
Game Changer

An investigation by Reprise into President Donald Trump's secret assassination programme and the massacre of Yemeni civilians in the villages of Yakla and Al Jubah.





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1. Executive Summary

President Donald Trump's program of drone assassinations in Yemen

In his first six months in office, US President Donald Trump has waged a covert program of drone assassinations in Yemen that eclipses all that came before it in scale and brutality. His Administration has overseen a projected fivefold increase¹ in drone strikes on the country, and ripped up President Obama's rulebook for approving strike targets. As this report shows, he has also presided over devastating ground raids and drone strikes leaving scores of civilians dead, including an eight-year-old girl and an 80-year old tribal elder.

"Game Changer": the massacre of Yemeni civilians in Yakla and Al-Jubah

This report contains Reprieve's investigation into armed raids on two Yemeni villages in Yakla and Al-Jubah Districts. Both raids saw armed drones destroy villages before Navy SEALs were sent in, resulting in the massacres of scores of innocent civilians. These raids ended in the deaths of young children, pregnant women, and tribal elders in their seventies and eighties. They resulted in several women suffering miscarriages and the death of one US Navy SEAL.

Chaotic, Unchecked and Secret: the hallmarks of the US 'targeted killing' program

President Trump's drone massacres in Yemen must serve as a wake-up call for US lawmakers. For too long, Congress and the judiciary have stood by, unwilling to check this "outsized power,"² while the Executive and intelligence agencies shroud their actions in secrecy and operate with impunity. In the absence of accountability and oversight, the drone program has expanded beyond all recognition. Following this year's disastrous interventions in Yemen, elected representatives must urgently review the evidence and debate the legality and utility of the program.

Taking the Lead: reforms required for the US to restore its reputation for protecting and advancing the rule of law around the world

This report calls on the United States to expose its program of 'targeted killing' outside of armed conflict to proper public scrutiny. To this end, the report sets out three key recommendations:

1. Clarify the legal basis upon which the US is taking action in Yemen
2. Properly investigate credible allegations of innocent loss of life
3. Strengthen oversight and accountability mechanisms in relation to the US program of 'targeted killing'

¹ As of June 30, 2017.

² Jaber v. United States, 2017 U.S. App. LEXIS 11672, at 21 (D.C. Cir. June 30, 2017).



Photo - Nasser Al-Sanee with clothes from the victims' bedroom

2. Methodology

This report is the result of on-the-ground investigation commissioned by Reprieve in January 2017 and May 2017 in the villages of Yakla and Al-Jubah in Yemen. It provides more detail on both raids and expands our initial findings on civilian casualties (reported by the [New York Times](#), [the BBC](#), [the Guardian](#), and others).

Reprieve endeavors to ensure that all investigations are conducted in line with best practice on interviewing victims. As news of the raid in Yakla first reached us, Reprieve spoke extensively with witnesses on the ground. In the days immediately after the raid, Reprieve commissioned investigators based in Yemen to travel to Yakla to conduct in-person interviews with the survivors. To date, Reprieve investigators remain in communication with and provide support to individuals affected by the raid in Yakla.

Following reports of the second raid in Al-Jubah, Reprieve investigators spoke with people from the affected community within hours of the raid. Subsequently, Reprieve investigators travelled to Al-Jubah and spent several days interviewing witnesses and survivors of the second raid. Our investigators on the ground continue to reach out to more families of victims to learn their stories. Where possible, our investigators have collected documentary evidence such as death certificates to corroborate witness testimony.

All the information Reprieve has received about both raids has been consistent with initial reports of civilian casualties. The Trump Administration currently reports lower civilian casualty numbers than Reprieve for the Yakla raid, and has yet to acknowledge any civilian casualties from the raid in Al-Jubah. However, it should be noted that US Central Command (USCENTCOM), the Defense Department's command center with geographic responsibility for Yemen, only has two full time civilian casualty investigators.³ Survivors interviewed by Reprieve investigators have reported that no attempts to contact them have so far been made by US officials.

Reprieve has also collected, cross-referenced, and analyzed data on strikes from publicly available news sources including reports from the Bureau of Investigative Journalism, reports from official US sources, and comments from US officials. Moreover, Reprieve has conducted interviews with people in affected areas who have reported civilian casualties because of strikes. However, the lack of official transparency around strikes and the inaccessibility of some of the areas hit in Yemen render it difficult to draw a complete picture.

³ [How a woman in England tracks civilian deaths in Syria, one bomb at a time, The Washington post, 14 May 2017](#). Central Command has recently added personnel to the investigation teams but they only cover activities in Iraq and Syria.

3. “Game Changer”: the escalation of drone assassinations in Yemen and the massacre of Yemeni civilians in Yakla and Al-Jubah

Within days of taking office in January 2017, President Trump signaled a dramatic escalation in covert US operations in Yemen, authorizing a midnight raid on a village in Yakla.⁴ By the morning of January 29th, as many as 23 innocent Yemenis were dead, including a newborn baby and an eight year-old girl, as well as one American service member.⁵ In the words of US Secretary of Defense James Mattis, the first Yemen raid was a “game changer” - and one that raises disturbing questions about the US' expansive counterterrorism strategy.⁶

In May 2017, the Trump Administration conducted another raid on a village in Al-Jubah in Marib province. This resulted in the deaths of at least five civilians, including a partially blind 70-year-old man who was on his way to the local mosque when he was killed on trying to make contact with the Navy SEALs. Reports suggest that several other unacknowledged ground operations have also taken place.⁷

President Trump's disastrous ground actions in Yakla, Al-Jubah, and elsewhere have been accompanied by a dramatic and brutal escalation of the US drone program. Since President Trump took office, the Bureau of Investigative Journalism has recorded at least **90 US airstrikes in Yemen**.⁸ In just a few months, President Trump has already more than doubled the total number of airstrikes conducted by President Obama in Yemen in the whole of 2016 (39) and is carrying out at least one strike every two days.

If strikes continue at the current rate, President Trump will have conducted **204** strikes by the end of 2017. This represents a five-fold increase from the number of strikes taken by Obama in 2016.⁹ At least two children have already been killed this year and many more innocent people stand to lose their lives if this program continues unchecked by Congress or the Courts.

Reprieve has collected credible reports of multiple deaths during these strikes. For example:

- On March 6th, 2017 two boys under 15 were killed in a strike in Yakla. Local residents identified them to Reprieve as Ahmed and Mohammed al Khobze. This was confirmed in a report by Reuters on March 7, 2017.¹⁰

⁴ [Statement by the President on US Service Member Killed In Yemen, White House, 29 January 2017](#).

⁵ [Trump's Yemen raid killed newborn baby and scores of civilians, Reprieve, 2 February 2017](#).

⁶ [Yemen Raid Had Secret Target: Al Qaeda Leader Qassim Al-Rimi, NBC News, 7 February 2017](#).

⁷ [US ground operations stepped up inside Yemen, CNN, 4 April 2017](#).

⁸ [Yemen: Reported US Covert Actions 2017, The Bureau of Investigative Journalism](#).

⁹ *Id.*

¹⁰ [Two children killed in Yemen drone strike: residents, Reuters, 7 March 2017](#).

- On April 23rd, 2017, three people were reported killed in al Saeid, Shabwah province. Residents say they had been attempting to provide first aid to individuals hit in an earlier strike. This signals a return to controversial 'double-tap' strikes on rescuers that are strictly prohibited under international law.

The majority of strikes have concentrated on the provinces of Abyan, Al-Bayda and Shabwah.

The Yakla Raid

January 29th, 2017



Photo - Al Ameri children and Zabnallah al Ameri and Basel al Zouba (centre) - brother of Abdallah Ahmad el Zouba, killed in raid

“While I was searching among the bodies, I found my daughter Fateem lying dead in the street with her child in her arms and covered with blood. I did not imagine that and I cannot forget those painful moments. I thought at first that Mohammad was also killed, but when we took him from his mother’s arms he cried. He was sleeping all the time in his dead mother’s arms.”

Saleh Al-Ameri, father of Fateem

At 2:30AM on January 29th, 2017, US Navy SEALs landed in Qaifa, a few kilometers away from the village of Yakla. Around this time, residents of the village noticed that phone coverage ceased completely. Shortly after, airstrikes began—including strikes on a medical unit, school, and a mosque in the village.¹¹

The civilians killed in the raid included:

- Ten children
- A heavily-pregnant woman whose injured newborn later died
- An 80 year-old tribal elder
- Abdullah Mabkhot Al-Ameri, a villager who narrowly escaped death in 2013 when a US drone strike hit his wedding.¹²

Statements from villagers - collected by Reprieve and partners on the ground - suggest that after the drone strikes were fired, about 50 US Navy SEALs entered the village. The statements indicate that the raid unfolded as follows:

The US forces entered the village and met 12 year-old Ahmed Abdullah Al-Dhahab, who asked who they were. They shot Ahmed, killing him on the spot.

US forces then stormed a small house belonging to the Al-Ameri family and opened fire, killing three more children: Khadija, 7, Hussein, 5, and Aisha, 4. Hussein and Aisha's father, Mohammed, was also killed.

Mohammed's father, 62 year-old Abdullah Mabkhot Al-Ameri, was shot by US forces after running toward his son's house. Abdullah was later found dead, still in his pyjamas, clutching a blood-soaked headtorch.

As the US forces approached her home, Fateem Al-Ameri, mother of seven, ran away, carrying her two-year-old son Mohammed in her arms. She was shot in the back and fell forward. Mohammed survived but was only found the next morning when Fateem's body was moved; his face was covered in his mother's blood.

The US forces then fired a missile into a third house which caused the house to catch fire, trapping five-year-old Halima Hussein Al-Aifa Al-Ameri inside, where she died.

A second US missile was fired at another house, causing the ceiling to collapse. The debris killed a 3-month-old girl, Ehsan Fahad Ali Al-Ameri, in her cot.

Grandmother Dhabia Ali Abdullah Al-Ameri and her two grandchildren – ten-year-old Mursil, and 12-year old Khaled – were fatally hit by US gunfire while fleeing their home.

The SEALs then advanced on the house of Abdul-Raouf al-Dhahab, where

¹¹ Media reports have confirmed the use of drones in this operation. See [Yemen Al Qaeda: U.S. Commandos Raid Stronghold, BBC, 29 January 2017](#); [U.S. Commando Killed in Yemen in Trump's First Counterterrorism Operation, New York Times, 29 January 2017](#).

¹² [The Wedding that became a funeral: US still silent one year on from deadly Yemen drone strike, Newsweek, 12 December 2014](#).

they were reportedly met with gunfire. Abdul-Raouf, his brother Sultan, and an eighty-year-old tribal elder, Saif Al-Jawfi, were killed, as was eight-year-old Nawar al-Awlaki and her mother.¹³

Finally, a heavily pregnant woman was fatally hit in the stomach, and gave birth to an injured baby. The baby later died.

US SEAL Chief Petty Officer William 'Ryan' Owens was also killed, while two more US service members were injured when their helicopter "landed hard."¹⁴ The US team then used a missile to destroy the helicopter, to prevent it from "fall[ing] into enemy hands."¹⁵

The raid decimated the village and destroyed the livelihoods of its inhabitants. Numerous houses were completely destroyed, and more than 120 goats, sheep and donkeys killed.

¹³ [Donald Trump's First U.S. Military Raid 'Kills 30 Civilians, Including 10 Women and Children,' Independent, 30 January 2017](#).

¹⁴ [In a Deadly Yemen Raid, a Lesson for Trump's National Security Team, Washington Post, 31 January 2017](#).

¹⁵ *Id.*

The Al Jubah Raid

May 23rd, 2017



Photo -Children of Fateen Saleh Mohsen al Ameri, who died holding Mohammed (centre)

I hope that [they] could use the law and prosecution against those who prove to be guilty

Mabkhout Ali Arfaj Al-Athal, a young man injured in the raid on Al Jubah on May 23, 2017.

At approximately 1:30AM on May 23rd approximately 50 armed American soldiers entered the village in Al Jubah. They were supported by helicopters, attack Apaches and drones. Five civilians were killed and at least five civilians were injured, including a child.

Among the dead was an elderly man in his 70s who was shot in the head; among the injured was a young child, Othman Mohammed Saleh, who was injured in both arms. Reprieve has also received reports that a number of pregnant women from the village suffered miscarriages as a result of the trauma of the raid. Their names have been withheld to respect their privacy.

Immediately after the raid, Reprieve spoke to witnesses who confirmed the names of five civilian victims. They were:

- Nasser Ali Mahdi Al-Adhal
- Al-Ghader Saleh Salem Al-Adhal
- Saleh Al-Taffaf Al-Adhel
- Yasser Al-Taffaf Al-Adhel
- Shebreen Saeed Salem Al-Adhal

Reprieve has received the following account of the raid:

The villagers were awoken in the middle of the night on May 23rd by shouting, dogs barking, heavy shooting, and helicopters. The first victim was Nasser al Adhal - a 72-year-old man who was partially blind. Nasser was leaving his house to go to the mosque when he encountered the SEALs. As he approached them, he was shot dead. He was not a member of al-Qaeda or any other terror group.

Many of the villagers came out of their homes to see what was happening. They sought to communicate with the SEALs. As a result, four more civilians were killed and five others were seriously injured.

One of the survivors injured during the raid, Mabkhout Arfaj Al-Athal, told us he was woken by the sound of gunshots and ran outside to try and make sure his elderly, disabled father would not be hurt. He was immediately shot twice, once in his right leg and once in his left elbow.

Also injured was 9-year-old Othman Saleh Mohammed, a bright young boy who is in the top five in his class at school and passionate about football. He was injured in both arms and knocked unconscious.

22-year-old Murad Saeed Salem Al-Athal has had his right leg amputated as a result of injuries suffered during the raid. He told us that people in the village are angry and frustrated that their village has been destroyed in an unjustifiable attack and that now women and children in the village are living in fear and shock.

A number of those injured told us that they were left bleeding for hours, unable to get medical attention because the helicopters remained over the village until dawn, preventing anyone from leaving or entering the village.

In the devastating aftermath of these sudden and unexplained US operations, survivors and witnesses are still struggling to make sense of what happened. The inhabitants of Yakla have been forced out of the village and some have taken to sleeping in the surrounding valleys. People are terrified to return to their homes lest they be terrorized by persistent and aggressive US air strikes.

Saleh Mohsin Al-Ameri survived the January raid in Yakla, which killed his daughter Fateem. He told Reprieve that he still wakes up in the middle of the night, gripped by the horror of the loss of his beloved and innocent daughter.

The sustained campaign of drone strikes and ground raids against the residents of these areas represents collective punishment of entire communities.

The US has failed to acknowledge the scale of arbitrary killing as a result of these actions. What little investigation there has been does not comply with international standards.¹⁶ Moreover, there has been no official acknowledgement of, or investigation into, the loss of life in both the most recent US ground raid in Marib and as a result of the aggressive campaign of drone strikes.

¹⁶ The relevant international standards are discussed further below.

4. Chaotic, Unchecked and Secret: the hallmarks of the US 'targeted killing' program

The US Congress must urgently review and regulate the Executive's use of lethal force outside of armed conflict. The massacre of civilians in Yakla and Al-Jubah and the five-fold increase in drone strikes in 2017 reveal a casual disregard for human life, a broken framework for lethal action and a strategic incoherence at the heart of America's policy for use of armed drones.

Lack of clear legal basis

International human rights law governs the use of lethal force outside of armed conflict. It permits the use of lethal force only in very narrow circumstances; specifically, only where it is "strictly unavoidable" in order to defend against an "imminent threat of death."¹⁷ For instance, in the case of self-defense against an armed attack.

The raids on Yakla and Al-Jubah follow a pattern of ill-considered and legally questionable operations in Yemen. The purpose of the raid in Yakla was initially reported as being to capture or kill the alleged leader of AQAP, Qassim Al-Rimi.¹⁸ However, it quickly emerged that Al-Rimi was not in the village at the time of the raid. In fact, shortly after the raid, he released a video which proved he was not killed in the attack. Subsequently, the US indicated that the aim of the "highly successful" mission was, instead, to gather intelligence.¹⁹ If, as stated by former Press Secretary Sean Spicer, this operation were conducted with the purpose of gathering intelligence, then it must be considered an abject failure as it led to several civilian deaths, as discussed.

If, alternatively, the operation were conducted in order to kill Qassim Al-Rimi, the use of lethal force would only be justified if the US could prove that it had, in advance of the raid, objective and credible evidence that Al-Rimi was planning an "imminent" attack, a defense against which was otherwise "strictly unavoidable."

This standard, by design, would be extremely hard to meet. Indeed, the government has yet to disclose such evidence, or even such an allegation. Further, considering the fact that Al-Rimi was not even present, the subsequent loss of life appears both without logic and without legal justification. To that end, the ACLU has filed an FOIA complaint in relation to the Yakla raid specifically requesting that the Executive publish "the legal and policy bases in domestic, foreign and international law" which justified the raid.

Absence of strategy

Aside from their legal uncertainty, the strategic and intelligence value of these operations is doubtful. In the raid on Yakla, the only houses the SEALs entered belonged to civilians. They did not enter the only house belonging to

¹⁷ United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, princ. 9 (1990).

¹⁸ [Death in Al Ghayil: Women and Children in Yemeni Village Recall Horror of Trump's "Highly Successful" SEAL Raid, The Intercept, 9 March 2017](#)

¹⁹ [White House, Press Briefing by Press Secretary Sean Spicer, 7 February 2017.](#)

an individual with alleged connections to AQAP. Shortly after the raid, the US released and promptly withdrew a video that they claimed was obtained during the raid. In fact, the video was at least nine years old and had previously been released to the public.²⁰

Similarly, the alleged purpose of the raid on Al-Jubah was to gather intelligence, however, none of the residents of the village were aware that US forces had taken anything or anyone. Indeed, residents told us that the village rarely has access to electricity and that the only things in the village for the soldiers to take would be mattresses and other personal trinkets.

Senior military and intelligence figures have criticized the US drone program as a poor strategy to combat terrorism. Former General Stanley McChrystal, who headed US Special Forces operations, warned against the use of drones. He said they are “hated on a visceral level” and exacerbate a “perception of American arrogance” suggesting the US can take strikes anywhere it pleases.²¹ Robert Grenier, a former head of the CIA Counter-Terrorism Center and former CIA Station Chief to Pakistan, has warned that the US has been “seduced”²² by counterproductive technology “creating a situation where we are creating more enemies than we are removing from the battlefield.”²³ President Obama’s former Defense Intelligence Chief and three-star General, Mike Flynn, has described the drone program as a “failed strategy” observing that “when you drop a bomb from a drone ... you are going to cause more damage than you are going to cause good.”²⁴

Abandonment of Obama-era safeguards

Coupled with the apparent lack of strategy behind the Yakla and Al-Jubah raids is President Trump’s deliberate disregard for the minimal safeguards put in place during the Obama administration.

President Obama introduced a policy governing US action in countries outside of “areas of active hostilities” (the “Drone Policy”).²⁵ These actions include drone strikes and operations designed to capture alleged terrorists. The Drone Policy sets out a process that must be followed before action can be taken. The policy references a covert decision-making protocol, purportedly introduced to guard against loss of life and misdirected strikes. It requires “near certainty that the individual being targeted is in fact the lawful target and located at the place where the action will occur” and “near certainty that the action can be taken

20 [Military botches release of video seized in Yemen raid, CNN, 4 February 2017.](#)

21 [Retired general cautions against overuse of “hated” drones, Reuters, 7 January 2013. <http://uk.reuters.com/article/us-usa-afghanistan-mcchrystal-idUSBRE90608O20130107>](#)

22 [Drone attacks create terrorist safe havens, warns former CIA official, The Guardian, 5 June 2012. <https://www.theguardian.com/world/2012/jun/05/al-qaida-drone-attacks-too-broad>](#)

23 *Id.*

24 [Obama’s former defense intel chief: Drones a ‘failed strategy’, Politico, 16 July 2015.](#)

25 [Procedures for Approving Direct Action Against Terrorist Targets Located Outside of the United States and Areas of Active Hostilities, 22 May 2013.](#)

without injuring or killing non-combatants.”²⁶

In March 2017, President Trump took steps to weaken the already limited Obama-era safeguards by designating three provinces of Yemen as “areas of active hostilities.”²⁷ This means that US action in Yemen is no longer covered by the Drone Policy. Instead, the Administration claims to abide by the laws of war, which only require that use of force be “necessary” and “proportionate.” The limited safeguards Obama put in place are now gone, placing lives at much greater risk. The designation of areas of Yemen as “areas of active hostilities” came contemporaneously with the grant of authority to the CIA—an intelligence agency and not a military body—to conduct drone strikes, similarly weakening controls on the US’ program of extrajudicial assassinations because “some of the Obama administration rules were getting in the way of good strikes.”²⁸ The grant of authority to the CIA is particularly concerning given the highly secretive nature of CIA decision making processes,²⁹ and the lack of the reporting requirements to which the Defense Department is statutorily beholden.³⁰

The facts surrounding the Yakla raid reveal the deadly impact of removing these minimal safeguards. It has been reported that the decision to conduct this raid was taken over dinner and with such haste that neither the Yemeni authorities nor the US Ambassador to Yemen was informed.³¹ Moreover, US officials have said that forces were sent to Yakla without “sufficient intelligence, ground support or adequate backup preparations.”³²

Hear No Evil: ignoring evidence of innocents killed by the US

The Trump Administration has failed to acknowledge the scale of killing set out in this report.

In relation to the raid on Yakla, the Administration has only officially accepted that there were somewhere between four and twelve casualties.³³ The US

26 *Id.*

27 [Trump Administration Is Said to Be Working to Loosen Counterterrorism Rules, New York Times, 12 March 2017.](#)

28 [CIA ‘given new authority to conduct drone strikes’ as Donald Trump rolls back restrictions, Telegraph, 14 March 2017.](#)

29 [Columbia Law School Human Rights Clinic and Sana’a Centre for Strategic Studies, Out of the Shadows: Recommendations to Advance Transparency in the Use of Lethal Force, June 2017.](#)

30 Strikes by the CIA are classified as Title 50 covert actions, defined as “activities of the United States Government . . . where it is intended that the role . . . will not be apparent or acknowledged publicly, but does not include traditional . . . military activities.” As covert operations, the government cannot legally provide any information, nor hold oversight hearings on how the CIA conducts targeted killings, while JSOC operations are guided by Title 10 “armed forces” operations and a publicly available military doctrine.

31 [Death in Al Ghayil: Women and Children in Yemeni Village Recall Horror of Trump’s “Highly Successful” SEAL Raid, The Intercept, 9 March 2017.](#)

32 [US military probing more possible civilian deaths in Yemen raid, Reuters, 2 February 2017.](#)

33 [US says January raid in Yemen killed 4 to 12 civilians, Reuters Canada, 9 March 2017.](#)

military has not released its full assessment, casting doubt on its methodology and the adequacy of its investigation.³⁴

In relation to the raid in Marib, there has been no acknowledgement of, or investigation into, the loss of innocent life. Instead, Pentagon spokesman, Captain Jeff Davis, stated that there was no credible indication that there were civilian casualties in the raid.³⁵ To date, there is limited evidence that any full investigation into the civilian casualties caused by the May 2017 raid has been launched.³⁶

Similarly, many of those killed in the escalating campaign of drone strikes across Yemen remain unrecognized. In response to the deaths of the two children killed in the strike on 6 March, which was reported by Reuters, the US Central Command said that they were not aware of any credible civilian casualty allegations.³⁷

Impunity: no redress for arbitrary killing and injury

Investigation of wrongful deaths is a crucial aspect of ensuring respect for the right to life.³⁸ It offers victims transparency and accountability, creating scope for meaningful resolution of the trauma they have experienced. Under both international and US law, unlawful killings reported by relatives of those killed, NGOs, or other credible news sources are sufficient to trigger an official government investigation. In accordance with the UN Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (Minnesota Protocol), States are under a duty to investigate where there are any “reasonable allegations” of “potentially unlawful death.”³⁹ The Protocol further provides that “all legitimate lines of inquiry into potentially unlawful death should be pursued.”

By way of Executive Order 13732, US domestic law also requires that the government “review or investigate incidents involving civilian casualties, including by considering relevant and credible information from all available sources.” In fact, it goes even further than international law and requires that the US “acknowledge US Government responsibility for civilian casualties and offer condolences, including ex gratia payments” to the injured and the families of those killed.⁴⁰

34 [ACLU v DoD – Yemen FOIA Complaint, ACLU, 8 May 2017.](#)

35 [Seven al Qaeda militants killed in U.S. raid in Yemen: Pentagon, Reuters, 23 May 2017.](#)

36 [US Raid Killed Five Yemen Civilians, Says Rights Group Disputing Official Story, The Guardian, 24 May 2017.](#)

37 [Yemen: Reported US Covert Actions 2017, Entry YEM265, The Bureau of Investigative Journalism.](#)

38 It is a fundamental rule of international human rights law that no-one may be arbitrarily deprived of his or her life. Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), provides: “Every human being has the inherent right to life.”

39 [Minnesota Protocol on the Investigation of Potentially Unlawful Death \(2016\): The Revised United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.](#)

40 [Executive Order 13732 – United States Policy on Pre – and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving](#)

The US has thus far failed entirely to discharge these binding legal obligations. In relation to the Yakla raid, a Pentagon spokesperson claimed that they would not conduct an on-the-ground investigation because the location makes inquiries difficult.⁴¹ This statement is indicative of the casual disregard for human life and legal duty present in the drone program. Any investigation into lethal strikes appears to be limited to internal post-strike video analysis and is concluded within 24–48 hours of the military action.⁴² USCENTCOM only has two full time civilian casualty investigators.⁴³ This raises serious concerns that any investigation the US conducts will not have sufficient resources to arrive at a result.

Reprieve’s investigation, as described in this report, shows that it is quite possible to collect first-hand testimony and evidence of US actions. Our investigators have meticulously recorded the names of those injured and those deceased, and have also gathered documentary evidence such as death certificates to support witness testimony. Not only have none of the victims we interviewed been offered US condolences or ex gratia payments, but none have even been contacted by US personnel since the raid. Several victims are suffering ongoing medical complications as a result of injuries caused by the raids and are left without any financial or medical assistance.

Use of Force.

41 [Twitter, Zachary Fryer-Biggs, 10 March 2017.](#)

42 [‘Iraq/ Syria Civcas Allegation Tracker’, declassified CENTCOM document, published 3 September 2015.](#)

43 [How a woman in England tracks civilian deaths in Syria, one bomb at a time, The Washington post, 14 May 2017.](#) Central Command has recently added personnel to the investigation teams but they only cover activities in Iraq and Syria.

5. Taking the Lead: the reforms required for the US to restore its reputation for protecting and advancing the rule of law around the world

In light of the civilian massacres revealed in this report, the five-fold increase in secret drone strikes on Yemeni territory, and the abandonment of existing safeguards, Reprieve believes the US must urgently review its law, policy, and strategy, and place clear limits on its use of lethal force, enhancing transparency and engaging in proper public and parliamentary scrutiny. To this end, this report sets out three key recommendations for members of the Congress:

Recommendation 1:

Clarify the legal basis upon which the US is taking action in Yemen

There is an urgent need for the US to clarify the legal and policy basis on which it employs lethal force.

The US has adopted the unprecedented and controversial position that it is in a global armed conflict with Al Qaeda.⁴⁴ Such a position is inconsistent with well-established international legal principles which define narrowly (i) the circumstances in which a state may use force in self-defense; and (ii) the circumstances in which a situation attains sufficient gravity to constitute an armed conflict.

Domestically, the 2001 Authorization of the Use of Military Force (AUMF), has been used to justify the use of lethal force in Yemen. This 2001 statute was originally passed to authorize the response to the September 11th, 2001, attacks—to date, it has been interpreted to justify the gamut of abduction, rendition, torture, and indefinite detention without charge or trial in places like Guantanamo Bay as well as military strikes in Syria, Iraq, Pakistan and beyond. Interpreted as such, this broad power is inarguably a “blank check” for the Executive to take action wherever and whenever it pleases.⁴⁵ Although the Drone Policy put in place some limited safeguards to protect civilian life, President Trump has stripped away all such protections by designating parts of Yemen an “area of active hostilities”—a term left undefined and unexplained.

When victims try to hold the US government to account in court, it denies that the court has any right to oversee its targeting decisions.⁴⁶ Further to that, the government argues that international law written to prohibit extrajudicial killing “cannot be brought against United States government employees or United States citizens.”⁴⁷ This position is wrong in law and in principle. Under an international rules-based order, individual states may not unilaterally alter the law or the terms of engagement. This position is also flawed in practice, as it plays into terrorists’ narrative and denies due process safeguards to those wrongly accused of terrorism, as well as their families and communities.

44 Harold Koh, Legal Adviser to US State Department, Speech at the American Society of International Law, 25 March 2010.

45 “Repeal this blank check for endless war”: Lawmaker demands end to 9/11-era Authorization for Use of Military Force, Salon, 15 September 2016.

46 Respondents’ Motion to Dismiss at 20, Jaber v. United States, No. 15-cv-00840 (D.D.C. Sept. 30, 2015).

47 *Id.* at 9.



Photo: The room where a three month old baby died.

“This was something that was, you know, just—they [the generals] wanted to do”.

President Trump on the decision making process in relation to the Yakla raid

Recommendation 2:

Properly investigate credible allegations of civilian casualties

The Drone Policy sets out the clear requirement, in line with the Minnesota Protocol, that the government investigate civilian casualties by “considering relevant and credible information from all available sources”.

However, there has been a desperate failure to investigate credible allegations of deaths or serious injuries as a result of US action in Yemen. The official investigation into the raid in Yakla only acknowledged between four and twelve civilian casualties; such an estimate grossly misrepresents the devastation wrought upon the lives of the residents of Yakla, as documented by Reprieve.

The official response from the Pentagon following the raid on Al-Jubah was that there was no evidence of civilian casualties. This directly contradicts the detailed evidence collected by Reprieve documenting the numerous civilian lives lost during this raid.

This is merely one instance where the US has failed to investigate allegations of children killed by a US drone strike. In considering the 90+ strikes that have fallen on Yemen since President Trump’s inauguration, one is left to wonder how many deaths have gone unreported and uninvestigated.

Reprieve believes there is an urgent need for the US to comply with the investigative requirements under the Minnesota Protocol and ensure that **all** credible allegations of civilian casualties are properly and publicly investigated. We also call upon the US to release, in full, the results of its investigation into the raid in Yakla and any investigation into casualties caused by the aggressive campaign of drone strikes and second raid in Al-Jubah.

Recommendation 3:

Strengthen oversight and accountability mechanisms in relation to the US program of ‘targeted killings’.

Congress must step in and take a more active role in overseeing and scrutinizing the US program of targeted killing. This has never been more acutely important.

Although the Congressional Armed Services and Intelligence Committees provide a degree of oversight, the Executive is able to control what information they provide to these bodies.⁴⁸ The abject failure of the Executive to engage meaningfully with these committees has resulted on one occasion in the Armed Services Committee seeking to withhold funds to try and force the Executive to comply.⁴⁹

More importantly, there is very little information available on the results of Congressional Committee review in relation to the use of force by the Executive. For example, in relation to the Yakla raid, the Armed Services Committee’s recommendations have not been made public and the full investigation conducted by US Central Command has not been released.⁵⁰

48 [Columbia Law School Human Rights Clinic and Sana’a Centre for Strategic Studies, Out of the Shadows: Recommendations to Advance Transparency in the Use of Lethal Force, June 2017.](#)

49 *Id.*

50 [ACLU v. DoD – Yemen FOIA Complaint, ACLU, 8 May 2017.](#)

Although in theory there are a number of Executive oversight mechanisms, these bodies have broad overlapping mandates and in practice do not provide a meaningful or genuine check on Executive power.⁵¹

The current oversight mechanisms, both congressional and judicial, are wholly inadequate. To date, the US courts have consistently held that the political question doctrine precludes them from exercising supervisory control of the drone program. In response to this, a G.W. Bush-appointed judge in the DC Circuit recently made this powerful critique of the drone program and its regulatory flaws in her concurring opinion in *Jaber v. United States*:

[I]f judges will not check this outsized power then who will? No high-minded appeal to departmentalism ... changes the fact that every other branch of government seems to be passing the buck ... there is pitifully little oversight within the Executive ... congressional oversight is a joke—and a bad one at that.

Our democracy is broken. We must, however, hope that it is not incurably so. This nation’s reputation for open and measured action is our national birthright; it is a history that ensures our credibility in the international community. The spread of drones cannot be stopped, but the U.S. can still influence how they are used in the global community—including, someday, seeking recourse should our enemies turn these powerful weapons 180 degrees to target our homeland. The Executive and Congress must establish a clear policy for drone strikes and precise avenues for accountability.⁵²

Judge Brown’s warning must be heeded. Both the judiciary and the legislature must play a critical role in applying America’s values, upholding the rule of law, and guaranteeing adequate accountability for the exercise of Executive power. Congress must act swiftly to halt the exponential expansion of the drone program and to hold the Executive branch to account. In the concluding words of Judge Brown:

Civilizational peril comes in many forms—sometimes malevolent philosophies, sometimes *hostis humanis generis* (pirates, slavers and now terrorists), and in each epoch we must decide ... what must be preserved... The Court’s opinion has not hacked down any laws, though we concede the spindly forest encompassing the political question doctrine provides poor shelter in this gale. But it is all a Judiciary bound by precedent and constitutional constraints may permissibly claim. It is up to others to take it from here.⁵³

51 [Columbia Law School Human Rights Clinic and Sana’a Centre for Strategic Studies, Out of the Shadows: Recommendations to Advance Transparency in the Use of Lethal Force, June 2017.](#)

52 *Jaber v. United States*, 2017 U.S. App. LEXIS 11672, at 21-23 (D.C. Cir. June 30, 2017).

53 *Id.*

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