered positively to Question 25 "Most of the time do you feel "on guard" – i.e. being "super alert" or watchful?" and 75 % answered yes to Question 26: Most of the time do you have an exaggerated startle response.

When looking at the comparative charts we see that these symptoms are prevalent amongst women as they also expressed deep concern for their children and male relatives. If male adults from victim families are both feeling on guard and having exaggerated startle response to sudden noises or events, it noteworthy that at least half of men who have not lost a family member express their feelings for both symptoms.



5. Comparative chart for Q 25: Feeling "on guard" (Being "super alert" or watchful)



6. Comparative chart for Q. 26: An exaggerated startle response

5.2.2 Specificity of victims’ families

Victims’ families are particularly vulnerable to PTSDs and show symptoms that are both caused by the way their loved ones died but also by the fear of losing another relative in the same way. All the men we interviewed told us that they are still haunted by the image of their relatives’ bodies’ remnants and told us about their fear to be killed the same way. Most of them have now to also provide for the wife and children of their relatives which is very difficult given the extreme poverty in which these communities live.

The fact that the victim families are not being heard of offered any form of redress or explanation is raising a lot of anger amongst men respondent and, depression and sadness are common as well as

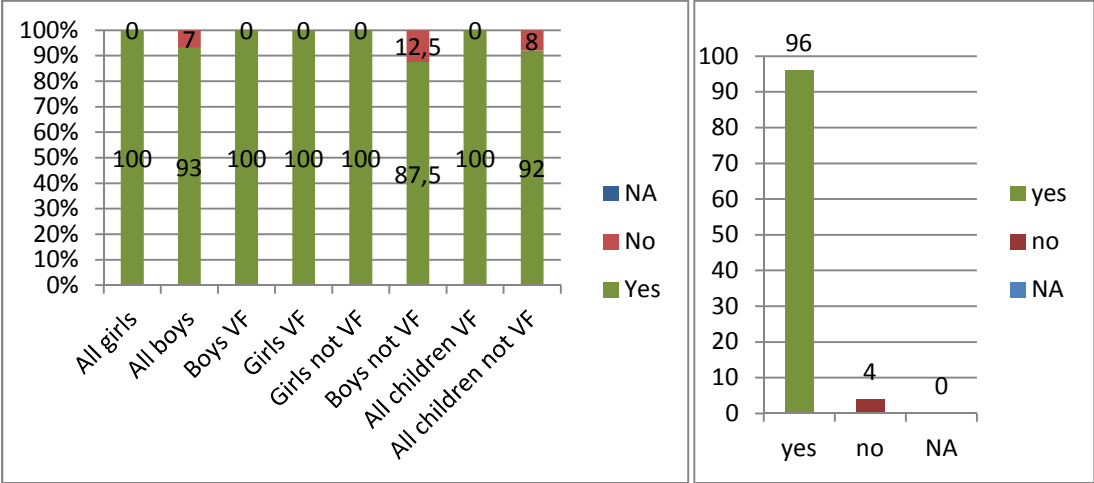
the feeling of “not being treated like human beings”. Amongst victims’ families the effects of knowing that drone operations are about to resume reminds them constantly about the loss of their relative and cause feelings of anger and sadness as well as fear of losing other members of the family²⁰.

5.2.3 Effects on the most vulnerable

5.2.3.1 Effects on children

We found that children are expressing great sadness and fear when they hear sounds of aircrafts or the sound of drones or when they hear that drones operations are about to resume in the region. More than half of the children screened said that drones got in the way of their general happiness in the two weeks preceding the screening (51%)²¹.

When we asked the children if they were feeling upset – i.e. scared, angry, sad, guilty – when they think or hear about drones, the answers were almost all positive especially amongst girls who answered yes for 100% of them. These charts show the comparative and overall results of answers to the question:

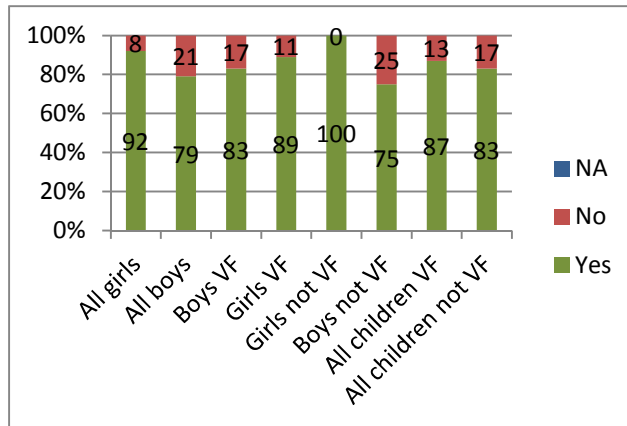


7. General and comparative charts for Q. 10: Feeling upset when you think about it or hear about the event

The answer to this question is also confirmed by the same trend when we asked children if they had upsetting thoughts or images about drones that came into their heads when they did not want them to. Indeed, 87% of the children respondent answered positively to the questions and girls are more affected but the percentage stay extremely high regardless of age or situation.

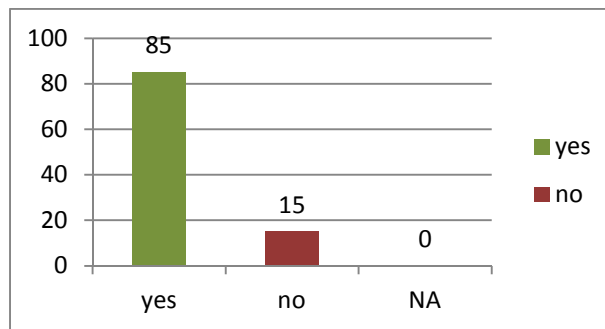
²⁰ Vivian Salama, “Death From Above: How American Drone Strikes Are Devastating Yemen”, *Op.cit*, citing the study of Peter Schaapveld.

²¹ See cahrts in Annex 4. Graphs – Results for each question – All children



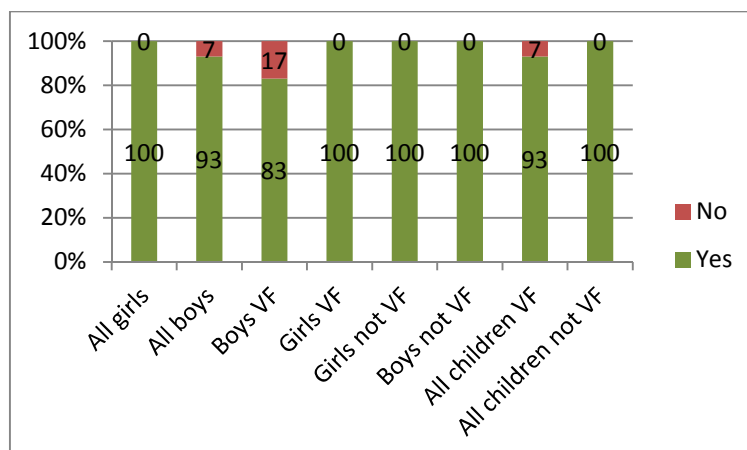
8. Comparative chart for Q. 7: Having upsetting thoughts or images about the event that came into your head when you didn't want them to

Sadness and depression is also assessed by the lack of interest children show in activities that they used to enjoy. We thus asked them if they were having much less interest in doing things they used to do and the answers are yes for 85% of them.



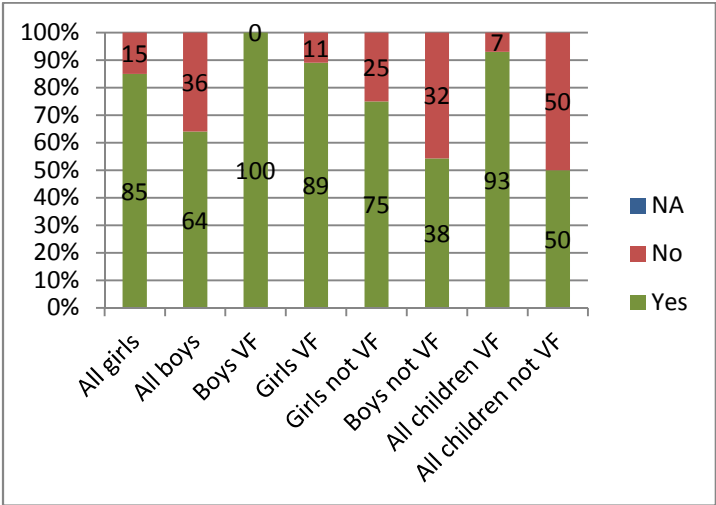
9. Answers to Q. 15: Having much less interest in doing things you used to do

This great fear is combined with other symptoms, especially anxiety. Anxiety, fear and anticipation of another attack is recurrent amongst all children. Indeed answers to Question 4: "Are you afraid that a drone attack might harm you, or your family, or your community?" show that 96% of the children feel this way. A comparative table of the answers given to question 4 between the different categories of children shows this common trend.



10. Comparative chart for Q.4: "Are you afraid that a drone attack might harm you, or your family, or your community?"

The fear expressed in general is also more severe when they hear sounds that resemble the buzzing of drones. Indeed, 74% of children respondents say that are jumpy or easily startled when someone walks behind them or when they walk in the street and/or hear any sudden sound.

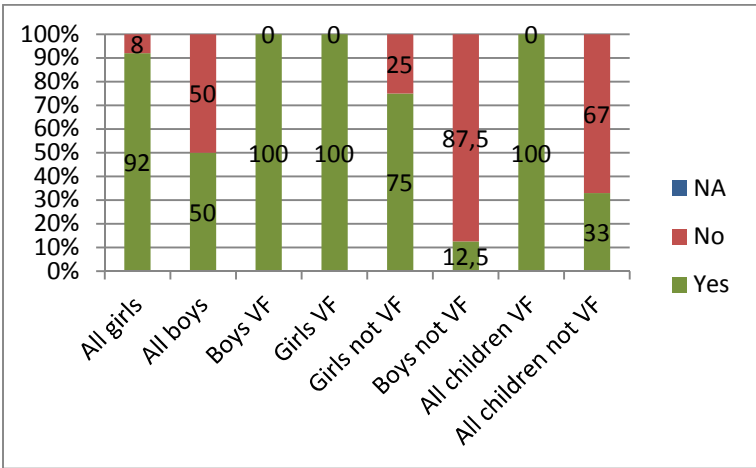


11. Comparative chart for Q. 22: Being jumpy or easily startled

We also found a worrisome trend amongst boys who often talk about their feeling of anger, hatred toward and desire of revenge against those responsible for the drone attacks that they identify as the US and Yemeni government.

Children who had lost a family member have both PTSDs deriving from the fact that they lost a loved one and from the fact that there are afraid a drone attack might hit again and kill another member of the family. For example the son of one the victim of a drone attack, 9-year-old Taha, shows deep troubles and sleeps only in the laps of his older brother. He is constantly scared of losing his brother too. 11-year-old Muad who lost his father to a drone attack in January 2013 in the village of Khawlan, shows serious problems of speech.

We also see that boys who had lost a family member are more likely to answer yes to the question 20: Feeling irritable or having fits of anger. If it drops significantly for boys who have not lost a family member, it stays very high for girls and for all the other categories.



12. Comparative chart for Q. 20 Feeling irritable or having fits of anger.

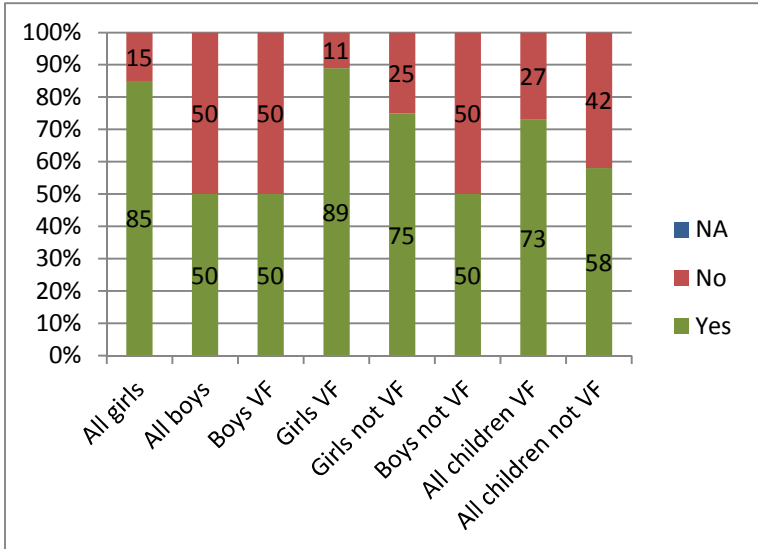
Amongst girls, the prevalence of anxiety, stress and sadness is generally higher. Those who lost a family member, like the 12-year-old Imen who lost her mother in a drone attack, or 12-year-old Yosra

who lost her father both in 2013, stopped enjoyable activities that they used to engage in like playing. 13-year-old Saqra, who lost her uncle, stopped painting and is constantly afraid of losing her brother and father. Girls who have not lost a family member tend to ask if the same thing will happen to their relatives.

In addition, we have numerous children from both victims’ families and families who have not lost a relative, who suffer from enuresis, especially when they hear that drone attacks happened or rumours that they are about to happen.

Moreover, a noteworthy element is that in the community of Qawla, district of Jahanah in the region of Sana’a, a teacher was killed by a drone strike, and it affected particularly the children from his school. Desire for revenge appears in the comments of few children, especially boys associated with a feeling of hatred and anger. Some boys say that they are not interested in school anymore. For example, one of the students of the teacher who was killed by a bomb attack wants to avenge his teacher and is not any longer interested in school.

Lastly, children like adults show a high level of sleep related troubles like insomnia or nightmares. Amongst children, if the majority of them show these signs (67% of them), it is particularly predominant amongst little girls.



13. Comparative chart for Q. 19: Having trouble falling or staying asleep

5.2.3.2 Effects on Women

Effects on women should be understood in a peculiar social and economic system where nearly all women are stay-at-home mothers and rely solely on their husbands or other men in the family to protect them and provide for their children. Indeed, additionally to the social vulnerability caused by the fact of becoming a single mother, economic vulnerability is also an important consequence of losing the family’s bread-winner in a country where no social care is provided.

Women tend to show higher levels of symptoms like fear of losing a children or another relative. Indeed 100% of women who haven’t lost a relative answer yes to Question 9: “Are you afraid that a drone attack might harm you, or your family, or your community?” Women respondents reported in the comment section their fear of any social gathering including wedding celebrations, during which they “avoided making too much noise” and “staying for too long in a large group”.

For example, Fatima, aged 40 married and mother of five says that even sounds of joy are causing an exaggerated startle reaction among women during celebrations. We also see that women who have teenage boys are particularly afraid that their children will be targeted or killed as a collateral damage

of a drone attack. Atiqa, a 55 year old women and mother of three children still at home, said that after she hears that a drone attack happened her blood pressure problems becomes more severe and she has to stay in bed for several days. She called drones attacks "treachery and betrayal".

Lastly, we wish to highlight additional effects that were reported by other studies by other studies like women, claiming to be miscarrying from their fear of drones or rumours spreading that drones were able to see inside the houses and watch women that had consequences on their behaviour even inside their homes by fear of being seen by American soldiers²².

5.3 The Causal Link Between the Findings and Drone Operations: From Legal Uncertainty to Existential Uncertainty

The findings of the study alongside with the peculiarities of drone operations carried out in Yemen led us to conclude to a clear and direct causal link between the most crucial elements of U.S. Drone policy and the type of PTSDs symptoms that civilians show.

At the root of all the symptoms highlighted by the study, the feeling of uncertainty concerning one's own life, or loved ones' lives, is stemming directly from the fact that **the complete absence of transparency and accountability in the use of drones creates an atmosphere of constant fear of being targeted without understanding the reasons why and without the possibility to be heard**. The majority of the respondents show a strong feeling of incomprehension and frustration since the rationale behind the choice of targets is unknown and given the high risk of collateral damage. For example, several girls surveyed asked the interviewer if their father or brother will also be killed by a drone thinking that the surveyor would be able to give them an answer.

The following arguments are based on perceptions of civilians. We also wish to highlight the fact that international and regional jurisprudence have been taking into account subjective elements related to the vulnerability of the victim, as well as the environment and the cumulative effect of various factors in order to assess the gravity of the pain and suffering²³.

5.3.1 Secrecy and lack of transparency perceived as arbitrariness

As we demonstrated in the first part of this report, the blurriness of the legal framework governing the use of drones is creating an atmosphere of lawlessness and arbitrariness on the ground at the cost of a profound and long-time psychological effect on the civilian populations.

First, we will address the effects of "covert drone strikes" policy on civilians. Covert action is defined under U.S. law as "an activity [...] to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly."²⁴ This policy means that drone strikes are unannounced and that the reasons are not made public (since they are considered as classified). Drone strikes involve targeting individuals whose identities are both known and unknown, and with varying degrees of preplanning. Moreover, the concept of "imminence" as understood by the U.S (see section 4) is so broad that it widens the temporal and material scope of the choice of the target and does not necessitate prior proofs.

This covert drone strikes policy has two types of consequences: (1) prior to striking, the population does not know the circumstances in which a drone might strike and (2) afterwards, victims' families cannot know why their relative has been targeted and are unable to prove his innocence and even obtain redress since no legal mechanism is made available to hear their claims.

²² Peter Schaapveld, cited by Vivian Salama, "Death From Above: How American Drone Strikes Are Devastating Yemen", *Rolling stone Magazine*, Op.cit.

²³ These elements may include *inter alia* the powerlessness of the victim, living conditions, or cultural elements. See: Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment of punishment, UN Doc. E/CN.4/2006/6, para. 39.

²⁴ Alfred Cumming, "*Covert Action: Legislative Background and Possible Policy Questions*," *Congressional Research Service* (2009).

Second, we wish to address the issue of “signature strikes” as also explaining the traumas of civilian populations. Indeed, the U.S. targets individuals who match a pre-identified “signature” of behaviour that the U.S. links to “militant activity or association” without prior knowledge of his identity. This technique that is well known by the civilian population engenders an additional stress in the sense that individuals are constantly watching their behaviours thinking that it might resemble a “terrorist behaviour”. All the more, the very nature of the behaviour that might trigger a drone attack is not known by the civilians and it is impossible for them to predetermine possible targets, aggravating anxieties among those who feel that they will either be targeted because of their behaviour or because of their location at certain point of time next to people who have an alleged suspicious behaviour²⁵.

The secrecy surrounding the rationale behind these two types of attacks is thus creating a perpetual state of paranoia. Indeed, this policy is intrinsically dangerous for civilians since the U.S. do not know who they are targeting and on the other side civilians do not know who might be targeted, when and why²⁶. For example, after a strike on a wedding procession, several women respondent expressed their fear during wedding celebrations, saying that they generally avoid gatherings or making too much noise. Fatima, a 40-year-old married woman with five children, said that even sounds of joy are causing an exaggerated startle reaction amongst women during wedding celebrations.

5.3.2 The protracted character of drone operations and the persistent effects on civilian minds

To date, civilians continue to be affected by these PTSDs symptoms and are prevented from recovery by the perpetual presence of drones.

We wish to highlight the protracted character of drone operations – which have been ongoing for the past 12 years – is adding to the suffering of the civilians. This element is obviously deriving from the fact that the U.S.’ “war against terrorism” has never been limited neither geographically nor temporarily. This uncertainty both in law and policy in the use of force should be considered as the primary cause of the protracted nature of the symptoms highlighted in the study.

A special attention should be given to children who grew up in this atmosphere of anxiety and paranoia of having their parents or other relatives killed. We express our deepest concern over the whole “drone generation” who only know a world in which death can take their loved ones suddenly and without explanation. As explained above, almost all children show feelings of anger and symptoms of enuresis, insomnia, incomprehension and constant fear.

As for the victims’ families, the protracted nature of the operations results in an impossibility to recover from the trauma caused by the loss of their relative since nearly all respondents who lost a relative told us that the sound of drones or aerial vehicles made them think about their loss and that it was impossible to forget and recover.

Consequently, we argue that the protracted character of these symptoms should be seen as an aggravating factor in order to assess the sufferings of the population by the Committee against Torture.

5.3.3 Dignity and the lack of accountability, explanation or redress

To this date, no effective redress mechanism has been put in place by the U.S. or the Yemeni government in order to hear the claims of victims’ families and provide them with redress, which fuels the feeling of arbitrariness in the killing of the families’ relatives. For example, Alkarama submitted the cases of 12 Yemeni civilians who were killed in Yemen to Mr Christof Heyns, Special Rapporteur on

²⁵ Vivian Salama, “Death From Above: How American Drone Strikes Are Devastating Yemen”, *Rolling stone Magazine*, 14April 2014. Available at: <http://www.rollingstone.com/politics/news/death-from-above-how-american-drone-strikes-are-devastating-yemen-20140414#ixzz3GEFtACru>

²⁶ See David Rohde, “The Obama Doctrine: How the President’s Drone War Is Backfiring,” *Foreign Policy*, (March/April 2012)

extrajudicial, summary or arbitrary executions on 10 May 2012²⁷ but to date none of the families were provided with assistance or explanation after the attack despite their numerous attempts.

The impression of being treated in an inhumane way flows here from the absence of accountability and explanation as to why their relative was killed. This situation is also stigmatising socially because of the impossibility of the families to prove their relative's innocence. Furthermore, it is noteworthy that in most cases, the casualties are men, whose loss, also as breadwinners in large families, has stringent economic consequences in a context where poverty is rampant.

During the interviews Alkarama conducted, frustration was palpable especially amongst women who were responding to our questions with anger showing scepticism about the usefulness of the study to help them.

We found that families asked not only for accountability and compensation but mainly respect and dignity through apologies or acknowledgement of their loss and suffering by the responsible authorities. The complete silence of both their government and U.S. government makes them think that no one cares about their suffering. For example, we had cases of women asking with anger the surveyor what was the aim of the survey and questionnaire if no one wants to even hear their claims. This feeling of being abandoned is adding to the symptoms of sadness and depression that are rampant amongst children and adults alike.

5.3.4 The effects of drone attacks on the enjoyment of other rights and freedoms

On 22 September 2014, opening the Human Rights Council's panel discussion on remotely piloted aircraft or armed drones in counterterrorism and military operations, Flavia Pansieri, Deputy High Commissioner for Human Rights raised the issue of the effects on the civilian population of drone operations on two main points: the psychological effects of it and the effect on the enjoyment of other basic rights and freedoms such as the right to peaceful assembly, the right to education or the right to health²⁸.

We found that in the comment sections at the end of each questionnaire, respondents have been saying that they were afraid to participate to gatherings, even weddings, that they were afraid of "making too much noise during celebrations" thinking that it could trigger a drone attack. After the killing of the teacher in Qawla, mothers have been afraid that the school might be targeted. Lastly and given the results provided by our study as well as other studies on the mental health implications of drone operations in Yemen, there is no doubt that the level of psychological harm and trauma is amounting to inhumane and degrading treatment. This fear of being targeted has crippled the daily lives of the people we interviewed to the point that they reported stopping all activities when they would hear the "buzz sounds" of drones waiting for a strike to happen.

The technology embarked in drones also allow a very precise view on places that should be considered as private and might constitute a violation of the right to privacy. As such, we already mentioned in the part discussing the specific effects on women, the generalised paranoia of families and men when the rumour that American soldiers were able to watch Yemeni women in their homes leading to more restriction on the little freedom of movement that women enjoy in private spaces. Whether or not this information is true is irrelevant given that the cause of such paranoia was caused by the lack of transparency of U.S. government at the first place and the lack of effective legal limitation of their use.

²⁷ Alkarama, *Yemen/USA: End use of 'targeted killings' in Yemen, investigate civilian deaths*, 22 May 2013, Available at: http://en.alkarama.org/index.php?option=com_content&view=article&id=1088:yemen-usa-end-use-of-targeted-killings-in-yemen-investigate-civilian-deaths&catid=40:communiqu&Itemid=215

²⁸ UNOG, Human Rights Council Holds Panel On Remotely Piloted Aircraft Or Armed Drones In Counterterrorism And Military Operations, 22 September 2014, Press release available at: http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/BCE56ED914A46D40C1257D5B0038393F?OpenDocument

Lastly, we recall that drone strikes have also destroyed many homes and have directly or indirectly – through its contribution to the ongoing violence in Yemen – led to the displacement of over 100,000 people²⁹.

6. Psychological Trauma Amongst Civilians Amounting to Inhumane and Degrading Treatment

6.1 Applicability of the Convention against torture to Drone Operations in Yemen and th

In this part, we argue that the Convention against Torture is applicable to drone operations carried out by U.S. forces in Yemen and that the U.S. cannot deny effective control over the regions where they operate or over the inhabitants of these regions.

We then argue that the level of mental suffering caused by the United States is directly caused by the drone operations and that given the publicity of the those effects made by inquiries and studies, they cannot argue a lack of knowledge of these consequences.

We recall that a situation of conflict does not mean that Human Rights Law is ousted from the legal landscape especially in situations where the threshold of armed conflict is blurred and constantly fluctuating. Indeed, both International Humanitarian Law and Human Rights Law apply in the context of armed conflict³⁰. To the extent that IHL does not provide a rule, or the rule is unclear and its meaning cannot be ascertained from the guidance offered by IHL principles, it is appropriate to draw guidance from Human Rights Law³¹.

6.1.1 The question of effective control

The reference to "any territory" in article 2 of the Convention, like in articles 5, 11, 12, 13, and 16, refers to prohibited acts committed not only onboard a ship or aircraft registered by a State party, but also during military occupation or peacekeeping operations and in such places as embassies, military bases, detention facilities, or other areas over which a State exercises factual or effective control.

We argue that the United States have effective control over the regions were they carry out drone operations as well as effective control over individuals living in these regions. As such, given the amount of intelligence and the possibility to strike discretionally and without prior warning or effective independent oversight offer a higher level of control than even soldiers on the ground could permit.

Moreover, we consider that drones operations in Yemen are equivalent to the situation where a sniper is firing from a U.S. territory using a remotely controlled weapon in order to kill someone in another territory. As such, the U.S. cannot argue that while the individual committing the act is located within its jurisdiction, the direct victim of his strike is conveniently located outside³².

Additionally, we consider that effective control should not be restricted to purely territorial control with physical presence on the ground but is extended to individuals and situation on which control can be effective in other ways. Indeed, even territorial control, is not the main object of the control *per se*,

²⁹ See: "Briefing Notes: Internal displacement grows in Yemeni," Office of the UN High Commissioner for Refugees, March 9, 2012, estimating 150,000 internally displaced people in the south.

³⁰ Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions, *Study on Targeted Killings*, Human Rights Council, UN Doc. A/HRC/14/24/Add.6 (May 28, 2010), para. 29.

³¹ ICJ, Legality of the Threat or Use of Nuclear Weapons [1996] ICJ rep. 226, para25); Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory [2004] I.C.J. Rep. (Wall Opinion) para. 106; Armed Activities on the Territory of the Congo, [2005] I.C.J. Rep., para. 216.

³² See concurring opinion of Judge Bonello in European court of Human Rights, judgment, Grand Chamber, *Case Of Al-Skeini And Others V. The United Kingdom*, (Application no. 55721/07), 7 July 2011.

but rather, the aim is to control the individuals within this territory, not the territory itself, in the purely geographical sense of the term.

Furthermore, we advocate for a functional interpretation of such effective control triggering the application of the Convention against Torture and its legal standards. As such, a functional test to assess whether or not the United States have effective control, would be based on the idea that States must ensure the observance of human rights in five primordial ways namely:

- by not violating human rights;
- by having in place systems which prevent breaches of human rights;
- by investigating complaints of human rights abuses;
- by ensuring accountability of their agents who violate human rights;
- by compensating the victims of breaches of human rights and ensuring redress mechanisms.

If we consider that these elements constitute the basic functions assumed by every State by virtue of the Convention, a "functional" test would see a State effectively exercising "jurisdiction" whenever it falls within its power to perform any of these five functions. When examining the situation in Yemen, we can argue that the United States are at least violating their obligation to investigate, to ensure accountability and compensate the victims of drone attacks, let aside the primary violation of the right to life in cases where the drone strike is violating both IHL and human rights standards on the use of force.

Furthermore, we argue that the U.S. cannot use the rationale of IHL in order to justify civilian losses. Indeed, the laws of war leave a certain margin of error to military activities in the use of force concerning civilian casualties; it however does so because conduct of operation in conflict setting are surrounded by a "fog of war" that might make difficult a 100% rate of discrimination between civilian and combatants. Given the extreme level of control that is required in order to simply fly a drone, let alone target or collect intelligence, we consider that the technology is lifting the fog that serve as the very rationale behind the concept of collateral damage in IHL.

6.1.2 The absolute nature of the prohibition of cruel, inhumane and degrading treatment

The absolute nature of the prohibition of cruel, inhumane and degrading treatment is part of customary law and is a *jus cogens* norm. As such, no circumstances whatsoever can justify such treatment including a state of war or counter-terrorism.

Article 16 of the Convention against Torture states in its paragraph one that:

"Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment."

The prohibition of ill-treatment is considered to be, like torture non-derogable under the Convention. In the same way, the prevention of torture and ill-treatment is non-derogable and must be effective. In comparison to torture, ill-treatment differs in the severity of pain and suffering and may not require proof of impermissible purposes.

The Committee against Torture has considered that articles 3 to 15 are likewise obligatory as applied to both torture and ill-treatment. The Committee also understands 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 jure* or *de facto* control of a State party. Any incidents of torture or ill-treatment as a

consequence of anti-terrorism measures, amongst 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.

Moreover and according to the International Covenant on Civil and Political Rights, the provisions of article 7 prohibiting torture, cruel and inhuman as well as degrading treatment or punishment are absolute. No exception to this prohibition are permitted and as such article 7 is non-derogable under article 4 (2) meaning that no crisis such as terrorist emergency or a time of war, justifies a violation of Article 7.

Furthermore, we recall article common Article 3 which is common to all four Geneva Conventions of 12 August 1949 gives specific expression to the obligation of humane treatment in, *inter alia*, provisions prohibiting 'violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture', as well as 'outrages upon personal dignity, in particular humiliating and degrading treatment'³³.

The International Court of Justice considered this article as defining "*certain rules to be applied in the armed conflicts of a non-international character. There is no doubt that, in the event of international armed conflicts, these rules also constitute a minimum yardstick, in addition to the more elaborate rules which are also to apply to international conflicts; and they are rules which, in the Court's opinion, reflect what the Court in 1949 called 'elementary considerations of humanity...'*"

Article 16(2) of Convention against Torture reads:

"The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibit cruel, inhuman or degrading treatment or punishment or which relate to extradition or expulsion."

This should be understood as a safeguard clause, securing the absolute prohibition of cruel inhumane and degrading treatment in relation to Article 3 common to the Geneva Conventions³⁴.

6.2 Violations of the Convention: Article 16 and Articles 11, 12, 13

We argue that the direct consequences of drone strikes in Yemen amount to violations of article 16 and by extension to violations of articles 11, 12, 13³⁵. Indeed the second sentence of Article 16 paragraph one states that:

"In particular, the obligations contained in **articles 10, 11, 12 and 13 shall apply** with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment."

6.2.1 The effects of drone operations on civilian population a degrading and inhumane treatment: article 16

Elements that should be taken into account when assessing whether or not a particular treatment are cruel, inhumane or degrading should include the particular vulnerability of the victim as well as the perception of the situation by the victim. We demonstrated above the level of mental harm and suffering, its protracted nature and the aggravated factor of prior living condition such as poverty and lack or health care facilities.

³³ Jelena Pejic, "The protective scope of Common Article 3: more than meets the eye", *International Review of the Red Cross*, Volume 93, Number 881, (March 2011), p.198.

³⁴ Iveta Cherneva, "The Drafting History of Article 2 of the Convention against Torture", *Essex Human Rights Review*, Vol. 9, No. 1, (June 2012), p.6.

³⁵ International Court of Justice (ICJ), Case concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), 27 June 1986, Judgment, para. 218.

We also demonstrated that very nature of the legal policy surrounding drone operations are the direct cause of the great suffering showed by the PTSD study. The lack of clarity and certainty is creating an environment where civilian population living under drone feel that everyone can be a *target*. As such the perpetual fear and anxiety, their extremely high level as well as their widespread character should be considered as amounting to cruel, inhumane and degrading treatment.

Indeed, we found recurring jurisprudence of the Human Rights Committee (hereinafter "HRC") defining a certain level and seriousness of continuing uncertainty, anguish and mental distress as amounting to cruel and inhuman treatment. We would go as far as arguing that a parallel can be drawn between the atmosphere of secrecy and existential uncertainty in which the civilians live constantly and the Human Rights Committee's jurisprudence on mental suffering and death row phenomenon. The very fact of living in the perpetual fear of being executed in the near future without knowing when subjects the civilians to the ever increased mental anxiety and mounting tension over one's impending death. One noteworthy difference is that in the context of drone operations, no prior judgement has been pronounced and the individual do not have the opportunity to challenge the decision to target since they do not know if, when and on what grounds the decision to strike will be taken.

Furthermore, mental distress is clearly recognised by the HRC as an equally valid form of suffering for the purposes of findings under Article 7, as physical pain³⁶. The HRC decided that "complete secrecy" surrounding the killing and remains of a relative had the "effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress" and "amounts to inhuman treatment of the author in violation of Article 7"³⁷.

We thus argue that the effects we showed in terms of mental trauma and pain exceeds the unavoidable level inherent to both armed conflict and counter-terrorism in law enforcement framework and constitutes a violation of article 16 and article 3 common to the Geneva Conventions.

6.2.2 The absence of accountability as both a violation and a degrading and inhumane treatment

To date, no legal mechanism has been put in place in order to hear claims of victims' families and the United States have not yet proposed any kind of explanation, compensation or even apologies.

The lack of accountability or even acknowledgement of the strikes and the casualties should be considered as violations of articles 10, 11, 12 and 13 of the Convention against Torture. The following articles read as follow:

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.
2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons

³⁶ Quinteros v. Uruguay (107/81).

³⁷ Schedko v. Belarus (886/99), para. 10.2; see also Shukarova v. Tajikistan(1044/02), § 8.7;Bazarov v. Uzbekistan(959/00), para. 8.5.

subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

As the lack of accountability, the lack of review by an independent authority or even the lack of congressional oversight of the drone operations are in our view amounting to a violation of Article 10 and especially Article 11 imposing information, oversight and review as ways to prevent the occurrence of torture, cruel, degrading and inhumane treatment.

The United States should ensure according to article 12 that an independent impartial and thorough inquiry is conducted to assess responsibilities and provide adequate redress to the victim families as well as apologies. We highlight the necessity that those inquiring about the violations should not be submitted to the same chain of command as those who have been committing the violations.

By refusing to even acknowledge casualties of drone strikes in Yemen – as well as in other foreign territories – the United States are violating article 13 which sets the right to complain for victim of violations.

7. Conclusion and Recommendations

7.1 Conclusion

Recalling the principles of humanity and dignity, we consider that that the constant fear and anxiety deriving from a real threat of being hit, or having a loved-one hit by such drone attacks is so serious, deep, and widespread that it amounts to a form of cruel, inhuman and degrading treatment;

Arguing that the Convention against Torture is applicable to drone operations carried out by the United States of America in Yemen and to their consequences on civilians;

Highlighting the particularly severe effects on the most vulnerable part of the civilian population, namely children and women in terms of mental harm;

We conclude that:

- The State party is responsible for the trauma inflicted to the civilian population living under drones, which amounts to cruel, inhumane and degrading treatment as defined by the Convention against Torture;
- Accountability is not an option, it is an obligation under international law, whether International Humanitarian or Human Rights Law.

In the light of the extreme suffering of civilians and the particularly dangerous drone policy that the U.S. has shaped in the past decade, we kindly request the Committee against Torture to issue the following recommendations:

1. Request the government of the United States of America to stop drone attacks in Yemen and in all other territories where the same issues raised in this report appear;
2. Request the government of the United States of America to ensure full transparency in the policy and legal framework of drone strikes;
3. Request the government of the United States of America to provide full reparation, accountability, redress and apologies to the people who have been affected by drone attacks.

8. List of Annexes

Annex 1. Screening for Post-Traumatic Stress Disorder for adults respondents

Annex 2. Screening for Post-Traumatic Stress Disorder for children respondents

Annex 3. Summary tables of the results for all questions

Annex 4. Graphs – Results for each question – All children

Annex 5. Graphs – Results for each question – All Adults

Annex 6. Communication sent to Mr Christof Heyns, Special Rapporteur on extrajudicial, summary or arbitrary executions dated 10 May 2012 and titled "United States of America, Yemen – Extrajudicial killing of 12 civilians on the road between the city of Radaa and Dhamar, in Ould Rabee directorate, al Bayda district, Yemen".