



Yemen © MSF

# MSF internal review of the January 2016 attack on Shiara hospital

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Public document

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## EXECUTIVE SUMMARY

On 10 January 2016, the Médecins sans Frontières (MSF)-supported Shiara hospital in northern Yemen was hit by a projectile, causing the death of 6 people and resulting in another 8 injured, all of them civilians. The MSF internal investigation into the attack was finalised on 15 March 2016, and revealed that there was no justifiable or legitimate reason behind the attack.

The findings show that at the time of the attack Shiara was a functioning hospital with a qualified team. It offered many services responding to the high medical needs in the area, which have increased over the last year due to continuous air bombardment and rocket attacks, as well as Shiara's mountainous location which makes referral services very challenging. MSF had conducted the necessary steps to reduce security risks and increase protection of the hospital.

No communication was made to MSF by either the Saudi-led Coalition (SLC) or the al-Houthis (AH) indicating that an attack on Shiara hospital was imminent, and there was nothing that could have been interpreted as a warning of an impending attack. There was also nothing unusual in the days prior to the attack. Due to the particular circumstances of the case, it is not possible to ascertain the type of weapon used. However, according to the information collected on the ground and to the eyewitnesses present at the time, the attack was unanimously identified as being a rocket attack rather than an airstrike. Based on the available evidence, it is most probable that the attack was carried out by the SLC.

There is no justifiable reason, however, why Shiara hospital should have been attacked, as there is no evidence to suggest that the hospital was being used for any military purposes that would warrant the loss of its protected status under international law. There are several possibilities, however, that show why Shiara may have been perceived as a strategic target, despite such an attack being illegal in international humanitarian law. It could have been aiming to disrupt treatment of wounded combatants being treated at Shiara hospital, or discourage international aid organisations from working in the sensitive border area. It could also have been part of a strategic campaign to target densely populated areas and essential services under AH control, as such areas are frequently hit in the Razeah area without the presence of any apparent military target.

The attack may also have aimed at AH military targets in the town but hit the wrong target. A combined approach is being seen in Yemen today where imprecise weaponry is used alongside lenient targeting protocols where it is not clear if precautionary measures are taken before an attack. This provokes a high margin of error, and amounts – at the very least - to negligence in military conduct.

Whether the attack was an intentional targeting of the hospital or of a densely populated area, or whether it was an act of negligence caused by insufficient precaution in the planning of it, the attack, which killed 6 civilians, violated the right to access lifesaving healthcare and the right of medical practitioners to provide it. According to the findings of this internal review, it also likely violated international humanitarian law. The events surrounding the attack should be investigated by an independent fact-finding mechanism as well as all parties to the conflict, and the findings should be made public. Subsequently, warring parties must revise their rules of engagement and targeting procedures, and ensure that, during military decision-taking, all necessary precautions are taken to protect civilians, medical facilities and humanitarian actors.

## TABLE OF CONTENTS

Acronyms .....	4
About this report .....	5
Methodology of the internal review .....	5
1. Background of the area .....	5
1.1. The conflict in Sa'ada	
1.2. The town of Shiara	
<i>Overview: the pattern of incidents in the Razeh area</i>	
2. MSF relationship with Shiara .....	8
2.1. MSF and Shiara pre-September 2015	
2.2. MSF and Shiara today	
2.3. Shiara hospital	
2.4. First renewed visit to Shiara to conduct the assessment (September 2015)	
<i>Overview: the normal functioning of Shiara hospital</i>	
2.5. Second visit to Shiara (October 2015) and beginning of activities	
<i>Overview: mitigation measures taken by MSF prior to working in Shiara</i>	
3. Negotiated access: MSF discussions with the relevant authorities .....	11
3.1. Meetings with Al-Houthi/MoH representatives	
3.2. Meetings with Saudi-led Coalition representatives	
4. Incident of 10 January 2016 .....	12
Chronology of the incident	
<i>Overview: direct consequences of the attack</i>	
5. Why was Shiara attacked? Discussion and scenarios .....	14
5.1. Medical importance of the facility	
5.2. Neutrality of the hospital	
5.3. Type of attack	
5.4. Who was responsible and possible motivations	
5.5. Possible warning signs	
Concluding remarks .....	18

**Acronyms**

<b>AMP</b>	Advanced medical post
<b>AGH</b>	Al Gumhuri hospital in Sa'ada
<b>AH</b>	Al-Houthis, the political representation of the Zaydi Shias in northern Yemen
<b>EC</b>	Executive Council in charge of humanitarian affairs in Sa'ada
<b>ER</b>	Emergency room
<b>ICU</b>	Intensive care unit
<b>IHFFC</b>	International Humanitarian Fact-Finding Commission
<b>IHL</b>	International humanitarian law
<b>INGO</b>	International non- governmental organisation
<b>IPD</b>	In-patients department
<b>KSA</b>	Kingdom of Saudi Arabia
<b>MoH</b>	Ministry of Health
<b>MSF</b>	Médecins sans Frontières (Doctors without Borders)
<b>OPD</b>	Out-patients department
<b>PR</b>	Press release
<b>SLC</b>	Saudi-led Coalition

## About this report

On the morning of 10 January 2016, a projectile struck the compound of the small district hospital in Shiara, a town 90km west of Sa'ada near the Saudi Arabian border. Six people were killed, including 2 hospital volunteers, a daily worker, a patient and two caretakers. At least eight others were injured. It was not clear whether the attack was an airstrike or a ground-launched projectile, there appeared to be no justification for this attack on a civilian hospital and, at the time of writing, no one has claimed responsibility. This report by Médecins sans Frontières (MSF) constitutes the findings of the internal review conducted following the attack to clarify as much as possible the events surrounding it and understand, for operational reasons as well as a humanitarian obligation, why it happened. Two other attacks occurred recently on MSF-supported medical facilities in Yemen, one on a hospital in Haydan, also in Sa'ada, on 27 October 2015, and another on a mobile clinic in al-Houban district of Ta'iz on 2 December 2015.

## Methodology of the internal review

This report was put together internally by MSF. The approach was to extract all relevant information from the field, review relevant documentation and conduct structured and semi-structured interviews with those concerned, and subsequently triangulate information in order to reach as conclusive as possible an understanding of the attack. 12 hospital staff were interviewed on 15 January, and seven MSF expatriate and Yemeni staff members conducted interviews via Skype between 29 January and 4 February.

Some shortcomings include the following: Communication with Shiara is extremely challenging, as the area barely has a functioning phone network. Regarding ballistics analysis, it should be mentioned that MSF does not have relevant in-house expertise and therefore specialised external sources were consulted on this matter, who were not present in Yemen at the time of the attack. Due to these shortcomings, it is not possible to give a definitive conclusion of what happened. The remit of MSF, however, is not to conduct an exhaustive military investigation, but rather to ascertain the facts surrounding the incident. This report therefore examines and discusses the possible scenarios, putting them in operational and contextual perspective. The report has been adapted from a longer and more detailed investigation report. It is structured in a chronological order, including a brief history of the area and of MSF's activities there, and also describes previous attacks on the hospital.

## 1. Background of the area

### 1.1. The conflict in Sa'ada

Conflict has been continuous in northern Yemen, for many years. The "six wars of Saada" went on between 2004 and 2010, sparked by an uprising by the al-Houthi Zaydi Shia group against the central Yemeni government, at that time led by President Saleh.

In March 2015, a Saudi-led Coalition began bombing Yemen in order to stop the spread of Houthi control. Fighting raged throughout the country and Sa'ada especially – being the Houthi heartland and a border zone – suffered a constant pounding from coalition airstrikes and rockets. This latest conflict has caused the death of an estimated 6,000 people and left 35,000 injured.<sup>1</sup>

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<sup>1</sup> See, for example: <http://www.reuters.com/article/us-saudi-yemen-secusecurity-idUSKBN0UG09820160102>; and <http://www.globalresearch.ca/the-war-on-yemen-britain-targeted-by-eu-arms-embargo-for-selling-weapons-to-saudi-arabia/5510421>.

## 1.2. The town of Shiara<sup>2</sup>

Shiara is in the westernmost point of the Sa'ada governorate, some 7-30km from the Saudi border.<sup>4</sup> It is a small town of around 10,000 inhabitants located within the district of Razeh, which borders the mountains that separate the two countries and has an estimated population of 70,000.



The greater district of Razeh is an important qat-growing region, which has provided wealth for many businessmen and families. But the war has affected the region, and merchants who traded goods between Yemen and KSA can now no longer move easily between the countries, which affects an important source of income for Yemeni families in the area.

Today, like in past wars, Shiara and the district of Razeh continues to sustain a high number of military attacks. Attacks often occur in concentrated civilian neighbourhoods, and people have very little access to emergency medical services and referral services to get treatment. But despite this and the heavy military presence in the Razeh district, a substantial part of the civilian population of its towns and villages, including Shiara, have refused to leave during the war, largely due to strong cultural or economic ties with the area.<sup>3</sup> The traditional market in Shiara serves as an important meeting place for people from all over the district.

### **Overview: the pattern of incidents in the Razeh area**

Since the start of most recent conflict, in addition to aerial bombardment by Coalition military planes, both sides have been launching rockets across the border. According to MSF staff in Yemen, the rockets are often launched at night and are clearly identifiable by their sound and visible trajectory from source to point of impact. However, it is believed that the rockets used have poor precision,<sup>4</sup> and many land in deserted areas. It is unclear how much cross-checking there is along the chain of command, for either of the warring parties before an attack is conducted, and many rockets appear to land in remote locations. In this military campaign, as in the sixth Sa'ada war in 2009, medical facilities are often hit as well as densely populated civilian areas that have no apparent legitimate military target.

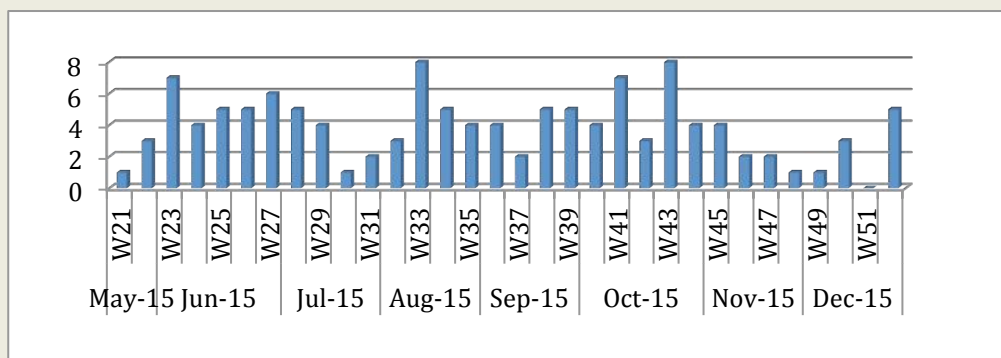
<sup>2</sup> There is some discrepancy about the distance from Shiara to the Saudi border, but this is likely due to the fact that the border is winding around this area, so distances will vary.

<sup>3</sup> One of the reasons being that the area has a lot of terraced qat farms, which require farmers to be continually present on the land.

<sup>4</sup> According to Human Rights Watch (HRW) and various media sources consulted, the al-Houthi use Soviet-made rockets left over from Yemeni government military stocks, including Toshka and Katyusha. Both are unguided weapons with poor precision in targeting. See, for example: "Pro-Houthi Forces Launch Rockets on Saudi City", HRW 13 May 2015: <https://www.hrw.org/news/2015/05/13/yemen-pro-houthi-forces-launch-rockets-saudi-city>.



The following chart shows the incidents (both airstrikes and rocket attacks) recorded in the Razeh area by the MSF team, from May to December 2015.<sup>5</sup>



**The total number of incidents recorded during this period was 123, averaging 4 per week.** The chart shows that the number of attacks has remained consistently high throughout the year, with relative lulls in mid-July (coinciding perhaps with the end of Ramadan on 17 July)<sup>6</sup> and the beginning of December (at which time a renewed ceasefire was being discussed, which was finally implemented on 15 December – and violated soon thereafter by both sides).

MSF staff stated that the number of rockets fired from different bases along the Saudi border towards the Shiara area had increased from an average of one a day before September 2015 to around 5-7 on some days by mid-October. In October, an MSF staff member in Yemen described: *“No significant change in air attack pattern with the majority of airstrikes in the region reported to occur at night. For the last two weeks random Katyusha (ground-to-ground) missile strikes have been affecting the region. While this is not a positive development, the frequency of attacks appears to be low at the present time and the random nature indicates no specific targeting of the hospital or roads.”*

The quiet month of 20 November - 20 December can be confirmed by a staff member interviewed on 20 December: *“The last four weeks have been quiet in Razeh. Primary hotspots are the border between Razeh and Shaada districts in the north and south where they touch the Saudi border. Fighting sometimes goes on day and night, both ground-to-ground (mortars and shelling) as well as air-to-ground (strikes) which can be seen from a distances (of around 8-10km). But Razeh has barely been hit in the last month.”*

Following the January attack on Shiara hospital, the number of incidents in the Razeh district reduced for several weeks but then started to increase again. In February, 16 airstrikes and 13 rocket strikes were recorded. As for Shiara hospital itself, the majority of incidents have been recorded to be rocket attacks. The attacks in the area continue, and on the afternoon of 1 March 2016, two airstrikes hit an open space within 20 metres of the hospital, wounding one teenager. Shrapnel entered the building and some damage to the premises was caused.

<sup>5</sup> These are internal MSF statistics. The information was collected by MSF staff members in Yemen who monitor incident types and locations as part of the routine activities related with security management. There was no distinction made between airstrikes or rockets, and it is not clear how many of the total incidents are recorded here, but it is likely that there are others in the area that were not included (e.g. rockets falling in more abandoned locations). Nevertheless, it serves to show the trends over time.

<sup>6</sup> Note that on examining the dates of the Islamic holidays for 2015, no other patterns can be observed which correlate incidents recorded with a particular religious holiday.

## 2. MSF relationship with Shiara

### 2.1. MSF and Shiara pre-September 2015

MSF started a project in the small MoH-run district hospital of Shiara in December 2007. At that time, the services being offered included out-patients department (OPD), in-patients department (IPD), emergency room (ER), intensive care unit (ICU), maternal health and nutrition. The local communities were very supportive of MSF's presence, especially in the anticipation that MSF would be supporting a wide range of much-needed services. Following some security problems in the area, coupled with increasingly strict restrictions by local authorities on the activities of INGOs in the area, MSF left Shiara at the end of 2011.

### 2.2. MSF and Shiara today

Currently, MSF has two types of medical programmes in Sa'ada governorate aimed at emergency medicine. The first programme is the co-management of Al-Gumhuri hospital (AGH) in Sa'ada city, where MSF's support solely focuses on the emergency services. The second programme is the identification of the most disadvantaged districts in the area that could benefit from an advanced medical post (AMP) from which to refer medical cases to Sa'ada. After conducting an independent assessment in the surrounding areas MSF considered that one of the most disadvantaged areas was Shiara, due to the fact that needs were high, referral and emergency services were poor, and the civilian population still living in the area was significant. In early September 2015, Shiara was thus chosen to be the priority pilot project from which referrals to AGH could be made and life-saving services provided, with the aim of reproducing that programme in other areas where needs arose.

### 2.3. Shiara hospital

The "Razeh suburban hospital" ("*Mustashfa Razeh el- Rifi*", hereinafter "Shiara hospital") is a small MoH district hospital located next to the main marketplace of Shiara, on the main road passing through the town. People from all over Razeh district come to Shiara to visit the market place. Shiara hospital is the only hospital to serve the population of 70,000 in the Razeh district, but also is the only one available for the other four surrounding districts. In recent months, there have been 2-3 private hospitals that have opened up in Shiara, presumably to meet emerging medical needs among those families who can afford to pay higher fees.<sup>7</sup> In the area surrounding Shiara hospital, the market place, houses and petrol stations are frequently hit by airstrikes and rocket fire.



*This aerial photo shows Shiara hospital's central location in the town*

<sup>7</sup> For example, according to MSF staff in the area, costs of a service which would cost 400 Yemeni rial at a public hospital would now cost 6,000 rial at one of the new private clinics.



Shiara hospital was bombed during the Houthi wars and was rehabilitated by MSF in 2010. This photo shows the hospital as it was in early 2011 after its rehabilitation.



After MSF left Shiara later in 2011, the hospital is said to have been bombed again. Between late 2011 and late 2015, MSF was not involved in the area, and Shiara suffered another attack early in the 2015 conflict. This attack, coupled with staff shortages due to the fleeing of many medical practitioners in the area, disrupted somewhat the activities in the hospital. Despite this, the staff that stayed made it possible for many activities to continue to be carried out.

On the morning of 4 September 2015, Shiara hospital was hit again by at least two airstrikes, which caused substantial damage to the premises. To put this incident in perspective, it is important not to forget that the area was undergoing a lot of bombardment at this time, as explained above in the section “*Overview: the pattern of incidents in the Razeh area*”. During an MSF visit to the hospital shortly thereafter, the team found no evidence to suggest that the hospital was being used for any military purposes at the time it was bombed.

#### 2.4. First renewed visit to Shiara to conduct the assessment (September 2015)

Despite the bombing of Shiara hospital on 4 September MSF decided to conduct an assessment visit it had already planned for 8 September. The relevant authorities had already been notified of the visit, and MSF obtained strict promises from the al-Houthi authorities that no military presence would be close to or following the team throughout the visit. This was fully respected by the local authorities.

That day in Shiara, the team found that half of the hospital had been completely destroyed in the attack and the rest, including the operating theatre, was partly destroyed. Activities had stopped completely. The following pictures are of Shiara hospital at the time of the 8 September visit:



According to the meetings conducted by the team, the hospital was providing many services before it was hit.<sup>8</sup> Trauma treatment (for wounded civilian and combatants) was cited as among the most important medical needs in the area, especially since numbers of attacks in the area are high, and survival rates are aggravated by poor road

<sup>8</sup> See section below, which describes all the regular activities going on in Shiara during 2015.

conditions, long distances to Sa'ada, lack of health service providers and security challenges.

### **Overview: the normal functioning of Shiara hospital**

MSF has been helping the hospital develop a register system, but there are no consistent medical records available for the time prior to November, and so before then the only available information on activities was collected during MSF's assessment visit in September 2015. According to that visit, the hospital had been functioning normally and had been busy in the months before the September attack. Prior to September, the hospital had a laboratory with blood bank, X-ray, IPD for women and children (10 beds) and men (10 beds), maternity, OT, ER, OPD, and a nutrition programme with 73 children. The hospital had a full medical and administrative staff comprising over 17 people. Of an average of 30 ER consultations per day at that time, around 40% were war-wounded civilians or combatants. The hospital usually had 75% bed occupancy of the 20 beds in the IPD.

Since starting its collaboration with Shiara hospital in November 2015, MSF has been supporting Shiara's ER, maternity and referral systems, the rest remaining under the Ministry of Health (MoH). The medical registers from the months after November 2015 show that consultation figures were increasing and a growing number of people were using the hospital services for a wide array of conditions. In November, there were perhaps 7-10 consultations a day, including the emergency cases, and in January prior to the attack on the 10<sup>th</sup>, Shiara was receiving between 25 and 40 consultations a day. Some treatments, such as blast injuries, are likely to be conflict-related; however, the rest covered a wide scope of conditions such as hypertension, diarrhoea, fever, abscess, chest infection and malaria. According to the MSF staff in Sa'ada, the increasing numbers of consultations during this period were largely due to the perception among local communities that the hospital was safer after MSF had started to support it and that the services would be expanded.

Two months after MSF began working at Shiara again, the hospital suffered another direct attack, on 10 January. Despite the challenges, the staff continued in their determination to provide medical services. The registry books show that eight people were already treated on 11 January and 10 people on 12 January. By February, Shiara was already providing 80% of the services it had been providing in the weeks prior to the January attack. Its capacity to rebound so quickly is another strong indication as to how well it was resourced and operating during 2015 and prior to the attack.

### **2.5. Second visit to Shiara (October 2015) and beginning of activities**

An MSF team returned to Shiara in October 2015 to prepare the project set-up. The staff had already started offering medical services again after the hospital had suffered the September attack. Despite regular bombardment of this hospital in the past, MSF assessed that its support, even without a regular presence of international staff, would afford its medical activities at the hospital a certain level of protection. This was believed to be the case because, since the beginning of the conflict in March 2015, no attacks on MSF-supported facilities have taken place with international staff present. It is important to recall that AGM hospital, which is in the middle of a concentrated urban area in Sa'ada town and has had the presence of expatriate staff since May 2015, has not been hit during this conflict, even during times of heavy bombardment of the town.

### **Overview: mitigation measures taken by MSF prior to working in Shiara**

In order to reduce security threats in an area with a high amount of incidents, and besides the mission's own operating procedures and security rules governing the way MSF operations should be carried out, the MSF team undertook a series of measures to ensure that the hospital would be protected as much as possible from potential violations by either side of the conflict. Among the measures taken were meetings with both parties to the conflict to ensure security and respect of the neutrality of the hospital, training of hospital staff on MSF and its humanitarian principles, assessment of perception and acceptance in the town of Shiara and placement of the MSF flag clearly on the roof of the hospital to provide it visibility from the air. The GPS coordinates of the hospital were sent, as per established protocol, to the Saudi-led Coalition on 2 December 2015 to ensure that the premises would be protected from airstrikes.

### **3. Negotiated access: MSF discussions with the relevant authorities**

MSF started working officially in Shiara hospital on 13 November 2015. It is important to mention that just prior to this, the MSF-supported hospital at Haydan was hit by airstrikes on 27 October 2015, resulting in one death. The reasons behind the attack were not immediately known, and following that incident it was thus especially important to step up the negotiations with both sides and ensure MSF could get guarantees from the warring parties that would ensure better safety in Sa'ada. This made it all the more imperative for MSF to ensure the civilian nature of its supported hospitals throughout Yemen, with no presence of weapons or military uniforms.

#### 3.1. Meetings with Al Houthi/MoH representatives

MSF has a good working relationship with AH authorities on the ground. From September onwards, many discussions were held with the medical representatives within the MoH, including at higher levels of the Executive Council for humanitarian affairs in Sa'ada, to remind them of the importance of maintaining the neutrality of Shiara hospital and ensuring security for MSF teams and projects. They were reminded that the hospital could not be used for any military purposes, weapons and military uniforms should be removed on entering, military meetings should not take place in the premises, and any injured military personnel should not get preferential treatment over injured civilians. Movement protocols were agreed with them, and it was agreed that notification would be made in advance of any movements.

#### 3.2. Meetings with Saudi- Led Coalition representatives

The procedure for notifying the SLC of coordinates was agreed upon. Coordinates are passed when carrying out regular movements or when doing an assessment in a new area, and for fixed premises such as residences, hospitals and warehouses directly managed or supported by MSF. In total, close to 80 fixed GPS coordinates have been passed to the SLC by MSF since the beginning of March 2015.

In addition, following the attack on Haydan Hospital and Ta'iz mobile clinic, MSF had meetings in Riyadh with representatives of the Kingdom of Saudi Arabia (KSA) Ministry of Foreign Affairs and the Coalition/KSA armed forces in December 2015. The main point to note from these meetings was that KSA would inform MSF of any suspicious activities prior to targeting any MSF structure, as per International Humanitarian Law.

#### 4. Incident of 10.01.2016

##### Chronology of the incident

This timeline has been compiled using witness interviews and other contributions from staff that monitored the events. It also includes the relevant external communications made following the attack. The incident happened just as an MSF team prepared to make a visit to Shiara, which was planned for 12 January.

Time-line	Factual occurrence or statements by staff members interviewed at Shiara on 15.01.2016
The months prior	In an email from the MSF Field Coordinator to the Head of Mission in October, regarding attacks in the area: <i>"No significant change in air attack pattern with the majority of airstrikes in the region reported to occur at night. For the last two weeks random Katyusha (ground-to-ground) missiles strikes have been affecting the region. While this is not a positive development the frequency of attacks appears to be low at the present time and the random nature indicates no specific targeting of the hospital or roads. Mitigation actions related to the random Katyusha attack on the Shiara hospital will be implemented (blast film, blackout curtains)."</i>
The weeks prior	<b>(Factual occurrence:</b> Shiara patient numbers increasing, even just for regular consultations) The week before the incident all was stated to be normal, according to all the 12 witnesses interviewed. Two people mentioned the immediate area in Shiara was considered calmer since MSF had started supporting the hospital, there were fewer attacks. MSF staff in Sa'ada and one interviewed in Shiara suggested that the increasing numbers of patients were due to the fact that residents in neighbouring villages started to feel confident that the hospital was a safer place now that MSF was present. Two people also mentioned that they had believed that the international condemnation of the Saudi-led Coalition following Haydan would imply better protection.
The days prior	A couple of days before the incident, the fighting at the frontline intensified. But the area around Shiara was still calm. The night before, two people stated having seen reconnaissance jets flying around, but thought nothing of it as planes fly around this area on a continual basis.
10.01.16	On the morning of the incident, hospital staff were preparing for the day's work. Some were with patients, some were paying the daily workers, some were preparing for an upcoming visit of the MSF team on the 12 January. At least 13 staff members of Shiara hospital, volunteers or daily workers were present at the time. It is not clear how many patients were present.
09.00am	<b>(Factual occurrence:</b> A single rocket hits remote mountain location around 2km from Shiara) At 9am, two staff members mentioned they heard the whoosh of a single rocket and an explosion. It was said to have landed in a remote location in the mountains, and is considered by the team there to be a "random" rocket with no clear target.
09.20am	<b>(Factual occurrence:</b> A projectile hits Shiara hospital just inside the main entrance) <ul style="list-style-type: none"> <li>• Sound of rocket heard by at least two people</li> <li>• Four out of the twelve people interviewed mentioned that the attack happened suddenly and was unexpected. This would mean that there were no other rockets passing over and no unusual plane activity that might be interpreted as an impending attack, although two people mentioned the sound of a rocket and two others mentioned that planes had been flying that morning (but not at the time of the attack).</li> <li>• Four staff members said they heard the explosion but did not realise that it was inside the hospital compound, and several added that they had not expected an MSF-supported hospital to be attacked.</li> <li>• At least three staff members said that "it is a rocket"; one mentioned that it came from the direction of the Saudi border.</li> </ul>
09.20am	<ul style="list-style-type: none"> <li>• Three people interviewed mentioned they heard the sound of exploding shrapnel.</li> </ul>

onwards	<ul style="list-style-type: none"> <li>• Many people fall to the ground, screaming, expecting a second rocket.</li> <li>• People start running, see bodies and escape from the hospital (especially the women and children). Others try and escape from the ER but run back to it when they see the bodies. Many duck down and try to hide (many mentioned they expected subsequent attacks as per the usual pattern of such attacks).</li> <li>• Evacuation of the ER by staff members.</li> <li>• Those people slightly injured managed to escape, refusing to be treated inside the hospital. Of the more severely injured, some tried to get stabilised outside the hospital. Those not able to walk were treated inside.</li> <li>• Three patients brought to the ER, stabilised and transferred to Sa'ada.</li> </ul>
09:35am	Head of Mission informed of the events.
12.30pm-2.20pm	Five medical cases from Razeh are received at Sa'ada.
1.36pm & 2.06pm	MSF press release sent out to the media in English and Arabic respectively, informing of the attack: <a href="http://www.doctorswithoutborders.org/article/msf-supported-hospital-bombed-northern-yemen">http://www.doctorswithoutborders.org/article/msf-supported-hospital-bombed-northern-yemen</a> .
11.01.16	Crisis team meeting takes place at MSF to set up task force: decision to step up engagement with the Saudi-led Coalition and refer the case to the International Humanitarian Fact-Finding Commission (IHFFC).
11.01.16	Shiara hospital begins again – albeit tentatively – to provide treatment.
12.01.16	Saudi-led Coalition notified of visit by MSF team to Razeh. The visit was planned for 12 January but was postponed to the 14 <sup>th</sup> .
14.01.16	MSF team visits Shiara hospital to investigate the attack and speak to the authorities and community.
17.01.16	Letters sent to KSA Minister of Defence and AH political leader requesting them to carry out investigation and to cooperate with IHFFC investigation.
18.01.16	Op-ed in The Guardian online responding to Hammond's declarations that there had been "no breaches of IHL" in Yemen: <a href="http://www.theguardian.com/global-development/2016/jan/19/yemen-msf-bombing-hospitals-schools-cannot-become-the-new-normal">http://www.theguardian.com/global-development/2016/jan/19/yemen-msf-bombing-hospitals-schools-cannot-become-the-new-normal</a> .
21.01.16	Ambulance in Sa'ada hit by strike, driver killed.
22.01.16	Press release (PR) released on ambulance incident: <a href="http://www.msf.org/article/yemen-saada-attacks-wound-dozens-and-kill-least-6-including-ambulance-driver">http://www.msf.org/article/yemen-saada-attacks-wound-dozens-and-kill-least-6-including-ambulance-driver</a> .
23.01.16	Attacks within 500m of AGH in Sa'ada; shrapnel enters hospital.
23.01.16	Amnesty International says MSF hospital attacks may amount to war crimes.
25.01.16	PR released mentioning healthcare under attack in Yemen and IHFFC: <a href="http://www.msf.org.uk/article/yemen-health-facilities-under-attack-msf-wants-answers">http://www.msf.org.uk/article/yemen-health-facilities-under-attack-msf-wants-answers</a> .
25.01.16	Letters sent to diplomatic representatives of UAE, Qatar, Kuwait regarding IHFFC.
27.01.16	UN speaks of widespread and systematic violations of IHL in Yemen and calls for enquiry.
27.01.16	Meeting held with al-Houthi leader to inform of IHFFC and also to remind of the importance of neutrality of hospitals.
29.01.16	MSF US op-ed in Time.com, <a href="http://time.com/4200429/doctors-without-borders-yemen-war/">http://time.com/4200429/doctors-without-borders-yemen-war/</a> .
30.01.16	Human Rights Watch (HRW) accuses the AH of confiscating humanitarian aid being sent into Ta'iz.
01.02.16	Press note by the al-Houthis mentioning meeting with MSF, praising their work and vowing to conduct investigation.
01.02.16	Saudi-led Coalition admits to hitting Haydan, stating mistake (and also presence of military vehicle nearby).
01.02.16	KSA announces enquiry into the bombings, picked up by many news outlets.
01.02.16	KSA public statement: Mortars and rockets fired at Saudi Arabian towns and villages have killed 375 civilians, including 63 children, since the start of the Saudi-led military campaign in Yemen in late March. Brigadier General Ahmed Asseri, spokesman for the Saudi-led coalition in Yemen: "Houthi militia and army forces loyal to former president Ali Abdullah Saleh have fired more than 40,000 projectiles across the border since the war began. Now our rules of engagement are: you are close to the border, you are killed," he said.



The following picture is of the hospital destroyed after the 10 January attack:



#### **Overview: direct consequences of the attack**

It is not clear exactly how many hospital staff, patients or other visitors were present in the hospital at the time of the attack. The scene was chaotic, many people fled and there is no accurate information. There were patients in the ER, and staff members who were supposed to work that day were present. In total, at least 10 hospital staff members were present at the time of the attack. Another 3 hospital workers (2 volunteers and a daily worker) were killed in the attack, so the total would have been at least 13 staff members, volunteers or daily workers of the hospital. According to all witnesses interviewed, there was no military presence inside or anywhere nearby the hospital, and hospital sources all stated that there were no injured al-Houthi combatants in the hospital at the time of the attack.

Several cases were brought to Sa'ada hospital for treatment, all with serious blast injuries. One was dead on arrival and another one died some days later on 16 January. The others who were killed were not brought to Sa'ada. In total, six people were killed in the attack and at least eight people were injured. Those who died were all male, between 23 and 38 years old. They died from blast injuries, which caused bilateral leg trauma, abdominal blast trauma, face and head trauma, and bilateral arm and leg trauma. Three of them were working at the hospital: a pharmacy volunteer, a lab tech volunteer and a daily worker. The other three who died were one patient and two caretakers.

### **5. Why was Shiara attacked? Discussion and scenarios**

#### **5.1. Medical importance of the facility**

Due to the high level of medical needs in the area, its frontline location, the high proportion of civilian residents and difficulty to access referral services, this hospital has been extremely important in past years for the local communities in surrounding

villages, as well as civilians or combatants injured due to fighting or air strikes. It is the only hospital to serve the whole of the surrounding five districts, including Razeh. As described in the above section “*Overview: the normal functioning of Shiara hospital*”, Shiara offered a wide array of services and consultation numbers were increasing. Moreover, its ability to rebound so quickly after such attacks demonstrates not only the dedication of its staff members and the dire needs in the community, but also clearly shows that there was an operational medical infrastructure in place before the attacks.

***MSF considers that Shiara was a normal functioning hospital prior to the attack and provided many services to a wide population in the surrounding districts.***

## **5.2. Neutrality of the hospital**

Based on all the interviews conducted the activities of the hospital prior to the attack and observations on visits by MSF teams, no information has been found to suggest that Shiara hospital was being used for any military purposes that could warrant the loss of its protected status under international law and legitimise an attack on the hospital. Weapons or military personnel were not allowed inside and military vehicles were not allowed to park outside. If a wounded combatant was being treated, the hospital staff always insisted that any weapons and military uniform be removed before treatment. One person interviewed made mention of Haydan, saying that especially following that incident the staff knew it was important to keep the hospital a civilian workplace. It is highly unlikely that all staff would work as normal, and patient numbers increase, if the hospital were being used for military purposes, which would put their lives in danger. It also appears evident that the al-Houthi military and civil authorities respected the civilian nature of the hospital at all times during those months.

However, there may be reasons why Shiara could be perceived as a desirable military target, despite there being no basis for this in international law. The hospital treated all kinds of war-wounded patients, including wounded combatants, and targeting the hospital could have been considered favourable to disrupt these services or target a wanted individual. The day before, two high-level AH representatives from the Directorate of Health conducted a routine visit to the hospital, which could have provoked the decision to attack it. Moreover, many attacks happen in densely populated areas in northern Yemen, and Shiara is close to a busy marketplace frequented by AHM soldiers and that has suffered many previous attacks. Attacking a hospital supported by an international organisation could also have been an attempt to push INGOs out of the northern area and away from military zones.

***MSF considers there is no evidence to suggest that the hospital was being used for any military purposes that would warrant the loss of its protected status under international humanitarian law and thus would allow for it to be attacked. There are several possibilities, however, that show how Shiara may have been perceived as a desirable target, despite such an attack being illegal under international humanitarian law.***

### 5.3. Type of attack

***Based on the circumstances, type of damage caused, testimonies and other available evidence, MSF believes that a rocket was used to conduct this attack.*** As this is necessarily inconclusive since the fragments could not be identified and analysed and no actor owned up to the attack, the examination of possible motivations behind the attack in the following section will have more weight than discussion on the type of weapon, in shedding light on the attack of 10 January.

***MSF considers that it is most likely that the attack was caused by a rocket and not an airstrike, due to the circumstances of the attack and the eye-witness testimonies; however, MSF believes it has insufficient evidence to be able to confirm this.***

### 5.4. Who was responsible and possible motivations

In order to understand who conducted this attack, it was important for MSF to consider all the different possible motivations as to why Shiara hospital would have been hit. Since it is probable that the attack was a rocket attack, and both warring parties are using rockets during this conflict, the motives of both the Al-Houthis (AH) and the Saudi-led Coalition (SLC) were considered. There is no information indicating that any other organised armed groups are operating in the area and it must be assumed, therefore, that any motivation for attacks in the area come under the direct military responsibility of either of the two main warring parties. The following summarises the analyses conducted by MSF on the different scenarios:

#### **Different motives explaining why the AHs may have conducted this attack:**

In attempting to examine reasons why AHs may have hit a hospital in their own territory administered by the al-Houthi Ministry of Health, MSF looked at the following reasons.

<b>Reason</b>	<b>Discussion</b>	<b>Likelihood</b>
To make it look like it was carried out by the SLC	This could have been favourable for AH. However, many attacks were taking place at the time by the SLC, some of which had already hit MSF-supporting structures. There was sufficient evidence that such acts were taking place, and orchestrating an attack on a hospital of the MoH, killing people in the AH's own area, would not have been beneficial and is not plausible.	Low
To put pressure on MSF to leave the area	It is true that the presence of INGOs in an area can engender closer scrutiny of AH military conduct and requires dedicating more resources towards ensuring INGO security and monitoring their movements. However, the AH authorities were very welcoming and supportive of MSF's presence in Sa'ada and wishing them out of the area would have been counterproductive.	Low
It hit the hospital by mistake	It is true that the AH military targeting likely has room for improvement and mistakes are made.	Low

	However, due to the location of Shiara hospital and the AH military rocket-launchers, logistically it is almost impossible that a rocket would be launched backwards instead of forwards, and reach Shiara hospital despite the mountainous cliff that lies between the hospital and the rocket-launchers.	
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**Different motives explaining why the SLC may have conducted this attack:**

<b>Reason</b>	<b>Discussion</b>	<b>Likelihood</b>
Perceived legitimate targeting of the hospital: <i>Shiara perceived by the SLC to have lost its protected status<sup>9</sup></i>	It is true that the SLC would likely not hesitate to strike if they perceived a wanted military target, as is permitted in IHL. As described above, there is no evidence to show that Shiara was being used in any way for military purposes that would render it a military target, but it could still be that the SLC had reasons to believe otherwise.	Medium
Intentional but illegitimate targeting of the hospital	Despite there being no basis for this in international law, Shiara could have been a desired target by SLC in order to stop effective treatment of wounded combatants, to kill a high-level AH from the health directorate (whose visit was in fact the day before), or to target densely populated areas in northern Yemen. Also, the SLC had mentioned to MSF in a meeting their concern about weapons being transported to the Razeh area. It is also possible that the SLC simply wanted MSF out of this border area so as to facilitate its military campaign. All these are possible reasons why the SLC may have wanted to strike Shiara hospital.	Medium-high
Negligence in military conduct: the hospital was hit but not intentionally targeted (a different target was intended)	Shiara hospital is located in a very densely populated area, in the centre of the town next to a market place that is often targeted by strikes. It is very probable that SLC forces often make mistakes in targeting, and moreover the rockets used in this context are not precise in their targeting. On the other hand, it should be remembered that MSF team had notified of an imminent visit to Shiara, and surely more precaution should have been taken around this time to ensure mistakes are not made.	Medium-high

***After reviewing all possible scenarios and motivations behind such an attack, MSF considers it is most probable that the attack on Shiara hospital was conducted by the Saudi-led Coalition forces.***

<sup>9</sup> Note that for an attack to be legitimate it not only requires a perception of military use of the facility but a number of other conditions as detailed in international humanitarian law (e.g. proportionality, precautionary measures etc).

### **5.5. Possible warning signs**

Neither MSF teams nor the hospital staff received any formal or informal warning prior to the attack on Shiara hospital, which is a fundamental requirement in international humanitarian law prior to an intentional attack.<sup>10</sup>

In investigating the details surrounding the attack on Shiara hospital, it was considered whether any incidents or communications occurred in the weeks or months prior to the attack that could have been interpreted to be warning signs of an impending attack. If it were the case that a warning had been made, apart from signalling whether the level was intentional or not, it could also provide important additional information as to who conducted the attack and why, as well as allow MSF to know whether any steps could have been taken to prevent it.

***MSF considers that although certain events occurred that indicated a trend (such as the attacks on other MSF-supported facilities and other hospitals in the country), there were no clear statements or actions that would have clearly been identified as a warning sign that an attack on Shiara hospital was imminent. This indicates also that there is no clear evidence as to the intentionality of the attack and the intention to target MSF.***

### **Concluding remarks**

This report presents the findings of MSF's internal investigation into the attack on Shiara hospital on 10 January 2016. The investigation aimed to understand who conducted the attack and why, and whether the attack could have been justified.

Razeh district was an area heavily bombed during the recent conflict and, prior to working there, MSF conducted the necessary steps to reduce security risks and increase protection of the hospital, through mitigation measures and meetings held with both parties to the conflict to ensure as much as possible its protection from attacks.

There were no warnings, through statements, actions or otherwise that occurred in the days or months prior to the attack that indicated in any way an imminent attack on Shiara hospital, and thus MSF could not have foreseen the incident. Due to the particular circumstances of the case, the fact that Shiara has been attacked before and the fact that different weapon types are being used by the fighting sides in the area, it is not possible to determine for certain the type of weapon used. However, MSF believes this attack to

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<sup>10</sup> This principle was first codified in the Hague regulations and then reiterated in Additional protocol I (to the Geneva conventions). Today, however, it is part of customary law and is applicable to both international and non-international armed conflicts. The principle requires that "Each party to the conflict must give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit". In this case, if the circumstances do not permit this should have been communicated by the party who conducted the attack. For more on this principle in customary law, see [https://www.icrc.org/customary-ihl/eng/docs/v1\\_cha\\_chapter5\\_rule20](https://www.icrc.org/customary-ihl/eng/docs/v1_cha_chapter5_rule20).



have been caused by a rocket and not an airstrike. Based on the analysed scenarios, it is most probable that the attack was carried out by the SLC.

There is no legally justifiable reason, however, why Shiara hospital should have been attacked, since the evidence shows that the neutrality of the hospital was not compromised and it was a normal civilian functioning hospital. The findings show that Shiara hospital was offering a wide variety of medical services responding to the high medical needs in the area, and the hospital was not being used for any military purposes that would warrant the loss of its protected status under international humanitarian law. However, Shiara hospital may have been hit for strategic reasons. Such an attack could have been aiming to disrupt the treatment of wounded Al-Houthi military combatants or to prevent MSF or other INGOs from working close to the border, or simply be part of a strategic campaign to target densely populated areas under Al-Houthi control.

The attack may also have been aiming at al-Houthi military targets elsewhere in Shiara town. The ground- to- ground missiles being used in Yemen have poor precision capacity but additionally it is possible that necessary precautionary measures are often not taken before strikes are carried out. All possible measures must be taken to minimise errors; however, the combined approach of imprecise weaponry and lenient targeting protocols being used provokes a high margin of error, and amounts – at the very least - to negligence in military conduct.

Whether the attack on Shiara hospital was an intentional targeting of the hospital or of a densely populated area, or whether it was an act of negligence due to insufficient precautionary measures, the attack, which killed 6 civilians, constitutes a violation of people's right to access lifesaving healthcare during a time of war and the right of medical practitioners to provide it. According to the findings of this internal review, it likely constitutes a violation of international humanitarian law. Although MSF has requested both of the warring parties to the conflict to conduct their own investigations into the attack, at the time of writing no investigations appear to have taken place. Regarding the attacks on Haydan and Razez, the SLC has not provided any response regarding those attacks, nor has MSF been able to meet with KSA representatives to discuss Razez in the months following the attack despite repeated requests for a meeting. The events surrounding the attack should be investigated by an independent fact-finding mechanism and by all parties to the conflict, and the findings should be made public. Subsequently, it is essential that warring parties urgently revise their rules of engagement and targeting procedures and ensure that, during military decision-taking, the necessary precautions are taken at all times to protect civilians, medical facilities and humanitarian actors.

