

TORTURE IN SLOW MOTION



**THE ECONOMIC BLOCKADE OF YEMEN
AND ITS GRAVE HUMANITARIAN
CONSEQUENCES**

The World Organisation Against Torture (OMCT) works with around 200 member organisations which constitute its SOS-Torture Network, to end torture, fight impunity and protect human rights defenders worldwide.

Together, we are the largest global group actively standing up to torture in more than 90 countries. Helping local voices be heard, we support our vital partners in the field and provide direct assistance to victims.

Our international secretariat is based in Geneva, with offices in Brussels and Tunis.

Acknowledgment

The OMCT is particularly thankful to Valérie Gabard, co-founder of the organisation Uprights and specialist in international humanitarian law and international criminal law. She has brilliantly ordered and analysed the numerous humanitarian data and information related to the transfer of war material collected during years of investigation and has therefore made this report possible.

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crimes for the thousands of Yemenis that the blockade has plunged even further into inextricable suffering.

The OMCT is grateful to the international humanitarian organizations and journalists who have confidentially shared information and analyses that have helped guide this research in the right direction. In particular, we salute the courage of the humanitarians who work tirelessly to ensure the survival of the Yemeni people in a deleterious security and political context.

The OMCT is particularly grateful to Crisis Action for its support since the beginning of this project in 2018, as well as to Avaaz and the Open Society Foundation, without whom this report would never have been possible.

Last but not least,
our thoughts are with the Yemeni civilians,
living and dead, to whom this report is
dedicated. May their suffering end
and justice be rendered.

List of acronyms

CAT - Committee Against Torture

CHA - Coalition Holding Area

ECTHR - European Court of Human Rights

EHOC - Evacuation and Humanitarian Operations Committee

FAO - Food and Agriculture Organization

HRC - Human Rights Committee

HRW - Human Rights Watch

ICC - International criminal Court

ICRC - International Red Cross Committee

ICTR - International Criminal Tribunal for Rwanda

ICTY - International Criminal Tribunal for the Former Yugoslavia

NRC - Norwegian Refugee Council

OCHA - UN Office for the Coordination of Humanitarian Affairs

OHCHR - Office of the high commissioner for human rights

PWA - Port Waiting Anchorage

UAE - United Arab Emirates

UN - United Nations

UNICEF - United Nations Children & Fund

UNVIM - United Nations Verification and Inspection Mechanism for Yemen

USA - United States of America

OXFAM - Oxford Committee for Famine Relief

WFP - World Food Programme

WHO - World Health Organisation

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Executive summary

In March 2015, a coalition of nine states, led by Saudi Arabia and the United Arab Emirates, launched a military intervention in Yemen at the request of the internationally recognised government of Yemen. The intervention was intended to counter the Houthis, who had seized control of the capital and subsequently a significant part of the country. This report examines the economic blockade the coalition has imposed on Yemen since the beginning of the conflict and its impact on the humanitarian situation of Yemeni civilians.

Since this escalation of the conflict in 2015, the humanitarian situation of Yemen's civilian population has been appalling. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), in December 2020, 131,000 people had already died in Yemen due to lack of food, access to health services, and infrastructure. While this count has not been updated since then, current figures on the humanitarian situation speak for themselves. In May 2022, according to the World Food Programme (WFP), 19 million Yemenis were food insecure, 3.5 million acutely malnourished and 161,000 in famine-like conditions.

Yemen's cataclysmic humanitarian situation is entirely manufactured. Parties to the conflict have relied on methods of warfare targeting the country's fragile economy, leading to its collapse. Several factors can explain this collapse and the impoverishment of the civilian population. Amongst these are the non-payment of public servants' salaries following the transfer of the Bank of Yemen from Sana'a to Aden in September 2016;

the impact of the exchange rates on the prices of food and fuel; strikes against agricultural areas, livestock, water facilities, and farms; and the higher costs of goods transport due to damaged road infrastructure and insecurity en route. The Houthis have also obstructed humanitarian assistance and imposed heavy taxes on goods entering their territory, including on fuel, which has led to additional price increases.

In addition to these interconnected determinants, the economic blockade imposed by the coalition since March 2015 with the consent of the internationally recognised Government of Yemen constitutes a prominent driver of Yemen's economic collapse. For more than seven years, as a method of war, the Coalition has restricted the maritime imports of fuel, food, medicine, and other essential goods to Houthi-controlled territory. In a country that imports 90 percent of what it consumes, the restrictions placed on imports and especially fuel oil have had and continue to have a devastating effect on civilians. The blockade has effectively isolated for the civilian population living in areas controlled by the Houthi armed group. Approximately 71 percent of the people in need in Yemen are located in areas controlled by Houthis in the northern part of the country and in close proximity to the ports of Hodeidah and Salef, two of the three main ports that used to receive close to 80 percent of the total maritime imports in Yemen before the conflict. Despite their vital importance for the supply of the Yemeni people, access to these ports have been severely restricted for more than seven years.

Chapter 1 of this report aims to provide a detailed analysis of the dynamics of the naval blockade throughout the conflict in Yemen and to reveal its torturous dimension.

Our analysis is based on the documentation produced by reliable local and international sources on the living conditions of the civilians in Yemen due to the blockade imposed by the coalition.

The coalition's official position is that sea and air access restrictions are justified by the implementation of Resolution 2216 (2015) of the UN Security Council providing for an arms embargo against the Houthis and their allies. This position, however, is contradicted by the situation on the ground as the restrictions primarily impede the civilian population's access to essential goods (food, water, and fuel) and humanitarian assistance. No searches conducted by the coalition have resulted in the discovery of weapons.

The naval blockade takes the form of a policy of controlling all commercial ships carrying goods to Yemen. All vessels wishing to transport goods through ports situated in the Houthi-controlled territory must contact by radio a coalition warship before reaching Yemen's territorial waters. The vessel is ordered to move to the Coalition Holding Area located in international waters. Vessels must anchor and wait there for the Coalition Evacuation and Humanitarian Operation Cell based in Riyadh to decide if an inspection is necessary or if the vessel is authorized to enter Yemen territorial waters. The Coalition's decisions on whether a vessel needs to be inspected or not appear to be arbitrary, as there is no list of prohibited items upon which suspicion would warrant an inspection. Once the inspection is completed, waiting for the Coalition's authorisation in the holding area can take anywhere from two to three days up to several weeks. The total estimated time for import process to Hodeidah before the crisis was between 17 to 25 days. Since the beginning of the conflict the total estimated time is between 41 to 168 days. Finally, the vessel can be denied authorisation to access Yemen or be rerouted to Aden, a port under control of the Government of Yemen, delaying the arrival in the country and the delivery to the population living in Houthi-controlled areas.

In 2016, to remedy the dire humanitarian effects of the Coalition's naval blockade, the United Nations Security Council established the United Nations Verification and Inspection Mechanism for Yemen (UNVIM). The mandate of UNVIM is to grant clearance to commercial vessels sailing to seaports that are not under the control of the Government of Yemen to facilitate the flow of commercial goods while ensuring compliance with the arms embargo of Resolution 2216 (2015).

UNVIM clearance remains ineffective in practice until the Coalition gives its approval following its own redundant authorisation procedure. It is not uncommon that vessels that received clearance from UNVIM to be subsequently instructed to re-route to a designated Coalition port for inspection.

This policy of restriction affects all imported goods, including goods essential to the survival of the population, such as medicine, grains, and especially fuel. The blockade has been implemented with varying degrees of severity since March 2015, reaching its most severe stage in November 2017. While some restrictions were eased in 2018, the coalition has continued to control and restrict imports of essential goods.

The restrictions have been eased since the beginning of the latest truce agreement in April 2022. But the situation remains uncertain and depends on the evolution of the peace process, as if the civilians' access to food was used as a bargaining chip between the parties.

Throughout the conflict, international humanitarian NGOs and UN humanitarian agencies have monitored the restrictions and their impact on importation delays. They have documented on an ongoing basis dozens of undue interceptions of vessels carrying medical supplies, wheat, vegetable oil and food, including for humanitarian organisations. The restrictions of fuel imports have been the most severe and impactful. A majority of time throughout the conflict, the imports of fuel have drastically decreased, meeting on average only one-third of the country's needs.

These naval restrictions have had a profound impact on civilians' access to food, drinking water and health care. By increasing the transport time for

shipping companies, the clearance process put in place by the Coalition has increased the costs for importers or cargo owners and ultimately the prices paid by the Yemeni consumers. Due to the increase in food prices, millions of Yemenis lack the purchasing capacity to meet their minimum food needs. The lack of fuel has also augmented the prices of fuel-related products and essential foodstuffs, as a result of the higher transportation costs.

Given that most of the water in Yemen is pumped up from the ground using diesel generators, the lack of fuel has had a direct and immediate knock-on effect on the capacity of millions of people to access drinking water. Reducing the population's access to decent water increased in turn the risk of water-borne diseases. The blockade has impaired numerous hospitals and health centres in the country as they simply do not have enough fuel to run their generators. Furthermore, many Yemenis living in the countryside have difficulty accessing health care due to high transportation costs resulting from higher fuel prices amongst other factors.

As soon as the naval blockade was implemented, international organisations including major UN humanitarian agencies warned the Coalition about its immediate dire consequences on the civilian population. In April 2017, the UN Special Rapporteur on human rights and international sanctions stated that 'the aerial and naval blockade imposed on Yemen by the coalition forces since March 2015 was one of the main causes of the humanitarian catastrophe'.

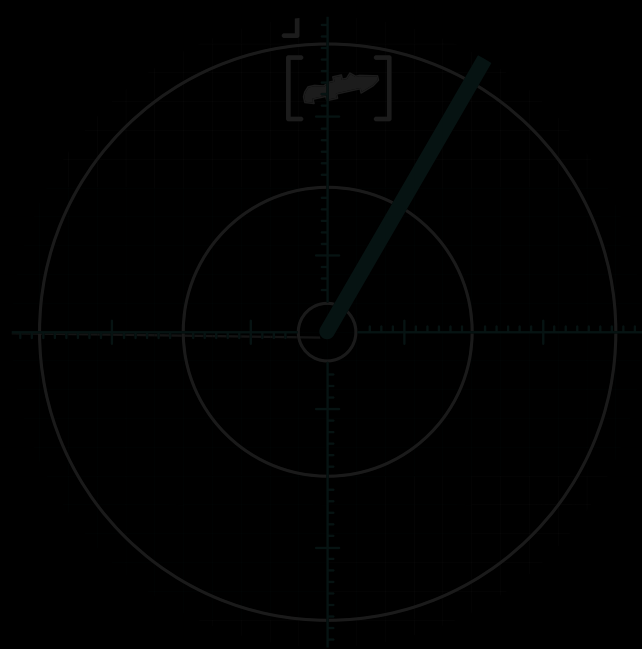
Despite numerous warnings, the Coalition has intentionally continued to implement the blockade with the crucial assistance of third-party arms suppliers, consisting of both states and private companies, that provide weapons and maintenance on war material including the Saudi and Emirati warships used to control the commercial vessels at sea.

Chapter 2 of the report demonstrates that the policy of restriction put in place by the coalition constitutes a criminal method of warfare. As stated by the UN Panel of Experts on Yemen in its 2017

report 'the blockade is essentially using the threat of starvation as a bargaining tool and an instrument of war'. Information gathered in this report suggests that the coalition's disruption of the import of food, fuel, and medical supplies, as well as humanitarian aid, led Yemeni civilians into starvation and subjected them to inhuman living conditions, which in some instances resulted in cruel and/or degrading treatment, and even torture.

The acts of the Coalition could expose some of its member states, in particular Saudi Arabia and the UAE, to responsibility for these violations of international law and possibly criminal liability for their agents. The coalition members' responsibility could be triggered based on violations of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and of international humanitarian law. The conduct of the coalition in relation to the economic blockade imposed on Yemen since March 2015 should also be investigated for war crimes of torture and starvation. The aid and assistance provided by foreign defence companies could also expose these corporate actors to criminal liability. The states that have authorised the transfer of weapons could also be held responsible as accomplices to the breach of international law.

The report ends with a list of recommendations calling for an immediate lift of all the restrictions, an investigation into the grave violations committed through the naval blockade, the collective reparation of the Yemeni civilians, and the establishment of an independent and impartial international accountability mechanism to collect evidence on violations of international law committed in Yemen and prepare files for possible future criminal prosecution.





INTRODUCTION





131,000 Yemenis
had already died from scarcity
of food, health services
and infrastructure

20 million people
are in need of humanitarian
assistance

3.5 million people
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and 161,000 are facing
famine-like conditions

1. Yemen has been in the grip of a deadly conflict for more than seven years. United Nations (UN) agencies and non-governmental, humanitarian and human rights organisations repeatedly warned of its severe humanitarian consequences. The media are rife with images of children suffering from malnutrition and waterborne diseases due to the lack of access to drinking water, photos of families feeding on tree leaves, parents recounting the successive losses of multiple children due to barriers to medical care, and testimonies of medical staff on wide-ranging shortages, including of the fuel needed to operate health centres.

2. All these accounts bear witness to the same misery, too often presented as mere collateral damage of war. According to the United Nations Office for the Coordination of Humanitarian

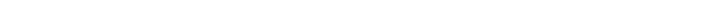
Affairs (OCHA), as of December 2020, 131,000 Yemenis had already died from scarcity of food, health services and infrastructure¹. While this count is the most recent on record, current figures from the humanitarian situation speak for themselves: more than 20 million people are in need of humanitarian assistance; 3.5 million people are acutely malnourished and 161,000 are facing famine-like conditions².

3. These tens of thousands of victims of the humanitarian crisis in Yemen are not collateral damage. They are the victims of serious violations of human rights and international humanitarian law perpetrated by all parties to the conflict, including strikes against agricultural areas, livestock, water facilities and farms, as well as the obstruction of the delivery of goods essential to the survival of the population.



4. The belligerent parties are waging an economic war at the expense of civilians. One of the most shocking dimensions of this war is the economic blockade maintained by the Saudi/UAE-led military coalition since March 2015.

The siege entails an air, land and—most egregiously—naval blockade deployed as a method of warfare, which has created a torturous environment on a large scale and significantly increased the risk of famine.



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

2. WFP, [Yemen Situation Report #6](#), June 2022. See also WFP, [Yemen Emergency homepage](#).

5. In a country that imports 90 percent of what it consumes, the restrictions placed on imports and especially fuel oil continue to have a disastrous effect on the lives of civilians.

6. This report aims to reveal the torturous dimension of the economic blockade. Through a detailed and chronological analysis of the dynamics of the blockade throughout the conflict in Yemen, it demonstrates the irreversibly devastating effects of this method of war. The report deciphers the economic and humanitarian data on the living conditions of the civilian population to highlight the intention of the coalition member states. It shows that the people suffering from cholera, malnutrition and lack of access to healthcare may be the victims of war crimes. The Yemeni humanitarian crisis is not an ancillary consequence of war but rather the intended result of a policy of widespread torture, otherwise qualified as a war crime of starvation.

7. This policy is implemented with the support of third states that continue to provide the coalition with the military means to implement the blockade. It is thus with deadly cynicism that arms-selling countries pretend to be preoccupied by the slow suffocation of the Yemeni people but keep on feeding the fire.

Since the latest truce agreement in April 2022, the restrictions have been eased, and fuel delivery has increased. This is a positive but insufficient step forward. The alleviation of the blockade still depends on a fragile and long peace process.

8. The situation continues today with impunity resulting from a total lack of will on the part of both the coalition members and these third countries to acknowledge the truth and provide justice to the victims. This failure of accountability also results from the complexity of documenting and characterising the economic blockade as a criminal method of warfare. The harmful consequences of these acts, such as death or severe physical and mental suffering, only become apparent over time. Restrictions on the import of essential goods create a context of deprivation that serves as a breeding ground for diseases related to malnutrition and lack of access to clean water, while simultaneously reducing the capacity of healthcare centres and the ability of patients to access them for treatment.

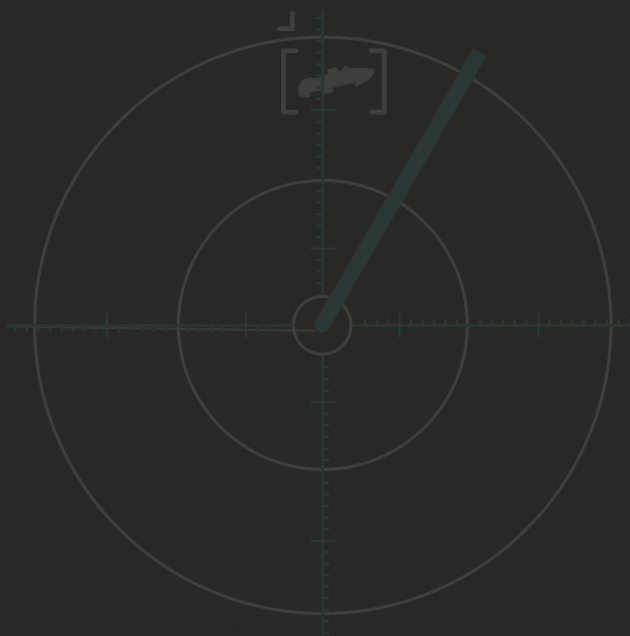


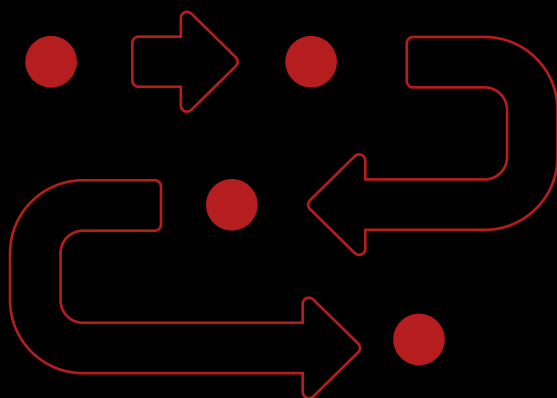
9. The difficulties of demonstrating a direct linkage between the restrictions imposed by the coalition and civilian suffering is key to impunity. The causal connection between the coalition's interception and forced delay of an oil tanker in delivering its cargo and the agony of Yemeni civilians may not be immediate, but it is real.

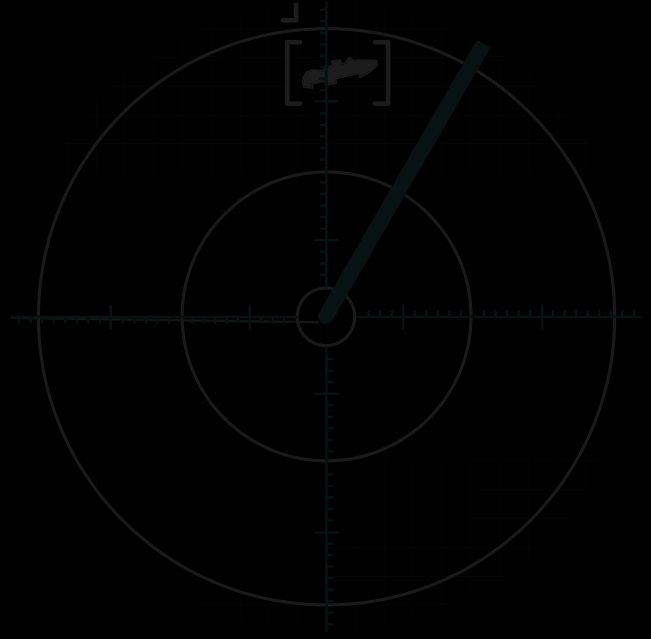
10. Access to justice remains a challenge, as the International Criminal Court (ICC) has not yet established jurisdiction over the crimes committed in Yemen, and the few attempts at criminal prosecution in the national courts of third countries have not yet been successful. This report aims to equip human rights litigators with new tools to facilitate access to justice for Yemeni civilians.

11. In the meantime, the human-made famine in Yemen continues unabated and international attention has already been diverted to other conflicts that will likely produce similar findings. Blockades, sieges and other military strategies of starvation by closure are proliferating in Burma, South Sudan, Burkina Faso, Nigeria, Syria and in Tigray on the border between Ethiopia and Eritrea³. Starvation as a form of large-scale torture plunges families, communities and entire populations into grief and misery. It will take decades for the victims to rebuild. It is thus imperative that the international community and equip itself with the necessary legal and judicial arsenal to sanction these practices as weapons of mass destruction.

3. Brian Lander and Rebecca Vetharaniam Richards, *Pandemic of Hunger Symposium: What is Needed to Trigger Real Action in the Application of UNSCR 2417?*, 19 May 2021.







II.

METHODOLOGY





This report focuses on the economic blockade imposed by the coalition on Yemen since the beginning of the conflict and its impact on the humanitarian situation of the Yemeni civilians.

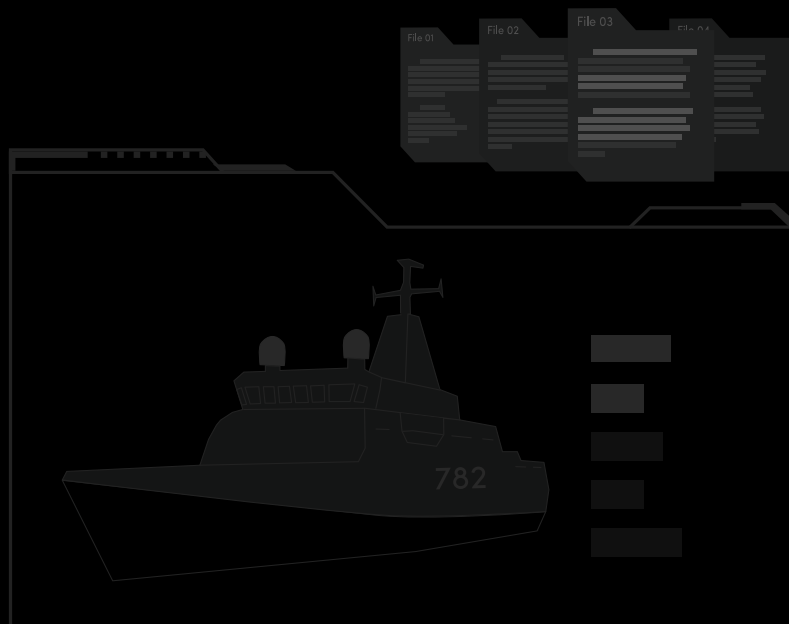
OMCT repeatedly recalls in this report that the humanitarian tragedy in Yemen is not solely the result of the economic blockade. Other factors have played and continue to play an important role in the humanitarian crisis. Nevertheless, we chose to focus on the economic blockade and, in particular, the naval restrictions on the import of essential goods, because we believe that the illegality and lethality of this method of

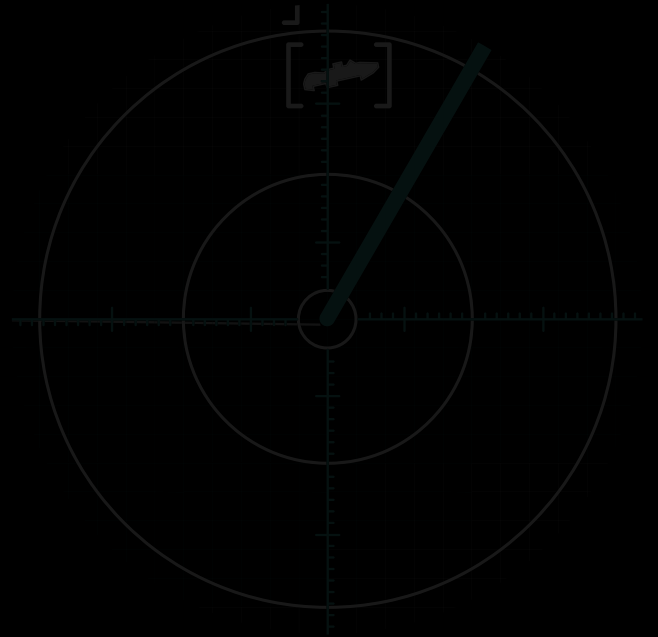
warfare demands an analysis and accounting of the responsibility of the coalition.

Focusing on a specific violation committed by one party to the Yemeni conflict in no way absolves the other parties, particularly the Houthis, of their responsibility for the humanitarian crisis.

This report is based on open-source data collected between 2015 and 2022. Most of the information related to the humanitarian situation in Yemen (access to food, fuel, medicine, healthcare, etc.) and data related to the maritime imports in Yemen throughout the conflict are public and available online. OMCT also collected information on the evolution of the humanitarian situation and the consequences of the naval blockade through phone and in person interviews with humanitarian actors who shared their experience and analysis. These interviews, although confidential, contributed to the reports' findings. Human rights defenders and journalists also contributed to the collection of information on the process of maritime restrictions.

The data related to the weapons used by the coalition to implement the naval blockade were partly collected by one of the authors of the report in collaboration with open-sources investigators and journalists in 2019. Additional information regarding the maintenance of the warships was gathered through confidential interviews with weapon experts and journalists.





BACKGROUND OF THE CONFLICT⁴

4. The presentation of the background of the conflict for the purpose of this report is limited to the conflict between the government, its allies from the coalition and the Houthi armed group. Nevertheless, it is only one aspect of the crisis and other conflicts that exists or have existed since 2011 involving other actors such as Al-Qaeda in the Arabian Peninsula, the Islamic State, and the Southern movement. For a comprehensive summary of the armed conflict, see Geneva Academy, RULAC, [Non international armed conflicts in Yemen](#).



1. At the beginning of 2011, in the context of the Arab Spring, peaceful protests took place across the Republic of Yemen demanding the resignation of the long-standing President Ali Abdallah Saleh.⁵ By the end of May 2011, the protests escalated into violence between government forces and several opposition and tribal groups, including the Houthis. Under international pressure, President Saleh agreed to initiate a political transition by signing the Gulf Cooperation Council Initiative in Riyadh on 23 November 2011. President Saleh finally resigned on 25 February 2012 and was replaced by the current President Abdrabbuh Mansur Hadi.⁶

2. The Houthi movement rejected the Gulf Cooperation Council Initiative and chose to continue the armed struggle. The Houthi movement, also called Ansar Allah, is an armed group created in the 1990s and originally composed predominantly of Zaidi Shia Muslims from the northern governorate of Sa'dah. Its founder, Hussein Badreddin al-Houthi, was from the Houthi tribe. His death in September 2004 sparked the Houthi insurgency in Yemen. Since then, the armed group has been led by his brother Abdul-Malik al-Houthi.⁷ After joining the protesters at the beginning of 2011 and rejecting the Gulf Cooperation Council Initiative, their organised troops progressively gained military control of much of the territory in the Sa'dah, Al Jawf and Hajjah governorates.

3. The conflict entered a new phase in September 2014, when the Houthi movement allied with certain military forces that remained faithful to former President Saleh and seized control of large swaths of Yemen's capital, Sana'a. In January 2015, they captured the presidential palace. On 6 th of February, the Houthis announced the dissolution of the Yemeni parliament and declared the Revolutionary Committee of the movement to be the ruling authority. President Hadi was forced to resign and placed under house arrest. He then escaped to Aden, a coastal city south of Sana'a, in February 2015. From Aden, Hadi announced that he still considered himself the president of Yemen.⁸ In March 2015, the Houthi-Saleh alliance continued to move southward and reached the outskirts of Aden on 24 March, forcing Hadi to flee to Saudi Arabia the day after.⁹

4. On 24 March 2015, Hadi asked the Gulf Cooperation Council and the League of Arab States to engage in military intervention. In response, on 26 March 2015, a coalition of nine States led by Saudi Arabia ("the coalition")¹⁰ launched a military intervention in Yemen aiming to counter the Houthi-Saleh alliance and restore the authority of the internationally recognised government of Yemen.

The first operation, titled 'Operation Decisive Storm', lasted only until 21 April 2015, and was subsequently replaced by 'Operation Restoring Hope'. The coalition's intervention was a comprehensive military operation involving a naval and aerial blockade¹¹, intensive airstrikes on Houthi-controlled areas and the deployment of ground troops.¹²

5. Ali Abdallah Saleh was the President of the Yemen Arab Republic from July 1978 to 22 May 1990 when he became the first President of unified Yemen.

6. HRC, *Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/42/CRP.1, 28 September 2020, para. 101.

7. HRC, *Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/42/CRP.1, paras. 98-99. Council on Foreign Relations, *Yemen's tragedy: War, Stalemate, and suffering*, 2 September 2021.

8. HRC, *Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/42/CRP.1, paras. 107-108.

9. OHCHR, *Situation of Human rights in Yemen. Report of the United Nations High Commissioner for Human Rights*, A/HRC/30/31, 7 September 2015, paras. 10-13.

10. In addition to Saudi Arabia, the coalition includes Egypt, Morocco, Jordan, Sudan, the UAE, Kuwait, Qatar, and Bahrain. Qatar was suspended from the coalition in 2017 due to the diplomatic crisis with Saudi Arabia and UAE. Morocco ended its participation in February 2019 and the UAE in July 2019 due to growing tensions with Saudi Arabia.

11. The term blockade is used in this report to refer to the de facto blockade, i.e., the naval, aerial and land access restrictions on Yemen imposed by the coalition. It is not for this report to define whether a naval blockade has legally been established, nor if its implementation was in accordance with the laws governing blockades or if these laws are applicable in a non-international armed conflict.

12. OHCHR, *Situation of Human rights in Yemen. Report of the United Nations High Commissioner for Human Rights*, A/HRC/30/31, 7 September 2015, para. 14. HRC, *Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/42/CRP.1, para. 110; Geneva Academy, RULAC, *Non international armed conflicts in Yemen*. See also Identical Letters Dated 26 March 2015 from the Permanent Representative of Qatar to the United Nations Addressed to the Secretary-General and the President of the Security Council, *UN doc S/2015/217*, 27 March 2015.

5. By July 2015, the troops supporting President Hadi, together with the southern forces and the support of ground troops from Saudi Arabia and the United Arab Emirates, fully retook the city of Aden and much of the south and the east of Yemen. In August 2015, broad front lines were established between Houthi-controlled areas in the north of the country and areas controlled by the Government of Yemen in the south and east. Active hostilities have continued mostly along these front lines and the border with Saudi Arabia.

6. In August 2016, the Houthis and the forces loyal to former President Saleh formalised their alliance and established a joint governing entity. The alliance, however, did not last. On 2 December 2017, former President Saleh broke the alliance. As a result, fighting erupted in Sana'a and two days later, the Houthis assassinated former President Saleh and have since maintained total control over the capital.¹³

7. A significant shift in the front lines and controlled territories occurred in 2017 and 2018 when an offensive supported by the coalition allowed the internationally recognised government of Yemen to take control of some areas in the southwest of the country as well as a strip of territory along the Hodeidah governorate coastline. The ultimate objective was to capture the city of Hodeidah. In June 2018, the coalition and affiliated forces launched an offensive on the city, which was halted after a few weeks to allow for UN mediation. In early November 2018, fighting around Hodeidah resumed. Yemeni armed forces and affiliated armed groups then halted their offensive on 13 November.¹⁴

8. In December 2018, after years of unsuccessful attempts, the UN finally brought the Government of Yemen and the Houthis to the negotiation table. The peace talks lead to the signature of the Stockholm Agreement, which established a ceasefire in Hodeidah and included measures to pave the way for a longer-term political solution. Attempts to resolve the conflict have since continued, including the Riyadh Agreement of 2019 and the Saudi Arabia peace proposal in March 2021.¹⁵ While political peace efforts resumed, armed hostilities between the parties continued and in some instances even increased.¹⁶ The territorial control of Yemen remains divided and the Houthi armed group is still controlling large parts of territory in the western part of the country.¹⁷



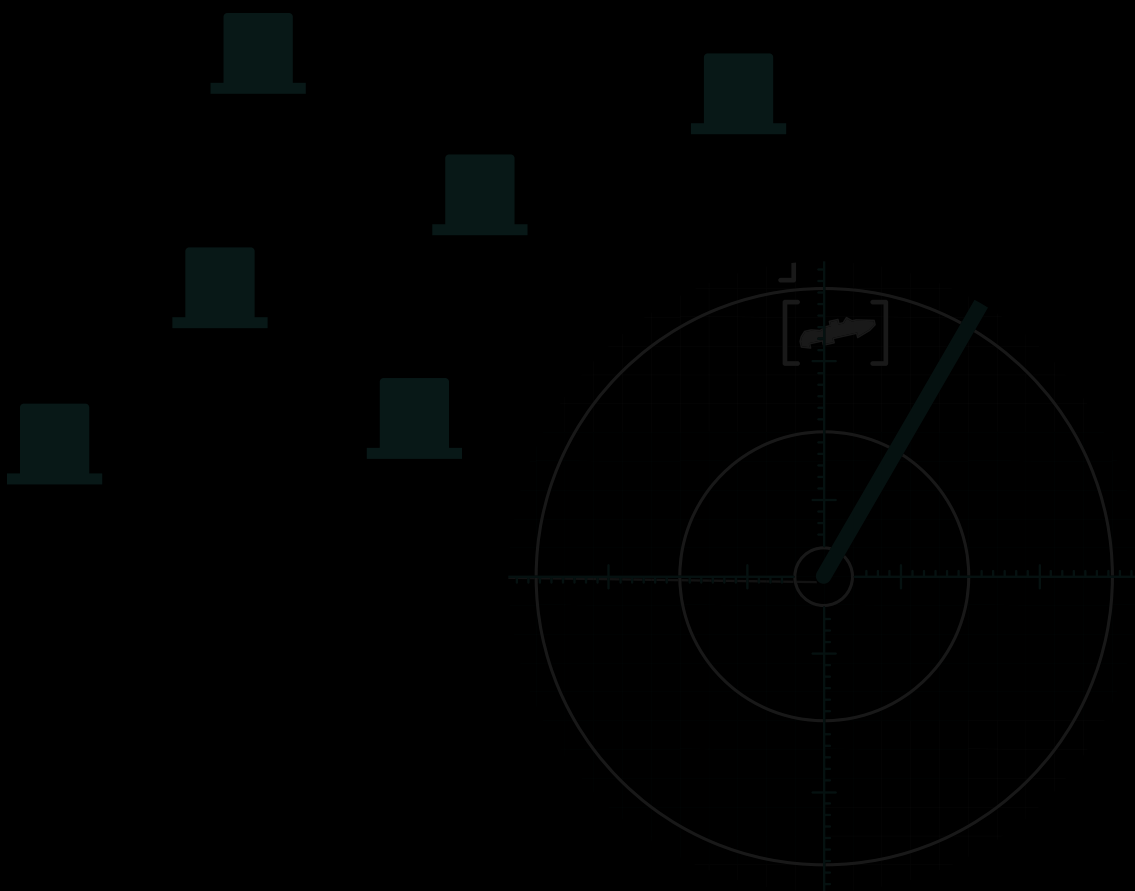
13. Geneva Academy, RULAC, *Non international armed conflicts in Yemen*.

14. HRC, *Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/42/CRP.1, para. 119.

15. Arab Center Washington DC, *The Riyadh Agreement on Yemen: Arrangements and chances of success*, 18 November 2019; Alarabiya news, *Saudi Arabia proposes new peace plan to end Yemen War*, 22 March 2021.

16. HRC, *Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/42/CRP.1, 3 September 2019, paras. 119-123; HRC, *Report of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/45/6, 28 September 2020, paras. 16-20; OCHA, *Global Humanitarian Overview 2021*, p.111

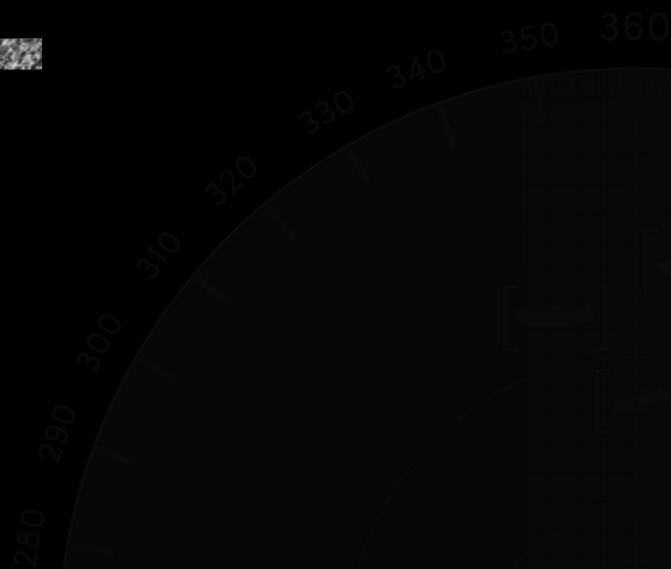
17. Council on Foreign Relations, *Yemen's tragedy: War, Stalemate, and suffering*, 2 September 2021, map of Yemen's Front line in February 2021.



IV.

“THE WORLD’S WORST HUMANITARIAN CRISIS”:

**The dramatic
humanitarian
consequences
of the economic
blockade in Yemen**



1. Introduction

9. Since the escalation of the conflict in 2014, the situation of Yemen's civilian population has been so appalling that the UN qualifies it as 'the world's worst humanitarian crisis'.¹⁸ According to 2021 UN figures, an estimated 20.7 million Yemenis—66 percent of the population—need humanitarian assistance, and unless the conflict de-escalates, the situation is expected to deteriorate.¹⁹

In March 2021, United Nations World Food Programme (WFP) Executive Director David Beasley announced that '400,000 children may die in Yemen this year without urgent intervention'. Food insecurity and malnutrition are the main drivers behind the number of people in need, followed closely by access to basic water and sanitation.²⁰

More than a year later, WFP stated that more than 20 million people are in need of humanitarian assistance; 3.5 million people are acutely malnourished and 161,000 are facing famine-like conditions.²¹

10. In December 2020, OCHA estimated that of the 233,000 deaths attributable to the conflict, approximately 131,000 deaths were due to indirect causes, such as 'lack of food, health services and infrastructure'.²² In a report published in November 2021, the United Nations Development Programme (UNDP) predicted that 'by the end of 2021, Yemen's conflict will lead to 377,000 deaths – nearly 60 per cent of which are indirect and caused by issues associated with conflict like lack of access to food, water, and healthcare'.²³

18. World Food Programme, Yemen, [the world's worst humanitarian crisis](#).

19. OCHA, [Humanitarian Needs Overview, Yemen](#), February 2021, pp. 6-7.

20. 16.2 million people will go hungry in 2021, including five million people facing emergency conditions and around 50,000 that are already experiencing famine. Over 15.4 million Yemenis are also in need of support to access basic water and sanitation needs. OCHA, [Humanitarian Needs Overview, Yemen](#), February 2021, p. 6.

21. WFP, [Yemen Situation Report #6](#), June 2022. See also WFP, Yemen Emergency homepage.

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

23. UNDP, [Assessing the impact of war in Yemen : Pathways for recovery](#), November 2021.



11. Yemen's cataclysmic humanitarian situation is entirely man-made and the result of years of conflict. Parties to the conflict have relied on methods of warfare targeting the country's fragile economy, leading to its collapse. Several factors can explain this collapse and the impoverishment of the civilian population. Amongst these are the non-payment (or very irregular payment) of public servants' salaries following the transfer of the Bank of Yemen from Sana'a to Aden in September 2016. One quarter of the Yemeni population depends on these revenues as a vital source of income. Other related determinants include the devaluation of the Yemeni rial; the suspension in 2014 of Social Welfare Fund (SWF) transfers that benefited 1.5 million people directly and an additional 6.5 million indirectly; the impact of the exchange rates on food and fuel prices; the reduction of the capacity to fish or grow crops as a result of the conflict; and the higher costs of goods transport due to damaged road infrastructure and insecurity.

The Houthis have also imposed heavy taxes on goods entering their territory, including on fuel, which has led to additional price increases. At the same time, they continue to obstruct humanitarian assistance.²⁴

12. In addition to these interconnected factors, a prominent driver of Yemen's economic collapse consists of the economic blockade imposed by the coalition since March 2015, with the consent of the internationally recognized Government of Yemen. The economic blockade of Yemen involves restrictions on sea, land, and air access to the country, with a particular focus on the areas controlled by the Houthis armed group. In a country highly dependent on imports for essential goods, this method of warfare has drastically limited the flow of food, fuel, and medicine to the Yemeni civilian population, effectively isolating those living in Houthi-controlled areas. The economic blockade has been implemented in several degrees of severity since March 2015, reaching its most severe stage in November 2017. While some restrictions were eased in 2018, the coalition continues to control and restrict imports of essential goods.

13. Yemen has historically depended on imports for 80 to 90 percent of its food, medicine, and fuel.²⁵ Because the country is heavily dependent on imports for essential goods, the closure of any entry point in the country has a direct negative impact on the availability of these goods in the country. The vast majority of essential goods are imported

24. See, OCHA, Humanitarian bulletin Yemen, Issue 27, 20 September 2017; DeepRoot, Navigating Yemen's wartime food pipeline, November 2017, pp.20, 23, 43; NRC, Drivers of Yemen's humanitarian crisis, May 2018; FAO, Yemen. Situation Report, February 2017; FAO, Yemen. Situation Report, December 2017; IPC, Acute food insecurity analysis, December 2018-January 2019, 07 December 2018; WFP, Yemen Market Watch Report, Issue n°16, August 2017.

25. OCHA, Ensuring Yemen's lifeline: the criticality of all Yemeni Ports (as of 13 November 2017). See also OXFAM, Briefing Note, Missiles and Food, Yemen's man-made food security crisis, December 2017, p. 6.



through the Red Sea ports, and land ports are not considered a viable alternative.²⁶ There are three major seaports receiving essential goods imports on the Red Sea: Hodeidah, Saleef and Aden. They are all indispensable to meet the basic needs of the Yemeni population.²⁷ The ports of Hodeidah and Saleef are under the control of the Houthis and the port of Aden is controlled by the internationally recognized Government of Yemen. Before the beginning of the conflict, the maritime ports of Hodeidah and Saleef used to receive close to 80 percent of the imports including commercial and humanitarian goods.²⁸ The storage capacity of Hodeidah represents 62 percent of the country's total storage capacity and 51 percent of the national milling wheat capacity.²⁹ While the port of Aden is also an important entry point for imports, it cannot substitute for the ports of Hodeidah and Saleef, neither can it compensate for the storage

and milling capacity of the Hodeidah port nor both ports' proximity to the majority of the people in need who are located in Houthi-controlled areas.³⁰

14. The coalition's official position is that sea and air access restrictions are justified by the implementation of the arms embargo provided by Resolution 2216 (2015) of the UN Security Council. This position, however, is contradicted by the situation on the ground. An analysis of the access restrictions imposed since 2015 demonstrates that this method of warfare is hampering the civilian population's access to essential goods (food, water, and fuel) and humanitarian assistance. The life of the population, in particular of civilians living in Houthi-controlled areas, has thus been directly and severely impacted by these restrictions.

26. The main land port with Saudi Arabia, Al-Tuwal, located in Hajjah governorate, used to be the most important land port, but has not been operational since July 2015. Between 2014 and 2016 only 0.06 percent of wheat grain and 2.68 percent of rice were imported through the two open land ports of al-Wadi'a (with Saudi Arabia located in Hadramawt governorate) and Shahan (with Oman in Al-Mahra governorate). See OXFAM, Briefing Note, *Missiles and Food, Yemen's man-made food security crisis*, December 2017, p. 6; OCHA, *Ensuring Yemen's lifeline: the criticality of all Yemeni Ports* (as of 13 November 2017); FEW NET, *Yemen Food Security Outlook*, December 2018- May 2019, p. 18.

27. OCHA, *Ensuring Yemen's lifeline: the criticality of all Yemeni Ports* (as of 13 November 2017).

28. Ibid.

29. OXFAM, Briefing Note, *Missiles and Food, Yemen's man-made food security crisis*, December 2017, p. 6.

30. Ibid. ; OCHA, *Ensuring Yemen's lifeline: the criticality of all Yemeni Ports* (as of 13 November 2017).



2. The imposition of a naval blockade by the coalition since March 2015

a. March–August 2015:

The establishment of the naval blockade on Red Sea ports in Houthi-controlled areas

The initial inspection and approval procedure

15. On 25 March 2015, the coalition launched a comprehensive military operation in Yemen. As early as 27 March 2015, Saudi Arabian and Egyptian naval forces started deploying vessels to the Bab al-Mandab strait with the objective to impose a 'blockade'³¹ on Yemen's ports.³² On 30 March 2015, restrictions were in place with the objective to monitor all ships entering and leaving Yemeni ports.

Saudi Arabia officially announced that the coalition 'imposed a blockade on Yemen's ports to prevent weapons from reaching Houthi militias'.³³

16. Nevertheless, it is only on 12 April that Yemen's Ministry of Foreign Affairs issued an official statement banning entry into Yemen's territorial waters. The statement specified that all commercial and military vessels, including ships carrying humanitarian aid, food, or medicine, were banned from entering Yemen's maritime zone without an authorisation from the internationally recognized Government of Yemen, which could only be granted after inspection. The implementation of this decision was delegated to the coalition.³⁴

17. To enter Yemen's territorial waters, all vessels, including ships carrying humanitarian aid, food, or

medicine, were thenceforth obligated to request and be granted an authorisation. Applications to enter the ports of Hodeidah, Saleef and Ras Isa in the Northern part of the country had to be filed with the Yemeni Ministry of Transport based in Jeddah, Saudi Arabia. Once vessels reached the outskirts of Yemen's territorial waters in the Bab al-Mandab strait, they had to anchor and wait the completion of an inspection and approval process led by the coalition naval forces. For Aden's port in the South of the country, applications had to be filed with an office of the 'Popular Resistance Committee' located in Aden which reported to the coalition.³⁵

18. The inspection and authorisation process put in place by the coalition was unclear and seemingly arbitrary for shipping companies. Vessels approaching Yemen had to show that the goods transported would not 'benefit the Houthis' with no further specifications and no comprehensive list of accepted or rejected goods.³⁶ The inspection and authorisation process has been strictly enforced by the coalition from its inception. Indeed, shipping sources explained to Human Rights Watch (HRW) that the coalition threatened to open fire on vessels that would not comply with instructions to stay outside of Yemen's territorial waters.³⁷

31. Terminology used by the coalition itself at that time. More than a year later, the coalition spokesperson declared that there was no 'blockade' but that the coalition was implementing 'restriction' and "controlled freedom of movement." See Saudi-led coalition denies Yemen 'blockade', Arab news, 25 October 2016.

32. Alarabiya news, *Warships move in key strait as airstrikes widen in Yemen*, 27 March 2015. Bab al-Mandab is a strait between Yemen on one side and Djibouti and Eritrea on the other side, connecting the Red Sea and the Gulf of Aden. It marks the entrance to the Red Sea, leading from the Arabian Sea to the Suez Canal and is a strategic passage for shipping between Europe and Asia.

33. *Operation Renewal of Hope, Day 5 March 30, 2015: Saudi Ministry of Defence Daily Briefing, Operation Decisive Storm*; Memo, Middle East Monitor, 'Decisive Storm' spreads to naval blockade, 31 March 2015. On 1 st April 2015, Saudi Arabia Minister of Defence confirmed that 'Naval operations are continuing on schedule since the deployment of the coalition's battleships to carry out a maritime blockade. (...) the coalition's battleships have already completed positioning, logistical deployment and monitoring of the seaports and islands in Yemen's territorial waters.' See *Operation Renewal of Hope, Day 7, April 1: Saudi Ministry of Defence Daily Briefing, Operation Decisive Storm*.

34. Maritime Security Review, *Ships banned from Yemen*, 12 April 2015; Offshore Energy, *Yemen Bans Entry into its territorial Waters*, 13 April 2015. For a copy of the Yemen's Ministry of Foreign Affairs' statement (in Arabic), see Alarabiya news, *Yemeni govt bans entry into territorial waters*, 11 April 2015.

35. HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015; Safety4Sea, *Yemen: Port situation Update*, 22 January 2016. 36. HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015, *Final report of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), S/2016/73*, 26 January 2016, annex 60.

37. HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015.

Security Council Resolution (2216 2015)

19. On 14 April 2015, the Security Council adopted Resolution 2216 (2015) under Chapter VII of the UN Charter. The Resolution imposes an arms embargo against the Houthi-Saleh alliance.

The Resolution:

Calls upon Member States, in particular States neighbouring Yemen, to inspect, in accordance with their national authorities and legislation and consistent with international law, in particular the law of the sea and relevant international civil aviation agreements, all cargo to Yemen, in their territory, including seaports and airports, if the State concerned has information that provides reasonable grounds to believe the cargo contains items the supply, sale, or transfer of which is prohibited by paragraph 14 of this resolution for the purpose of ensuring strict implementation of those provisions.³⁸

20. A straightforward reading of the Resolution indicates that inspections for the implementation of the arms embargo are not intended to be systematic but rather limited to vessels or flights for which there are reasonable grounds to believe that the craft contains items prohibited by the arms embargo.

21. Resolution 2216 (2015) also ‘urges all parties to facilitate the delivery of humanitarian assistance, as well as rapid, safe and unhindered access for humanitarian actors to reach people in need of humanitarian assistance, including medical assistance’.³⁹ This provision shows that the implementation of the arms embargo should not

impact access to the distribution of humanitarian assistance to Yemen. To the contrary, these should be facilitated considering the dire humanitarian situation in Yemen.

22. The coalition used the arms embargo imposed through Resolution 2216 (2015) to justify restricting access to Yemeni ports. This report nevertheless demonstrates that the actions of the coalition since March 2015 have unduly obstructed the arrival of commercial essential goods and humanitarian assistance to ports under the control of the Houthis in a manner that is not only contrary to the spirit of the resolution but also in direct violation of the text.

The immediate effects of the naval restrictions imposed by the coalition on the import of essential goods

23. The implementation of the blockade by the coalition immediately began causing delays for the arrival of commercial goods in Yemen, including essential goods such as food and fuel. For instance, in early April 2015, the coalition prevented the *Lycavitos*, a vessel containing more than 47,000 tonnes of wheat, from entering the Saleef port. According to the shipping company, the vessel was stopped on the grounds that ‘all Yemeni

ports are off limits for shipping’ and the vessel would only be allowed to proceed by the coalition if the UN could guarantee that the wheat would only go to civilians.⁴⁰ Before the *Lycavitos* incident, another ship carrying wheat was held up for days by the coalition before being allowed to enter Yemen and at least two other vessels carrying unknown cargo were stopped by the coalition at the same time as the *Lycavitos*.⁴¹

38. UN, *Security Council*, Resolution 2216 (2015), 14 April 2015, para. 15.

39. *Ibid.*, para. 9. It further recalls that ‘acts that threaten the peace, security, or stability of Yemen may also include ... obstructing the delivery of humanitarian assistance to Yemen or access to, or distribution of, humanitarian assistance in Yemen.’ See UN, *Security Council*, *Resolution 2216 (2015)*, 14 April 2015, para. 19.

40. See a copy of the letter detailing the incident on [Twitter](#).

41. Reuters, *Saudi-led coalition bars wheat ship from entering Yemen port: sources*, 9 April 2015; Reuters, *Shipping lines pull back from Yemen as conflict escalates*, 9 April 2015.

24. Prolonged delays continued after the Government of Yemen officially banned access to territorial waters on 12 April 2015. On 27 April, Reuters reported that at least 10 vessels were waiting outside Yemeni territorial waters to be authorised to discharge cargo at Yemeni ports, including Saleef and Hodeidah, creating costly delays for shipping companies.⁴² According to HRW, shipping logs showed that between 16 April 2015 and 10 May 2015, after a lengthy delay, the coalition finally granted permission to 19 ships carrying rice, grain, palm oil, steel, and timber to berth at Hodeidah and Saleef ports. However, permission was denied to three container vessels on 20 April 2015.⁴³

25. The restrictions imposed by the coalition have been even stricter on fuel imports. HRW reported that as of 10 May 2015, no fuel tankers had moored in Yemen's ports since the beginning of the blockade.⁴⁴ On 1 May 2015, Protection Vessels International stated that seven ships with over 349,000 metric tonnes of fuel supplies on board were anchored outside Yemeni territorial waters awaiting permission to berth at one of Yemen's ports.⁴⁵ The Risa, for example, a commercial oil tanker carrying around 33,000 metric tonnes of gasoline had been waiting since 21 April 2015 to receive clearance from the coalition. The oil tanker

was inspected on 23 April but by 10 of May had still not been authorized to dock despite having placed 250 calls to the coalition. On 28 April, the vessel was ordered to move to a position fourteen nautical miles from Hodeidah's port, but later that day was then instructed to leave Yemeni territorial waters. The coalition finally granted the ship permission to berth at Aden's port in place of Hodeidah, its intended destination.⁴⁶ The first oil tanker allowed to berth at Hodeidah port was a WFP-chartered vessel carrying 300,000 litres of fuel, the MV Amsterdam, which docked on 10 May 2015, a month and a half after the official imposition of the naval restrictions.⁴⁷

26. The authorisation system of all vessels entering Yemeni territorial waters the coalition established in late March 2015 caused delays and uncertainty regarding the procedure to access Yemen's ports. Together with the growing insecurity in Yemen, this confusion increased insurance costs for shipping companies. The increased costs in turn prompted the immediate contraction and suspension of many of the commercial routes destined for Yemeni ports.⁴⁸ Reuters reported that as early as 9 April 2015, numerous container groups, including the three biggest companies worldwide, had suspended or diverted their calls to Yemen's ports.⁴⁹

The humanitarian consequences of the naval blockade on the Yemeni civilian population

27. Yemen was already in a precarious humanitarian situation well before the launch of the coalition's military operation in March 2015. In 2012, WFP estimated that approximately ten million Yemenis were food insecure and that high foodstuff prices affected nine in ten Yemenis.⁵⁰

While the overall proportion of the food insecure population slightly declined from 45 percent in 2011 to 41 percent in 2014, the number of food insecure remained the same with 10.6 million people in Yemen classified as such that year.⁵¹

42. Protection Vessels International, *Yemen Update: 24 April-30 April*, 1 May 2015.

43. HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015.

44. MT Folk Beauty carrying 14,000 metric tons of motor gasoline would have been allowed on the 8th May but ultimately did not berth. HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015.

45. HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015 referring to Protection Vessels International, *Yemen Update: 24 April-30 April*, 1 May 2015.

46. Protection Vessels International, *Yemen Update: 24 April-30 April*, 1 May 2015; HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015.

47. HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015, referring to WFP, *WFP-Chartered Ship Docks in Yemen With Fuel for Humanitarian Operation*, 10 May 2015.

48. Protection Vessels International, *Yemen Update: 24 April-30 April*, 1 May 2015; Reuters, *Saudi-led coalition bars wheat ship from entering Yemen port: sources*, 9 April 2015; Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, Annex 2, para. 5; Final report of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), S/2016/73, 26 January 2016, para. 166.

49. Reuters, *Shipping lines pull back from Yemen as conflict escalates*, 9 April 2015. See also Offshore Energy, *Yemen Bans Entry into its territorial Waters*, 13 April 2015.

50. WFP, *Comprehensive Food Security Survey 2012: The State of Food Security and Nutrition in Yemen*, 2012.

51. WFP, *Comprehensive Food Security Survey: Yemen*, November 2014.

28. The country is heavily reliant on imports as roughly 90 percent of the country's food, medicine and fuel is imported.⁵² The decrease and delays on the arrival of aid and imports of essential goods due to the naval restrictions therefore had an immediate effect on the humanitarian situation of the civilian population. The obstacles to the import of fuel have resulted in a number of drastic consequences, including increases in the price of food transport and increased prices for and reduced access to drinking water pumped with generators.

29. Food insecurity has worsened since the escalation of the conflict in 2014 and the imposition of the naval blockade in March 2015. By June 2015, OCHA estimated that at least 12.9 million people were food insecure in Yemen.⁵³ The organisation warned that commercial imports to Yemen were largely insufficient and that essential goods imports needed to resume immediately. UN Under Secretary-General Stephen O'Brien recalled:



More than 20 million people lack access to safe water and sanitation... Food insecurity affects half the population.

Ten of Yemen's 22 Governorates are classified as being in food emergency; that's one step below famine...We have repeatedly called for the resumption of commercial imports at pre-crisis levels to avoid even more serious hunger and shortages. I repeated my call in my statement to the Council yesterday. Commercial imports are currently at an estimated 15 percent of pre-crisis levels; clearly this is insufficient in a country that imported 90 percent of its goods before the current crisis.⁵⁴

52. See OCHA, *Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, Stephen O'Brien, Statement to the Security Council on Yemen*, 26 January 2017; IRIS, *Yemen six month Economic Analysis, Economic Warfare & the Humanitarian Context*, January 2017, p. 9.

53. OCHA, *Yemen: Reduced Imports Worsen Crisis* (as of 23 June 2015).

54. OCHA, Under Secretary-General Stephen O'Brien, *Remarks to the press on Yemen*, Berlin/New York, 25 June 2015.

30. As soon as the naval blockade was implemented, international organisations warned the coalition about its immediate and potential consequences on the civilian population. Just two weeks after the launch of the coalition's military operation, WFP warned that 'the impact of traders being unable to import food and move it inside the country will affect people's ability to feed their families.'⁵⁵ On 2 May 2015, Humanitarian Coordinator for Yemen Johannes van der Klaauw stressed the urgent need to bring fuel into the country:

Services still available in the country in terms of health, water, food are quickly disappearing because fuel is no longer being brought into the country. Without fuel hospitals can't work, ambulances can't go out. You can't have the water system working because water has to be pumped. The telecommunication network risks shutting down. This is all extremely preoccupying. If something is not done in the next few days, Yemen is going to come to a complete stand-still.⁵⁶

31. On 4 May, the International Red Cross Committee (ICRC) made it clear that the consequences were already measurable on the ground, stating, 'The harsh restrictions on importations imposed by the coalition for the past six weeks, added to the extreme fuel shortages, have made the daily lives of Yemenis unbearable, and their suffering immense.'⁵⁷ Briefing the press on 8 May, a spokesperson for the United Nations Children's Fund (UNICEF) explained, that "restrictions on commercial imports of fuel and food are largely to blame for the rapidly deteriorating situation facing the country's children' and that 120,000 children were at immediate risk of severe malnutrition in the next three months if health and hygiene services failed to resume normally.⁵⁸

32. The impact of the decrease in fuel imports was particularly alarming. To meet its national needs, Yemen should import 544,000 metric tonnes of fuel per month. Since March 2015, fuel imports have been insufficient to meet this need. Fuel arrivals between March and June 2015 were respectively 23 percent (March), one percent (April), 18 percent (May) and 11 percent (June) of the estimated total fuel needed per month.⁵⁹ UN agencies reported that

in seven of Yemen's 22 governorates, there was no petrol available at all at some point between March and June 2015.⁶⁰ The fuel shortage was also partly due to the obstacles the Houthis created to the delivery of fuel in the territory under their control. Nevertheless, the import data shows that the restrictions imposed by the coalition at sea were a significant factor.

33. The lack of fuel immediately affected the capacity of humanitarian organisations to provide assistance to the Yemeni population in need.

As early as 5 May 2015, 22 major aid agencies in Yemen warned that they were running out of fuel and that humanitarian assistance could come to an abrupt end within a week if the coalition did not allow the importation of fuel into Yemen.⁶¹ In April 2015, Action Against Hunger (Action contre la Faim) reported that they were unable to reach some beneficiaries as a result of the lack of fuel.⁶² In May 2015, OCHA noted that humanitarian partners

55. WFP Distributes Food In Aden But Warns Of Challenges Of Reaching Hungry People In Yemen, 16 April 2015.

56. France 24, UN warns that Yemen's infrastructure on brink of collapse, 2 May 2015.

57. Yemen: ICRC and MSF alarmed by attacks on country's lifelines, 04 May 2015.

58. UNICEF : Yemen's children at immediate risk of severe malnutrition as fighting continues, 8 May 2015.

59. OCHA, Yemen : Reduced Imports Worsen Crisis (as of 23 June 2015).

60. Yemen in crisis, Friedrich Ebert Stiftung, Sana's Center for Strategic Studies, Yemen's economic collapse and impeding famine: the necessary immediate steps to avoid worst-case scenario, N°3, October 2015, p. 6. See also, HRW, Yemen: coalition Blocking desperately needed Fuel, 10 May 2015. According to information obtained by WFP on May 3, prices for fuel increased by about 450 percent in some regions. Official prices increased to as much as 900 Yemeni riyals per litre from 150 riyals before the beginning of the attacks on March 26. In contrast, during the political crisis of 2011, fuel prices spiked at an average of only 250 riyals. According to WFP, retail prices for wheat rose by up to 90 percent in the hardest hit locations since February. See also OCHA, Yemen: Reduced Imports Worsen Crisis, 23 June 2015, which reported price increases of 478 percent for diesel fuel and 389 percent for petrol compared to pre-crisis rates.

61. Press Release, Leading humanitarian agencies warn that their life-saving assistance is at risk of collapsing in Yemen, 5 May 2015. See also OCHA similar statement the day before OCHA, Yemen: Escalating Conflict, Flash Update 24, 4 May 2015 ('services still available in the country in terms of health, water, food are quickly disappearing because fuel is no longer being brought into the country. If something is not done in the next few days, Yemen is going to come to a complete stand-still').

62. The New Humanitarian, Shipping ban deepens Yemen's fuel crisis, 16 April 2015; The New Humanitarian, Four Reasons the crisis in Yemen is so dire, 10 April 2015.

had to suspend food assistance in Haradh district in the Hajjah Governorate and in the Hodeidah Governorate for the same reason.⁶³ In June 2015, staff members of the Norwegian Refugee Council (NRC) explained to HRW that the organisation had to halt life-saving humanitarian assistance in the Sadaa and Hodeidah governorates due to the combined fuel shortage and insecurity created by the airstrikes. NRC Yemen Country Director Hanibal Abiy Worku explained, 'it has become impossible for us to function in Sadaa and Hodaida' and that 'even around Sanaa and in the south where we have our biggest operation we are affected by the lack of fuel'.⁶⁴ Ahmad Bilal, medical coordinator for Doctors Without Borders (Médecins sans Frontières), told the Guardian, "The lack of fuel is a real issue – both for our teams and for local people, making it difficult to transport patients and medical supplies."⁶⁵



34. Given that most of the water in Yemen is pumped up from the ground using diesel generators, the lack of fuel had a direct and immediate effect on the capacity of millions of Yemenis to access drinking water. The above-cited alarming statement from 22 humanitarian agencies on the devastating consequences of insufficient fuel in Yemen highlighted the shortage's impact on water access: 'The lack of fuel is directly contributing to the unfolding humanitarian catastrophe in Yemen. Entire communities are without water as local water supply systems also rely on fuel to pump ground water to the surface before it is treated.'⁶⁶ According

to OCHA, the fuel shortages contributed to an additional 9.4 million people losing or experiencing reduced access to safe water between March and June 2015.⁶⁷ The reduction in access to water of decent quality in turn increased the risk of water-borne diseases.⁶⁸

35. On 3 May 2015, the WHO reported a doubling in the number of cases of bloody diarrhoea in children below the age of 5, as well as an increase in other environment related diseases such as malaria since the beginning of the coalition's military operation.⁶⁹

63. OCHA, *Yemen: Escalating Conflict, Flash Update 24*, 4 May 2015.

64. HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015.

65. Julian Borger, *Saudi-led naval blockade leaves 20m Yemenis facing humanitarian disaster*, The Guardian, 5 June 2015

66. Press Release, *Leading humanitarian agencies warn that their life-saving assistance is at risk of collapsing in Yemen*, 5 May 2015. See also, HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015.

67. OCHA, *Yemen : Reduced Imports Worsen Crisis* (as of 23 June 2015).

68. The New Humanitarian, *Shipping ban deepens Yemen's fuel crisis*, 16 April 2015; HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015 (According to a UN inter-agency assessment coordinated by OCHA in Saada from April 21 to 23, 100 percent of participants faced serious difficulties in accessing food and water. Fifty five percent of the respondents stated that they could not get enough food because of fuel shortages. Also, the assessment found that water pumps in areas of al-Safra, Majz, and Sahar districts have become inoperable because of fuel shortages, forcing residents to use untreated water. As a result, diarrhoea was the most common disease they and their families were suffering from, according to 91 percent of respondents.

69. WHO, *WHO continues providing safe water for health facilities and IDPs*, 4 May 2015.

Alarming reports on the immediate effects of the blockade on Yemen's medical system

The lack of fuel immediately damaged Yemen's medical system. On 21 April 2015, WHO was already raising alarms about the 'imminent collapse of the health care services in Yemen'.⁷⁰ Oxfam's humanitarian programme manager in Sana'a explained, 'The blockade means it's impossible to bring anything into the country. There are lots of ships, with basic things like flour, that are not allowed to approach. **The situation is deteriorating, hospitals are now shutting down, without diesel. People are dying of simple diseases. It is becoming almost impossible to survive.**'⁷¹

According to the UNICEF representative in Yemen, thousands of vaccinations against polio, measles and other diseases had to be thrown away in the Lahj province in April 2015 because fuel for refrigeration ran out, preventing thousands of Yemenis from receiving critical vaccinations.⁷²

As early as the beginning of May 2015, media and humanitarian organisations reported on the direct effect of the blockade-produced fuel shortage on the functioning of hospitals and medical facilities across the country. **Numerous hospitals in Yemen simply did not have enough fuel to run their generators.** The head of Yareem Public Hospital in the central city of Ibb noted that in early May, the hospitals lost power for days on end, prompting him to embark on an unsuccessful search for diesel to run the hospital refrigerators.⁷³



In Sana'a, numerous hospitals had already closed in May 2015 with only a few remaining functional. Nasr al-Qadasi, chairman of the public al-Gomhouri hospital, explained that if the state did not provide more fuel in the coming days, [the hospital] would be unable to provide care to thousands of patients and would have to close. At the time, al-Qadasi pointed out that the hospital was caring for 45 people in need of daily dialysis who they would no longer be able to treat, while fuel was also needed for intensive care, surgeries, incubation, and the hospital's refrigerators.⁷⁴

Transport of patients to hospitals was also affected as ambulances lacked the fuel needed to conduct life-saving interventions.⁷⁵ The head of Al Kuwait Hospital in Sana'a, Issa Alzubh, summarised the situation: 'We are running out of diesel. Our ambulances can no longer transport patients. Only half of our staff can come to work as the hospital buses have stopped running.'⁷⁶

36. The lack of fuel also caused the prices of fuel-related products and essential foodstuffs to skyrocket due to the increased costs of transportation.⁷⁷ UN agencies reported that **between March and June 2015, the price of flour and cooking gas rose more than 300 percent and the price of petrol increased by 1400 percent.**⁷⁸

70. WHO, *WHO warns of the imminent collapse of health care services in Yemen*, 21 April 2015.

71. The Guardian, *Saudi-led naval blockade leaves 20m Yemenis facing humanitarian disaster*, 5 June 2015.

72. The New Humanitarian, *Shipping ban deepens Yemen's fuel crisis*, 16 April 2015.

73. HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015; The New Humanitarian, *Fuel shortage leads to Yemen hospital shutdowns*, 5 May 2015.

74. The New Humanitarian, *Fuel shortage leads to Yemen hospital shutdowns*, 5 May 2015. See also HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015.

75. ICRC, *Yemen: Health System crippled, fuel shortage alarming*, 30 April 2015.

76. ICRC, *Yemen: Health System crippled, fuel shortage alarming*, 30 April 2015.

77. The Washington Post, *Yemen grinds to a halt for lack of gas*, 18 April 2015. The food prices also increased as a result of the uncertainty created by the imposition of a naval blockade as people immediately feared food shortages. Reuters, *Shipping lines pull back from Yemen as conflict escalates*, 9 April 2015.

78. Yemen in crisis, Friedrich Ebert Stiftung, Sana's Center for Strategic studies, *Yemen's economic collapse and impending famine: the necessary immediate steps to avoid worst-case scenario*, N°3, October 2015, p. 6. See also, HRW, *Yemen: coalition Blocking desperately needed Fuel*, 10 May 2015 (According to information obtained by the World Food Programme (WFP) on May 3, prices for fuel have increased by about 450 percent in some regions. Official prices increased to as much as 900 Yemeni riyals per litre from 150 before the beginning of the attacks on March 26. In contrast, during the political crisis of 2011, fuel prices spiked at an average of only 250 riyals. According to the WFP, retail prices for wheat have risen by up to 90 percent in the hardest hit locations since February). See also OCHA, *Yemen : Reduced Imports Worsen Crisis* (as of 23 June 2015) (increase of all the fuel produces with for instance an increase of 478 percent of the price of diesel compared to pre-crisis rates and 389percent for petrol).



b. Airstrikes on the Port of Hodeidah by the coalition and prevention of the delivery of new infrastructures

37. Despite numerous alerts given by UN agencies and humanitarian organisations, the coalition maintained its stranglehold on the country. The situation worsened with the partial destruction of, Yemen's main port servicing the northern part of the country, where 80 percent of imports entered into Yemen. On 18 August 2015, the coalition's airstrikes hit the port of Hodeidah, damaging warehouses, cranes, customs buildings, and a container platform.⁷⁹ Traffic of vessels to Hodeidah that had slowly restarted after partial lifting of the March 2015 immediately slowed as a result. According to the UN Panel of Experts on Yemen, the Hodeidah

port used to receive an average of 60 vessels per month before January 2015, whereas only about 20 vessels arrived monthly between August 2015 and May 2016.⁸⁰

38. Due to the fuel shortages resulting from the access restrictions imposed on oil tankers and the airstrikes on the port, it was reported that the port of Hodeidah was in poor condition by October 2015. The port reportedly suffered repeated power cuts. Moreover, following the airstrikes the port's cranes became impossible to use.⁸¹ The damages slowed down the offloading time from two to three days

79. IRIS, *Yemen six month Economic Analysis, Economic Warfare & the Humanitarian Context*, January 2017, p. 15; OCHA, *Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, Stephen O'Brien, Statement to the Security Council on Yemen*, 26 January 2017. See also, Reuters, *Saudi-led warplanes hit Yemeni port, aid group sounds alarm*, 19 August 2015. International observers noted that the timing of the airstrikes conveniently matches the reopening of the port of Aden located in an area controlled by the Yemeni government, suggesting that one of the purposes of the strikes may have been to try to redirect the arrival in Yemen of humanitarian assistance and essential commercial goods (food and fuel) to Aden's port.

80. Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), *Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces*, confidential document, March 2017, para. 3, on file with OMCT.

81. Offshore Energy, *Mast: Ports in Yemen Open, but Operation Difficult*, 8 October 2015 (only one crane functioning); OXFAM, Briefing Note, *Missiles and Food, Yemen's man-made food security crisis*, December 2017 (destruction of the five cranes); Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), *Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces*, confidential document, March 2017, Annex 2: Port of Al Hudaydah (destruction of four cranes), on file with OMCT.

before the crisis to seven to 10 days.⁸² To offload their cargo, vessels needed to carry on board their own cranes, which were smaller and slower than those previously available at the port.

39. Furthermore, the coalition deliberately hampered efforts to restore the capacity of the port by blocking the reparation and replacement of the destroyed cranes. According to a port official interviewed by HRW, the coalition did not allow the port authorities to replace the destroyed cranes nor to import spare parts needed to repair them.⁸³ In 2016, WFP purchased four mobile cranes with financial assistance from the United States.⁸⁴ The primary aim of the purchase was to boost the port's capacity to receive humanitarian vessels. Indeed, two of the cranes were to be used only by WFP to expedite the delivery of vital humanitarian aid. However, on 26 January 2017, the UN Humanitarian Affairs and Emergency Relief Coordinator reported: 'A vessel carrying four WFP-procured mobile cranes has arrived in the Red Sea, but has been ordered by Saudi authorities to leave Yemeni waters and is now anchored 15 miles off Yemen's coast. The vessel

is awaiting the coalition's approval to berth at the port.'⁸⁵

40. Despite pressure from the UN and the US, who insisted on the criticality of Hodeidah port and the need to increase the flow of food and other essentials goods in the country, the coalition continued to refuse access to Yemen's waters for the vessel carrying the cranes. WFP had to reroute the shipment to the UAE where the cranes were stored. By September 2017, more than two years after the airstrike on the Hodeidah port, Saudi Arabia was still blocking the delivery of the cranes.⁸⁶ The coalition claimed that the delivery of the cranes was not allowed as it did not 'want to continue to enhance the capabilities of the Houthis to generate money and to smuggle weapons'.⁸⁷ Permission to deliver the cranes was only granted in January 2018, exactly one year after their initial arrival in the Red Sea.⁸⁸

c. May 2016 - November 2017: from the establishment of UNVIM to the complete blockade of Yemen.

The inspection and approval procedure

41. To remedy the dire humanitarian effects of the coalition's naval blockade, discussions were taking place at the United Nations as early as May 2015 for the creation of an international mechanism. While the Government of Yemen made a request to the Secretary General for the creation of the United Nations Verification and Inspection Mechanism for

Yemen (UNVIM) August 2015, the mechanism only became operational eight months later, on 5 May 2016. Indeed, despite seemingly agreeing to the creation of UNVIM, the Government of Yemen and the coalition slowed down its establishment, demonstrating their reluctance to give up their control over access to the Red Sea ports.⁸⁹

82. OXFAM, Briefing Note, *Missiles and Food, Yemen's man-made food security crisis*, December 2017. See also *Final report of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014)*, S/2016/73, 26 January 2016, Annex 60; Save the Children, *Saudi Delays to aid killing Children as famine looms*, 1 March 2017; Deep Root, *Navigating Yemen's wartime food pipeline*, November 2017, p. 27.

83. HRW, *Yemen: coalition's Blocking Aid, Fuel Endangers Civilians*, 27 September 2017.

84. HRW, *Yemen: coalition's Blocking Aid, Fuel Endangers Civilians*, 27 September 2017.

85. OCHA, Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, Stephen O'Brien, *Statement to the Security Council on Yemen*, 26 January 2017. See also, Save the Children, *Saudi Delays to aid killing Children as famine looms*, 1 March 2017.

86. HRW, *Yemen: coalition's Blocking Aid, Fuel Endangers Civilians*, 27 September 2017; UNSC, *Security Council Issues Presidential Statement calling on Parties in Yemen to engage Constructively in Good-Faith Effort for Conflict Resolution*, SC/12873, 15 June 2017 (requesting increasing the capacity of all of Yemeni ports, including through the timely installation of cranes at Hodeida to increase the port's capacity). See also The Washington Post, *U.S. plan to help Yemenis obtain Humanitarian aid falters, amid growing food crisis*, 15 March 2017; Reuters, *Special Report: In blocking arms to Yemen: Saudi Arabia squeezes a starving population*, 11 October 2017.

87. BBC, *Yemen's War: Saudi Arabia defends actions*, 4 April 2017; HRW, *Yemen: coalition's Blocking Aid, Fuel Endangers Civilians*, 27 September 2017.

88. WFP, *Four USAID-funded Mobile Cranes arrive at Yemen's Largest Red Sea Port*, 15 January 2018. See also Offshore Energy, *Four Cranes Arrive at Yemen's Hodeidah Port*, 16 January 2018; Reuters, *Cranes arrive in Hodeidah to boost Yemen food aid flow*, 15 January 2018. The four mobile cranes have improved the offloading situation at Hodeidah as they assist in offloading dry bulk cargo. Nevertheless, they remain unsuitable for cargos from larger container ships. NRC, *Drivers of Yemen's humanitarian crisis*, May 2018.

89. Security Council Report, *In Hindsight: the Story of the UN verification and Inspection Mechanism in Yemen*, September 2016 Monthly Forecast, 1st September 2016; Government of Yemen, Ministry of Transport, *Letter entitled General announcement*, 2 May 2016.

42. The mandate of UNVIM is to grant clearance to commercial vessels sailing to sea ports that are not under the control of the Government of Yemen (i.e., Hodeidah, Saleef and Ras Isa until its closure in June 2017) to facilitate the flow of commercial goods while ensuring compliance with the arms embargo of Resolution 2216 (2015).⁹⁰ Commercial vessels destined for these ports need to submit a complete clearance request to UNVIM 'no later than five (05) days prior to the vessel's arrival in the outer limits of these ports and preferably before the departure of the vessel from its port of loading, depending on the availability of the vessel's documents'.⁹¹ The UNVIM clearance procedure only applies to commercial vessels, not humanitarian ships, but humanitarian organisations regularly use commercial vessels to transport food products, medicine and other assistance to Yemen.

43. Once the requested documents are received, UNVIM decides whether an inspection is necessary. If no inspection is required, UNVIM grants the clearance. An inspection can be deemed necessary only if there are reasonable grounds to believe that the cargo may contain items prohibited by Resolution 2216 (2015). If the ship is a bulk cargo freighter, the inspection takes place in international waters and if a deeper inspection is required, the vessel is rerouted to the port of Djibouti where the mechanism is located. If the vessel is a containerised commercial cargo transshipping through the ports of Djibouti, Dubai, Jeddah and Salalah it is screened in transit by the coalition in presence of UNVIM Monitors. Containerised shipments that are delivered directly from the port of origin to Yemeni ports without transit can also be screened in one of the designated ports if reasonable grounds for verification exist.⁹²

44. Though UNVIM clearance process took an average of 36.5 hours between May 2016 and August 2017, this was not the actual time required for vessels to be granted clearance to the seaports in the Houthi-controlled area.⁹³ UNVIM clearance remains null in practice until the coalition gives its approval following its own inspection procedure. Clearance is thus de facto still granted by the coalition, which maintains an additional and redundant authorisation process.⁹⁴ This extra step is not only outside UNVIM procedures but also defeats the very purpose of the UNVIM, as it continues to hinder the arrival of aid and essential commercial goods such as fuel and food.

45. Even after receiving UNVIM authorisation, all vessels aiming to berth at Hodeidah or Saleef ports must contact by radio a coalition warship before reaching Yemen territorial waters.⁹⁵ The vessel is ordered to move to the coalition Holding Area (CHA) located in international waters. Vessels must anchor and wait there for the Riyadh-based coalition Evacuation and Humanitarian Operation Cell (EHOC) to decide whether further inspection is necessary. It is not uncommon for vessels that received clearance from UNVIM to be inspected by the coalition while in the CHA or to be instructed to reroute to a designated coalition port for inspection. The coalition's decisions on whether a vessel needs to be inspected or not appear to be arbitrary, as there is no list of prohibited items⁹⁶ and the coalition does not comply with its obligation pursuant to Resolution 2216 (2015) to report to the UN on the grounds of inspections.⁹⁷

46. The coalition's inspections are conducted differently depending on the type of vessel in

90. UNVIM website ; Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, p. 1, para. 6. The clearance procedure for vessels aiming to berth at ports under the control of the Yemen Government (Aden and Mukallah for instance) are managed by the Government of Yemen's Ministry of Transport. UNVIM website; Maritime Security Review, Issue 4, 28 January 2019 (This should be done through the ship's agent and/or receivers prior to the vessel's arrival. The form should be completed by the ship's master and sent directly to the Ministry of Transport.)

91. UNVIM website. See also Final Report of the Panel of Experts on Yemen, S/2020/70, 27 January 2020, Annex 21. Delay of tankers proceeding to al Hudaydah port.

92. UNVIM website ; UNVIM, Standard Operating Procedures, V2.0; Deep Root, Navigating Yemen's wartime food pipeline, November 2017, p. 26; Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, p. 1, para. 6, on file with OMCT; OXFAM, Briefing Note, Missiles and Food, Yemen's man-made food security crisis, December 2017. According to OXFAM, 'Since January 2017, the coalition has restricted these transshipments to King Abdullah port in Jeddah only, increasing delays significantly and discouraging trade to Hodeidah port. To facilitate inspection, the coalition has also restricted the quantity to be shipped to Hodeidah to 700 containers per vessel only, although Hodeidah port could handle 1,700 containers per vessel. This has further reduced the quantity of food entering the country.'

93. DeepRoot, Navigating Yemen's wartime food pipeline, November 2017, p. 29.

94. OXFAM, Briefing Note, Missiles and Food, Yemen's man-made food security crisis, December 2017 (There have been instances when the coalition has not provided a response to UNVIM, meaning that in turn UNVIM could not clear ships); DeepRoot, Navigating Yemen's wartime food pipeline, November 2017, p. 29 (while the original design and standard operating procedure of UNVIM is to merely "inform" the coalition of its decision, in reality due to the coalition's control over the waters the UNVIM clearance is not effective until the coalition also gives approval).

95. Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, on file with OMCT: the CHA is an area in the Red Sea 61 km West of Al Hudaydah port delineated by the coordinates 14.38 N - 042.09 E; 14.51 N - 042.10 E; 14.38 N - 042.22 E; 14.51 N - 042.22).

96. Group of the Eminent International and Regional Experts, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/39/43, 17 August 2018, para. 48; Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, on file with OMCT.

97. Resolution 2216 (2015) requires: "any Member State when it undertakes an inspection pursuant to paragraph 15 of this resolution, to submit promptly an initial written report to the Committee containing, in particular, explanation of the grounds for the inspections, the results of such inspections, and whether or not cooperation was provided, and, if prohibited items for supply, sale, or transfer are found, further requires such Member States to submit to the Committee within 30 days a subsequent written report containing relevant details on the inspection, seizure, and disposal, and relevant details of the transfer, including a description of the items, their origin and intended destination, if this information is not in the initial report." UN, Security Council, Resolution 2216 (2015), 14 April 2015, para. 17.

question. If the vessel is a bulk cargo ship or an oil tanker, the inspection is conducted in international waters by a coalition warship. The coalition's warships communicate instructions to be followed for the inspection by radio and send armed troops on a small tug boat to conduct the onboard inspection. As an example, HRW documented the case of an oil tanker aiming to berth at Ras Isa port that had received clearance from UNVIM. However, once in the CHA, the coalition boat crew boarded the oil tanker for inspection. The tanker was finally diverted to Jeddah port and then to Yanbu port in Saudi Arabia, where it remained for more than five months. Ultimately, the coalition forced the cargo to discharge at a Saudi port, costing the shipping company 20 million dollars.⁹⁸

47. If the vessel to be inspected is a containerised commercial cargo carrier, it is requested to reroute to one of the designated ports (Djibouti, Dubai, Jeddah and Salalah) to be screened by the coalition which creates lengthy delays for shipping companies. For instance, on 4 March 2017, the Kota Anggun container vessel, which carried 95 containers of WFP vegetable oil and had already been granted UNVIM clearance to berth in Hodeidah, was instructed by the coalition to divert to the port of Jazan in Saudi Arabia for inspection.⁹⁹ The vessel had to wait for more than three weeks there. Another example documented by the UN Panel of Experts on Yemen is the Himanshi cargo vessel belonging to the Mediterranean Shipping Company, which was carrying over 722 containers, including 73 food containers for WFP and around 20 general cargo containers for the United Nations High Commissioner for Refugees (UNHCR), the United Nations Population Fund (UNFPA) and Save the Children. The vessel initially anchored in the CHA on 11 July 2016. After 13 days of waiting,

on 24 July 2016, the vessel was instructed by UNVIM to proceed to King Abdullah Port in Saudi Arabia for inspection. The coalition conducted the inspection on 1 August 2016. Ultimately, the vessel reached Hodeidah on 9 September 2016 because of further delays by UNVIM and the coalition to grant authorisation to the vessel to enter Yemen's territorial waters.¹⁰⁰

48. If the vessel is a containerised commercial cargo transshipping through a transit port (Djibouti, Dubai, Jeddah or Salalah), the coalition conducts a screening of the containers at the transit port in presence of UNVIM inspectors. While transiting for transshipment to smaller ships before reaching the port of Hodeidah, was already common practice before the conflict,¹⁰¹ due to the blockade, container shipments are now required to wait for the coalition's screening process that can take from one week up to two months.¹⁰² Ships have only seven to 10 days' free allowance to wait, however, after which port authorities charge fees.¹⁰³ On several occasions,¹⁰⁴ the coalition has without explanation, limited transshipments to King Abdullah Port in Jeddah, Saudi Arabia. This introduced further uncertainty and long delays in the process, significantly increasing costs for shipping companies and discouraging them from requesting access to the Hodeidah or Saleef ports.¹⁰⁵ Furthermore, the coalition arbitrarily limited to 700 the number of containers that a vessel destined for Hodeidah can carry, despite the fact that the port in Hodeidah can process 1,700 containers per vessel.¹⁰⁶

49. Once the inspection is completed, waiting for the coalition's authorisation in the CHA can take from two to three days up to several weeks.¹⁰⁷ According to the Group of the Eminent Experts, 'The additional coalition clearance process can

98. HRW, Yemen: [coalition's Blocking Aid, Fuel Endangers Civilians](#), 27 September 2017. HRW documented another case in which a tanker carrying 4,105 metric tons of fuel oil was expected to arrive at Hodeidah port on June 20, but instead was diverted to anchorage off Somalia, where it remained for 74 days, from June 10 until August 22. As of August 25, the tanker was off the coast of al-Mukalla, a government-controlled area of south-eastern Yemen.

99. OCHA, [Yemen Situation report n°27](#), 15 March 2017.

100. The Panel of Expert further noted that "according to the shipper, seventeen containers were held in Jeddah, of which thirteen were handed back to the MSC Himanshi after 185 days. The remaining four containers declared on the shipping manifest as "Toys of children" were in fact found to contain fireworks". See Case Study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, p.8, on file with OMCT.

101. DeepRoot, [Navigating Yemen's wartime food pipeline](#), November 2017, p. 26 (Because Hodeidah could only receive ships carrying a maximum 1,700 containers, and therefore liners would stop in a transit port for transshipment to smaller ships).

102. Ibid. See also Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, on file with OMCT.

103. Oxfam, Briefing Note, [Missiles and Food, Yemen's man-made food security crisis](#), December 2017, p.7.

104. May 2015 and beginning of 2017 in particular.

105. DeepRoot, [Navigating Yemen's wartime food pipeline](#), November 2017, pp. 26, 30; OXFAM, Briefing Note, [Missiles and Food, Yemen's man-made food security crisis](#), December 2017, p.7.

106. DeepRoot, [Navigating Yemen's wartime food pipeline](#), November 2017, p. 30.

107. Ibid., p. 26 (In some cases, the coalition has ordered vessels back into international waters for further inspection after they had already progressed along the import process, thus increasing the delay substantially.); Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, on file with OMCT; [Final Report of the Panel of Experts on Yemen](#), S/2020/70, 27 January 2020 Annex 21. Delay of tankers proceeding to al Hudaydah port; OXFAM, Briefing Note, [Missiles and Food, Yemen's man-made food security crisis](#), December 2017. See also [Maritime Security Review, Issue 4](#), 28 January 2019.

take several weeks.¹⁰⁸ DeepRoot, a development consulting firm in Yemen, explains, 'in addition to the average 36.5 hours it takes for UNVIM clearance, ships must wait for coalition approval, a highly variable process that can take anywhere from four days to several weeks'.¹⁰⁹ The total estimated time for the import process to Hodeidah before the crisis, including waiting time to berth and offloading time at the port, was 17 to 25 days. Since the beginning of the conflict, the total estimated time has stretched to between 41 and 168 days. According to DeepRoot, 'the longest delays experienced are due to clearance requests and waiting for coalition approval, container cargo stops at a transit port, and screenings for containers destined for Hodeidah, at the transit port'.¹¹⁰ Oxfam further states, 'demurrage costs apply for this time which can take from two days to two weeks; costs that add up to what the end-consumers have to pay'.¹¹¹

50. The waiting time in the CHA has been particularly long for oil tankers. HRW documented several of those cases in mid-2017. For instance, three oils tankers aiming to berth at Hodeidah were held 13, 28 and 49 days respectively in the CHA.¹¹² Once authorisation is granted by the coalition, the vessels can then proceed to a Port Waiting Anchorage (PWA) off the ports of

Hodeidah or Saleef and must wait once more for the port authorities' authorisation to berth.¹¹³

51. Even if an authorisation is at last granted, the lengthy delays created by the inspection and approval process induce heavy costs for the shipping companies aiming for the Hodeidah or Saleef ports which, together with the uncertainty of the process, have a strong chilling effect on incoming shipments.¹¹⁴

52. The coalition can also refuse an authorisation without explanation by the coalition even when an approval was granted by UNVIM. For example, in January 2017, a fuel tanker was held for 28 days by the CHA only to be ultimately denied authorisation to berth without any explanation from the coalition. In that case, the tanker had to discharge the fuel in the UAE, costing the chartering company 500,000 US dollars.¹¹⁵

53. Finally, vessels are regularly refused authorisation to berth at Hodeidah or Saleef ports and are only granted to access Yemen through Aden, a port under the control of the Government of Yemen. This delays the arrival and delivery of essential goods such as food and medicine to the population living in Houthi-controlled areas.

108. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 48.

109. DeepRoot, *Navigating Yemen's wartime food pipeline*, November 2017, p. 29. See also Oxfam, Briefing Note, *Missiles and Food, Yemen's man-made food security crisis*, December 2017, p.7 (Oxfam estimates that it takes 'an average of eight weeks to two months for a vessel arriving near Yemeni waters to unload its cargo at Hodeidah port.').

110. DeepRoot, *Ibid.*, pp. 27-28. UN Panel of expert analysed delays on vessels aiming to berth at Hodeidah port. Between May 2016 and March 2017, a company which had operated 21 voyages had lost a total of 56 days just in obtaining EHOC authorisation to proceed to a PWA after already been issued UNVIM clearance. See Case Study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), *Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces*, confidential document, March 2017, on file with OMCT.

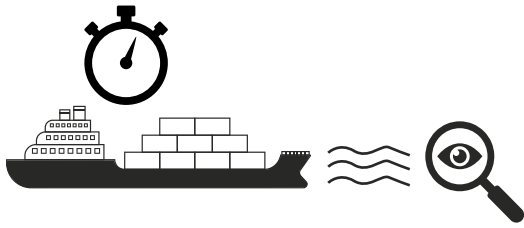
111. Oxfam, Briefing Note, *Missiles and Food, Yemen's man-made food security crisis*, December 2017.

112. HRW, *Yemen: coalition's Blocking Aid, Fuel Endangers Civilians*, 27 September 2017. See also *Final Report of the Panel of Experts on Yemen*, S/2020/70, 27 January 2020 Annex 21. Delay of tankers proceeding to al Hudaydah port.

113. Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), *Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces*, confidential document, March 2017, on file with OMCT; DeepRoot, *Navigating Yemen's wartime food pipeline*, November 2017, p. 27 (Following clearance from the coalition, vessels wait to receive approval from Yemeni port authorities to enter Yemeni waters and approach the dock and berth. Although this is not a new step, prior to the conflict this took 1-3 days depending on time slots, but after the war began it reached up to 2-3 weeks in Hodeidah port. The time required for this step is dependent on the efficiency of the local port authorities. In 2016, it used to take 2-3 weeks for berthing in Hodeidah but following a change in management it now takes 3-4 days maximum, assuming no other delays.)

114. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 50.

115. HRW, *Yemen: coalition's Blocking Aid, Fuel Endangers Civilians*, 27 September 2017 (The ship had to discharge its fuel cargo in the United Arab Emirates (UAE), which did not cost the company but did cost the charterer about US\$500,000.)



The effects on the Yemeni population of the long-term sea access restrictions imposed by the coalition

54. The access restrictions imposed by the coalition beyond UNVIM procedures affected food and fuel imports, especially in the Houthi-controlled areas, in several ways. First, there has been a direct impact on imports as vessels were denied access, rerouted through Aden or suffered undue delays for getting clearance. Secondly, the uncertain and time-consuming arbitrary clearance process had a strong deterrent effect on shipping companies.

55. The establishment of UNVIM had initially eased the arrival of essential goods to ports located in Houthi-controlled areas (Hodeidah and Saleef).¹¹⁶ capacity or infrastructure to accommodate Yemen's Following military tensions around Hodeidah port,¹¹⁷ however, the level of food and aid arriving through the Red Sea ports located in Houthi-controlled areas decreased significantly in the first months of 2017.¹¹⁸

In February 2017, the UN Humanitarian Coordinator noted, 'Only one of the main six shipping companies servicing Yemen continues to use the [Al Hudaydah] port, with vessels being forced to redirect their

shipments, including humanitarian supplies, to Aden. Yet, the Aden Port does not have the required capacity or infrastructure to accommodate Yemen's import demands.'¹¹⁹ In addition, approximately 71 percent of the people in need in Yemen are located in areas controlled by Houthis in the northern part of the country and in close proximity to the port of Hodeidah.¹²⁰

56. As a result, the UN warned, 'Any alterations to the commercial and humanitarian imports coming through [Al Hudaydah] port would have grave consequences on the country at a time when it faces a severe food, health, and nutrition crisis.' The UN continued on: 'Associated costs of re-routing imports to Aden Port are prohibitive; even more so for the humanitarian effort given the massive underfunding it faces. Steering the humanitarian response away from Al Hudaydah Port, even temporarily, is inconceivable, particularly in a war-torn country where infrastructure and security impede movement.'¹²¹

116. See for instance, NRC confidential document entitled "Blockade Update: January-March 2018", April 2018, on file with OMCT; OCHA, Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, Stephen O'Brien, Statement to the Security Council on Yemen, 26 January 2017; Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, on file with OMCT.

117. From January 2017, forces loyal to the Yemeni Government, supported by the coalition deployed military forces to take control of the Al Mukha area. The frontline slowly shifts north along the Red Sea coast increasing the risk of military operations in the vicinity of Al Hudaydah port.

118. Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, p. 1, para. 2, on file with OMCT.

119. Statement by the Humanitarian Coordinator in Yemen, Jamie McGoldrick, on the impact of the conflict and the ongoing food crisis, 21 February 2017. See also: Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, on file with OMCT referring to Meeting Minutes, 12 March 2017, Logistics Cluster – Yemen, WFP Office in Djibouti

120. DeepRoot, Navigating Yemen's wartime food pipeline, November 2017, p. 16; OCHA, Humanitarian bulletin Yemen, Issue 27, 20 September 2017; WFP, Yemen Market Watch Report, Issue n°16, August 2017.

121. Statement on Behalf of the Humanitarian country team in Yemen on the critical importance to maintain al Hudaydah Port open, 4 April 2017.



Save the Children: Delays on the arrival of medical shipments are killing children ¹²²

On 1st March 2017, the non-governmental organisation Save the Children issued a public statement denouncing that since the beginning of 2017, the Coalition prevented three vessels containing medical supplies for 300,000 Yemeni (antibiotics, surgical equipment, medicine to treat diseases like malaria and cholera, and supplies to support malnourished children) from berthing at Hodeidah port. The vessels were forced to reroute to the port of Aden delaying the arrival of the medical supplies by up to three months. As an example, one of the vessels transporting a two tonnes shipment of medical supplies and equipment for nearly 40,000 people was due to arrive in the port of Hodeidah on 2nd December 2016 but only arrived 83 days later, after having been stopped by the Coalition and rerouted to Aden on the other side of the conflict line.

122. Save the Children, [Saudi Delays to aid killing Children as famine looms](#), 1 March 2017. See also HRW, [Yemen : coalition's Blocking Aid, Fuel Endangers Civilians](#), 27 September 2017.

According to Save the Children, there is no doubt that some children have died as a result of these delays which

“prevented 51 healthcare facilities supported by Save the Children from functioning fully and left mobile health teams unable to bring assistance to rural locations that lack health services”.



Grant Pritchard, Interim Country Director for Save the Children in Yemen, said:

“ **These delays are killing children. Our teams are dealing with outbreaks of cholera, and children suffering from diarrhea, measles, malaria, and malnutrition. With the right medicines these are all completely treatable – but the Saudi-led coalition is stopping them getting in. They are turning aid and commercial supplies into weapons of war.** ”

57. The UN Special Rapporteur on the negative impact of unilateral coercive measures stated in April 2017, ‘The aerial and naval blockade imposed on Yemen by the coalition forces since March 2015 was one of the main causes of the humanitarian catastrophe. It has restricted and disrupted the

import and export of food, fuel and medical supplies as well as humanitarian aid.’¹²³

123. OHCHR, [Lift blockade of Yemen to stop “catastrophe” of millions facing starvation](#), says UN expert, 12 April 2017.

The impact on food accessibility


58. Yemen relies almost exclusively on commercial imports to meet the nutritional needs of its population. Humanitarian assistance is insufficient to meet these needs. The monthly national requirement of food imports such as grains, flour, sugar, and other edible goods is 350,000 metric tonnes, of which 75,000 consist of humanitarian imports.¹²⁴ Before the complete blockade of November 2017, the monthly average import quantity of foodstuffs in Yemen was 335,185 metric tons.¹²⁵ As noted by the Group of Regional and International Eminent Experts on Yemen (Group of Eminent Experts), 'The problem has been the price of food rather than its availability.'¹²⁶

59. By increasing the transport time for shipping companies, the clearance process put in place by the coalition increased the costs for importers and cargo owners.¹²⁷ According to DeepRoot, for importers, shipping costs for wheat grain increased from US\$17-20 per tonne prior to the conflict to US\$27-35 per tonne in mid-2017. For rice, shipping costs increased 100 percent, from around US\$1000-1200 to US\$2000-2400 per container.¹²⁸

60. Therefore, even when food is available, the magnitude of the problem remains. Due to the increase in food prices, millions of Yemenis are unable to purchase enough food to meet their minimum needs.¹²⁹ In February 2017, the Food and Agriculture Organization (FAO) indicated, 'Prices are 49 percent higher for sorghum, 45 percent

higher for millet, 60 percent higher for maize and 69 percent higher for barley than pre-conflict prices in February 2015. The average prices of wheat, rice and vegetable oil increased by about 30 percent, 25 percent and 43 percent, respectively, compared to before the crisis.'¹³⁰

61. Three years after the initial escalation of the conflict and two years into the blockade, the food security of the Yemeni population continued to deteriorate. In April 2017, OCHA stated that Yemen had become the largest humanitarian crisis in the world.¹³¹



At the beginning of 2017, more than 60 percent of the Yemeni population (17.1 million) was facing food insecurity, seven million people were severely food insecure and two million children acutely malnourished.¹³²

This represents a 3 million increase in the number of food insecure people over the course of seven months.¹³³ In December of 2017, that number increased to 17.8 million with 8.4 million at risk of famine, 24 percent more than in March.¹³⁴

124. OCHA, *Ensuring Yemen's lifeline: the criticality of all Yemeni ports (as of 13 Nov 2017)*; OCHA, *Humanitarian bulletin Yemen*, Issue 29, 20 November 2017.

125. OCHA, *Yemen: Commodity Tracker (as of 3 May 2018)* Pre-blockade averages include UNVIM data from July 2016 to October 2017

126. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, para. 8.

127. Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, on file with OMCT; Confidential internal document of ACF dated April 2018, on file with OMCT (The Panel received data from a confidential source showing that the companies of a major business group, with significant business in Yemen, have paid US\$ 10 million as penalties for demurrage).

128. DeepRoot, *Navigating Yemen's wartime food pipeline*, November 2017, p. 26. See also NRC, *Drivers of Yemen's humanitarian crisis*, May 2018 (During March 2018, the average time taken for commercial ships to obtain clearance from the Saudi-led coalition was eleven days, estimated to cost each ship an average of between US\$15,000 and US\$40,000 per day); Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017, on file with OMCT; Confidential internal document of ACF dated April 2018, on file with OMCT; Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, Annex II.

129. OCHA, *Humanitarian bulletin Yemen*, Issue 27, 20 September 2017; DeepRoot, *Navigating Yemen's wartime food pipeline*, November 2017, p. 18.

130. FAO, *Yemen, Situation Report*, February 2017. According to DeepRoot, from September to November 2017 alone, there has been an average 18 percent price increase for wheat grains, 16-25 percent price increase for wheat flour, and 18-28 percent price increase for rice. DeepRoot, *Navigating Yemen's wartime food pipeline*, November 2017, p. 11.

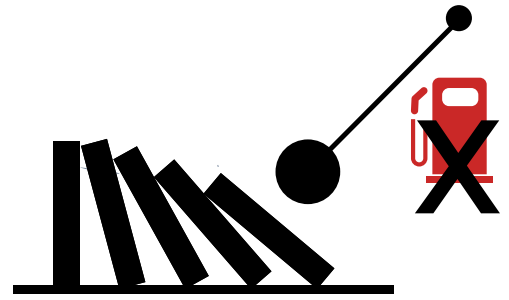
131. OCHA, *2017 High-level Pledging Event*, 25 April 2017.

132. OCHA, *Humanitarian Bulletin Yemen*, Issue 26, 14 August 2017; FAO, *Yemen, Situation Report*, February 2017; WFP, *Yemen Situation report n°27*, 15 March 2017 Yemen: Commodity Tracker (as of 7 December 2018) (156,235), OCHA, *Yemen: Commodity Tracker (as of 7 January 2019)* (156,235).

133. FAO, *Yemen, Situation Report*, February 2017. In September 2017, OCHA stated that "Some 1.8 million children and one million pregnant or lactating women are acutely malnourished, including 385,000 children under age five suffering from severe acute malnutrition." OCHA, *Humanitarian bulletin Yemen*, Issue 27, 20 September 2017.

134. FAO, *Yemen, Situation Report*, December 2017.

Pre-blockade averages include UNVIM data from July 2016 to October 2017



The dire consequences of the lack of fuel

62. Since March 2015, the imports of fuel have drastically decreased, meeting on average only one-third (29 percent) of Yemen's monthly fuel import requirements.¹³⁵ This was exacerbated in June 2017 when the Government of Yemen closed the port of Ras Isa located on the Red Sea in the Houthi-controlled area.¹³⁶ Ras Isa port was the main port for accommodating the arrival of diesel in Yemen.¹³⁷ Monthly diesel imports at Ras Isa started drastically decreasing in early 2017, dropping from between 80,000 to 90,000 metric tonnes per month in 2015 to between 20,000 to 24,000 metrics tons in early 2017. The general manager at Ras Isa Marine Terminal told HRW that in January 2016, six fuel tankers berthed at the port, whereas that this number was down to one in January 2017. He was not given any reason by the coalition or the Government of Yemen to explain this abrupt decline.¹³⁸ According to HRW, on 30 May 2017, the coalition notified the UN that it ordered the closure of the Ras Isa port, arguing that the Houthi-Saleh alliance was using the revenues from imports at the terminal.¹³⁹ On 5 June 2017, the Government of Yemen sent a letter to Ras Isa port authorities ordering the closure of the port to protect the 'marine environment' from 'pollution and oil leaks'.¹⁴⁰ From June 2017, UNVIM stopped issuing clearance for Ras Isa. The port remains closed today.¹⁴¹

63. Since the closure of Ras Isa, Hodeidah has become the only port where fuel can be delivered to the Houthi-controlled areas. The Hodeidah port, however, does not have the capacity to compensate for the closure of Ras Isa port. Contrary to Ras Isa, which was designed to accommodate large fuel tankers, the port of Hodeidah does not have the capacity to accommodate vessels carrying more than 18,000 metric tonnes of fuel. Moreover, fuel imports to Hodeidah are limited to around 40,000 to 50,000 tonnes of petroleum per month. According to the Deputy Chairman of the Yemen Red Sea Ports Corporation interviewed by HRW, this amount ;can only cover the needs of Hodeidah city and the local area'.¹⁴² According to the Group of Eminent Experts, the closure of the Ras Isa port further exacerbated the insufficiencies in fuel imports that began in March 2015.¹⁴³ OCHA reported that following the closure of Ras Isa port in June 2017, the amount of fuel that entered the country was only 87,566 metric tonnes, less than 17 percent of the estimated monthly fuel needed.¹⁴⁴ WFP reported that during the month of August 2017, many of the governorates experienced shortages of fuel. Consequently, prices of fuel commodities across most of the governorates rose and the national price average further increased from the levels recorded in July 2017.¹⁴⁵

135. OCHA, *Yemen: Commodity Tracker* (as of 3 May 2018). Before the blockade of November 2017, the monthly average of fuel import in Yemen was 156.235 metric tons: OCHA, *Yemen: Commodity Tracker* (as of 7 December 2018) (156.235), OCHA, *Yemen : Commodity Tracker* (as of 7 January 2019) (156,235). Pre-blockade averages include UNVIM data from July 2016 to October 2017.

136. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, Annex II.

137. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, Annex II.

138. HRW, *Yemen: coalition's Blocking Aid, Fuel Endangers Civilians*, 27 September 2017. See also Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, Annex II.

139. HRW, *Yemen : coalition's Blocking Aid, Fuel Endangers Civilians*, 27 September 2017; OCHA, *Humanitarian Bulletin Yemen, Issue 25*, 16 July 2017.

140. HRW, *Yemen: coalition's Blocking Aid, Fuel Endangers Civilians*, 27 September 2017. See also Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, Annex II.

141. UNVIM Website (indicating that in June 2017, the Government of Yemen suspended clearances to Ras Isa port until further notice); Gard, Yemen – *Port situation*, updated 15 June 2020.

142. HRW, *Yemen: coalition's Blocking Aid, Fuel Endangers Civilians*, 27 September 2017. Hodeidah capacity for fuel is 150,000 MT and Aden is 50,000 MT (OCHA, *Ensuring Yemen's lifeline: the criticality of all Yemeni ports* (as of 13 Nov 2017)). See also HRW, *Yemen: coalition Blockade Imperils Civilians*, 7 December 2017.

143. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, Annex II, para. 12.

144. OCHA, *Humanitarian Bulletin Yemen, Issue 25*, 16 July 2017; HRW, *Yemen : coalition's Blocking Aid, Fuel Endangers Civilians*, 27 September 2017.

145. WFP, *Yemen Market Watch Report*, Issue n°16, August 2017.





64. The lack of fuel and its high price continued to dramatically affect the functioning of medical facilities and the population's access to clean water supplies.¹⁴⁶ It is therefore unsurprising that a cholera outbreak arose in Yemen in April 2017, alongside other water borne diseases.

In fact, humanitarian actors had warned about the risk immediately after the imposition of the blockade in March 2015.¹⁴⁷ According to OCHA, the outbreak, which was the worst in the world in 2017, was fully produced by the humanitarian situation and the direct result of more than two years of conflict.¹⁴⁸ The scarcity and exorbitant price of fuel is thus one of the factors that led to the epidemic, as it forced large numbers of Yemenis to rely on unsafe water sources.¹⁴⁹

65. In July 2017, after the coalition blocked access for four oil tankers to the Hodeidah port in a single week, OCHA commented that this refusal could exacerbate the cholera outbreak: 'More than 1,900 people have died from cholera in Yemen and 400,000 cases have been reported since the start of the outbreak in April. The disease spreads in polluted water, and fuel is needed to run pumps for clean water and power generators in hospitals, among other uses.'¹⁵⁰ As of August 2017, 1,966 individuals had died and 5,000 people were falling sick every day with symptoms of acute watery diarrhoea or clinically diagnosed cholera.¹⁵¹ Children and the elderly were the first victims of this outbreak. By 15 November 2017, the total reported suspected cholera cases in Yemen had reached 926,084 with 2,202 associated deaths.¹⁵²

146. OCHA, *Humanitarian Bulletin Yemen, Issue 25*, 16 July 2017. In 2017, OCHA estimated that as a result of the conflict, 14.8 million people do not have adequate access to healthcare and 15.7 million people can no longer access clean water and sanitation (OCHA, *Humanitarian Bulletin Yemen, Issue 26*, 14 August 2017; OCHA, *Humanitarian Bulletin Yemen, Issue 25*, 16 July 2017)

147. The New Humanitarian, *Four reasons the crisis in Yemen is so dire*, 10 April 2015; The New Humanitarian, *Shipping ban deepens Yemen's fuel crisis*, 16 April 2015; The Guardian, *Saudi-led naval blockade leaves 20m Yemenis facing humanitarian disaster*, 5 June 2015.

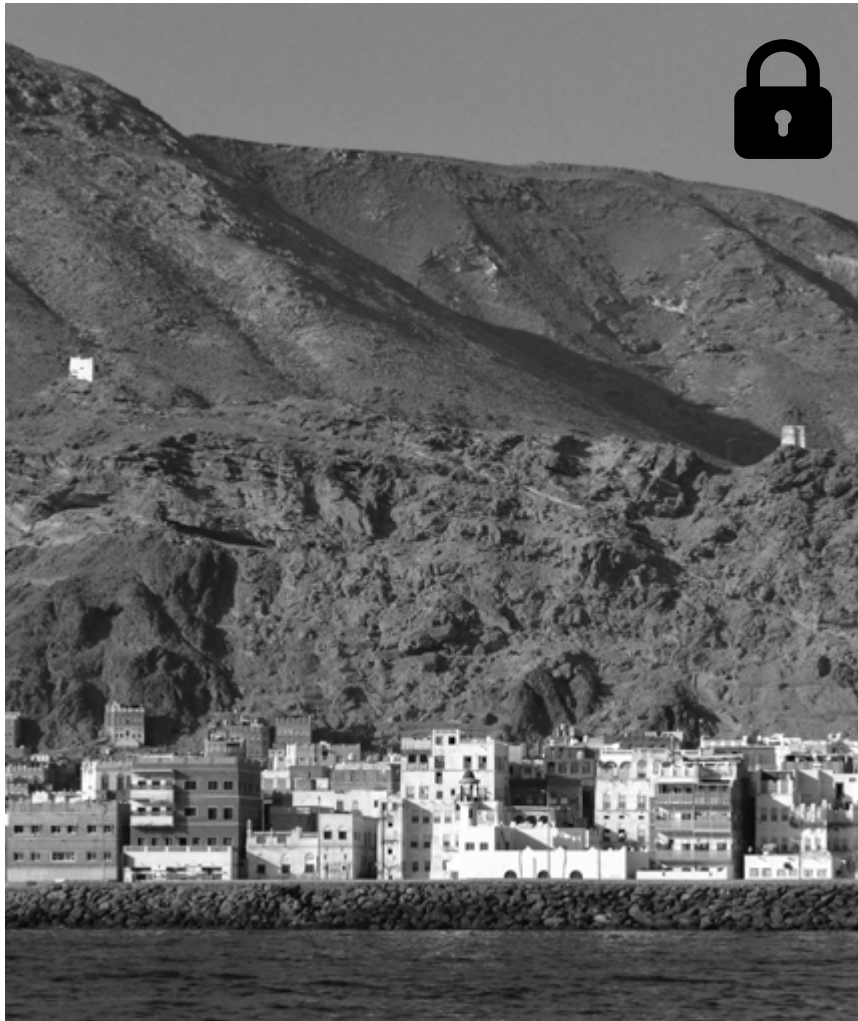
148. OCHA, *Humanitarian Bulletin Yemen, Issue 26*, 14 August 2017

149. Sana'a Center for Strategic Studies, *Yemen at the UN*, 22 January 2018, p. 21; Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, Stephen O'Brien, *Statement to the Security Council on Yemen*, 30 May 2017, p. 2.

150. Reuters, *Saudi-Led coalition stops oil tankers from entering Yemen*, U.N. says, 27 July 2017.

151. OCHA, *Humanitarian Bulletin Yemen, Issue 26*, 14 August 2017. The number of dead was 1,759 on 13 July and 332,658 suspected acute watery diarrhoea or Cholera cases (see OCHA, *Humanitarian Bulletin Yemen, Issue 25*, 16 July 2017); OCHA, *Humanitarian bulletin Yemen, Issue 27*, 20 September 2017 (In September 2017 The cholera epidemic has killed more than 2,000 people and infected nearly 700,000 others since 27 April).

152. OCHA, *Humanitarian bulletin Yemen*, Issue 29, 20 November 2017 (MSF reports that weekly admissions at cholera treatment centres declined from 11,139 in the third week of June – at the peak of the outbreak – to 567 in the second week of October; only nine per cent of patients admitted towards the end of October needed to be hospitalized. In Khamir, Amran governorate, no positive cases have been confirmed since September). In April 2018, Médecins du Monde estimated that more than 900,000 suspected cholera cases since April 2017 and 2,192 related death. Médecins du Monde, Snapshot Yemen, April 2018.



d. The complete blockade of Yemen in November 2017

The imposition of a complete blockade of yemen

66. On 6 November 2017, following the Houthis' launch of ballistic missiles targeting Riyadh two days earlier, the coalition decided to close access to all Yemeni ground, air and sea ports.¹⁵³ Since the imposition of naval restrictions in March 2015, the coalition had been repeatedly warned about the dire humanitarian consequences of this method of warfare on the Yemeni civilian population. Rather than facilitating access to aid and essential goods, however, the coalition decided to impose a complete land, naval and aerial blockade on Yemen.¹⁵⁴

67. While the coalition stated that the blockade would not hinder the continuation of the entry and exit of humanitarian supplies and crews,¹⁵⁵ OCHA issued a statement on 11 November 2017 indicating that since the beginning of the complete blockade, no clearance had been granted for humanitarian flights to and from Yemen nor the WFP's VOS Apollo boat destined for Aden.¹⁵⁶

153. Saudi Press Agency, *Statement by the Command of the coalition to Restore Legitimacy in Yemen*, 6 November 2017; Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 49.

154. See Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 52.

155. Saudi Press Agency, *Statement by the Command of the coalition to Restore Legitimacy in Yemen*, 6 November 2017.

156. OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 1*, 11 November 2017.

68. On 16 November 2017, the seaports of Aden, Mokha and Mukalla; the land port with Saudi Arabia, al-Wadi'a; and Aden airport were re-opened. All these ports of entries are located outside of the Houthi-controlled areas. The coalition indicated that all imports to Yemen were to be rerouted through those ports.¹⁵⁷

69. The ports of Hodeidah and Saleef and the Sana'a international airport remained fully closed until 23 November 2017, when they reopened for only very limited humanitarian assistance.¹⁵⁸ The first shipments of food berthed at Hodeidah on 26

November.¹⁵⁹ Despite UN calls that food supplies were not sufficient to prevent a humanitarian disaster and that it was critical for fuel to reach all Yemeni ports immediately,¹⁶⁰ the first vessel transporting fuel wasn't permitted to dock at Hodeidah until one month later, on 22 December 2017.¹⁶¹

70. In April 2018, the coalition announced the reopening of Red Sea ports in the Houthi-controlled areas, but according to the UN Panel of Eminent Experts in June 2018, some restrictions still remained in place.¹⁶²

Consequences on the arrival of essential goods and humanitarian assistance

71. The consequences of the complete blockade on the arrival of essential goods and humanitarian assistance in Yemen were immediate. Vessels transporting aid and food were prevented from berthing at the port of Hodeidah.¹⁶³ According to OCHA, nine vessels that had received clearance from UNVIM were forced to leave the anchorage area of the port before offloading their cargo. Four other vessels, which had been cleared and were on their way to Hodeidah, were denied entry on 13 November.¹⁶⁴ HRW reported that documents shared by Hodeidah port official show that the vessels forced to leave were carrying wheat, fuel, and other essential supplies.¹⁶⁵

72. With respect to humanitarian aid, on 9 November, WHO was prevented from delivering 250 metric tonnes of medical supplies—surgical kits, anesthesia machines, infant incubator sets, water

purification tablets and other essential supplies—by sea because of the closure of Hodeidah port.¹⁶⁶ A UNICEF-chartered plane carrying vaccines had to wait in Nairobi for days until the Sana'a airport reopened to humanitarian planes on 25 November.¹⁶⁷

73. OCHA documented that as of 15 November 2017, the blockade had prevented 29 vessels with 300,000 metric tonnes of food and 192,000 metric tonnes of fuel from reaching the population of Yemen.¹⁶⁸ According to the UN Panel of Experts on Yemen, between 6 and 23 November 2017, over 750,600 metric tonnes of commercial and humanitarian goods were either delayed entry to Yemen or diverted to another port.¹⁶⁹ The Logistics Cluster¹⁷⁰ reported that the blockade obstructed a total of 500,000 metric tonnes of food and fuel and 1,476 metric tonnes of aid from reaching Yemen.¹⁷¹

157. OXFAM, Briefing Note, *Missiles and Food, Yemen's man-made food security crisis*, December 2017; OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 2*, 16 November 2017.

158. OXFAM, Briefing Note, *Missiles and Food, Yemen's man-made food security crisis*, December 2017.

159. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 49.

160. *Daily Press Briefing by the Office of the Spokesperson for the Secretary-General* (29 November 2017), Yemen.

161. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 49.

162. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 49. See also, Confidential internal document of ACF dated April 2018 showing no changes in the waiting time for the coalition's approval after UNVIM clearance after the blockade, on file with OMCT.

163. OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 2*, 16 November 2017 (A UN humanitarian vessel transporting 1,313 MT of WHO/UNICEF health, wash and nutrition supplies, worth over than US\$10 million, is currently being prevented from berthing in Al Hudaydah port. A UNWFP vessel with 25,000 tons of wheat is waiting to berth off the coast of Al Hudaydah port, incurring significant daily demurrage costs). They were still waiting on 23 November 2017. OCHA, *Yemen: Impact of the closure of sea, land and airports on the humanitarian situation, Yemen, Update 3*, 23 November 2017.

164. OCHA, *Humanitarian bulletin Yemen*, Issue 29, 20 November 2017.

165. HRW, *Yemen: coalition Blockade Imperils Civilians*, 7 December 2017.

166. OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 1*, 11 November 2017.

167. OCHA, *Yemen: Impact of the closure of sea, land and airports on the humanitarian situation, Yemen, Update 3*, 23 November 2017 (UNICEF cannot divert the cargo to Aden as Sana'a is the main cold chain storage facility with capacity to store vaccines for the entire country. Aden airport does not have a cold chain facility and the overland transport of these highly perishable items from Aden to Sana'a would require 12 hours driving across more than 30 check points crossing front lines. Failure to deliver these vaccines, would affect almost 600,000 children aged less than 1 year.)

168. OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 2*, 16 November 2017 (based on UNVIM data)

169. *Final Report of the Panel of Experts on Yemen*, S/2018/68, 26 January 2018, para. 188 (based on information from UNVIM and Log Cluster data).

170. The Logistics Cluster led by the WFP act as a liaison between humanitarian actors, where logistics operations are concerned.

171. Oxfam, Briefing Note, *Missiles and Food, Yemen's man-made food security crisis*, December 2017 referring to Logistics Cluster, *Humanitarian assistance struggling to reach affected population in Yemen as blockade continues*, 22 November 2017.

74. OCHA further reported that the first containerised cargo vessel to be granted permission to access Hodeidah port since November 2017 did not arrive until 26 May 2018, carrying 581 containers of vegetable oil.¹⁷² As of December 2018, it was still the only containerised vessel that had been permitted to offload at Hodeidah port since the previous November.¹⁷³ Between November 2017 and December 2018 at least, then, with this one exception, only some bulk cargo vessels were granted permission to access the port of Hodeidah, while all containerised goods had to pass through the port of Aden.¹⁷⁴

75. In November 2018, one year after the initiation of the total blockade, on average of 20 vessels per month were berthing and discharging at Hodeidah and Saleef ports, constituting a 41% reduction from the pre-November 2017 monthly average of 35 vessels.¹⁷⁵

76. This reduction of vessels is reflected in the corresponding drops in imported food and fuel to Yemen. During the complete blockade of November 2017 and May 2018, monthly food imports only reached 68 percent of national requirements.

Prior to the complete blockade, nearly all—96 percent on average—of Yemen's monthly food import requirements were being met.¹⁷⁶ One year after the complete blockade began in November 2017, food imports were only meeting 77 percent of the national food requirements at 19 percent below the pre-blockade average.¹⁷⁷ The decrease in fuel imports was similarly drastic. OCHA calculated in May 2018 that since November 2017, the average of fuel imports had dropped to one-fifth (21 percent) of national requirements.¹⁷⁸ One year after the end of the complete blockade, only 124,646 metric tonnes of oil products per month on average entered the country, representing less than a quarter of the national fuel requirements.¹⁷⁹

77. In addition, the complete blockade accentuated the chilling effect for shipping companies. From March to June 2018, requests to enter the Red Sea ports had decreased by 50 to 66 percent compared to the period before November 2017.¹⁸⁰ Prior to the initiation of the complete blockade, UNVIM received a monthly average of 40 clearance requests. A year later, this average was only 24, representing a decline of 38 percent.¹⁸¹

The aggravation of the humanitarian situation of the Yemeni population

78. It is only after forceful international pressure raising alarms about the humanitarian consequences of the full blockade that a minimum of aid and essential goods were permitted to enter the country. For instance, on 8 November 2017, two days into the full blockade, UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator Mark Lowcock told the Security Council and the press that if the full blockade of Yemen was not lifted, the country would experience 'the largest famine the world has seen for many decades, with

millions of victims'.¹⁸² On 11 November 2017, OCHA published a statement on the negative impact of the full blockade on all aspects of the humanitarian situation. The statement warned, 'At least one million children under the age of one will be at risk of diseases including polio and measles, if vaccines are blocked from reaching Yemen.' The statement continued: 'Due to the fuel shortage, UNICEF's ongoing WASH response to respond to the cholera outbreak will be affected. Nearly six million people will be negatively affected in cholera high-risk districts.'¹⁸³

172. OCHA, *Yemen : Humanitarian Update, covering 22-28 May 2018 (issue 17)*. See also OCHA, *Yemen: Commodity Tracker (as of 3 May 2018)*; Confidential internal document of ACF dated April 2018, on file with OMCT.

173. OCHA, *Yemen: Commodity Tracker (as of 7 December 2018)*.

174. Final Report of the Panel of Experts on Yemen, S/2019/83, 25 January 2019, para. 166.

175. OCHA, *Yemen: Commodity Tracker (as of 7 December 2018)*. See also OCHA, *Yemen: Commodity Tracker (as of 3 May 2018)*. See also NRC, *Drivers of Yemen's humanitarian crisis*, May 2018 (Subsequent steps to ease the blockade have not been sufficient. Only 61 shipping vessels discharged at Red Sea ports during the first three months of 2018, represented 63.5 percent of the number that discharged at these ports during the three months prior to the blockade (96 vessels between August and October 2017). This has resulted in a reduction in the quantity of food reaching the ports to only 85 percent of estimated requirements (compared to 127 percent during the months prior to the blockade), while fuel decreased from 47 to just 32 percent of estimated requirements.)

176. OCHA, *Yemen: Commodity Tracker (as of 3 May 2018)*.

177. OCHA, *Yemen: Commodity Tracker (as of 7 December 2018)*.

178. OCHA, *Yemen: Commodity Tracker (as of 3 May 2018)*.

179. OCHA, *Yemen: Commodity Tracker (as of 7 December 2018)*. See also OCHA, *Yemen : Commodity Tracker (as of 7 January 2019)*.

180. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, Annex II, para. 13.

181. OCHA, *Yemen: Commodity Tracker (as of 7 December 2018)*.

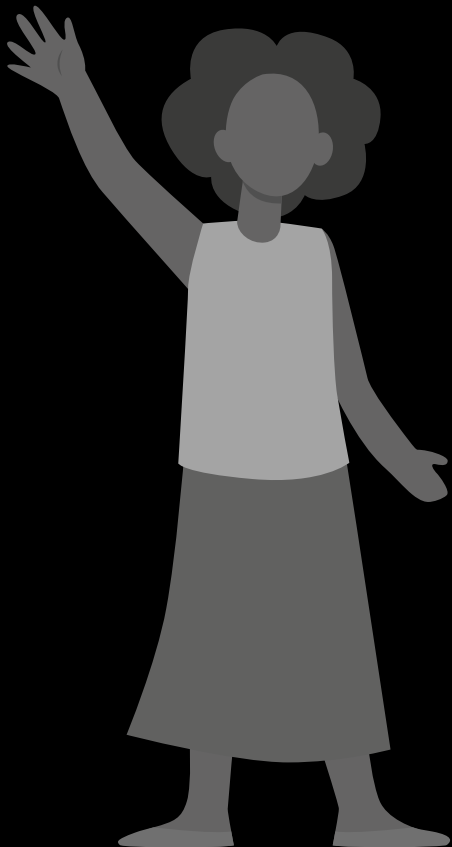
182. OCHA, *UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator Mark Lowcock – remarks at Stakeout on developments in Yemen*, 8 November 2017. See also OCHA, *Humanitarian bulletin Yemen, Issue 29*, 20 November 2017.

183. OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 1*, 11 November 2017.

79. The same day, OCHA warned that the reopened ports of entries under the control of the Government of Yemen lacked the required capacity for the volumes of commercial and humanitarian cargo previously processed by Hodeidah and Saleef ports. OCHA added that even if the reopening of the Aden airport allowed the landing of some humanitarian flights, the rest of the country remained inaccessible.¹⁸⁴

80. On 16 November, the humanitarian community operating in Yemen published a statement expressing their outrage about the blockade and calling the coalition 'to immediately reopen all Yemeni ports to commercial and humanitarian cargo, without which millions of people are at risk of starvation and death'.¹⁸⁵

Even with a partial lifting of the blockade, the World Food Programme estimates that an additional 3.2 million people will be pushed into hunger.



If left untreated

150,000 malnourished children could die within the coming months....

Fuel, medicine, and food – all of which are now blocked from entry – are desperately needed to keep people alive.

Without fuel, the vaccine cold chain, water supply systems and wastewater treatment plants will stop functioning. And without food and safe water, the threat of famine grows by the day.¹⁸⁶

184. OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 2*, 16 November 2017. See also OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 1*, 11 November 2017 (The diversion of vessels from Hudaydah and Saleef ports to Aden is not a desirable option since the port of Aden lacks the absorption capacity required for both humanitarian and commercial shipments. As a result, transit time of humanitarian cargo to reach populations in need will increase by one to three weeks and additional transport costs in the range from US\$30 to US\$70 per ton will be incurred. • The total silo capacity of Aden port is 270,000 tons, which is not sufficient to store the monthly requirement for humanitarian and commercial supplies, ranging from 350,000 to 400,000 tons, thus potentially resulting in congestion at port and high demurrage costs. • Transporting supplies from Aden and Jizan ports to northern governorates would entail crossing the front lines of the conflict. Transportation costs would be higher, resulting in higher commodities' which in the end would be less affordable to the average Yemeni household.); OCHA, *Humanitarian bulletin Yemen, Issue 29, 20 November 2017*; OCHA, *Ensuring Yemen's lifeline: the criticality of all Yemeni ports (as of 13 Nov 2017)*.

185. *Statement by the humanitarian community on the blockade in Yemen*, 16 November 2017.

186. WHO, *UN Leaders appeal for immediate lifting of the humanitarian blockade in Yemen – lives of millions are at risk*, 16 November 2017.

81. On 7 December 2017, UN leaders stated that while Yemen remained on the cusp of one of the largest famines in modern history, the imminent catastrophe was avoidable but that it required immediate action by the coalition. The statement noted that while three ships carrying food had been granted permission to berth at Hudaydah port in recent days, four fuel tankers and ten ships carrying food had all been waiting for permission to enter port. The UN leaders called on the coalition to urgently open up all Yemeni Red Sea ports fully and to facilitate the entry and free flow of humanitarian and vital commercial goods.¹⁸⁷ On 24 December 2017, UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator Mark Lowcock, while encouraged by the modest food and fuel imports resumption, remained deeply concerned about the seriousness of the humanitarian situation. He insisted on the need for commercial food, medicine, and fuel imports to flow into all ports and the importance of keeping all ports open to humanitarian and commercial vessels.¹⁸⁸

82. Available evidence shows that the complete blockade of Yemen imposed by the coalition in November 2017 had direct consequences on the civilian population. As demonstrated above, aid could not enter the country. Fuel quickly started running low due to diminished imports in the previous years and the blockade created an unpredictability that once more caused the prices of food, fuel, and water to skyrocket.

83. According to UN leaders, the consequences of the blockade on humanitarian assistance were already evident on 16 November 2017:

‘Diphtheria is spreading fast with 120 clinically diagnosed cases and 14 deaths – mostly children – in the last weeks. We have vaccines and medicines in transit to Yemen, but they are blocked from entry.

At least one million children are now at risk of contracting the disease...The clock is ticking and stocks of medical, food and other humanitarian supplies are already running low. The cost of this blockade is being measured in the number of lives that are lost.’¹⁸⁹

84. On 16 November 2017, Oxfam reported that as result of the full blockade ‘fuel is running low or completely unavailable’ and that ‘Oxfam and others are being forced to suspend activities in certain areas because there is no fuel.’¹⁹⁰ HRW interviewed officials at five hospitals in the governorates of Hodeidah, Taizz and Sana’a who stated that following the imposition of the total blockade on 6 November, the fuel shortage had a ‘catastrophic’ effect on hospital operations. Dr. Nasr al-Qadsi, the general director of Yemen’s second-largest hospital, in Sana’a, explained that the hospital needed 60,000 liters of fuel a month to power its generators, generate oxygen, and run its ambulances and buses for staff. He added that after November 6, the hospital’s water supplier stopped providing water and that the hospital would have to supply the fuel to get more water.¹⁹¹

85. When the coalition agreed to reopen the ports of Hodeidah and Saleef and the Sana’a airport on 23 November for limited humanitarian assistance, OCHA reported, ‘Almost three weeks after the blockade was imposed, essential commodities like food, fuel, safe water and medical supplies have started running low in the country or have seen their prices skyrocket.’¹⁹² One of the primary challenges accentuated by the November 2017 blockade has been the increase of prices coupled with the loss of income among the civilian population. As explained by the Group of the Eminent experts on Yemen, ‘while supply became insufficient, and the extreme unpredictability of the restrictions drove prices even

187. United Nations leaders call on the Saudi-led coalition to fully lift blockade of Yemeni Red Sea ports, 2 December 2017.

188. Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator Mark Lowcock – Statement on Yemen, 24 December 2017.

189. WHO, UN Leaders appeal for immediate lifting of the humanitarian blockade in Yemen – lives of Millions are at risk, 16 November 2017.

190. OXFAM, Yemen on the brink of dangerous famine, 14 November 2017.

191. HRW, Yemen: coalition Blockade Imperils Civilians, 7 December 2017.

192. OCHA, Yemen : Impact of the closure of sea, land and airports on the humanitarian situation, Yemen, Update 3, 23 November 2017.

higher, fewer people were able to afford food and more people went hungry. Humanitarian aid could not fill the gap.¹⁹³

86. As early as 11 November 2017, six days into the blockade, OCHA reported that in urban areas like Sana'a, fuel prices had increased by 22 percent.¹⁹⁴ As of 20 November 2017, OCHA reported a 170 percent increase of the price of fuel on the informal market.¹⁹⁵ Fuel shortages also increased the prices of transport and consequently of commodities. It also hindered the production of flour as fuel is required to mill grains into flour.¹⁹⁶ According to HRW, three weeks after the start of the complete blockade, 'hospital officials in two governorates reported huge price increases – up to 300 percent – if fuel was available at all. Other doctors said they had diverted all hospital revenue, much of which they would normally have spent on medicine and medical supplies, to buy diesel.'¹⁹⁷

87. The inaccessibility of fuel products and their increased prices had a knock-on effect on the price of trucked water, which rose by 133 percent in Sana'a by 11 November 2017.¹⁹⁸ OCHA warned that this increase directly affected the vulnerability of millions of Yemenis with limited access to water and threatened to reverse the gains of the fight against cholera. WHO also reported that by 20 November 2017, 15 health facilities had to shut down due to a lack of clean water.¹⁹⁹ On 23 November 2017, OCHA stated that seven cities had depleted their fuel stocks and reduced the population's access to safe water.²⁰⁰ Adding to these reports, ICRC stated on 29 November that the fuel shortage had become

'critical', having left 'water systems in nine cities without fuel to run pumps'.²⁰¹

88. As early as 16 November 2017, OCHA was indicating that the lack of commodities entering the country had led to a significant depletion of stocks impacting food prices and people's ability to meet their food needs. Ten days into the blockade, the prices of essential items (wheat, cooking oil, clean water and cooking fuel) had already increased by 21 percent on average.²⁰² According to Oxfam noted that many Yemenis could not buy essential supplies, owing to the 'unprecedented' surge in prices²⁰³ UNHCR reported that following the imposition of the complete blockade, 600 to 800 people approached the UNHCR centre in Sana'a every day, representing an increase of 35 percent compared to the period prior.²⁰⁴

89. A 2019 report from the World Bank Group that analysed food access over the course of the conflict in Yemen confirms the immediate effect of the blockade on food access as described on the ground by humanitarian organisations. It establishes, based on WFP surveys, that the tightening of the ports 'had a large and immediate impact on the population'. In particular, the data collected shows that the November 2017 complete blockade interrupted the supply chains leading to an 'immediate and significant decline in food access overnight'. The report suggests that food supplies in the country are very tight and substantially stressed by the difficulty in importing goods over the course of the conflict.²⁰⁵

193. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, Annex II.

194. OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 1*, 11 November 2017. See also the same document for an analysis of the average increase of diesel, petrol, water trucking, rice, wheat flour and vegetable oil since the blockade. See also OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 2*, 16 November 2017 (reporting an increase in the price of petrol of 170 percent).

195. OCHA, *Humanitarian bulletin Yemen*, Issue 29, 20 November 2017. See also NRC, *Drivers of Yemen's humanitarian crisis*, May 2018.

196. OCHA, *Humanitarian bulletin Yemen*, Issue 29, 20 November 2017.

197. HRW, *Yemen: coalition Blockade Imperils Civilians*, 7 December 2017.

198. OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 1*, 11 November 2017.

199. OCHA, *Humanitarian bulletin Yemen*, Issue 29, 20 November 2017.

200. Sana'a, Hudaydah, Hajjah, Taizz, Sa'ada, Al Bayda and Amran OCHA, *Yemen: Impact of the closure of sea, land and airports on the humanitarian situation, Yemen, Update 3*, 23 November 2017. Approximately four million people depend on private water trucking as their main water source while some 1.7 million people in Amanat Al Asimah and Taizz city depend on bottled water to meet their daily water needs. Shortages of fuel and rising fuel prices have translated to an increased cost of commercial water ranging between 17 to 60 percent across northern governorates and up to 90 percent in Amanat Al Asimah, as reported by the Cash and Market Working Group. See also NRC, *Drivers of Yemen's humanitarian crisis*, May 2018.

201. ICRC, *ICRC buying fuel to pump clean water in Yemen as 'last resort'*, 29 November 2017.

202. OCHA, *Yemen: Impact of the closure of seaports and airports on the humanitarian situation, Situation update 2*, 16 November 2017.

203. OXFAM, *Yemen on the brink of dangerous famine*, 14 November 2017; OXFAM, *Briefing Note, Missiles and Food, Yemen's man-made food security crisis*, December 2017. See also IPC, *Acute food insecurity analysis, December 2018-January 2019*, 7 December 2018 (While stock levels of wheat and rice in Yemen are expected to last two to three months, due to rapid price inflation, the impact of the blockade on the most vulnerable households has already been felt across the entire country, with average increase in the food basket ranging from eight to 28 percent. Their food security situation is likely to worsen).

204. UNHCR, *UNHCR alarmed at deteriorating conditions in Yemen*, 16 November 2017.

205. World Bank Group, *Evolution of poor food access over the course of the conflict in the Republic of Yemen*, April 2019.

90. As of April 2018, the number of people that were in need of humanitarian assistance in Yemen had continued to increase to 22.2 million people, with 11.3 million in acute need.²⁰⁶ For the first time since the beginning of the conflict, the Integrated Food Security Phase Classification (IPC) estimated in December 2018 that there were 63,500 people on phase five of the food security classification,

signifying they were facing emergency and catastrophic food consumption gaps, in effect, famine.²⁰⁷ IPC further estimated that despite the humanitarian assistance present in Yemen at the time, 15.9 million Yemenis or 53 percent of the population, were facing acute food insecurity.²⁰⁸ By 2019, humanitarian needs in Yemen were more than 60 percent higher than before the war broke out.²⁰⁹

The New York Times: The tragedy of Saudi Arabia's war²¹⁰

The newspaper reports the story of M. Hajaji and his family. When prices of food increased so much compared to before the conflict that food became unaffordable, M. Hajaji relied in the generosity of his neighbours to feed his family. Then food became sparse, and meals only consisted of bread, tea, and vine leaves. As a result, his four-year-old first son fell ill, vomiting and experiencing diarrhoea. M. Hajaji could not bring his son to the hospital because of the prohibitive price of fuel. One morning, M. Hajaji found his son silent and immobile. 'I knew he was gone,' he said. M. Hajaji's son was the first in the village of Juberia, close to the city of Hajjah, to die from hunger.

When journalists spoke with M. Hajaji, he was in a hospital in Hajjah with his second son, aged 3 years old, who was suffering from severe malnutrition. He had to borrow the 16 US dollars necessary for the journey from his village to the hospital.

e. The continuation of the naval blockade until now

91. Since the alleged lift of the total blockade in late 2017 and the resumption of imports in 2018, restrictions on access to ports under the Houthi-controlled territory have continued. Some vessels are still prevented from delivering goods in Yemen while others are diverted from the port of Hodeidah to the ports of Aden and Mukalla.²¹¹ In 2019, the UN Panel of Experts documented, 'nine medical and nutritional shipments that were delayed for a period between 16 and 169 days at the port of Aden.

The Government of Yemen confirmed these delays but did not provide reasons.²¹² As for the import of fuel, according to the UN Panel of Experts, 58 tankers applied for entry to Hodeidah between 1 June and 30 November 2019. On average, "each tanker was delayed for 15 days by the coalition and for seven days by the Houthis."²¹³ The Panel highlighted that "the cost of these unnecessary delays was financial loss payable by Yemeni consumers inside Houthi-controlled areas."²¹⁴

205. World Bank Group, *Evolution of poor food access over the course of the conflict in the Republic of Yemen*, April 2019.

206. Médecins du Monde, *Snapshot Yémen*, April 2018.

207. IPC, *Acute food insecurity analysis, December 2018-January 2019*, 7 December 2018.

208. IPC, *Acute food insecurity analysis, December 2018-January 2019*, 7 December 2018. In January 2019, the WFP numbers were 20.1 million people severely food insecure and 9.8 million in emergency situation. WFP, *Emergency Dashboard*, January 2019.

209. HRC, *Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/42/CRP.1, 3 September 2019, para. 736.

210. New York Times, *The tragedy of Saudi Arabia's war*, 26 October 2018.

211. Final Report of the Panel of Experts on Yemen, S/2019/83, 25 January 2019, paras 165-166.

212. Final Report of the Panel of Experts on Yemen, S/2020/326, 28 April 2020, paras 122.

213. Final Report of the Panel of Experts on Yemen, S/2020/326, 28 April 2020, Annex 21: 'Data gathered by the Panel on 58 tankers that applied for entry to al Hudaydah between 1 June and 30 November 2019, showed that the total delay was 865 days by the coalition and 381 days by the Houthis. On average, each tanker was delayed for 15 days by the coalition and for seven days by the Houthis. The cost of these unnecessary delays was financial loss payable by Yemeni consumers inside Houthi-controlled areas.'

214. Ibid.

92. Despite repeated calls from several UN authorities to lift the restrictions on naval imports, the coalition continued to obstruct the delivery of essential goods.²¹⁵ In March 2021, WFP again

denounced the fuel blockade, condemning the fact that no fuel vessels had been allowed to berth at Hodeidah's port since early January. WFP insisted on the seriousness of the humanitarian impact:

“

A lack of fuel has left the population struggling to reach markets, access health facilities and other vital services. Meanwhile, people are queuing for up to three days to refuel their cars or forced to turn to the parallel market where prices are 180 percent higher. These acute fuel shortages threaten the availability of clean water and electricity supply. Health facilities that rely on fuel for generators are without power. Higher fuel prices also mean higher food prices at a time when over **16 million food insecure Yemenis are already struggling to afford basic foods**, all coming together and culminating in another shock that will further heighten the fragility of those most vulnerable.²¹⁶

”

93. In the months following WFP's March 2021 statement, some fuels vessels received the authorisation to berth and discharge in Hodeidah port while others were denied such authorisation. The clearing process still takes an undue time as noted by the Group of Eminent Experts in their last report: 'From March to June 2021, for instance, 13 vessels carrying a total of more than 350,000 metric tons of fuel derivatives were denied entry despite possessing relevant clearances. Similarly, on 27 June 2021, a vessel carrying 8,867 metric tons of liquefied petroleum gas was denied entry. As of 30 June 2021, two other vessels carrying fuel derivatives had been held up for 191 and 212 days, respectively.'²¹⁷ In August 2021, no vessels were permitted to discharge at Hodeidah port while four vessels carrying approximately 77 metric tonnes of fuel were detained in the CHA.²¹⁸

vessels carrying a combined 174,200 mt of fuel had been held in the Saudi-led CHA awaiting clearance to proceed to Al Hodeidah port."²²⁰ The WFP was regretting that while this has not caused a major interruption to its operation, it has caused a one-two day delivery delays at district level where fuel was not always available. According to the agency, the delays 'significantly impacted the availability and price of fuel, raised transportation costs, put additional upwards pressure on food prices, impacted medical services, and affected the supply of clean water and electricity'.²²¹

94. At the end of 2021, official fuel imports through the port of Hodeidah decreased by 69 percent from 2020.²¹⁹ In January 2022, WFP still noted amongst the challenges faced by the organisation the fact that 'as of the end of January, seven commercial

95. The civilian population pays the highest price for these restrictions. On 14 March 2022, the IPC released its analysis based on data from the WFP-led Food Security and Livelihoods Assessment (FSLA) conducted by WFP, FAO, and UNICEF in late 2021: 'The analysis shows that 17.4 million people, 54 percent of the population, are currently food insecure (IPC Phase 3 (Crisis) and above), with 5.6 million people in IPC Phase 4 (Emergency). 31,000 people are estimated to be facing famine-like conditions (IPC Phase 5, Catastrophe).'²²²

215. Final Report of the Panel of Experts on Yemen, S/2021/79, 25 January 2021, paras 115-117.

216. WFP, *WFP appeals for solution to Yemen fuel shortages that threaten to worsen widespread food insecurity*, 2 March 2021.

217. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/48/20, 13 September 2021, para. 33.

218. World Food Programme Yemen, *Situation Report #8*, August 2021.

219. World Food Programme, *Yemen Annual Country Report*, January 2022, p.7.

220. World Food Programme, *Yemen Country Brief*, January 2022. The month before, four commercial vessels carrying a combined 111,000 metric tonnes of fuel had been held in the Saudi-led coalition Holding Area.

221. World Food Programme, *Yemen Annual Country Report*, January 2022, p.7.

222. World Food Programme Yemen, *Situation Report #2*, Janvier 2021.

96. The impact of the restrictions placed on fuel imports is particularly severe, as illustrated by the testimony of WFP beneficiaries published in September 2021:

‘Abdullatif and his wife have five children. The family receives monthly food assistance from the World Food Programme (WFP) – a food basket of staples including flour, pulses, oil, sugar, and salt. That is the only food they have – and when it runs out the family gathers leaves from the ‘halas’ tree to eat. Villagers used to eat the leaves only occasionally, but now this plant has become a regular meal.

Abdullatif’s remote village has been further isolated by fuel shortages. Fuel imports into Yemen are down 73 percent year on year, pushing prices up and creating a thriving black market. Few in Abdullatif’s village can now afford public transport, making travelling for medical care - or even to market to buy food - almost impossible.

Young father Essam, 25, knows this too well. He sold his family’s two cooking gas cylinders to pay for transport from Hajjah to Sana’a city to get treatment for

his malnourished son, Fouad. Three-month-old Fouad weighed just 3.2 kg – about half the average weight for a baby his age – when he was admitted to hospital.

“It doesn’t matter what I sell. I wanted to save my son’s life,” Essam told WFP.

Even for families who have access to markets, soaring food prices have left millions in Yemen struggling to afford enough food to get them through the day...

Abdullatif’s two youngest children – one-year-old Jalal and Jalilah, 4 months – are showing signs of acute malnutrition. Their hair is turning blonde, a sign of serious nutrient deficiency. They are just two of the 2.3 million Yemeni children under 5 at risk of malnutrition this year.

But despite the warning signs, Abdullatif says he cannot afford to take them to a nutrition clinic – the cost of transport is too high for him.²²³

223. WFP : [Families resort to cooking tree leaves as famine-like conditions grip Yemen](#)







3. The aerial blockade: the closure of Sanaa's International airport to commercial flights

97. The air access restrictions on Yemen imposed by the coalition and notably the closure of Sana'a's international airport to commercial flights is another aspect to consider in understanding the scale and severity of the economic blockade on Houthi-controlled areas maintained by the coalition since March 2015.

98 Sanaa international airport is the primary international airport of Yemen. It is located in an area controlled by the Houthis since September 2014. Access to Sanaa international airport has been hampered at various degrees by the Coalition since March 2015.²²⁴ For instance, prior to August 2016, some commercial flights to Yemen were required to stop in Saudi Arabia for inspection.²²⁵ On 9 August 2016, the Coalition effectively closed Sanaa international airport to all commercial flights.²²⁶ Since 15 August 2016, only UN and humanitarian flights have been allowed to land at the airport.²²⁷ At the time of the complete blockade of Yemen in November 2017, even UN and humanitarian flights stopped receiving clearances to land in Sanaa for more than three weeks.²²⁸ But for very few exceptions on humanitarian grounds, Sanaa's international airport remains closed to commercial flights today.²²⁹

224. See for instance, Global Voices, *Yemen's No Fly Zone: Thousands of Yemenis are Stranded Abroad*, 31 March 2015.

225. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 57, Annexe 2 paras. 25-27.

226. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 56, Annexe 2 paras. 25-27.

227. Saudi Press Agency, *Statement by Command of coalition forces to support the legitimacy of Yemen on reopening of Sanaa International Airport for flights by humanitarian organizations*, 15 August 2016.

228. Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 56, Annexe 2 paras. 25-27 ; *Final Report of the Panel of Experts on Yemen*, S/2018/68, 26 January 2018, Annex 70 (On 23 November 2017 the Saudi Arabia-led coalition announced the opening of the airport to UN flights and by 29 November 2017, ICRC, MSF and UN flights had resumed operations into the airport).

229. *Final Report of the Panel of Experts on Yemen*, S/2018/68, 26 January 2018, Annex 70, para. 9 (citing as the only exception except for the temporary lifting of the ban on selected medical flights immediately following the Sana'a Funeral Hall air strike and for the flight carrying medical personnel that treated former president Ali Abdullah Saleh) ; *Final Report of the Panel of Experts on Yemen*, S/2019/83, 25 January 2019, p. 164 (in 2018, the coalition continued to obstruct commercial flights from Sana'a airport...on 3 December 2018, coalition allowed the medical evacuation of 50 members of the Houthi forces from Sana'a airport); Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/45/CRP.7, 29 September 2020, para. 137 (For instance, the airport was reportedly reopened for limited humanitarian purposes from 3 February 2020, with for example a medical flight transporting seven patients, and for shipments of goods after the floods in March-April 2020, as well as for essential medicines from mid-July 2020).

99. Commercial flights often bring in vital supplies and allow the free movement of the civilian population.²³⁰ According to humanitarian organisations operating in Yemen, the closure of the airport ‘negatively affects the speed at which humanitarian organisations can deliver much needed commercial supplies and humanitarian aid’.²³¹ Moreover, the closure of Sana’a’s airport to commercial flights has prevented thousands of civilians with chronic illness or whose access to medical care has been affected by the conflict from seeking medical attention abroad. According to OCHA, an estimated 7,000 Yemenis were travelling abroad from Sana’a each year for medical treatment before the conflict.²³² Yemenia or Yemen Airways, the main commercial airline of the country, estimated that at least one-third of passengers were travelling abroad to seek medical care prior to the airport closure.²³³ The impact of the closure of the airport is aggravated by the fact that many patients in need of immediate medical attention cannot access needed assistance in the country due to the conflict.²³⁴

100. OCHA reported that between August 2015 and August 2017, an estimated 20,000 Yemenis required life-saving healthcare abroad.²³⁵ In August 2017, the Ministry of Health in Sana’a indicated that more than 10,000 people had died from health conditions that could have been treated abroad if the airport had been opened to commercial flights.²³⁶

In 2019, the same Ministry estimated that 32,000 people may have died prematurely because they were unable to travel for treatment.²³⁷

101. For civilians in need of medical assistance who lived in areas controlled by the Houthis, travelling outside of Yemen is extremely difficult. It requires them to reach one of the two remaining international airports, Seivun or Aden, both of which are located in areas controlled by the Government of Yemen. International travel thus entails expensive and dangerous journeys across active front lines.²³⁸

230. OXFAM, Press releases, [Closure of Yemen's main airport put millions of people at risk](#), 14 August 2016; HRC, [Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen](#), A/HRC/42/CRP.1, 3 September 2019, para. 111.

231. CARE Australia, [Yemen Crisis : Closure of Sana'a airport – one year of aggravated suffering](#), 9 August 2017.

232. OCHA, [Humanitarian Bulletin Yemen, Issue 26](#), 14 August 2017.

233. Group of the Eminent International and Regional Experts, [Situation of human rights in Yemen, including violations and abuses since September 2014](#), A/HRC/39/43, 17 August 2018, para. 56, Annex 2 para. 28 referring to, OCHA, [Humanitarian Needs overview 2017](#), November 2016, p. 8. See also [Final report of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 \(2014\)](#), S/2017/81, 31 January 2017, para. 158 referring to the same source. NRC, [Drivers of Yemen's humanitarian crisis](#), May 2018.

234. Group of the Eminent International and Regional Experts, [Situation of human rights in Yemen, including violations and abuses since September 2014](#), A/HRC/39/43, 17 August 2018, para. 56, Annex 2 paras. 25-27; [Final Report of the Panel of Experts on Yemen](#), S/2018/68, 26 January 2018, Annex 70, paras. 2, 4. Both UN Panels have documented individual cases of Yemeni people who could not obtain medical treatment as a result of the closure of Sana’a’s airport. See also OCHA, [Humanitarian Bulletin Yemen, Issue 25](#), 16 July 2017 (in relation to the cholera outbreak).

235. OCHA, [Humanitarian Bulletin Yemen, Issue 26](#), 14 August 2017; NRC, [Drivers of Yemen's humanitarian crisis](#), May 2018.

236. Group of the Eminent International and Regional Experts, [Situation of human rights in Yemen, including violations and abuses since September 2014](#), A/HRC/39/43, 17 August 2018, Annex 2 para 28; [Final Report of the Panel of Experts on Yemen](#), S/2018/68, 26 January 2018, Annex 70, para. 5.

237. NRC, [Airport Closure amounts to death sentence for thousands of sick Yemenis](#), 5 August 2019.

238. Mwatana for Human Rights, [Saudi-led coalition's Closure of Ports Cuts the Remaining Life Artery. Millions of Yemenis are endangered, coalition must open ports immediately](#), 12 November 2017; Mwatana for Human Rights, [Withering Life. Human Rights Situation in Yemen 2018](#), pp. 108, 111-114; Mwatana for Human Rights, [Our Rights Come First. Our Freedom Comes always](#), 14 December 2020; Mwatana for Human Rights, [Bab al-Falaj Checkpoint...When your surname is a crime](#), 25 April 2019; Group of the Eminent International and Regional Experts, [Situation of human rights in Yemen, including violations and abuses since September 2014](#), A/HRC/39/43, 17 August 2018, para. 56, Annex 2 para. 29. See also OCHA, [Humanitarian bulletin Yemen, Issue 27](#), 20 September 2017, p. 4; NRC, [Drivers of Yemen's humanitarian crisis](#), May 2018. 239. Mwatana for Human Rights: “the airport was closed, so she died”, 13 September 2018.

Mwatana for Human Rights :

**“ the airport was closed, so
she died ” ²³⁹**

Mwatana for Human Rights documented several cases of Yemeni civilians who died because they were not able to seek medical attention abroad as a result of the closure of Sanaa's airport.²⁴⁰ **A 57-year-old man was suffering from liver failure that could not be treated by doctors in Yemen.** Despite doctors' advice that the patient could not bear the hardships of the long road from Sanaa to Seiyun airport, his son travelled with him to airlift him through a Yemen Airways commercial flight to Jordan for treatment. The travel by land to Seiyun was a 24-hour arduous journey. The son testified to Mwatana that “as soon as we got to Seiyun, my father's face looked different than the face left from Sana'a.”. **The 57-year-old man died one day before his scheduled flight.**²⁴¹

The mother of Ubad Yehya Ahmed Abu Hatem died of a heart failure because a valve in her heart could not be replaced in Yemen. The valve was not available in Sanaa and the only solution was to travel abroad for an operation. She was too weak to travel by road to Aden airport and Sanaa's airport closure meant that there were no solution available to save the life of his mother. “The airport was closed, so she died”²⁴².

239. Mwatana for Human Rights: “the airport was closed, so she died”, 13 September 2018.

240. Mwatana for Human Rights, Two options for patients: dying on their beds or on the way to Seiyun or Aden, 27 February 2020; Mwatana for Human Rights, Saudi-led coalition's Closure of Ports Cuts the Remaining Life Artery. Millions of Yemenis are endangered, coalition must open ports Immediately, 12 November 2017. See also NRC, Airport Closure amounts to death sentence for thousands of sick Yemenis, 5 August 2019.

241. Mwatana for Human Rights, Saudi-led coalition's Closure of Ports Cuts the Remaining Life Artery. Millions of Yemenis are endangered, coalition must open ports Immediately, 12 November 2017.

242. Mwatana for Human Rights, The airport was closed, so she died, 13 September 2018.

102. The coalition justified the closure of the airport to prevent arms smuggling by the Houthis in application of Resolution 2216 (2015).²⁴³ This attempt notwithstanding, nothing in the resolution justifies the closure of the Sana'a's airport to commercial flights. TO the contrary, the UN Security Council in a Presidential Statement dated 15 June 2017 encouraged 'increased access to Sana'a Airport for lifesaving humanitarian supplies and movement of urgent humanitarian cases'²⁴⁴

and Resolution 2451 (2018) expressly called for the reopening of Sana'a's airport to commercial flights.²⁴⁵ According to the Group of Eminent Experts, the reopening of Sana'a's airport, as well as the access to Hodeidah port, were 'being held hostage by the peace negotiations'.²⁴⁶ It was only after six years of closure that flights resumed on 16 May 2022 as part of a two month-long truce agreement.²⁴⁷



243. Saudi Press Agency, [Official coalition Spokesman Asks UN to Run Sana'a International Airport](#), 10 August 2017. See also Group of the Eminent International and Regional Experts, [Situation of human rights in Yemen, including violations and abuses since September 2014](#), A/HRC/39/43, 17 August 2018, Annexe 2 paras. 25-27; [Final Report of the Panel of Experts on Yemen](#), S/2018/68, 26 January 2018, Annex 70, para. 11.

244. UNSC, [Security Council Issues Presidential Statement calling on Parties in Yemen to engage Constructively in Good-Faith Effort for Conflict Resolution](#), SC/12873, 15 June 2017.

245. UNSC, [Resolution 2451 \(2018\)](#), S/RES/2451 (2018), 21 December 2018, para. 8.

246. Group of the Eminent International and Regional Experts, [Situation of human rights in Yemen, including violations and abuses since September 2014](#), A/HRC/48/20, 13 September 2021, para. 33.

247. Ali al-Mujahed and Siobhán O'Grady, [Yemen's Sanaa airport reopens, a lifeline for the sick and stranded](#), Washington Post, 16 May 2022.



V.

OTHER MEANS OF WARFARE USED BY THE COALITION





103. The economic blockade imposed by the Coalition is not the only means of warfare used by the Coalition that had the direct effect of worsening the humanitarian situation of the population living in Houthi-controlled areas. The virulent airstrikes campaign on objects indispensable to the survival of the civilian population are another example of the means of warfare used by the Coalition to deprive the civilian population living in Houthi-controlled areas of basic livelihoods.²⁴⁸

104. While in the first months of the Coalition's intervention in 2015, food production and distribution did not appear to be the target of the Coalition's airstrikes, from June 2015, the situation changed. Food production and distribution started to be specifically targeted in the northern governorate of Sa'da (governorate of origin of the Houthi armed group).

In September/October 2015, data collected and analysed by the World Peace Foundation shows

that the Coalition deployed a widespread strategy of hitting the resources of rural life across wide areas in Yemen. This bombing strategy continued in the following years of the conflict.²⁴⁹

105. According to the World Peace Foundation, agricultural land and other components of rural life were especially damaged by airstrikes.

But according to the Food and Agriculture Organization (FAO), cultivable land represents three percent of the Yemeni territory and only one percent is permanently cultivated, suggesting that the coalition's airstrikes deliberately targeted the land.²⁵⁰

According to the French media company/outlet Disclose, 659 farms have been bombed by the coalition since 2015 in the northern and western parts of the country.²⁵¹ Between January 2018 and September 2020, the Norwegian Refugee Council reported 348 airstrikes affecting farms based on data collected by the civilian Impact Monitoring Project.²⁵²

248. Mwatana for Human Rights, Global Rights Compliance, *Starvation Makers, the Use of Starvation by warring parties in Yemen*, September 2021, p. 127.

249. World Peace Foundation, Martha Mundy, *the Strategies of the coalition in the Yemen War: Aerial Bombardment and food war*, 9 October 2018, pp. 8-11.

250. World Peace Foundation, Martha Mundy, *the Strategies of the coalition in the Yemen War: Aerial Bombardment and food war*, 9 October 2018, p. 12.

251. Disclose, *3. Stratégie de la famine*. The analysis produced by Disclose is based on the data of the Yemen data project that compile nonofficial open sources information about the actions of the coalition in Yemen. The data were then compared and corroborated with ACLED data. See also for some examples, UNSC, *Final Report of the Panel of Experts on Yemen*, S/2020/70, 27 January 2020, Annex 27, Appendix 7 (Case Study airstrike against a farmhouse, Qa'ataba district, Al Dhale, 24 September 2019); Mwatana for Human Rights, Global Rights Compliance, *Starvation Makers, the Use of Starvation by warring parties in Yemen*, September 2021, pp. 136-138 (Jalhuf Farm, Abs District and Hajjah Governorate - 8 April 2017); 139-141 (Al-Taweel Farm, Abs District and Hajjah Governorate - 4 July 2019).

252. Norwegian Refugee Council, *Yemen : 900 airstrike and shelling hits on farms in three years*, 24 September 2020.

Mwatana for Human Rights documented 90 coalition airstrikes on farms, livestock, agricultural land, agricultural tools and equipment, and food in Yemen since 2015.²⁵³

106. Disclose's analysis of available data shows that the coalition has bombed 218 food markets since the beginning of its military intervention in March 2015.²⁵⁴ 138 airstrikes led to the destruction of production, storage and transport sites including grain and flour silos, fruit and vegetables stores, bottling sites, and bakeries.²⁵⁵ The fishing industry has also been heavily affected. At least 220 boats

have been destroyed while anchored in Yemen Red Sea ports and 35 airstrikes have hit fishermen boats. As a consequence 4586 fishermen boats on a total of 7000 would have stopped their activity according to the Yemeni Minister of fisheries.²⁵⁶

In addition, data shows that at least 91 drinking water supply sites were bombed by the coalition including: wells, reservoirs, water pumps, water cleaning sites and irrigation canals.²⁵⁷ Mwatana for Human Rights has documented approximately 25 coalition airstrikes on water sites, water infrastructure and means of water transportation in Yemen since 2015.²⁵⁸



As the World Peace foundation concluded:

if one places the damage to the resources of food producers (farmers, herders, and fishers) alongside the targeting of food processing, storage and transport in urban areas and the wider economic war, **there is strong evidence that coalition strategy has aimed to destroy food production and distribution in the areas under the control of Sana'a.** As described above, from the autumn of 2016, economic war has compounded physical destruction to create a mass failure in basic livelihoods.²⁵⁹

253. Mwatana for Human Rights, Global Rights Compliance, *Starvation Makers, the Use of Starvation by warring parties in Yemen*, September 2021, pp. 133-134. In that report, Mwatana present detailed findings of its investigations of several airstrikes impacting food or food-related infrastructure in Hajjah Governorate. See idem, pp. 133-

254. Disclose, *3. Stratégie de la famine*. For examples that have been investigated in details see Bellingcat Yemen Project, *SAA10012 – The Manbah Market Strike*, 1st September 2019; Bellingcat Yemen Project, *HAI10006 – The al-Khamis Market Strike*, 24 June 2019; Bellingcat Yemen Project, *HOD10006 – The Zabid Market Strike*, 5 June 2019; Bellingcat Yemen Project, *HOD10003 – Al Khokha Market Strike*, 20 May 2019; Bellingcat Yemen Project, *LAH10001 – Fayoush Market Strike*, 21 February 2019; Bellingcat Yemen Project, *HAI10003 – Bani Hassan, Hajjah*; UNSC, *Final Report of the Panel of Experts on Yemen*, S/2019/83, 25 January 2019, Annex 33, Appendix 33 F. Airstrike in Dahyan market, Sa'dah (2018); UNSC, *Final Report of the Panel of Experts on Yemen*, S/2018/68, 26 January 2018, Annex 58 Appendix D, Air Strike on a night market, Sa'dah (1 November 2017); UNSC, *Final Report of the Panel of Experts on Yemen*, S/2017/81, 31 January 2017; Annex 49, Appendix A (Al Khamees market, Mastaba, Hajjah (15 March 2016)).

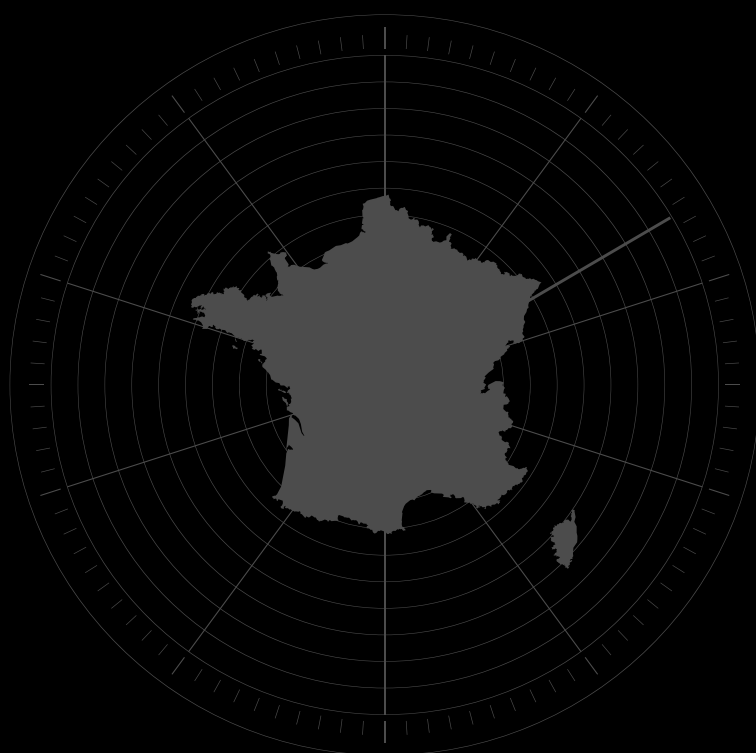
255. Disclose, *3. Stratégie de la famine*.

256. Disclose, *3. Stratégie de la famine*; World Peace Foundation, Martha Mundy, *the Strategies of the coalition in the Yemen War: Aerial Bombardment and food war*, 9 October 2018, pp. 16-17. See also, HRW, *Yemen: coalition Warships Attacks Fishing Boats*, 21 August 2019; Mwatana for human rights, *Without Accountability, Human Rights situation in Yemen in 2019*, October 2020, p. 33; Mwatana for human rights, *Withering Life, Human rights situation in Yemen*, 2018, p. 36; HRC, *Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/42/CRP.1, 3 September 2019, para. 756; Mwatana for Human Rights, Global Rights Compliance, *Starvation Makers, the Use of Starvation by warring parties in Yemen*, September 2021, pp.180-195 (Mwatana documented at least 16 Saudi/UAE-led coalition airstrikes on fishermen, fishing boats, and fish markets between March 2015 to December 2020).

257. Disclose, *3. Stratégie de la famine*. See also for some examples, UNSC, *Final Report of the Panel of Experts on Yemen*, S/2019/83, 25 January 2019, Annex 33, Appendix 33 D. Airstrike of 23 July 2018, Noshour, Sa'adah (water borehole); UNSC, *Final Report of the Panel of Experts on Yemen*, S/2017/81, 31 January 2017; Annex 49, Air strikes affecting civilians and civilian infrastructure (2016); Mwatana for human rights, *Withering Life, Human rights situation in Yemen*, 2018, p. 83; Mwatana for Human Rights, Global Rights Compliance, *Starvation Makers, the Use of Starvation by warring parties in Yemen*, September 2021, pp. 151-175.

258. Mwatana for Human Rights, Global Rights Compliance, *Starvation Makers, the Use of Starvation by warring parties in Yemen*, September 2021, p. 151.

259. World Peace Foundation, Martha Mundy, *the Strategies of the coalition in the Yemen War: Aerial Bombardment and food war*, 9 October 2018, p. 18. Martha Mundy relied on three set of data to conduct her analysis: (1) data compiled by the extension officers of the Ministry of Agriculture and Irrigation covering March 2015 – early August 2016; (2) data from the Yemen Data Project (YDP) compiled by local activists and covering March 2015 – March 2018; and (3), data on damages to fisheries of the Red Sea compiled under the aegis of the Ministry of Fish Wealth covering March 2015 to the end of December 2017.



VI.

THE ROLE OF FOREIGN DEFENCE COMPANIES IN THE PERPETRATION OF THE ECONOMIC BLOCKADE: THE FRENCH CASE



1. Introduction

107. Since the end of March 2015, all commercial and military vessels have been banned from entering Yemen's maritime zone without an authorisation from the internationally recognized Government of Yemen. The implementation of this measure was delegated to the naval forces of the coalition.

108. The coalition's warships play a crucial role in the authorisation process. On 30 March 2015, a coalition spokesman announced that 'all the navy vessels needed for the blockade are in place', and that they would 'monitor all ships entering and leaving Yemeni ports'.²⁶⁰ The warships communicate with the commercial and humanitarian vessels via naval radio and guide them through the authorisation proceedings.

109. Despite the establishment of UNVIM in 2016, the coalition has maintained its the authorisation process for all the vessels aiming to berth in Red Sea ports located in Houthi-controlled areas even if they have already been granted UNVIM authorisation. Vessels must contact by radio a coalition warship before reaching Yemen territorial waters. Vessels are then ordered to move to the CHA located in international waters and to wait for the EHOC based in Riyadh to decide if an inspection is necessary.

110. If the coalition decides that an inspection is needed, it is conducted differently depending on the type of vessels requesting the clearance. If the vessel is a bulk cargo or an oil tanker, the inspection is conducted in international water by one of the

260. Middle East Monitor, 'Decisive Storm' spreads to naval blockade, 31 March 2015. See also [Operation Renewal of Hope, Day 7, April 1: Saudi Ministry of Defence Daily Briefing](#), Operation Decisive Storm.

261. HRW, [Yemen: coalition Blocking desperately needed Fuel](#), 10 May 2015.



coalition's warship present in the area. The coalition's warships communicate instructions to be followed for the inspection to the vessels by radio and send armed troops on a small tugboat to conduct the onboard inspection. If the vessel targeted for coalition inspection is a containerised commercial cargo, it is asked to reroute to one of the designated ports in Djibouti, Dubai, Jeddah or Salalah to be screened. This rerouting is done under the surveillance of the coalition's warships that ensure that the instructions are followed.

111. Respect for the clearance requirements imposed by the coalition on all vessels wanting to deliver goods in Yemen are monitored by the warships whose mere presence is threatening. If a vessel wants to sail to Yemen without completing the coalition authorisation process, it takes the risk of being shelled by a warship. On some occasions, the coalition explicitly

threatened to open fire on vessels that would not comply with instructions to stay outside of Yemen territorial waters.²⁶¹

112. The number, organisation, and nationality of fleets taking part in the blockade are not fully known. Nevertheless, available information shows that the Saudi Arabian naval forces and the UAE Navy have been the two main naval forces involved in the implementation and enforcement of this inspection and authorisation procedure since 2015. Information available in the public domain shows that the Royal Saudi Naval Forces and the UAE Navy have used French-built vessels to implement the naval restrictions. Other Danish, German, Italian and Dutch weapons have also been used in the context of the naval blockade.²⁶²

262. See Lighthouse Reports and the Global Legal Action Network (GLAN), [EU arms exports](#). See also Lighthouse Reports, [German support for Yemen](#), 26 February 2019.



2. French built warships involved in the naval blockade

a. The saudi fleet

113. The Royal Saudi Naval Forces is one of the five military branches of the Ministry of Defence and Aviation of Saudi Arabia. It is composed of two fleets: an eastern and a western fleet.²⁶³ The Eastern fleet generally operates in the Persian Gulf while the Western fleet operates in the Red Sea. The headquarters of the Western fleet is in Jeddah.

114. The Western fleet is mainly composed of French built vessels.²⁶⁴ It comprises seven French built frigates (three Al Riyadh-class frigates and four Al-Madinah-class frigates) and two replenishment tankers.²⁶⁵ All those warships that are still in active service today were delivered between 1984 and 2002.

4

Al Madinah-class frigates (type 2000)



Al Madinah (702)	Hofouf (704)	Abha (706)	Taif (708)
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Ordered in October 1980 as part of the Sawari I Program²⁶⁶.

Built in 1985 and 1986 by two French naval companies: Arsenal de Lorient (Al-Madinah) and Constructions navales et industrielles de la Méditerranée (CNIM) - La Seyne (the three other frigates).

263. Security Force Monitor, [Royal Saudi Naval Forces](#), 27 November 2019.

264. Security Force Monitor, [Royal Saudi Naval Forces](#), 27 November 2019.

265. Security Force Monitor, [Royal Saudi Naval Forces](#), 27 November 2019.

266. Le Monde, [La France livrera à l'Arabie Saoudite six bâtiments de guerre et des hélicoptères Dauphin armés de missiles anti-navires](#), 15 October 1980 ; Revue historique des armées, Jacques Frémeaux, [la France et les exportations d'armements au Proche-Orient de la fin de la guerre d'Algérie à la première guerre du Golfe](#), 2007, para. 5 (En octobre 1980, le contrat dit Sawari, portant sur 4 frégates de 2 000 tonnes, 2 pétroliers-ravitailleurs, 28 hélicoptères, mais prévoyant aussi la formation des personnels et l'assistance technique initiale, représente un budget de 14 milliards de dollars.)

3

Al Riyadh-class frigates (type 3000)

Al Riyadh (812)	Makkah (814)	Damman (816)
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Commissioned between 2002 and 2004.

Built by the Direction des constructions navales (DCN) Lorient. The contract was sealed between France and Saudi Arabia under the Sawari II agreement in 1994.²⁶⁷

2

Boreida class replenishment tankers

Boreida (902)	Yundou (904)
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Ordered as part of the Sawari I Program.²⁶⁸

Commissioned in February and October 1984 respectively and built by the Chantier naval de la Ciotat.²⁶⁹

267. Naval Technology, [Projects: Al Riyadh \(F3000S Sawari II\) Class](#); Thalès, [Sawari II](#); Defense-aerospace 1998-2008.com, [Sawari II Programme: First Frigate transferred to Saudi Arabia](#) (source: Thales, 26 July 2002). Voir aussi Le Monde, [Au terme d'une sévère compétition commerciale la France va vendre à l'Arabie saoudite deux frégates pour 19 milliards de francs](#), 23 November 1994 ; Le Monde, [L'Arabie saoudite commande sa septième frégate à la France](#), 22 May 1997 ; Sénat, [Rapport de la Cour des Comptes relatif aux comptes de DCN-SA](#), 16 June 2015.

268. Le Monde, [La France livrera à l'Arabie Saoudite six bâtiments de guerre et des hélicoptères Dauphin armés de missiles anti-navires](#), 15 October 1980 ; Revue historique des armées, Jacques Frémeaux, [la France et les exportations d'armements au Proche-Orient de la fin de la guerre d'Algérie à la première guerre du Golfe](#), 2007, para. 5.

269. GlobalSecurity.org, [Boreida class Small replenishment tanker](#), (undated).

118. The Western fleet of the Royal Saudi naval forces is actively taking part in the implementation of the naval blockade of Yemen. Evidence suggests that some, if not all, of the French-built frigates have been implementing it. Publicly available examples of the involvement of these are listed below. It bears noting, however, that significant naval assets are needed to support an operation requiring the inspection and granting of authorisation to all vessels aiming to berth at Yemen's Red Sea ports. Thus, the examples listed below do not reflect the full scale of the involvement of the French-made frigates in the blockade.

119. This involvement is confirmed by a report from the French military intelligence service (Direction du renseignement militaire or DRM), explaining that French-built frigates from the Al Madinah and Makkah classes are actively participating in the implementation of the naval blockade on Yemen.²⁷⁰ The report also mentions that the Saudi-owned, French-made warships are equipped with two types of French helicopters, the AS-565 Panther and AS-365 Dauphin, which were commissioned before the conflict.

120. A video posted by the Saudi Arabia media Channel 24 on 20 October 2017 shows the French-built frigate Damman (816) conducting an inspection on the Mubarak Challenger, an offshore tugboat operated by Mubarak Marine LLC and registered and sailing under the UAE flag.²⁷¹ The

company has been providing support services to the Yemen Oil terminal since 2005.²⁷² The video has been analysed by open-source investigators in the context of the project #EUarms.²⁷³ On the video, the crew members can be seen dressed in orange, seated in on the ground in a single row. A timestamp at 4:02 shows they are supervised by two marine officers.²⁷⁴ The French-built frigate Damman (816) with its French supplied AS565M Panther Helicopter can be seen in the background of the video. The officers conducting the inspection are wearing suits similar to the ones worn by the marines on board Damman (816). A maritime database confirms the presence of the Mubarak Challenger in the Red Sea between March and May 2015. Based on images extracted from the videos, it can be established that the frigate Damman (816) was located close to Zucar Island in the Red Sea at the time of the interception. An Al Medinah class frigate of the Royal Saudi Navy, also French built, can also be spotted in the background at the time of the interception of the tugboat.²⁷⁵

121. On 31 January 2017, at least one small boat loaded with explosives attacked the French-built frigate Al Madinah (702) in the Red Sea off the coast of Hodeidah. The attack was claimed by the Houthi armed group.²⁷⁶ After the attack, the frigate harboured in the port of Jeddah. It was welcomed by state officials and the Commander of the Saudi Western Navy Fleet, who confirmed that the vessel was attacked while implementing the naval blockade off the coast of Yemen.²⁷⁷

270. DRM, Point de situation, Yémen- Situation sécuritaire, *Note à destination des hautes autorités dans le cadre du conseil restreint du 3 octobre 2018, Annex 3 (principaux matériels des forces Yéménites, Emiriennes et Saoudiennes)*, 25 September 2018, p. 9. The document was classified ("secret défense") but was made public by the French media Disclose following a leak.

271. YouTube, See the capabilities, efficiency, and capabilities of the Royal Saudi Navy (the video has been removed), 20 October 2017. See also the analysis of the video: French Arms, *Blocus au Yémen: les preuves de la complicité de la France*, 12 September 2019.

272. Mubarak Marine, *Offshore Terminal support*; Vessel Tracking, *Mubarak Challenger (IMO 9542958)*

273. The analysis of the video done by open sources investigators in the #EUarms project can be found [here](#).

274. Orange suits are the regular suits for Mubarak Marine on the tugboat as shown by videos of the crew members on social media.

275. See the investigation done by #EUarms [here](#).

276. YouTube, Euronews, *Two killed as Houthi attack Saudi warship off Yemen coast*, 31 January 2017; You Tube, Arab News, *Houthi suicide attack on Saudi Warship*, 6 February 2017. Two marines were killed and three were injured in the incident. See also The Washington Post, *video emerges of suicide boat ramming Saudi frigate*, 6 February 2017; Navy Recognition, *Royal Saudi Navy Al Madinah-class Frigate damaged Following Attack by Houthi militia off Yemen*, 31 January 2017; Menadefense.net, *La frégate saoudienne Al Madinah frappée par une vedette kamikaze*, 6 February 2017

277. Alriyadh.com, *A large reception for the crew of His Majesty's frigate «Al-Madinah» in Jeddah*, 6 February 2017. Al-Bunyan expressed the pride and pride of the men of the Saudi naval forces in participating in the military operations of the coalition to Support Legitimacy in Yemen through all its branches, including the frigate that was subjected to a terrorist attack while it was patrolling the coasts surrounding brotherly Yemen to protect the territorial waters of the Kingdom and Yemen, in addition to guaranteeing and safety international shipping lines in the strategic Bab al-Mandab strait.) (...) (He pointed out that the role of the Arab coalition ships, and the duties required of them, is to prevent the entry of unauthorized ships and boats, indicating that the Yemeni coast is divided into two parts, east and west. He said that the length of the coast responsible for it reaches 1,000 nautical miles, equivalent to 1852 kilometres, and is an extension of the coast responsible for it, indicating that they are located along those coasts.) (...) (He added that the duty of the ships present is the entry of merchant ships authorized by the Inspection and Investigation Center in Djibouti, which is supervised by the United Nations in coordination with the Evacuation Cell and Humanitarian Aid in Riyadh, the similar cell in the Western Fleet, explaining that after making sure that the ship is free of all materials The suspect, whether weapons, or others, then stops in the waiting area, and the permit is reviewed and then the ship enters.) (He pointed out that it is not possible to allow the boats to enter without a permit, stressing that the volume of aid that reached the port of Hodeidah exceeds one million tons of aid of all kinds.) (...) (The commander of the frigate, Colonel Abdullah bin Muhammad al-Zahrani, said that the frigate was in front of the port of Hodeidah, and across the areas in which it was permitted to be present to implement a maritime embargo, indicating that the attack by boats through an attempt to throw the ship, or the boat attack was among the failed attempts of the militias. He pointed out that the frigate's injury was indirect, explaining that the mission was successfully completed, and the frigate completed seven days of presence at the location specified for it, and arrived yesterday at King Faisal Base in Jeddah Governorate, while the air force and coalition ships continued to follow the fleeing boats after the frigate accident.) (Google translation from Arabic). See also al-Arabiya, *After the terrorist attack... the Saudi frigates arrives on time*, 5 February.

122. According to the Washington Institute, the French-built oil tanker Yundou (904) was also used in the implementation of the naval blockade to enable the flotilla to operate offshore for longer

periods.²⁷⁸ On aerial images from Google Earth, the two tankers can be spotted several times going in and out of the port of Jeddah, the headquarters of the Western fleet, in 2015 and 2016.

b. The Emirati fleet

123. In January 2004, the UAE Ministry of Defence signed a contract with Abu Dhabi Shipbuilding for the construction of corvettes named as the Baynunah class. The contract was originally for the construction of four corvettes with an option for an extra two. The option was exercised in July 2005. A major contractor of Abu Dhabi Shipbuilding for the construction of the vessels was Constructions Mécaniques de Normandie (CMN) based in Cherbourg, France. The first corvette, Baynunah (P171), was built at CMN Cherbourg shipyard. Construction began in May 2005 and the vessel was delivered to the UAE Navy in 2011. The five other corvettes—Al Hessen (P172), Al Dhafra (P173), Mezyad (P174), Al Jahili (P175) and Al Hili (P176)—were built at the Abu Dhabi Shipbuilding shipyard at Mussafah in Abu Dhabi. The construction in Abu Dhabi started in July 2006 and the first locally built corvette was delivered in 2011. The last corvette was delivered in 2016.²⁷⁹

124. According to the information publicly available, French-manufactured UAE Baynunah class corvettes have been actively participating in the naval blockade of Yemen.²⁸⁰ According to the DRM, the French military intelligence service, UAE was the first provider of vessels for the implementation of the naval blockade on Yemen and up to three UAE Navy vessels can be present at sea at a given time to implement the blockade. The same document confirms that the Baynunah class corvettes are participating in the implementation of the naval blockade.²⁸¹

125. Since March 2016, UAE Baynunah class corvettes have been spotted several times anchored in Eritrea's Assab port. For instance, the UN Panel of Experts have identified UAE Navy Baynunah class corvette in the port on 3 April 2016.²⁸² Satellite imagery from the Assab Emirati military base in

6

corvettes : Baynunah class



Baynunah (P171)	Al Hessen (P172)	Al Dhafra (P173),
Mezyad (P174)	Al Jahili (P175)	Al Hili (P176)

278. The Washington Institute for Near East Policy, *Gulf coalition operations in Yemen (Part 3): Maritime and Aerial Blockade*, 25 March 2016.

279. ADSB, *2017 Annual Report*, p.9 ; Defense News, *UAE commissions latest home-built corvette*, 20 February 2017 ; Navypedia, *Baynunah corvette*, undated. See also, Le Matin.ma, *Une corvette française pour la défense émiratie*, 28 juin 2009. See also Naval Technology, *Project, Baynunah Class Corvettes*, undated; Mer et Marine Vincent Groizeleau, *Livraison de la dernière corvette Baynunah aux Emirats*, 17 February 2014 ; Navy Recognition, *Baynunah class Corvette*, undated; Defense News, *La marine émiratie monte en puissance*, 8 March 2017.

280. The Washington Institute for Near East Policy, *Gulf coalition operations in Yemen (Part 3): Maritime and Aerial Blockade*, 25 March 2016. See also, Mer et Marine, V. Groizeleau, *DCNS et CMN collaborent sur des offres communes*, 24 October 2016 ; Mer et Marine, V. Groizeleau, *Le volet naval de l'ex-programme DONAS évolue*, 3 November 2016 (« Il s'agit d'unités dérivées des fameuses Baynunah (type Combattante BR 71) commandées à CMN par les Emirats Arabes Unis et dont six exemplaires ont été réalisés (la tête de série à Cherbourg et les cinq autres à Abu Dhabi). Des bâtiments de 71 mètres fortement équipés qui sont intensivement utilisés depuis un an dans les opérations de la coalition arabe au Yémen ») ; Defense News, *UAE commissions latest home-built corvette*, 20 February 2017 (Two of the corvettes are reportedly on patrol in the southern Red Sea area supporting anti-Houthi operations in Yemen).

281. DRM, Point de situation, Yémen- Situation sécuritaire, *Note à destination des hautes autorités dans le cadre du conseil restreint du 3 octobre 2018*, 25 September 2018, p. 6 ; DRM, Point de situation, Yémen- Situation sécuritaire, *Note à destination des hautes autorités dans le cadre du conseil restreint du 3 octobre 2018, Annex 3 (principaux matériels des forces Yéménites, Émiriennes et Saoudiennes)*, 25 September 2018, p. 11. The document was classified ("secret défense") but was made public by the French media following a leak.

282. UNSC, *Final Report of the Panel of Experts on Yemen*, S/2017/81, 31 January 2017, p. 88.

Eritrea of 2017 shows two UAE Baynunah class corvettes, probably Al Dhafra (P173 and Al Hili (P176), anchored in the port. On 22 September 2018 the Chinese broadcaster CGNT published a video on YouTube from the Assab port in Eritrea. At the timestamp of 1:06, a vessel can be spotted in the harbour. Upon close inspection, it appears to be a UAE Baynunah class corvette.²⁸³ According to the UN, the UAE established a military base in the port of Assab in 2015 as a springboard to Yemen.²⁸⁴ Therefore, their presence in the port of Assab suggests the involvement of the UAE Baynunah class corvette in the war in Yemen.

126. An example of the use of the corvettes in the naval blockade and their role in the interception of commercial vessels can also be found in a video published on 18 October 2015 by the UAE media News Arabia.²⁸⁵ The video shows UAE corvette Al Dhafra (P173)²⁸⁶ equipped with a French-built Exocet²⁸⁷ intercepting an Indian commercial

vessel, *MSV Safina Al Masum*.²⁸⁸ The vessel was inspected by Emirate Elite Special Forces. It appears that no vessel possibly involved in the blockade other than the UAE corvette is equipped with the rigid-hulled inflatable boat that can be seen conducting the interception in the video.²⁸⁹ Because it is a small boat and does not have an IMO number, it is not possible to geolocate the route of the Indian vessel in the Red Sea. Nevertheless, it is believed that the interception took place around the date the video was published. An analysis of the landscape in the video also shows that the interception took place in Bab al-Mandab Strait.²⁹⁰ A French-built AS565M Panther Helicopter can also be spotted on the vessel.²⁹¹ The involvement of UAE corvette Al Dhafra (P173) in the blockade and the interception of vessels was confirmed by its captain and a member of its assault team in a World Gulf article published in 2015.²⁹²

283. You Tube, CGTN, *Ethiopia-Eritrea ties: Flights, port services and road transportation resume between communities*, min 1:06; Stern, Research report, *We found warships built in Germany off the coast of Yemen*, 27 February 2019.

284. UNSC, *Report of the monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2317(2016)*: Eritrea, S/2017/925, 6 November 2017, paras. 54-58; UNSC, *Report of the Monitoring group on Somalia and Eritrea pursuant to Security Council resolution 2244 (2015)*: Eritrea, S/2016/920, 31 October 2016, paras. 28-40; UNSC, *Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council Resolution 2182 (2014)*: Eritrea, S/2015/802, 19 October 2015, para. 30. See also DRM, Point de situation, Yémen- Situation sécuritaire, *Note à destination des hautes autorités dans le cadre du conseil restreint du 3 octobre 2018, Annex 3 (principaux matériels des forces Yéménites, Emiriennes et Saoudiennes)*, 25 September 2018, p. 12.

285. You Tube, Sky News, *Military naval units of the Arab coalition countries continue to impose an embargo on the Yemeni coasts to prevent any supplies from reaching the rebels, after the increase in the number of detained ships carrying weapons and equipment to the port of Hodeidah*, 18 October 2015. See also a similar video published the same day on Abu Dhabi Media, You Tube, Abu Dhabi Media, *The naval forces of the Arab coalition secure the Yemeni coasts*, 18 October 2015.

286. You Tube, Sky News, *Military naval units of the Arab coalition countries continue to impose an embargo on the Yemeni coasts to prevent any supplies from reaching the rebels, after the increase in the number of detained ships carrying weapons and equipment to the port of Hodeidah*, 18 October 2015, min 1:11.

287. <https://en.wikipedia.org/wiki/Exocet>

288. Open sources confirm the identity of the commercial vessel inspected in the video. See Customs Today, *Import general Material*, 18 May 2015; Directorate General of Shipping, Ministry of Ports, Shipping and Waterways, Government of India, *Active Sailing Vessels in India as reported to the office of the DGS*, 14 August 2015, p. 3.

289. See the investigation of a consortium of open-sources investigators in the context of the #EUarms project published [here](#), with another related version published by the French media outlet Arte, *Yemen, un scandale d'Etat*.

290. YouTube, Sky News, *Military naval units of the Arab coalition countries continue to impose an embargo on the Yemeni coasts to prevent any supplies from reaching the rebels, after the increase in the number of detained ships carrying weapons and equipment to the port of Hodeidah*, 18 October 2015, min 2:00. The mountain on the back of the rigid-hulled inflatable boat was geo-localised at 12.723794, 43.465086.

291. See the investigation from #EUarms [here](#). According to SIPRI, n. 11 Helicopter AS565 Panther have been exported from France to UAE between 1999-2004.

292. World Gulf, *Naval siege of Al Houthi militia continues*, 18 October 2015.

3. French defence companies involved in the maintenance and refurbishment of vessels participating in the naval blockade

127. Despite widely available information about the disastrous humanitarian consequences of the naval access restrictions imposed by the coalition beginning in March 2015, several French defence

companies signed or continued to implement previously signed refurbishment and/or maintenance contracts for French-built vessels in the Royal Saudi Naval Forces and the UAE Navy.

a. The maintenance of the Saudi frigates after March 2015

128. At least three contracts for maintenance and the full refurbishment of the French-built Saudi frigates have been signed between Saudi Arabia and French defence companies before the intervention of the coalition in the Yemeni conflict. However, these contracts have continued to be implemented after the beginning of the blockade on Yemen in late March 2015.

129. A first contract called Life extension Sawari 1 or 'LEX' was signed in August 2013 between ODAS²⁹³ and Saudi Arabia for the complete renovation of the four Al Madinah-class frigates and the two Boreida-class replenishment tankers which were both delivered in the 1980s.²⁹⁴ This umbrella contract of more than one billion euros was divided between four companies: DCNS, known since 2017 as Naval Group, Thales, MBDA, and ODAS. The contract itself is confidential, but according to

publicly available information, the agreement has been divided as follows: Naval Group, with its Saudi partner Zamil, obtained 700 to 750 million euros for the full renovation of the vessels; Thales obtained around 200 million euros for fitting of new Combat Management systems, anti-ship and SAM systems, sensors and electronics;²⁹⁵ MBDA was to equip the Boreida-class replenishment tankers with SIMBAD-RC (a short-range, anti-air and self defence system) for an amount of 40 to 50 million euros ; and ODAS was responsible for the construction of infrastructure for the refurbishments of the vessels in the port of Jeddah.²⁹⁷

130. Another contract titled 'ERAV', which concerned the maintenance of the three Al Riyadh-class frigates, was also signed with Saudi Arabia in 2014. At minimum, Naval Group was among the signatories.²⁹⁸

293. L'Office français d'exportation d'armement (ODAS) was created in 2008 to replace the SOFRESA. It is a company created by the French Government (shareholder of 34 percent), together with large French defence manufacturers (including Airbus Group SAS (Airbus Group France), MBDA France, Thales, DCNS or Naval Group, Nexter Systems, Calyon, Dassault Aviation, Renault Trucks) to facilitate defence exports with the Middle East and in particular Saudi Arabia.

294. Zone militaire: opex360.com, [La modernisation de 4 frégates saoudiennes confiée à la France](#), 29 August 2013 ; Mediapart, Eva Thiébaud et Thomas Clerget, [Guerre au Yémen: la France au chevet de la marine saoudienne](#), 26 March 2019 ; La Tribune, [La France signe un contrat de plus d'un milliard d'euros avec l'Arabie Saoudite](#), 28 August 2013 ; [Commission de la défense nationale et des forces armées](#), mercredi 18 septembre 2013, compte rendu n°96 ; Mer et Marine, [Arabie Saoudite, le contrat LEX officialisé](#), 10 October 2013.

295. Thales Group, [Defence](#), undated. See also Thales Group, [Defence in Saudi Arabia](#), undated.

296. Richard Scott, IHS Jane's Missiles & Rockets, [SIMBAD-RC selected for retrofit to Saudi frigates](#), 29 October 2018.

297. Y ingenerie, [Arabie Saoudite -Aménagements sur la base navale de Jeddah](#), September 2014.

298. Mer et Marine, [DCNS s'organise pour gérer ses contrats en Arabie Saoudite](#), 11 July 2014. (This previously identified link has disappeared from internet : Modernisation de la flotte militaire d'Arabie saoudite : DCNS ouvre à Toulon les locaux de sa plateforme de gestion de programmes, 09 July 2014, (the video has been removed))

131. A third maintenance contract named ‘AMWAJ’ relates to providing support to the Royal Saudi Naval Forces for the supply of spare parts and technical assistance. The sum of the maintenance contract is estimated between 200 to 400 million euros per year. The date of signature of the contract is unknown but it appears to have been in force since 2016. The contract involves, at least, Naval Group and Défense conseil international (DCI)²⁹⁹ and entails the training of navy personnel and helicopter pilots.³⁰⁰

132. According to Naval Group itself, the LEX and ERAV contracts were first implemented in 2014. The design and preparation of the contract activities took place in France and refurbishment in Saudi Arabia via Naval Group’s subsidiary company DCNS Support KSA, in collaboration with the Saudi-owned company Zamil Offshore.³⁰¹ The renovation of the nine vessels took place in the military port of Jeddah where ODAS built two dry docks and related construction warehouses that same year.³⁰²

133. The LEX and ERAV contracts continued to be implemented after March 2015 and the beginning of the naval blockade on Yemen. In its 2015 and 2016 financial reports, Naval Group, then known as DCNS, indicated that the company continued the implementation of the LEX and ERAV contracts for the refurbishments of the frigates in Saudi Arabia.³⁰³ Naval Group’s 2017 financial report indicates that ‘the year was marked with very strong activity’ in Saudi Arabia and that numerous technical shutdowns took place for the implementation of the LEX and ERAV contracts.³⁰⁴ Naval Group’s financial report the following year demonstrated that implementation of the two contracts continued in 2018 and that the

ERAV contract was completed at the end of the year.³⁰⁵ According to available information, the LEX contract couldn’t be completed in 2020 due to the COVID-19 outbreak.³⁰⁶

134. The implementation of the renovation contracts can also be observed via aerial images. For instance, aerial images of the Jeddah port taken on 9 February 2017 show a Boreida-class replenishment tanker immobilized on the dry dock for renovation. The tanker appears to have been under repair until at least June 2018. According to Mediapart, the vessel could be the Yunbou (904). On an aerial image of the port of Jeddah dated 2 June 2018, an Al Madinah-class frigate (type 2000) could also be seen immobilized on a second dry dock, possibly the frigate Taif (708).³⁰⁷

135. In total, 70 Naval Group employees would have worked in the Saudi Arabia programme in Toulon. Naval Group representatives regularly travelled to Saudi Arabia throughout the duration of the contracts.³⁰⁸ For instance, Mediapart interviewed two French technicians that worked on the refurbishment of the frigates in Jeddah.³⁰⁹ Documents found on social media also show that personnel from Naval Group have worked since 2014 in Toulon and/or Jeddah for the implementation of the LEX and ERAV contracts.³¹⁰ Naval Group also posted internship opportunities based in Jeddah in relation to the refurbishment contracts.³¹¹

136. The AMWAJ contract appears to be still ongoing today. Naval Group indicated that they and the Saudi company Zamil Offshore Services together established in December 2017 a joint company,

299. French State is the main shareholder with 49.9 per cent shares in the company.

300. La Tribune, *Armement : où va la France en Arabie Saoudite ?*, 12 April 2018 ; DCI, 2016 *Rapport d’activités, le transfert du savoir-faire des forces armées françaises*, p. 32 (À travers le contrat AMWAJ, 17 instructeurs de DCI forment et accompagnent des marins et pilotes d’hélicoptères saoudiens. Déployés à l’École Navale de Jubail, dans les centres d’instruction ou auprès des flottilles d’hélicoptères, les instructeurs de DCI coopèrent avec leurs homologues saoudiens pour former les spécialistes et les équipages servant à bord des frégates et navires ravitailleurs des programmes SAWARI 1 et SAWARI 2 et pour favoriser le maintien des qualifications des pilotes hélicoptères, notamment pour des opérations de sauvetage, de treuillage ou d’apportage). See also Défense Conseil International, *Rapport d’activités 2015 – Le transfert du savoir-faire des forces armées françaises*, 2015, p. 26 (en mai 2015, les équipes DCI étaient à bord de la frégate Makkah lors d’un déploiement en Méditerranée, au cours duquel le bâtiment aurait tiré avec succès des missiles Aster 15 et MM40) ; Defense World.net, *DCNS Opens Program-Management premises in Toulon*, 8 July 2014.

301. And now through the JV Zamil Naval (55 percent Naval Group-owned).

302. Mediapart, Eva Thiébaud et Thomas Clerget, *Guerre au Yémen : la France au chevet de la marine saoudienne*, 26 March 2019.

303. DCNS, *Rapport financier de 2015* ; DSC, *Rapport financier 2016*, p. 10.

304. Naval Group, *Rapport financier 2017*, p. 11. The refurbishment of the vessels required nine major technical shutdown of the vessels (vessel maintenance period stretching over several months and covering major operations) and two intermediate technical shutdowns (vessel maintenance period stretching over several weeks). See Mer et Marine, *DCNS s’organise pour gérer ses contrats en Arabie Saoudite*, 11 July 2014 ; Defense World.net, *DCNS Opens Program-Management Premises in Toulon*, 8 July 2014 ; Mer et Marine, *Arabie Saoudite, le contrat LEX officialisé*, 10 October 2013.

305. Naval Group, *Rapport financier 2018*, p. 8.

306. Naval Group, *Rapport financier 2020*, p. 11.

307. Mediapart, Eva Thiébaud et Thomas Clerget, *Guerre au Yémen : la France au chevet de la marine saoudienne*, 26 March 2019.

308. Navy Recognition, *DCNS opens new platform following Royal Saudi Navy Fleet Modernization*, 07 July 2014.

309. Mediapart, Eva Thiébaud et Thomas Clerget, *Guerre au Yémen : la France au chevet de la marine saoudienne*, 26 March 2019.

310. The authors of the report prefer not to publish the names of Naval Group staff members.

311. See document entitled « State – Gestionnaire de données techniques et d’organisation du projet H/F » 14 March 2019 (on file).

with 55 percent ownership by Naval Group and 45 percent by Zosco, to carry out the maintenance of military vessels of the Saudi Arabia naval fleet.³¹² The Défense conseil international (DCI), which

oversees the training of the navy personnel and helicopter pilots, has also implemented the AMWAJ contract, as evidenced by several job offers posted by DCI for this purpose.³¹³

b. The construction and the maintenance of UAE vessels since March 2015

137. Even if CMN operated as a sub-contractor of Abu Dhabi Shipbuilding for the construction of the Baynunah-class corvettes, it appears that the French company was the developer of the corvette and played a key role in the implementation of the contract. In addition to the construction of the first corvette, CMN's role included: design studies for the powered platform; studies for the integration of the weapons system equipment, the layout of the aircraft, and the communication system; the optimisation of space for the placement of sensors and weapons; the procurement of the equipment for the six corvettes; integrated logistics support; testing of the first corvette and training of the crew; and furnishing the construction plans for the vessels as well as technical assistance for the construction and testing of the corvettes built in Abu Dhabi.³¹⁴

138. Other French-owned companies provided several important parts for the corvettes, including: Sagem Vigy EOMS, renamed Safran in 2005 (search and track and weapons director)³¹⁵; MBDA (anti-ship missile system); and 3) Thales (interception system).³¹⁶ The four companies would have also played a role in the construction of the sixth corvette named Al Hili (P176) that was commissioned in 2016, after the establishment of the blockade.

139. For the maintenance of the Baynunah-class corvettes, the UAE Navy contracted Abu Dhabi Shipbuilding. The contracts are not publicly available, but the existence of a maintenance

contract is confirmed by Abu Dhabi Shipbuilding's annual reports from 2017 and 2018. According to the 2018 report, Abu Dhabi Shipbuilding is providing the maintenance of the Baynunah-class corvettes under the initial contract and also pursuant to a contract secured in 2018 for a major refit of the first Baynunah corvette class. The refit includes platform equipment overhaul, combat system obsolescence management and dry-dock repairs.³¹⁷

140. It is believed that Abu Dhabi Shipbuilding is relying on the French companies that provided sub-systems for the corvettes for their ongoing maintenance. It is common contractual practice that the agreements to deliver sub-systems for warships also entail ensuring the maintenance of those complex systems. While little public information is available in this respect, it is reasonable to assume that CMN; Safran, which produced the search and track and weapons director; MBDA, producer of the anti-ship missile system; and Thales, architect of the interception system must, at a minimum, ensure the replacement of defective material. Given the technology involved, it is also likely that the four providers are also involved in fixing their own sub-systems, from France or in the UAE, in case of defects.³¹⁸

141. Evidence collected in the public domain suggests the possible involvement of at least CMN and Thales in the maintenance of the Baynunah-class corvettes after March 2015. For instance,

312. Naval Group, *Rapport financier 2017*, p. 17.

313. DCI, *Conseiller en architecture navale (H/F)*, 09 July 2018; DCI, *Instructeur Surface/Surface H/F*, 06 July 2018; DCI, *Instructeur pilote Hélicoptère H/F*, 22 June 2018. Le Matin.ma, *Une corvette française pour la défense émiratie*, 28 juin 2009.

314. Mer et Marine Vincent Groizeleau, *Livraison de la dernière corvette Baynunah aux Emirats*, 17 February 2014; Navy Recognition, *Baynunah class Corvette*, undated;

315. <https://www.safran-electronics-defense.com/fr/image/190>, <https://www.safran-electronics-defense.com/fr/naval/navires-de-surface/surveillance-et-conduite-de-tir>

316. Naval Technology, *Project, Baynunah Class Corvettes*, undated. For an explanation of Thales interception system, see Thales, *Altesse Naval CESM/Commit Solution*; Thales, *Altesse-H: The electronic warfare system that helps warships rule the waves*; <https://www.meretmarine.com/fr/content/livraison-de-la-derniere-corvette-du-type-baynunah-aux-emirats>

317. ADSB, *2018 annual report*, pp. 11, 13; ADSB, *2017 Annual Report*, p.9.

318. For instance, the website of MBDA claims that maintenance is an integral part of the services provided by the company. See MBDA, *Customer Support and services* (last visit on 24 March 2021).

the profile of some CMN employees shows that they worked on the Baynunah-class corvettes after March 2015 and until 2017.³¹⁹ A number of Thales employees also worked after 2015 or are still working in Dubai or Abu Dhabi, including some specialise in maintenance.³²⁰ It is possible that Thales is providing comprehensive maintenance support to the UAE military vessels through a memorandum of understanding signed with Abu Dhabi Shipbuilding in 2015.³²¹

142. While this information is sufficient to suggest the defence companies' involvement, they do not allow to comprehend the full extent of the engagement of CNM, Safran, MBDA and Thales in the maintenance of the Baynunah-class corvettes after March 2015. The absence of transparency regarding military contracts signed by French defence companies limits the accessibility of relevant information. Further investigation is needed to determine their exact role in the maintenance of the Baynunah-class corvettes that have participated in the naval blockade since 2015.

143. In addition, in 2013, the UAE ordered two offshore patrol vessels from the Arialah class. The Dutch company Damen Group designed the vessels and subsequently built them in Romania. Abu Dhabi Shipbuilding then fitted out and completed the ships in the UAE. Thales Group supplied the integration system for the two vessels. Offshore patrol vessel Arialah (p 6701) was commissioned in 2017 and offshore patrol vessel Hmeem (p 6702) in 2018.³²² The contract pre-dated the initiation of the naval blockade in March 2015 but continued after. The contract has been implemented by Thales, despite public knowledge that the UAE was part of the coalition and that its naval forces participated in the blockade whose humanitarian consequences on the Yemeni civilian population were widely and publicly decried.

144. The French defence companies mentioned above are only some of the foreign military companies involved in the manufacture and maintenance of weapons sold to the UAE and Saudi Arabia definitively or potentially used to implement the economic blockade. The two countries' naval fleets include other vessels made in European countries, the USA or Canada, equipped with weapons systems manufactured in such third countries and subjected to maintenance provided by foreign defence companies, sometimes in coordination with Saudi and Emirati defence companies.³²³

145. It has been widely stated that the war in Yemen could not be sustained without the critical assistance provided by third-party arms suppliers. Ammunition and the maintenance in operational condition of all war material supplied to the coalition before and during the conflict are essential to the continuation of hostilities. From the beginning of the conflict and in view of the scale of the violations committed, human rights and humanitarian organisations alerted Western capitals to their responsibility in the crisis and the illegality of their material support to the coalition. Numerous reports have been published on the illegality of transfers of war material to Saudi Arabia and the United Arab Emirates. Advocacy campaigns have been and continue to be conducted on this issue. Some countries have agreed to suspend all or part of future arms transfers but most of the arms suppliers, like France, have continued their military support in full knowledge of the consequences of their acts.

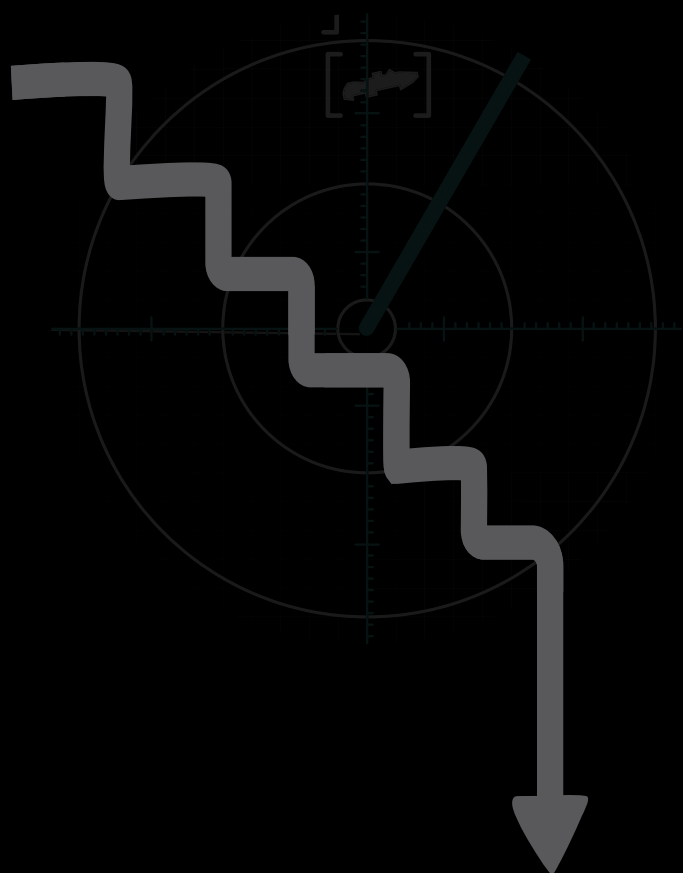
319. The authors of the report prefer not to publish the names of CMN staff members.

320. The authors have found online profiles of Thales staff located in the UAE.

321. Defenseaerospace.com, *ABDS Signs Memorandum of Understanding with Thales to increase MRO regional capacities*, 25 February 2015.

322. Defense News, *New UAE patrol ship presents a striking profile*, Christophe P. Cavas, 22 February 2017.

323. See for example the open source investigation published by Hans-Martin Tillack, *So fanden wir vor der Küste des Jemen in Deutschland gebaute Kriegsschiffe*, 27 February 2019, about the UAE's use of German and Dutch manufactured vessels.



VII.

LEGAL RESPONSIBILITIES FOR THE ECONOMIC BLOCKADE





146. The data presented above shows that, over the last seven years and with varying degrees of intensity, the coalition has used the economic blockade as a method of warfare with drastic human consequences. Through its policy of import restrictions, the coalition has contributed to the distress of civilians despite being fully aware of the human consequences of its military strategy. This behavior could be unlawful under international law and even been deemed criminal. It thus could expose some of the coalition member states, in particular Saudi Arabia and the UAE, to international responsibility and could lead to criminal liability for their agents.³²⁴

147. The following legal analysis establishes that the coalition members' responsibility could be triggered based on violations of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and of international humanitarian law. The conduct of the coalition in relation to the economic blockade imposed on Yemen since March 2015 should also be investigated for war crimes.

148. It is of great importance to recall that the implementation of the economic blockade by the coalition in Yemen could not have been possible without the crucial assistance of other states and foreign defence companies, who continued to bolster the coalition's arsenal despite continuous public denunciation of the violations and crimes committed by the coalition. The aid and assistance provided by foreign defence companies their continued supply of arms could potentially expose these corporate actors to criminal liability.³²⁵ The states that have authorized the transfer of weapons could also be held responsible as accomplices for the breach of international regulations applying to arms transfers

324. Further detailed international and national investigations on the naval and aerial blockade imposed by the coalition are imperatively required in light of its contribution to the current humanitarian disaster in Yemen to facilitate the establishment of definite and specific legal conclusions.

325. The terms 'arms' and 'weapons' include not only manufactured weapons but also ammunition/munitions, parts and components of weapons, and maintenance and trainings.

326. Committee against Torture, *Conclusions and Recommendations*, United States of America, 2006, §14. This assertion was confirmed by the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 'The prohibition and prevention of torture and other ill-treatment...will apply at all times, including in situations of armed conflict and concurrently with applicable norms of international humanitarian law.' See Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/70/303, 7 August 2015, para. 62.

1. The coalition's responsibility

a. Potential state responsibility for violations of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

149. Although Yemen is in the midst of an armed conflict governed by international humanitarian law (see below VII.2) the parties to the conflict still have the obligation to comply with the obligations and prohibitions of the 1984 Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment (the Convention against Torture). At the occasion of the review of the United States in 2006, the Committee against Torture (CAT) stated, 'The State party should recognize and ensure that the Convention applies at all times, whether in peace, war or armed conflict, in any territory under its jurisdiction and that the application of the Convention's provisions are without prejudice to the provisions of any other international instrument, pursuant to paragraph 2 of its articles 1 and 16.'³²⁶

150. The governments of Yemen, Saudi Arabia and the United Arab Emirates, the main states involved in the economic blockade of Yemen, have all ratified the Convention against Torture. The Convention thus applies to Yemen with respect to torture and other cruel, inhuman and degrading treatment (CIDT) perpetrated on its territory. The question may arise though as to whether it also applies to violations committed by Saudi Arabia

and the UAE in Yemen through their agents in international waters.

151. The CAT has clearly established that "States bear international responsibility for the acts and omissions of their officials".³²⁷ The Convention against Torture imposes positive obligations on States to prevent acts of torture and ill-treatment as well as negative duties to refrain from committing torture or ill-treatment.³²⁸ Positive obligations are confined to acts occurring in the territory under the control of the state, but conversely, no geographical limitation is provided for the negative obligations.³²⁹ As stated by the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (the Special Rapporteur on torture), 'States' negative obligations under the Convention are not per se spatially limited or territorially defined, nor are its obligations to cooperate to end torture and other ill-treatment.'³³⁰

152. It follows from the Convention and the CAT's comment that the coalition members are bound by the Convention in the context of their operations in Yemen as well as in the international waters.

327. Committee Against Torture, General Comment n°2 on article 2, para. 15.

328. M. Milanovic, *Extraterritorial Application of Human Rights Treaties: Law, Principles and Policy*. Oxford: Oxford University Press, 2011, pp.212, 214-215.

329. M. Milanovic, *Extraterritorial Application of Human Rights Treaties: Law, Principles and Policy*. Oxford: Oxford University Press, 2011, p.215. See also UpRights, *Towards a Better Migrant Protection Framework Along the Central Mediterranean Route*, July 2021, p. 14.

330. Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/70/303, 7 August 2015, para.28.

153. Available information suggests that the naval and aerial blockade imposed by the coalition on Yemen, especially on Houthi-controlled areas, could potentially expose the coalition and in particular Saudi Arabia and the UAE to international responsibility for torture (Article 1 of the Convention against Torture) or at least cruel, inhuman or degrading treatment (Article 16).

154. In December 2020, OCHA estimated that out of the 233,000 deaths that can be imputed to the conflict, around 131,000 deaths would have been from indirect causes such as ‘lack of food, health services and infrastructure’.³³¹ The deaths are only the tip of the iceberg of the suffering of the Yemenis, and there is no estimate of the number of civilians suffering severe physical or mental distress as a result of the lack of food, clean water, and health services since 2015.



155. The Group of Eminent Experts has concluded that the ‘deprivation or insufficient supply of food, water and indispensable non-food items, such as medicines’ by the parties to the Yemen conflict may constitute starvation and ‘also amounts to prohibited inhuman treatment’.³³² Information collected in this report suggests that the coalition’s disruption of the import of food, fuel and medical supplies as well as humanitarian aid substantially contributed to inhuman living conditions, which in some instances led to cruel and/or degrading treatment, and even to the torture and the death of civilians living in Houthi-controlled areas.

331. UN News, [UN humanitarian office puts Yemen war dead at 233,000, mostly from ‘indirect causes’](#), 1 December 2020.

332. Report of the Group of Eminent International and Regional Experts as submitted to the United Nations High Commissioner for Human Rights, A/HRC/42/17, 9 August 2019, para 56.

156. Article 1 of the Convention defines torture as ‘any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of

a public official or other person acting in an official capacity’.

157. The Convention does not define the notion of cruel, inhuman or degrading treatment or punishment, but it is essentially defined by comparison with the notion of torture that is expressly defined in Article 1 of the Convention. According to the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment:

‘[The] decisive criteria for distinguishing [cruel, inhuman or degrading treatment] from torture are the purpose of the conduct, the intention of the perpetrator and the powerlessness of the victim. Torture constitutes such a horrible attack on the dignity of a human being because the perpetrator of torture deliberately inflicts severe pain or suffering on a powerless victim for a specific purpose, such as extracting a confession or information. Cruel and inhuman treatment, on the other hand, means the infliction of severe pain or suffering without purpose or intention and outside a situation where a person is under the de facto control of another.’³³³

158. A thorough factual and legal analysis of the economic blockade put in place by the coalition suggests that this method of warfare may constitute

cruel and inhuman treatment and even reach the level of torture, characterised by the deliberate infliction of severe pain and suffering upon powerless victims.

Severe pain and suffering

159. A high number of Yemeni civilians, in particular those living in Houthi-controlled areas, have suffered and continue to suffer of severe physical or mental pain or degradation as a result of the lack of food, clean water, and health services. In March 2022, the IPC’s Famine Review Committee (FRC) published a report assessing that it was plausible that several regions were in an emergency

situation or PCI Phase 4, defined as ‘an extremely severe situation where urgent action is needed to save lives and livelihoods’.³³⁴

160. The measurement of food access is but one indicator of the humanitarian situation of a population. Other data related to the public health context, especially, access to healthcare, are also

333. *UNGA, Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, UN Doc A/HRC/13/39/add.5, 5 February 2010, para. 188. See also *The United Nations Convention Against Torture and its Optional Protocol: A Commentary*, Edited By: Manfred Nowak, Moritz Birk, Giuliana Monina, Second edition, December 2019, Article 16, para. 6. See also *ibid.*, para. 9 (‘Degrading treatment or punishment can be defined as the infliction of pain or suffering, whether physical or mental, which aims at humiliating the victim. Even the infliction of pain or suffering which does not reach the threshold of “severe” must be considered as degrading treatment or punishment if it contains a particularly humiliating element.’).

334. *IPC Famine Review of the IPC Acute Food Insecurity and Acute Malnutrition Analyses: Conclusions and Recommendations for Five Areas in Yemen*, 31 March 2022, p.3. IPC Global Partners. 2021. *Integrated Food Security Phase Classification Technical Manual Version 3.1* : Evidence and Standards for Better Food Security and Nutrition Decisions, 2021, p.9.

essential. Save the Children's Yemen Country Director summarised the situation: **'There is nothing worse than watching a child die of starvation while food is prevented from entering the country and violence hinders its distribution. Even where food is available, many people simply can't afford it. Malnourished children are succumbing to preventable diseases because life-saving medicines are delayed at ports and checkpoints.'**³³⁵

161. The torture constituted by the starvation policy is of a special kind. As the professor of International Law T. Dannenbaum explains, starvation resulting from deprivation during a siege or a blockade 'tears gradually at the very capacity of those affected to prioritize their most fundamental commitments, regardless of whether they would choose to do so under the conditions necessary to evaluate matters with a contemplative attitude. Rather than palliating, the slowness of starvation methods is at the crux of this torturous wrong.'³³⁶ Dannenbaum further explains that both torture and encirclement starvation 'turn victims' biological imperatives against their fundamental capacities to formulate and act on higher-order desires, political commitments, and even love. The process is not simply coercive; the distortion of biological imperatives does not merely raise the cost of fulfilling higher-order commitments. Instead, it slowly crowds out the capacity of victims to decide whether to do so.'³³⁷

162. Until now, there is no jurisprudence qualifying as torture or ill-treatment the obstruction of humanitarian relief to people who are not living in detention. There is nonetheless an extensive body of case law considering appalling conditions of detention, such as depriving detainees of adequate food and water or medical treatment, as cruel, inhuman or degrading treatment and even torture if they lead to severe or humiliating pain or suffering.³³⁸

163. On several occasions, the Human Rights Committee found complainants to be victims of torture or cruel, inhuman or degrading treatment or punishment under Article 7 of the International

Covenant due to a deprivation of food, water and medical assistance.³³⁹

164. The duration of the suffering inflicted by this deprivation contributes to its exacerbation, as reflected in the Human Rights Committee's jurisprudence. After having qualified the complainant's deplorable conditions of detention as a violation of Article 10 of the Covenant on the right of every detainee to be treated with humanity and respect for his dignity, the Human Rights Committee considered that the complainant detained for ten years in such conditions was also a victim of a violation of Article 7 of the Covenant (torture and CIDT) because of the duration of the violation.³⁴⁰ Examining accusations of inhuman treatment as a crime against humanity, the International Criminal Tribunal for the Former Yugoslavia (ICTY) developed the same approach, affirming, 'While there is no requirement that the suffering imposed by the act have long term effects on the victim, the fact that an act has had long term effects may be relevant to the determination of the seriousness of the act.'³⁴¹ In contexts of starvation by encirclement, like that of Yemen, Dannenbaum's observation proves right when he concludes that 'the graduality of starvation, as compared to other forms of attack, is not a mitigating factor that opens the possibility of harm minimization and thus permissibility. Rather, it is central to the distinctively torturous wrong that defines the method.'³⁴²

165. The suffering caused by the total or partial deprivation of food, water and medical care considered in these decisions in relation to conditions of detention is in many ways reminiscent of the suffering suffered by Yemeni civilians who are also partially deprived of these elements necessary for their survival, due to a policy of obstruction intentionally deployed over the long term.

166. The figures and testimonies speak for themselves. In December 2018, Save the Children was declared, '85,000 children may have already died from extreme hunger and disease since the war escalated in 2015, and that number is rising

335. Save the Children, *Famine or not, 120.000 children in Yemen are in a "catastrophic" condition*, 8 December 2018.

336. Tom Dannenbaum, *Siege Starvation: A War Crime of Societal Torture*, 2022, p.368.

337. Tom Dannenbaum, *op. cit.*, p.375.

338. See for example Committee against Torture, *Sahli v. Algérie*, comm. no 341/2008, § 9.3 about the lack of medical treatment. See also European Court of Human Rights, *Gelfmann v France*, 14 December 2004, para. 50.

339. Human Rights Committee, *Tshiesekeedi c. Zaïre*, comm. no 242/1987 § 13b) ; Human Rights Committee, *Miha c. Guinée équatoriale*, comm. no 414/1990 § 6.4.

340. Human Rights Committee, *Edwards c. Jamaïque*, comm. N°529/1993, § 8.3.

341. ICTY, *Vasiljevi Trial Judgment*, 2002, para. 235.

342. Tom Dannenbaum, *op. cit.*, p.375.

343. Save the Children, *op. cit.*

344. Save the Children, *Multimedia content of baby Nabil*."

every day.³⁴³ The organisation shared the case of baby Nabil, an eight-month-old infant living in a camp for internally displaced persons and suffering from severe acute malnutrition, at 4kg weighing less than half the average weight of a child his age.³⁴⁴ Nabil's mother cannot breastfeed because she had to undergo an operation in her breast. His father is out of work and had to sell the families' mattresses to afford the milk that was prescribed to feed Nabil. The baby suffered from complications like diarrhoea, breathing difficulties and coughing as a result of malnutrition.

167. Since the beginning of the conflict, the media, too, have testified to the worsening humanitarian situation.³⁴⁵ In July 2018, the New Yorker published the case of Shahab Adil, a ten-month-old child suffering from malnutrition. Her father explained, 'Food prices were already high before the war, and since it started they went sky high.' 'Back in his village, several hours' drive away, there were many more cases of malnutrition, he said. Few villagers can afford to take a taxi to the capital for treatment. For many, the cost of fuel puts even short bus rides beyond reach'.³⁴⁶

168. All the testimonies of victims, health workers and humanitarian workers paint the same picture: food has become unaffordable. The income of civilians has decreased due to the loss of jobs and the suspension of salary payments to civil servants. At the same time, prices have risen, largely due to the naval blockade and especially the interception of oil tankers as explained above. Imports of food and medicine have been disrupted by the coalition on several occasions. It appears from the data collected that the most harmful disruption, however, is that of fuel that can be considered part of what is called humanitarian relief or objects indispensable to the survival of the population.

169. These restrictions on imports have led to rising food prices due to the increased cost of transportation resulting from the lack of fuel. Import restrictions have also led to an increase in the price and scarcity of drinking water due to the fuel

shortage and its price increases of fuel needed to treat and transport drinking water. This lack of fuel has also caused the closure of healthcare centres and the reduction in capacity of surviving centres to care for the sick, as well as barriers to travel for those in need of medical attention and their caregivers, owing to the exorbitant price of gasoline and the need for families to prioritise their expenses starting with drinking water. lack of fuel has also caused the closure of healthcare centres and the reduction in capacity of surviving centres to care for the sick, as well as barriers to travel for those in need of medical attention and their caregivers, owing to the exorbitant price of gasoline and the need for families to prioritise their expenses starting with drinking water.

170. These and other factors that explain how the country's several-year trajectory into a famine that now seems inescapable is the result of the coalition's economic blockade. These determinants are also the result of economic and military strategies including some attributable to the Houthis armed group, that constitute some—but not all—prohibited methods of war.³⁴⁷ The multiplicity of causes of the suffering of Yemeni civilians does not, however, detract from the illegality of the economic blockade when it constitutes a certain and determining cause. **According to the UN Special Rapporteur on human rights and international sanctions, 'The aerial and naval blockade imposed on Yemen by the coalition forces since March 2015 was one of the main causes of the humanitarian catastrophe. It has restricted and disrupted the import and export of food, fuel and medical supplies as well as humanitarian aid.'**³⁴⁸ Along the same lines, the UN Special Rapporteur on the right to food has explained, 'In a country that relies on imports for 80 per cent of its food intake, current restrictions have resulted in steep price hikes, which, combined with increases in the price of diesel by some 47 per cent, are having a devastating impact on food security'.³⁴⁹

345. Hunger Ward, film directed by Skye Fitzgerald, 2020 ; BBC, Children dying of starvation in Yemen's conflict, 21 September 2016; Tom Ambrose, 16 million in Yemen 'marching towards starvation' as food rations run low – UN, The Guardian, 23 September 2021.

346. Jane Ferguson, Is Intentional Starvation the Future of War, The New Yorker, 11 July 2018.

347. See supra, paras. 11-12. Global Rights Compliance and World Peace Foundation, Accountability for Mass Starvation: Starvation in Yemen, Policy Brief, 3 September 2019, p.6.

348. OHCHR, Lift blockade of Yemen to stop "catastrophe" of millions facing starvation, says UN expert, 12 April 2017.

349. United Nations Special Rapporteur on the right to food, Yemen spiraling into major food crisis – UN expert warns against deliberate starvation of civilians, 11 August 2015.

The control of the perpetrator/powerlessness of the victims

171. Deprivation of liberty is not a requisite element of torture or other ill-treatment. Torture can happen outside of detention, and the Special Rapporteur on torture notes that actions will be qualified as such if it is established that 'the perpetrator exercise direct physical or equivalent control over the victim and that the victim is incapable of resisting or escaping the infliction of pain or suffering ("powerlessness")'.³⁵⁰

172. The coalition's control on the territory administered by the Houthis is to a certain extent similar to the control exerted by Israel on the Gaza Strip.³⁵¹ This control derives from the control of Yemen's borders, territorial waters, and airspace. The coalition exerts a direct external control over Houthi-controlled territory and thus an indirect control over the lives who live within this territory. The name given to this method of control is immaterial.

Some authors call it a siege, others a blockade.³⁵²

The UN Panel of Experts on Yemen refers to the 'systematic blockade of a city or country, as a form of military siege'.³⁵³ The key dimension of the blockade is that this control of the territory's borders gives the coalition not only power over the territory's inhabitants but also liability with respect to their lives. As stated by OHCHR, 'Given the geography of Yemen, the powers exercised by the coalition along the land borders and coasts and in the airspace enable the coalition, to a great extent, to determine the conditions of life in Yemen'.³⁵⁴

173. Yemeni civilians leaving in Houthi-controlled areas are thus left powerless. They can neither resist nor escape the suffering inflicted upon them by the policy of restriction.

The intentionality and purposefulness of the severe suffering inflicted upon Yemeni civilians living under Houthi control

174. Assessing the conditions to qualify torture in extra-custodial circumstances, the Special Rapporteur on torture recalled, 'intentionality and purposefulness involve the deliberate instrumentalization of the pain or suffering inflicted on a powerless person as a vehicle for achieving a particular purpose (for example, coercion, intimidation, punishment, discrimination or sadistic gratification)'.³⁵⁵ The Committee against Torture

emphasises that 'elements of intent and purpose in article 1 do not involve a subjective inquiry into the motivations of the perpetrators, but rather must be objective determinations under the circumstances'.³⁵⁶ The application of the definition of torture to the blockade thus derives from the facts that the coalition has been knowingly inflicting suffering upon the Yemeni people with the purpose of coercing the Houthis to surrender.

350. Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, 20 July 2017, paras.36, 47.

351. Using the 'functional approach' to the application of occupation law, the ICRC has considered Israel to exert a certain control on the Gaza strip thus engaging its responsibility commensurate with control. This control is characterized despite the fact that Israel has no presence inside the territory. This functional control derives essentially from the control of Gaza's territorial waters and airspace and a large part of the terrestrial border. See Human Rights Watch, *Unwilling or Unable. Israeli Restrictions on Access to and from Gaza for Human Rights Workers*, 2 April 2017.

352. M. Fink, *Naval Blockade and the Humanitarian Crisis in Yemen*, *Neth Int Law Rev*, 2017 ; G. Gaggioli, *Joint Blog Series on International Law and Armed Conflict: Are Sieges Prohibited under Contemporary IHL?*, 2019.

353. Security Council, Final report of the Panel of Experts on Yemen established pursuant to Security Council Resolution 2140 (2014), S/2011/73, 26 January 2016, para 167

354. UNHCHR, Report on the situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/36/33, 5 September 2017, para. 43.

355. Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, 20 July 2017, para.47.

356. Committee Against Torture, General Comment n°2 on article 2, para. 9.

175. The coalition justified access restrictions to Yemen's ports through its alleged intention to prevent weapons reaching the Houthi armed group and to enforce the implementation of the arms embargo instituted by Resolution 2216 (2015). Yet the actions of the coalition show that since March 2015, it has obstructed the arrival of essential goods and aid to ports and airports under the control of the Houthis in a way that is not only contrary to the spirit of the resolution but also in violation of it.

176. A plain reading of Resolution 2216 (2015) indicates that inspections for the implementation of the arms embargo shall not be systematic but limited to vessels or flights for which there are reasonable grounds to believe that items prohibited by the arms embargo are on board. In addition, the Resolution put in place a detailed reporting system to the UN for each inspection conducted under the arms embargo. Conversely, the inspection and authorisation process put in place by the coalition remains unclear and seemingly arbitrary, as no list of prohibited items was ever published and the coalition does not report to the UN on the grounds of any inspections conducted. In practice, even when no inspection is ultimately considered necessary, the system in place creates unreasonable delays on the arrival of civilian essential goods in Yemen and notably in Houthi-controlled areas.

177. Despite the establishment of UNVIM to facilitate the arrival of essential goods in the country, clearance decisions are still granted by the coalition through a redundant authorisation process.³⁵⁷ Not only was this extra step not provided for in the UN agreement, but it also defeats the purpose of UNVIM. As noted by the UN Panel of Experts on Yemen, the coalition is using Resolution 2216 (2015) as a justification to obstruct the entry of commodities that are essentially civilian in nature contrary to the spirit of the resolution.³⁵⁸

178. In addition, the effectiveness of the coalition's severe sea access restrictions to implement the arms embargo of Resolution 2216 (2015) is more than questionable. According to the UN Group of Experts on Yemen (the Panel of Experts), 'there is no indication that ballistic missiles are entering Yemen via Red Sea ports, and low likelihood that other weapons are'.³⁵⁹ Since the beginning of the naval blockade in March 2015, no searches conducted by UNVIM or the coalition have led to the discovery of weapons.³⁶⁰

179. Another reason given by the coalition to justify specifically the obstruction of fuel imports is to deprive the Houthis of one of their sources of revenue. According to the analysis of the Panel of Expert, this strategy has proven false and inefficient. Firstly, the taxes on fuel imports have never been a major source of revenue for the Houthis.³⁶¹ Second, it appears that restrictions put on fuel imports through Hodeidah and the redirection of maritime import routes through Aden has not succeeded in diminishing the taxes collected by the Houthis, as they have instead taxed fuel entering their territory from the South of the country through land transportation.³⁶²

180. This has led the Panel of Experts to conclude that 'the blockade is essentially using the threat of starvation as a bargaining tool and an instrument of war'.³⁶³ This assessment derives from the fact that one of the hidden purposes pursued by the coalition through the economic blockade in general and the naval restrictions in particular is to hurt the civilians leaving in the Houthi-controlled territory, with the aim of coercing the Houthis to surrender by depriving them of the population's support. The infliction of suffering upon one person to coerce a third person is one of the purposes in the definition of torture as listed by Article 1 of the Convention against Torture.

357. Oxfam, Briefing Note, Missiles and Food, Yemen's man-made food security crisis, December 2017 (There have been instances when the coalition has not provided a response to UNVIM, meaning that in turn UNVIM could not clear ships); DeepRoot, Navigating Yemen's wartime food pipeline, November 2017, p. 29 (while the original design and standard operating procedure of UNVIM is to merely 'inform' the coalition of its decision, in reality due to the coalition's control over the waters the UNVIM clearance is not effective until the coalition also gives approval).

358. Final Report of the Panel of Experts on Yemen, S/2018/68, 26 January 2018, paras. 189-190.

359. Group of the Eminent International and Regional Experts, Situation of human rights in Yemen, including violations and abuses since September 2014, A/HRC/39/43, 17 August 2018, Annexe 2, para. 20 referring to Final Report of the Panel of Experts on Yemen, S/2018/68, 26 January 2018, annex 33.

360. Final Report of the Panel of Experts on Yemen, S/2018/68, 26 January 2018, para.78. See also Case study of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140 (2014), Obstruction to commercial shipping through 'Red Sea' ports in Yemen controlled by Houthi-Saleh forces, confidential document, March 2017 (The panel analysed fifteen UNVIM inspection reports to the Committee and noted that none discovered items prohibited under Resolution 2216 (2015). In some cases there were minor documentation discrepancies, but these alone do not form a basis for justification to significantly delay a vessel under the requirements of the UN resolution.) See also Peter Salisbury, Bickering While Yemen Burns: Poverty, War, and Political Indifference, The Arab Gulf States Institute in Washington, 2017, p.12.

361. Final Report of the Panel of Experts on Yemen, S/2020/70, 27 January 2020, para. 67, referring to Final Report of the Panel of Experts on Yemen, S/2018/68, 26 January 2018, para. 127.

362. International Crisis Group, Brokering a Ceasefire in Yemen's Economic Conflict, Middle East Report n°231, 20 January 2022, pp.30-31.

363. Final Report of the Panel of Experts on Yemen, S/2018/68, 26 January 2018, paras. 189-190.

181. As mentioned, a subjective inquiry into the motives of the coalition is not required (and would be difficult to establish), and objective determinations under the circumstances are sufficient to prove the intent and purpose. The mere fact that the coalition pursued its policy despite knowing that it was inefficient to prevent the delivery of weapons or to diminish the Houthis' incomes but that, on the contrary, it was deeply harming civilians pleads for the existence of a hidden and illegitimate purpose.

182. Members of the coalition were indeed perfectly aware that by disrupting the import of food, fuel, medical supplies, and humanitarian aid, its actions would bring about the death, severe physical or mental pain, and suffering of civilians living in Houthi-controlled areas as a matter of course. As soon as the coalition implemented the naval and aerial blockade was implemented in March 2015, it received extensive warnings from the UN, other international organisations, and non-governmental organisations that the blockade would lead to deaths and intense suffering of the civilian population, particularly in Houthi-controlled areas.³⁶⁴

183. On 11 August 2015, reacting to the conduct of hostilities in Yemen, the UN Special Rapporteur on the right to food alerted that 'The deliberate starvation of civilians in both international and internal armed conflict may constitute a war crime, and could also constitute a crime against humanity in the event of deliberate denial of food and also the deprivation of food sources or supplies.' He added that 'The right to food does not cease in times of conflict, indeed it becomes more crucial as a result of the acute vulnerabilities in which

individuals find themselves'. He finally noted that 'Parties to the conflict must be reminded of their obligations under international humanitarian law to ensure that civilians and prisoners of war have access to adequate food and water during armed conflict.'³⁶⁵

184. In its 2015 report, the Panel of Experts on Yemen advised that 'the systematic blockade of a city or country, as a form of military siege, to prevent goods from entering and people from leaving, raises serious implications from the perspective of international humanitarian law'.³⁶⁶

185. The following year, months before the total blockade, the Special Rapporteur on human rights and international sanctions publicly denounced the 'man-made famine' and asked the coalition to lift the blockade, recalling, 'The blockade involves grave breaches of the most basic norms of human rights law, as well as of the law of armed conflict, which cannot be left unanswered.'³⁶⁷ This call was echoed by the UN Special Rapporteurs on the right to food and on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.³⁶⁸

186. Major international human rights NGOs also voiced their condemnation of the restrictions imposed by the coalition, calling this method of war a potential violation of international humanitarian law and a potential war crime.³⁶⁹

187. Rather than facilitating access to aid and essential goods in response to two and a half years of warnings, the coalition instead maintained access restrictions to objects indispensable to the survival of the population for several years

364. Numerous quotes from representatives of UN agencies, international humanitarian and human rights NGOs have been reported in the first part of this report. See also European Parliament resolution of 9 July 2015 on the situation in Yemen, 2015/2760(RSP), H (whereas, in addition to air strikes, Saudi Arabia has imposed a naval blockade of Yemen which has had dramatic effects on the civilian population, with 22 million people—almost 80 percent of the population—in urgent need of food, water and medical supplies).

365. United Nations Special Rapporteur on the right to food, *Yemen spiralling into major food crisis – UN expert warns against deliberate starvation of civilians*, 11 August 2015.

366. Security Council, Final report of the Panel of Experts on Yemen established pursuant to Security Council Resolution 2140 (2014), S/2011/73, 26 January 2016, para 167.

367. United Nations Special Rapporteur on human rights and international sanctions, *Lift blockade of Yemen to stop "catastrophe" of millions facing starvation, says UN expert*, 12 April 2017.

368. OHCHR, *Halt Yemen conflict now to save generation from famine and cut "alarming" child mortality* - UN experts, 25 April 2017.

369. HRW, *Yemen: coalition's Blocking Aid, Fuel Endangers Civilians - Houthi-Saleh Obstruction Heightens Crisis*, 27 September 2017 ('The restrictions, in violation of international humanitarian law, have delayed and diverted fuel tankers, closed a critical port, and stopped life-saving goods for the population from entering seaports controlled by opposing Houthi-Saleh forces' (...). 'The substantial harm to civilians is disproportionate to any concrete and direct military advantage to the coalition, in violation of international humanitarian law, Human Rights Watch said'); ICJ, *Bearing the Brunt of War in Yemen: International Law Violations and their impact on the Civilian population, Briefing Paper*, July 2018, pp. 16-20; OHCHR, Report of the Group of Eminent International and Regional Experts as submitted to the United Nations High Commissioner for Human Rights, 9 August 2019 para. 56 (In both international humanitarian and criminal law, starvation covers the deprivation or insufficient supply of food, water, and indispensable non-food items, such as medicines. It remains to be established whether the parties have intentionally used starvation to advance their military aims. However, the fact that the acts described above all played a role in depriving the population of objects indispensable to its survival, and have been continued, justifies deep concerns that starvation may have been used as a method of warfare by all parties to the conflict. Such deprivation also amounts to prohibited inhuman treatment. Considered serious violations of international humanitarian law, these acts may lead to criminal responsibility for war crimes.)

more. It even decided to tighten the restrictions by imposing a complete land, naval, and aerial blockade on Yemen in November 2017.³⁷⁰ Only after forceful international pressure alerting on the consequences on civilians was a minimum of aid and essential goods once again permitted to enter the country.³⁷¹ The restrictions continue as of today, mainly on fuel imports.

188. As detailed above, by intentionally inflicting acute suffering on the Yemeni civilian population living in the territory controlled by the Houthis; obstructing the delivery of objects indispensable for its survival such as fuel, food, medicine and humanitarian aid; and doing so with the purpose of coercing the Houthis to surrender, the coalition and in particular the UAE and Saudi Arabia have engaged in acts qualifiable as torture.

189. At the very least, if the purpose or the intention of the perpetrators was not established or the suffering was not considered to reach the required threshold of intensity, these acts should be considered as constituting cruel or inhuman treatment. Such ill-treatment is also certainly characterised with regard to relatives of deceased persons or persons who have contracted long-term illnesses or developed disabilities due to lack of access to healthcare or basic necessities. A parallel can be drawn with the well-established jurisprudence of the treaty bodies qualifying

as cruel treatment the fact of witnessing ill-treatment or torture suffered by relatives³⁷² or of having a relative who is a victim of enforced disappearance.³⁷³ The psychological suffering resulting from, for example, watching one's child wither away due to water-borne disease combined with lack of access to care undoubtedly constitutes ill-treatment when it is inflicted knowingly, as has been established.

190. Whether the legal qualification is torture or ill-treatment, the coalition's conduct in relation to the aerial and naval blockade can thus potentially expose some of its member States, especially Saudi Arabia and UAE, to international responsibility under the Convention against Torture.

191. In the case of Yemen, torture and ill-treatment conducted through the policy of obstructing the delivery of humanitarian aid have been committed in the context of armed conflict. These acts constitute violations of other forms of international law in addition to the Convention against Torture. As a result, the responsibility of the coalition member states, mainly Saudi Arabia and the UAE, can be interrogated on further grounds, including violations of international humanitarian law.

370. See Group of the Eminent International and Regional Experts, *Situation of human rights in Yemen, including violations and abuses since September 2014*, A/HRC/39/43, 17 August 2018, para. 52.

371. See *supra*, para. 85.

372. Inter-American Commission on Human Rights, *Ana, Beatriz and Celia González Pérez v. Mexico*, 2000, para.53.

373. Human Rights Committee, *Quinteros v. Uruguay*, comm. N°107/1981, § 14

b. Potential state responsibility for violations of international humanitarian law

192. The framework of international humanitarian law applies to the situation in Yemen, which qualifies as a non-international armed conflict. The naval and aerial blockade imposed by the coalition could potentially amount to several violations of international humanitarian law. This report focuses on possible violations of: common Article 3 to the four Geneva conventions of 12 August 1949 (the Geneva Conventions) prohibiting

inhuman treatment; Article 14 of Additional Protocol II to the Geneva Conventions and relating to the protection of victims of non-international armed conflicts (Additional Protocol II) prohibiting the starvation of civilians as a method of combat; and Article 18 (2) of Additional Protocol II on the prohibition to impede the passage of humanitarian relief for civilians in need.

The situation in Yemen: A non-international armed conflict

193. The violent crisis in Yemen involves multiple armed actors and overlapping armed conflicts.³⁷⁴ For the events related in this report, the conflict between the internationally recognized government of Yemen and the Houthi armed group³⁷⁵ qualifies as a non-international armed conflict.³⁷⁶ It is an uncontested

fact that the Houthi armed group controlling large areas of territory in the western part of Yemen since 2014 is organised and that the armed violence between the parties reaches a level of intensity sufficient to trigger the application of international humanitarian law.³⁷⁷

374. For the other aspects of the armed conflict, see RULAC, Geneva Academy, *Non-International armed conflicts in Yemen*; Geneva Academy, *The armed conflict in Yemen : a Complicated Mosaic*, 31 October 2017.

375. And/or the Houthi-Saleh alliance until December 2017.

376. International humanitarian law is applicable when there is an armed conflict: '[A]n armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.' (ICTY, *The Prosecutor v. Dusko Tadic, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction*, IT-94-1-AR72, 2 October 1995, para. 70) . A non-international armed conflict exists when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups (See article 8(2)(f) of the ICC Statute; ICRC, Opinion Paper, *How is the term "Armed Conflict" defined in International Humanitarian Law?*, March 2008; HRW, *Q&A on the conflict in Yemen and International Law*, 6 April 2015.) For similar qualifications see RULAC, Geneva Academy, *Non-International armed conflicts in Yemen*; Geneva Academy, *The armed conflict in Yemen : a Complicated Mosaic*, 31 October 2017; Mwatana for Human Rights, Global Rights Compliance, *Starvation Makers, the Use of Starvation by warring parties in Yemen*, September 2021, pp. 82-83.

377. See *supra*, paras 1-8.



194. The armed conflict started at least at the end of May 2011, with a significant escalation in 2014, and is still ongoing. Since the end of March 2015, the Government of Yemen has been receiving military support from the coalition, in particular from Saudi Arabia and the UAE. The coalition intervenes in favour and upon invitation of the internationally recognised Government of Yemen. Therefore, even if several States are involved in the conflict under the umbrella of the coalition, this does not affect the qualification of the armed conflict as non-international.³⁷⁸ For the conflict to become international in relation to the facts presented in this report, it would require Iran to be considered a party to the conflict because of its support to the Houthis armed group. However, it

is generally accepted that the assistance provided by Iran to the Houthis does not meet the threshold of “overall control” required by international criminal law to be considered as a party to the conflict. Evidence available show that Iran supports the Houthis by providing weapons and training but not that it exercises overall control over the armed group.

195. All parties to the non-international armed conflict in Yemen are, at a minimum, bound by common Article 3 of the Geneva Conventions.³⁷⁹ In addition, the conditions for the applicability of Additional Protocol II appear to be met.³⁸⁰

378. See RULAC, Geneva Academy, Non-International armed conflicts in Yemen; HRW, Q&A on the conflict in Yemen and International Law, 6 April 2015. For the conflict to become international in relation to the facts presented in this report, it would require Iran to be considered a party to the conflict because of its support to the Houthi armed group. However, it is generally accepted that the assistance provided by Iran to the Houthis does not meet the threshold of ‘overall control’ required by international criminal law to be considered as a party to the conflict. Evidence available show that Iran supports the Houthis by providing weapons and training but not that it exercises overall control over the armed group. See ICTY, The Prosecutor v. Dusko Tadic, Judgement, IT-94-1-A, 15 July 1999, para. 146; ICC, Situation in the DRC, The Prosecutor v. Thomas Lubanga Dyilo, Judgment pursuant to Article 74 of the Statute, 14 March 2012, para. 541. See also UNSC, Final Report of the Panel of Experts on Yemen, S/2021/79, 25 January 2021, paras. 20-23; Council on Foreign Relations, Yemen’s tragedy: War, Stalemate, and suffering, 2 September 2021.

379. Yemen, UAE, Saudi Arabia (but also Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar and Sudan) are States parties to the Geneva Conventions (see ICRC, Treaties and documents by States). In any event, it is widely recognized that common Article 3 to the Geneva conventions is part of customary international law (see ICTY, The Prosecutor v. Dusko Tadic, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-AR72, 2 October 1995, para. 98; ICTY, The Prosecutor v. Dragoljub Kunarac et al., Judgement, IT-96-23&IT-96-23/1-A, 12 June 2002, para. 68.

380. Additional Protocol II applies where the conflict ‘takes place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.’ See Article 1 of Additional Protocol II. Information available support that the Houthi armed group exercised control over large part of Yemen’s territory since 2014 enabling the group to carry out sustained and concerted military operations and to apply international humanitarian law. Yemen, UAE, Saudi Arabia (but also Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar and Sudan) are States parties to Additional Protocol II (see ICRC, Treaties and documents by States). Numerous disposition from Additional Protocol II are also considered part of customary international law.



Common Article 3 of the Geneva Conventions

196. Common Article 3 of the Geneva Conventions is the minimum set of rules applicable to all parties in a non-international armed conflict. At the heart of common Article 3 is the idea that persons taking no active part in the hostilities (civilians and members of the armed forces hors combat) 'shall in all circumstances be treated humanely, without any adverse distinction'.³⁸¹ For this reason acts such as 'violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture', as well as 'outrages upon personal dignity, in particular humiliating and degrading treatment' against persons taking no active part in the hostilities are prohibited 'at any time and in any place whatsoever'.³⁸²

197. Prohibited as murder under the Geneva Convention³⁸³ are the intentional or recklessness killing or causing of death by acts or omissions of a person taking no active part in the hostilities.³⁸⁴ According to the International Committee of the Red Cross' commentary of the Geneva Convention (ICRC commentary), 'The failure to provide persons protected by common Article 3 who are under one's responsibility with sufficient food or medical care, while having the possibility to do so, leading to their death by starvation, can fall under the prohibition of murder under common Article 3'.³⁸⁵

198. The Geneva Conventions do not define torture. It is therefore appropriate to refer to the definition given by the Convention against Torture but also to the jurisprudence from the international criminal tribunals to identify the elements of the definition of torture as a violation of international humanitarian law. The International Criminal Tribunal for the former Yugoslavia (ICTY) has defined torture as the intentional infliction, by act or omission, of severe pain or suffering, whether physical or mental, for such purposes as to obtain information

or a confession, to punish, intimidate or coerce the victim or a third person, or to discriminate, on any ground, against the victim or a third person.³⁸⁶ International humanitarian law does not require the involvement of a state agent.³⁸⁷

199. Cruel treatment can be defined as intentional or recklessness acts and omissions that cause serious mental or physical suffering.³⁸⁸ Examples of cruel treatment includes the lack of adequate medical attention and inhuman living conditions against detainees in detention centres.³⁸⁹ The notion of cruel treatment has the same meaning as the notion of inhuman treatment as defined by the articles of the Geneva Conventions defining grave breaches.³⁹⁰ Outrages upon personal dignity³⁹¹ constitute the intentional or reckless participation in an act or an omission which would be generally considered to cause serious humiliation, degradation or otherwise to be a serious attack on human dignity.³⁹²

200. The difference between torture on the one hand, and cruel and inhuman treatment and outrages upon personal dignity on the other, lies essentially in two elements. First, torture, unlike the other two violations, must have a specific purpose. The other difference lies in the intensity of the suffering, which must be severe for torture and serious for the other two qualifications. The evaluation of the intensity of the physical and mental suffering caused by the act is done on a case-by-case basis.³⁹³

201. Following the same reasoning as that developed to establish a violation of the Convention against Torture, the facts set out in this report show that by impeding the delivery of essential goods to Yemen for years, the coalition, and in particular Saudi Arabia and the United Arab Emirates, have committed a grave breach of common Article 3 of the

381. Common Article 3(1) of Geneva Conventions. The use of the phrase 'in all circumstances' means that military necessity may not be invoked as an argument against fulfilling the obligation of humane treatment under common Article 3. See *Commentary of 2020, Article 3: Conflicts not of an International Character, Convention (III) relative to the Treatment of Prisoners of War ("Commentary of Article 3")*, para. 597.

382. Common Article 3(1)(a) and (c) of Geneva Conventions.

383. Murder is also prohibited by Article 4(2)(a) of Additional protocol II and is part of international customary law. See Rule 89 (Violence to life) of the *ICRC database on Customary IHL*.

384. *Commentary of Article 3*, paras. 632-635.

385. *Commentary of Article 3*, paras. 629, 635.

386. ICTY, *Branin* Trial Judgment, 2004, paras. 481-489.

387. *Commentary of Article 3*, paras. 681.

388. *Commentary of Article 3*, para. 655 and references cited therein.

389. *Commentary of Article 3*, para. 656 and references cited therein.

390. *Commentary of Article 3*, para. 652. See also *Article 147* of the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 August 1949 and its *commentary*.

391. Outrages upon personal dignity is also prohibited by Article 4(2)(e) and is part of international customary law; *ICRC database on Customary IHL* Rule 90 (Torture and Cruel, inhuman or degrading treatment).

392. *Commentary of Article 3*, para. 700 and references cited therein.

393. ICTY, *Limaj* Trial Judgment, 2005, para. 232.

Geneva Conventions through the murder, torture or at least the cruel and inhuman treatment of Yemeni civilians and the outrage upon their personal dignity.

202. The failure of the coalition to facilitate the entry of food and aid into Yemen, leading civilians into starvation, nor to provide them with medical care while having the possibility to do so, is irreconcilable with the requirement of human treatment.³⁹⁴ Information available suggests that members of the coalition were aware that by disrupting the import of food, fuel, medical supplies, and humanitarian aid, the death, torture, severe physical or mental pain or suffering or severe humiliation, degradation or otherwise violation of dignity of civilians living in Houthi-controlled areas, would occur in the ordinary course of events.

203. While deprivation of food and medical care under common Article 3 to the Geneva Convention is generally connected to the context of detention, nothing prevents the application of common Article 3 to other situations of deprivation of objects indispensable for the survival of the population as long as the persons protected can be considered under that parties' responsibility. As the Commentary of Article 3 explains: 'Letting persons under one's responsibility starve to death by failing to provide food, or letting such persons die or continue to suffer from wounds or sickness by failing to provide medical care, while having the possibility to do so, is irreconcilable with the requirement of humane treatment.'³⁹⁵ As already mentioned, The Coalition controls Yemen's borders, territorial waters and airspace. It exerts a direct external control over the Houthi-controlled territory and an indirect control over life within this territory. Yemeni civilians are therefore partly under the responsibility of the coalition.

204. Thus, the coalition's conduct in relation to the implementation of the aerial and naval blockade

could amount to a violation of common Article 3 of the Geneva Conventions.

205. Article 14 of Additional Protocol II applicable in non-international armed conflicts states: 'Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.'³⁹⁶ According to the ICRC Commentary, the prohibition of starvation as a method of combat is 'only a specific application of common Article 3 and its requirement for all parties to the conflict to treat humanely all persons taking no active part in the hostilities'.³⁹⁷

206. The list of objects indispensable to the survival of the civilian population contained in article 14 of Additional Protocol II is non-exhaustive and, according to the ICRC Commentary, should include objects that 'are of basic importance for the population from the point of view of providing the means of existence'.³⁹⁸ That category is inclusive of humanitarian assistance in the form of food and medicine, as well as commercial food and medicine. Moreover, in the circumstances of Yemen, fuel is indispensable for electricity, transportation of food, and access to clean water, and thus should be considered as an object indispensable for the survival of the population.³⁹⁹

207. The phrase 'attack, destroy, remove or render useless' is meant to cover all eventualities of deprivation. The list is not exhaustive, and the ICRC Commentary specifies that deprivation can also result from an omission.⁴⁰⁰ The parameters of the article also include the prohibition of deliberately

394. *Commentary of Article 3*, para. 629.

395. *Commentary of Article 3*, para. 629.

396. According to the ICRC, the use of starvation as a method of warfare is prohibited under customary international law in international and non-international armed conflict. See ICRC database on Customary IHL, Rule 53 (Starvation as a method of warfare).

397. *Commentary of 1987, Additional Protocol II to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of non-international armed conflicts («Additional Protocol II»)*, article 14 -Protection of objects indispensable to the survival of the civilian population, para. 4794.

398. *Article 14 of Additional protocol II, Commentary of 1987, Additional Protocol II, article 14 -Protection of objects indispensable to the survival of the civilian population*, para. 4794.

para. 4803

399. See also *Global Rights Compliance, World Peace Foundation, The crime of Starvation and Methods of Prosecution and Accountability*, 2018, para. 30 and fn. 46; IBA, War Crimes Committee of the International Bar Association, *Report on the Swiss proposal to amend the Rome Statute to include the war crime of Starvation in non-international armed conflicts*, November 2019, para. 24.

400. *Commentary of 1987, Additional Protocol II, article 14 -Protection of objects indispensable to the survival of the civilian population*, paras 4800-4801. See also Otto Triffterer and Kai Ambos (eds), *The Rome Statute of the International Criminal Court: A Commentary* (3rd edn., C.H. Beck, Hart, Nomos 2016), p. 516.

impeding humanitarian aid provided by Article 18 of Additional Protocol II.⁴⁰¹ To the extent that the blockade of the coalition wilfully restricted civilians' access to food, fuel and medical supplies, as well as humanitarian aid, it can be considered as depriving the civilian population of objects indispensable to their survival.

208. According to the ICRC Commentary, the object of Article 14 is to prohibit the deliberate and thus intentional provocation of starvation and to preserve the means of subsistence of the civilian population.⁴⁰² As detailed below, the intent to use starvation as a method of warfare against civilians may lie in the fact of depriving civilians of objects indispensable for their survival with the will to starve them, or at a minimum with the knowledge that such deprivations would, in the ordinary course of events, lead to starvation.

209. Evidence suggests that the coalition and in particular the UAE and Saudi Arabia have met this standard of intent. Indeed, numerous international humanitarian and human rights organisations, both UN and non-governmental, have repeatedly and publicly alerted the coalition to the imminent risk that the policy of obstruction would lead to starvation.

210. Security Council Resolution 2216 (2015) stated that the coalition had the responsibility to 'facilitate the delivery of humanitarian assistance, as well as rapid, safe and unhindered access for humanitarian actors to reach people in need of humanitarian assistance, including medical assistance'.⁴⁰³ In addition, it recalled that 'acts that threaten the peace, security, or stability of Yemen may also include...obstructing the delivery of humanitarian assistance to Yemen or access to, or distribution of, humanitarian

assistance in Yemen'.⁴⁰⁴ These dispositions of the resolution highlight that the implementation of the arms embargo should not hinder the access or distribution of humanitarian assistance to Yemen.

211. Given Yemen's reliance on imports for essential goods as well as the fragile pre-existing humanitarian situation, the deprivation of essential goods through the undue restrictions put on maritime imports was intended to, or at least was carried out with the knowledge that it inevitably would, result in the starvation of the Yemeni population. Thus, the behaviour of the coalition and especially the UAE and Saudi Arabia could amount to a violation of Article 14 of Additional Protocol II as a result of their use of starvation of civilians as a method of combat.

212. Based on the same reasoning, the members of the coalition are responsible for a breach of Article 18 (2) of Additional Protocol II. This article states that if the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population of an exclusively humanitarian and impartial nature and conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.⁴⁰⁵ The fact that state parties' consent is required does not mean that the parties to the conflict can arbitrarily withhold humanitarian relief. Where a lack of supplies is intended to, or can be expected to, result in the starvation of the civilian population, there should be no valid reason to refuse an offer to provide humanitarian relief to the population and the parties to the conflict are obliged to provide it. A refusal is equivalent to a violation of the prohibition of starvation as the population would be deliberately left to die of hunger without any measures taken to ensure their survival.⁴⁰⁶

401. Commentary of 1987, Additional Protocol II, article 14 -Protection of objects indispensable to the survival of the civilian population, para. 4798 (Thus the prohibition on starving civilians might seem unrealistic to some, but this is by no means the case. Protocol II is conceived in such a way that this humanitarian rule can be respected whatever the circumstances. Article 18 paragraph 2, provides for the organisation of international relief actions in favour of the civilian population when the latter is suffering undue hardship owing to a lack of supplies essential for its survival. Between them these two provisions, which are closely linked, do not allow the argument of military necessity to be used to justify starving the civilian. As soon as there is a lack of indispensable objects, the international relief actions provided for in Article 18 should be authorized to enable the obligation following from Article 14 to be respected.)402. Commentary of 1987, Additional Protocol II, article 14 -Protection of objects indispensable to the survival of the civilian population, para. 4791.

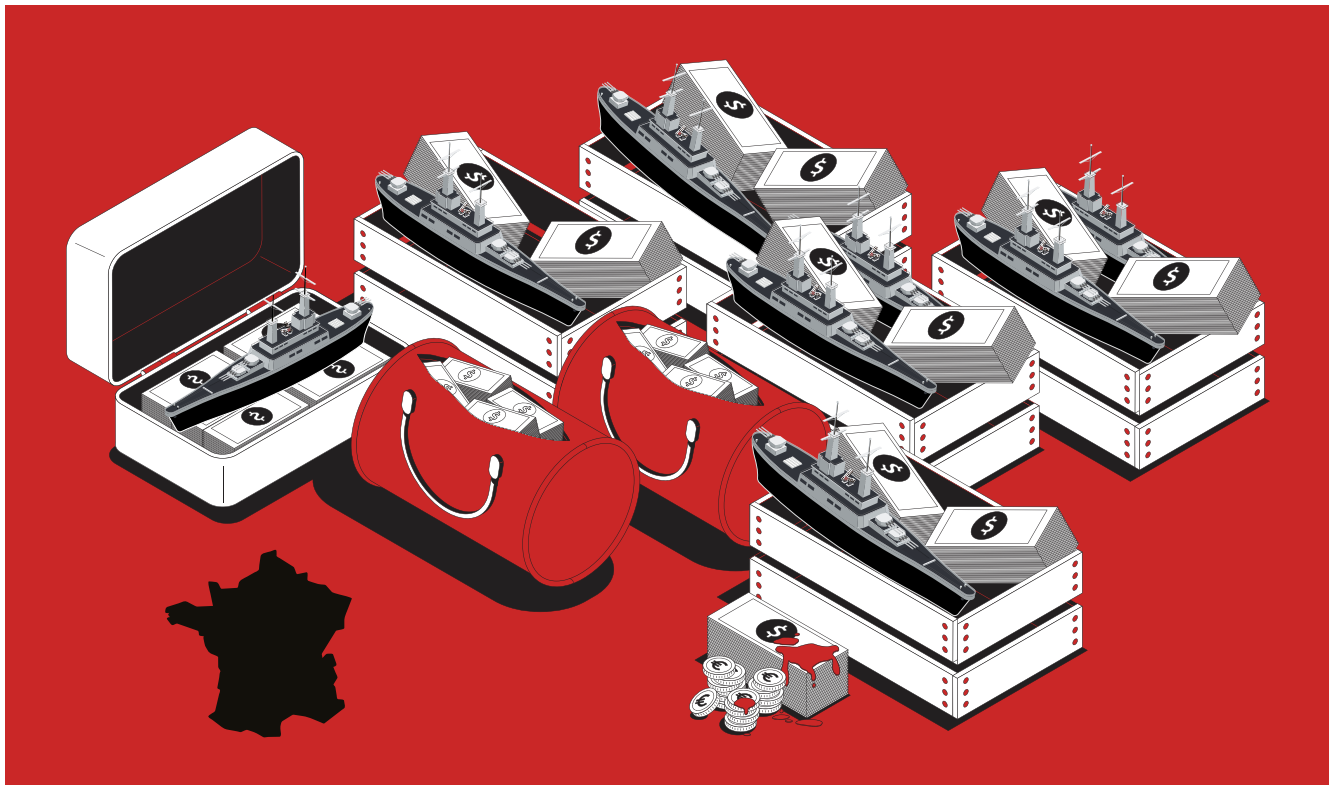
402. Commentary of 1987, Additional Protocol II, article 14 -Protection of objects indispensable to the survival of the civilian population, para. 4791.

403. UN, Security Council, Resolution 2216 (2015), 14 April 2015, para. 9.

404. UN, Security Council, Resolution 2216 (2015), 14 April 2015, para. 19. Moreover, the UN Security Council have on several occasions expressed concerns about hindrances to the effective delivery of humanitarian assistance, including limitations on the delivery of vital goods to the civilian population of Yemen. See, UN, Security Council, Resolution 2266 (2016), 24 February 2016, p. 2 ; UN, Security Council, Resolution 2342 (2017), 23 February 2017, p. 2; UN, Security Council, Resolution 2402 (2018), 26 February 2018, p. 2.

405. The principle that parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, subject to their right of control, is considered a rule of customary international law. See Rule 55 (Access for Humanitarian Relief to Civilians in Need) of the ICRC database on Customary IHL.

406. Commentary of Article 3, para. 875 ; Commentary of 1987, Additional Protocol II, article 14 -Protection of objects indispensable to the survival of the civilian population, para. 4885; Rule 55 (Access for Humanitarian Relief to Civilians in Need) of the ICRC database on Customary IHL.



2. The responsibility of **third states** for the transfer of weapons to the coalition

a. Complicity in the violation of the Convention against Torture

213. As explained above, foreign defence companies have transferred weapons—including in the form of technical assistance, trainings, and maintenance—to Saudi Arabia and the UAE since the beginning of the conflict in Yemen. These companies have been able to develop and maintain their business relationships with Saudi Arabia and the UAE because of the explicit authorisations provided by their respective states, despite the knowledge that those weapons contributed to the blockade and thus the starvation, torture and ill treatment of the Yemeni population. This fact in turn signifies that the companies and their corresponding governments are aware that states of the coalition

could be perpetrating war crimes and other violations of international humanitarian law.

214. The assistance provided by third States such as France to the conduct of acts of torture and ill-treatment could merit state responsibility for violations of the Convention against Torture. According to the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, violations of the prohibition against torture or other ill-treatment can be committed by acts of complicity.⁴⁰⁷ The Special Rapporteur notes that ‘complicity itself can be extraterritorial, as in cases where the individual

407. Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/70/303, 7 August 2015, para. 21.

suffering a violation is located in a territory outside the complicit State's control and under the control of the principal'.⁴⁰⁸ Therefore, even if arms-supplying states are not subjecting the Yemeni population to torture or ill-treatment, they may be in breach of the Convention against Torture if they provide support that contributes to such acts.

215. Those states' responsibility could also derive from the draft Articles on Responsibility of States for Internationally Wrongful Acts (Articles on States Responsibility), which stipulate that a state should not aid or assist another state in the conduct of an internationally wrongful act. According to Article 16 of the Articles on States Responsibility, 'A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) that State does so with knowledge of the circumstances of the internationally wrongful act; and (b) the act would be internationally wrongful if committed by that State.'⁴⁰⁹

216. As shown above, the coalition and notably Saudi Arabia and the UAE may be in breach of Article 1 or at least Article 16 of the Convention against Torture for having committed torture or cruel, inhuman or degrading treatment against the Yemeni population living in Houthi-controlled areas. France, as well as other arms-supplying states like the United States, the United Kingdom, Germany, Belgium, and Italy, have ratified the Convention against Torture and are therefore also bound by it.⁴¹⁰ Thus the coalition's conduct would also be internationally wrongful if it had been committed by those states party to the Convention.

217. As for the 'knowledge of the circumstances of the internationally wrongful act', the French case is a clear example, among others, of countries that

have fuelled the conflict and violations through the supply of war material. It appears that after March 2015, France maintained the export licences and did not halt the implementation of the renovation and maintenance contracts signed with Saudi Arabia and the UAE. France did so despite the knowledge that the naval blockade contributed to the starvation and the torture or ill-treatment of the Yemeni population living in Houthi-controlled areas. The gravity of the Yemeni humanitarian crisis and the importance of the involvement of arms-supplying states in the continuation of the conflict has given rise to numerous reports, conferences, press releases, advocacy campaigns and other appeals to these states to alert them to the human and legal consequences of their actions. France was aware of the risks of the blockade for the Yemeni population as illustrated by French President Emmanuel Macron's request to Saudi Arabia in December 2017, to fully lift the blockade imposed by the coalition to allow access for humanitarian relief and essential commercial goods.⁴¹¹

218. It was therefore with full knowledge of the situation on the ground that France continued to authorise military support, while other states suspended all or part of their arms exports to coalition member countries.

219. France can be understood to have provided aid and assistance to the implementation of the naval blockade and is thus complicit in the torture or at least ill-treatment of the Yemeni population committed by the coalition. This could activate France's international responsibility under the Convention against Torture.

407. Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/70/303, 7 August 2015, para. 21.

408. Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/70/303, 7 August 2015, para. 20. See also the Committee against Torture (para.34)

409. There is a legal debate on whether for the purpose of Article 16 of the Articles on States Responsibility knowledge of the intent of the other State to commit a wrongful act is sufficient or also requires an intention to provide aid or assistance in the commission of such act. Nevertheless, the International Court of Justice interpreted Article 16 as requiring knowledge, rather than intent. The ICJ concluded that a conduct can be qualified as complicity when the assisting State aided the acting State 'in full awareness' of the latter's intent to use the aid to commit the wrongful act. See ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Bosnia and Herzegovina v. Serbia and Montenegro*, Judgment, 26 February 2007, paras.420-423. See UpRights, *Towards a Better Migrant Protection Framework Along the Central Mediterranean Route*, July 2021, fn. 58. See also Human Rights Council, *Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/42/CRP.1, 3 September 2019, para. 915 (a state which knowingly aids or assists another state with a view to facilitating the commission by the latter of an internationally wrongful act is internationally responsible for doing so, provided that the act would have been wrongful if it had been committed by the assisting State itself. Accordingly, states that knowingly aid or assist parties to the conflict in Yemen in the commission of violations would be responsible for complicity in the relevant international humanitarian law violations).

410. France ratified the Convention against torture on 18 February 1986.

411. Reuters, *Macron appelle Ryad à lever le blocus contre le Yémen*, 27 December 2017.

b. Responsibility of third States for aid and assistance to grave violations of international humanitarian law

220. Common Article 1 of the Geneva Conventions states that ‘High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances’. According to the ICRC Commentary, this is interpreted as meaning that state parties must not only respect the Geneva Conventions but also ensure respect for the Conventions by other states and non-state parties. Common Article 1 also applies to common Article 3 of the Geneva Conventions relevant for non-international armed conflicts.⁴¹²

221. This duty to ensure respect for the Convention by others under common Article 1 comprises both negative and positive obligations. As for the negative obligation, High Contracting Parties may neither encourage nor aid or assist parties to a conflict in committing violations of the Geneva Conventions.⁴¹³ According to the ICRC Commentary of Article 1, “Common Article 1 does not tolerate that a State would knowingly contribute to violations of the Conventions by a Party to a conflict, whatever its intentions may be”.⁴¹⁴ As a result, the Article states, ‘Financial, material or other support in the knowledge that such support will be used to commit violations of humanitarian law would therefore violate common Article 1, even though it may not amount to aiding or assisting in the commission of a wrongful act by the receiving States for the purposes of State responsibility.’⁴¹⁵

222. The ICRC commentary of Article 1 adds that ‘An illustration of a negative obligation can be made in the context of arms transfers. Common Article 1 requires High Contracting Parties to refrain from transferring weapons if there is an expectation, based on facts or knowledge of past patterns, that such weapons would be used to violate the Conventions.’⁴¹⁶ The Arms Trade Treaty (ATT) and the EU Common Position on arms export also expressly forbid the export of arms when there is a risk that these could be used in violation of international humanitarian law.⁴¹⁷ Export

licences issued in violation of Common Article 1, the ATT, the EU Common Position on arms export, or even national legislations, might therefore be found to be illegal.

223. Despite this prohibition, arms-supplying states kept on issuing export authorisations which enabled transfer of weapons to the coalition despite public knowledge of the violations of international humanitarian law. For example, French defence companies continued to implement contracts for the renovation and maintenance of the French built vessels of the Royal Saudi Navy and the UAE Navy and their related military equipment after March 2015. Those contracts are based on authorisations or ‘export licences’ provided by the French government who is bound by Common article 1 of the Geneva Conventions but also the ATT and the EU Common Position on arms export.⁴¹⁸ The implementation of these contracts provided substantial material support to the naval forces of the UAE and Saudi Arabia. Indeed, without the maintenance and renovation of the vessels, it is highly unlikely that Saudi Arabia and the UAE could have implemented the naval blockade, or at minimum not to the same effect.

224. As previously stated, there is no doubt that France was aware that the blockade was an important factor contributing to the deterioration of the humanitarian situation for the Yemeni population. By maintaining the authorisation of the renovation and maintenance contracts signed with Saudi Arabia and the UAE after March 2015, France and the other arms-supplying states can be understood to have provided aid and assistance to the implementation of the naval blockade by the coalition. Arms-supplying states may thus be in violation of its negative obligation pursuant to common Article 1 of the Geneva Conventions to not encourage nor aid or assist in the commitment of violations of the Conventions by parties to a conflict.

412. ICRC, *2020 Commentary of 2020, article 1: Respect for Convention, Convention (III) relative to the Treatment of Prisoners of War* (“Commentary of Article 1”) paras. 152, 153, 158. See also Human Rights Council, *Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/42/CRP.1, 3 September 2019, para. 54.

413. *Commentary of Article 1, Convention (III) relative to the Treatment of Prisoners of War*, Geneva, 12 August 1949, Commentary of 2020, paras. 187, 191 referring to ICJ, *Military and Paramilitary Activities in and against Nicaragua* case, Merits, Judgment, 1986, para. 220.

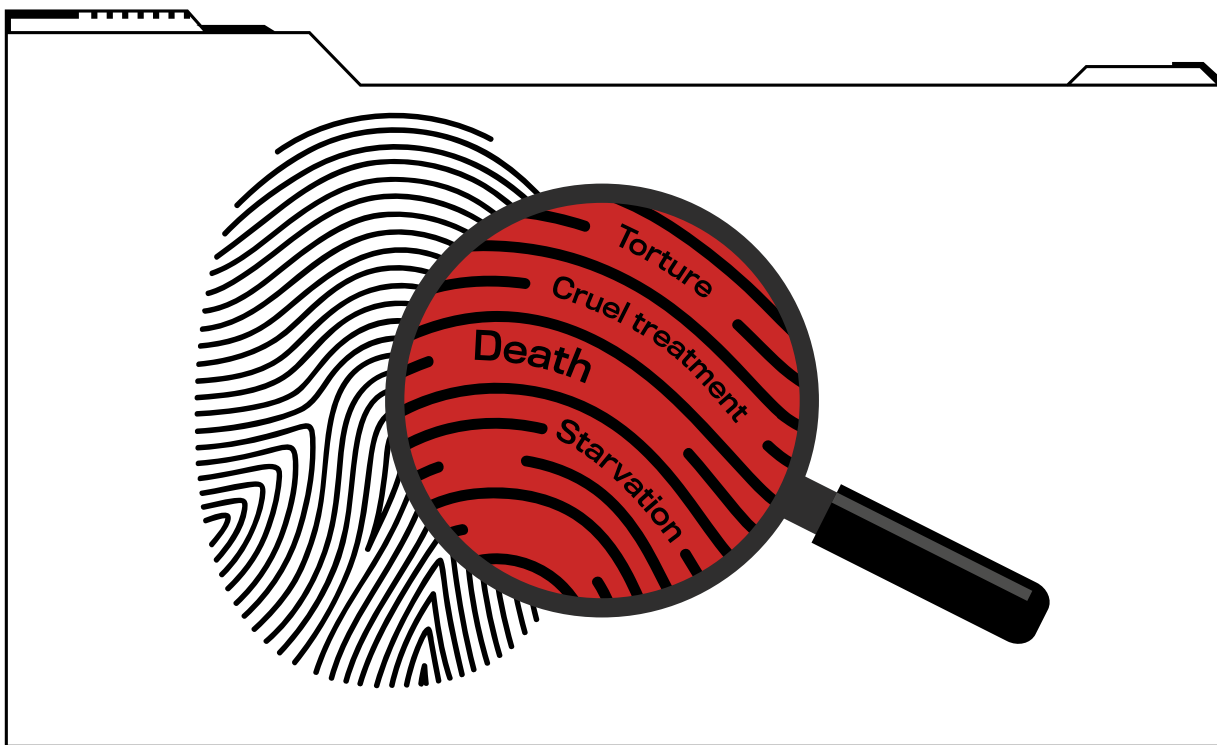
414. *Commentary of Article 1, Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, Geneva, 12 August 1949, Commentary of 2016, para. 159.

415. *Ibid.*, para. 160.

416. *Ibid.*, para. 162.

417. EU Common Position on arms export, article 2; Arms Trade Treaty (ATT), articles 6 and 7.

418. The French military export authorisation system is largely confidential. The decision to authorise or refuse a request to export war materials and assimilated material is ultimately in the hands of the French Prime Minister who receives an assessment and an opinion from the inter-ministerial commission to study exports of military material. Opinions from this commission are confidential and it is thus not possible to know which criteria were examined before granting an authorisation and whether the risk that human rights or international humanitarian law violations occurred was expressly considered by the commission.



3. Potential individual criminal responsibility for war crimes

225. The violations of international humanitarian law related to the implementation of the naval and aerial blockade as a method of warfare could potentially amount to war crimes triggering individual criminal responsibility.

226. Even if Yemen and the members of the coalition (excepting Jordan) are not parties to the ICC, this report relies on Article 8 of the ICC Statute for the definition of war crimes. The ICC remains today the only existing international court that could eventually be seized of the situation in Yemen in the unlikely event that the UN Security Council refers this situation to the Court as recommended by the Group of Eminent Experts on Yemen.⁴¹⁹ The jurisdiction of the ICC could also be established through the

nationality of accomplices who are nationals of countries that have ratified the Rome Statute. A coalition of NGOs has filed a communication to the ICC articulating the complicity of several defence companies and government officials from the UK, France, Italy, Spain, and Germany of serious violations of international humanitarian law constituting the authorisation and export of arms to members of the coalition.⁴²⁰ While the ICC does not have jurisdiction to prosecute companies, it can prosecute and try company executives.

227. Investigation or prosecution of possible war crimes committed in Yemen could also occur at the national level pursuant to universal jurisdiction or other extraterritorial jurisdiction principles. Though

419. UN Group of Eminent International and Regional Experts on Yemen Briefs the UN Security Council urging an end to impunity, an expansion of sanctions, and the referral by the UN Security Council of the situation in Yemen to the International Criminal Court, 3 December 2020

420. Mwatana, *Made in Europe, Bombed in Yemen* (Case Report) Joint Communication to The ICC Prosecutor Office, 12 December 2019.

the domestic definition of war crimes may vary, its definition by the ICC would apply for numerous national jurisdictions as directly or indirectly pertinent.

228. The coalition's economic blockade could potentially constitute several war crimes. These

are the transposition into international criminal law of the provisions of common Article 3 to the Geneva Conventions set out above, essentially consisting of the crimes of murder, torture, cruel treatment, and outrages upon personal dignity. Furthermore, the crime of starvation should also be considered as a war crime.

a. Murder, torture, cruel treatment, and outrages upon personal dignity as war crimes

229. Serious violations of common Article 3 of the Geneva Conventions qualify as war crimes and are reproduced in Article 8(c) of the ICC Statute. The Article lists violence to life and person, including murder of all kinds, mutilation,

cruel treatment, and torture, as well as outrages upon personal dignity, in particular humiliating and degrading treatment when committed against persons taking no active part in the hostilities.⁴²¹

Contextual elements of war crimes

230. To qualify as war crimes, the acts listed in Article 8 of the ICC Statute must be committed in a certain context. For war crimes to be established the following requirements must be met: the conduct must take place in the context of and be associated with an armed conflict;⁴²² and the perpetrator must be aware of factual circumstances that established the existence of an armed conflict.⁴²³

231. The conflict between the Houthi armed group and the internationally recognised Government of Yemen, supported since March 2015 by the coalition, qualifies as a non-international armed conflict.⁴²⁴ Moreover, the blockade implemented by the coalition has taken place 'in the context of' and has been 'associated' with the armed conflict. Indeed, all the naval and aerial access restrictions put in place by the coalition since March 2015 are closely linked to the hostilities as they have been established in the context of the coalition's military campaign against the Houthi armed group.

421. Article 8(c) (i) and (ii) of the ICC Statute.

422. In order for the nexus requirement to be satisfied, the perpetrator's conduct need not take place as part of the hostilities, and the required nexus can be met even for crimes temporally or geographically remote from the actual fighting. The armed conflict need not have been causal to the commission of the crime. Instead, a sufficiently close link to the hostilities is required, namely that the conflict played a substantial part in the perpetrator's ability to commit the crime, decision to commit it, or with regard to the purpose of its commission. ICC, *Prosecutor v. Ntaganda*, ICC-01/04-02/06, Judgement, 8 July 2019 ("Ntaganda Trial Judgement"), para. 731; ICC, *Situation in the Islamic Republic of Afghanistan*, ICC-02/17 OA4, Judgment on the appeal against the decision on the authorisation of an investigation into the situation in the Islamic Republic of Afghanistan, 5 March 2020, para.69; Ntaganda Trial Judgement, para. 731.

423. Ntaganda Trial Judgement", para. 698.

424. See *supra*, paras 149-151.

The criminal act (actus reus)

232. The criminal act (actus reus) corresponds to the criminal action, i.e., the guilty act. The war crime of murder is defined as the killing of one or more persons taking no active part in the hostilities.⁴²⁵ Torture is the infliction of a severe degree of pain and suffering, for a specific purpose that need not be the 'sole or primary purpose'.⁴²⁶ Cruel treatment requires the infliction of severe physical or mental pain or suffering upon one or more persons taking no active part in the hostilities.⁴²⁷ Outrages upon personal dignity require that the perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons taking no active part in the hostilities, and that the severity of such treatment was of such a degree that it is recognised as an outrage upon the personal dignity.⁴²⁸ For all these violent acts, the conduct of the perpetrator can

be an action or an omission, and the death, torture, severe physical or mental pain or severe humiliation or degradation must be the result of the conduct of the accused in such a way that a causal link is established between the conduct and the result.⁴²⁹

233. In the case of the economic blockade, the potential criminal conduct of the coalition lay in the obstacles to the import of essential goods such as food, medicine, fuel, and humanitarian aid, which may have led at least in some instances to the death or severe physical or mental pain or suffering or outrages upon personal dignity upon the Yemeni civilians, namely living in the Houthi-controlled territory.

The criminal intent (means rea)

234. Based on Article 30 of the ICC Statute, the criminal intent for murder, cruel treatments and personal dignity as a war crime entails that the perpetrator (i) meant to kill or to cause the death, to inflict severe physical or mental pain or suffering or to severely humiliate, degrade or otherwise violate the dignity of one or more persons or (ii) was aware that death(s), severe physical or mental pain or suffering or severe humiliation, degradation or otherwise violation of dignity would occur in the ordinary course of events.⁴³⁰

235. As detailed above, available evidence indicates that the official objectives announced by the coalition to justify their policy of restriction

on imports were not the main or at least the sole goals of the naval and aerial blockade. Officially, the coalition has restricted access to Yemen's port to prevent the delivery of weapons to the Houthis and to prevent them from receiving revenue from fuel sales.

The coalition was informed that the blockade did not have the anticipated impact on the Houthi war effort and was more costly to civilians than to the Houthis.

236. The humanitarian consequences of the naval restrictions imposed by the coalition have also been extensively covered from March 2015 until today by international media.⁴³¹ In addition, over the years, several non-governmental organisations

425. ICC Elements of the crimes, Article 8(2)(c)(i)-1; ICC, Prosecutor v. Katanga, ICC-01/04-01/07, Judgement pursuant to article 74 of the Statute, 7 March 2014, para. 784 (« Katanga Trial Judgement »). See also ICTR, Prosecutor v. Setako, ICTR-04-81-A, Judgement, 28 September 2011, para. 257.

426. ICC Elements of Crimes, Article 8(2)(c)(i)-3.

427. ICC Elements of Crimes, Article 8(2)(c)(i)-3. It requires a lesser degree of suffering than torture and does not require any specific purpose ICC, Prosecutor v. Al Hassan, ICC-01/12-01/18, Rectificatif à la Décision relative à la confirmation des charges portées contre Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, 13 November 2019 (« Al Hassan Confirmation Decision »), paras.255-257; ICC, Prosecutor v. Bemba, ICC-01/05-01/08, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, 15 June 2009 (« Bemba Confirmation Decision »), paras.292, 293. See also ICTY, Prosecutor v. Haradinaj et al., IT-04-84-A, Judgement, 19 July 2010, para. 94.

428. Elements of the crimes, Article 8(2)(c)(ii); Al Hassan Confirmation Decision, para.261.

429. Katanga Trial Judgement para. 767, Bemba Confirmation Decision, para. 132..

430. Article 30 of the ICC Statute states that a person has intent where: (a) in relation to conduct, that person means to engage in the conduct; (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events.

431. See for instance Irin news, Shipping ban deepens Yemen's fuel crisis, 16 April 2015; Guardian : Yemenis suffer from lack of food, power and medical aid as battles rage, 1 May 2015; IRIN Fuel shortage leads to Yemen hospital shutdowns, 05 May 2015; The Guardian, Saudi-led naval blockade leaves 20 m Yemenis facing humanitarian disaster, 5 June 2015; Figaro : Fragile trêve au Yémen, plongé dans l'une des pires crises humanitaires actuelles, 11 avril 2016; Reuters : Special Report: In blocking arms to Yemen, Saudi Arabia squeezes a starving population (11 October 2017); The Intercept, Confidential U.N. Document questions the Saudi Arabian Blockade that's starving Yemen, 17 November 2017; FEWSnet, Weakening of the national currency further impacts food and fuel prices, August 2018; France 24 : Yemenis struggle with fuel shortages, skyrocketing prices, 19 September 2018; The New York Times, The Tragedy of Saudi Arabia's War, 26 October 2018.

and UN agencies have publicly warned that the blockade was illegal, as it could amount to violations of international humanitarian law and international human rights law, as well as possibly trigger individual criminal responsibility for war crimes and/or crimes against humanity.⁴³²

237. Despite these warnings, the coalition continued to obstruct the delivery of essential goods. Additionally, the coalition deliberately hampered efforts to restore the capacity of the port of Hodeidah by blocking the reparation and replacement of the destroyed cranes for more than a year while knowing that the main purpose of the installation of the cranes was to facilitate the access of humanitarian assistance and essential goods.⁴³³

238. This suggests that individual perpetrators in the chain of command of the coalition responsible for the blockade of Yemen intended or at minimum were aware, by implementing severe naval and aerial restrictions on the import of essential goods including aid, that deaths, severe physical or mental pain or suffering or severe humiliation or degradation of civilians

would occur in the ordinary course of events. Indeed, the naval and aerial blockade of Yemen should be understood in the context from other methods of warfare deployed by the coalition and in particular Saudi Arabia and the UAE.

The coalition's pattern of conduct since the military intervention of March 2015 supports the conclusion that the deaths and ill-treatment resulting from the coalition's blockade are neither incidental nor accidental. As shown in a recent report from Mwatana for Human Rights and Global Rights Compliance, the pattern of attacks by air strikes on objects indispensable for the survival of the population, including repeated attacks on agricultural infrastructure, water infrastructure and artisanal fishing, as well as the systematic striking of civilians and civilian objects, are evidence of the knowledge and intent of perpetrators of the coalition to starve or mistreat the civilian population.⁴³⁴

239. In light of the foregoing analysis, available information suggests that individuals in the chain of command of the coalition responsible for the blockade of Yemen intended, or at minimum were aware, that by implementing severe naval and aerial restrictions on import of essential goods including aid, deaths, severe physical or mental pain or suffering or severe humiliation or degradation of civilians would occur in the ordinary course of events.

432. United Nations Special Rapporteur on the right to food, Yemen spiralling into major food crisis – UN expert warns against deliberate starvation of civilians, 11 August 2015 ('The deliberate starvation of civilians in both international and internal armed conflict may constitute a war crime, and could also constitute a crime against humanity in the event of deliberate denial of food and also the deprivation of food sources or supplies. The right to food does not cease in times of conflict, indeed it becomes more crucial as a result of the acute vulnerabilities in which individuals find themselves,' the Special Rapporteur noted. 'Parties to the conflict must be reminded of their obligations under international humanitarian law to ensure that civilians and prisoners of war have access to adequate food and water during armed conflict'); United Nations Special Rapporteur on human rights and international sanctions, Lift blockade of Yemen to stop "catastrophe" of millions facing starvation, says UN expert, 12 April 2017 ('The blockade involves grave breaches of the most basic norms of human rights law, as well as of the law of armed conflict, which cannot be left unanswered. He expressed his "deep concern at this man-made famine which is generated by the conflict.'); OHCHR, Halt Yemen conflict now to save generation from famine and cut "alarming" child mortality - UN experts, 25 April 2017 (The deliberate starvation of civilians, in both international and internal armed conflict may constitute a war crime, and could also amount to a crime against humanity in the event of deliberate denial of food); HRW, Yemen: coalition's Blocking Aid, Fuel Endangers Civilians - Houthi-Saleh Obstruction Heightens Crisis, 27 September 2017 ('The restrictions, in violation of international humanitarian law, have delayed and diverted fuel tankers, closed a critical port, and stopped life-saving goods for the population from entering seaports controlled by opposing Houthi-Saleh forces...The substantial harm to civilians is disproportionate to any concrete and direct military advantage to the coalition, in violation of international humanitarian law, Human Rights Watch said'); ICJ, Bearing the Brunt of War in Yemen: International Law Violations and their impact on the Civilian population, Briefing Paper, July 2018, pp. 16-20; OHCHR, Report of the Group of Eminent International and Regional Experts as submitted to the United Nations High Commissioner for Human Rights, 9 August 2019 para. 56 (In both international humanitarian and criminal law, starvation includes the deprivation or insufficient supply of food, water, and indispensable non-food items, such as medicines. It remains to be established whether the parties have intentionally used starvation to advance their military aims. However, the fact that the acts described above all played a role in depriving the population of objects indispensable to its survival, and have been continued, justifies deep concerns that starvation may have been used as a method of warfare by all parties to the conflict. Such deprivation also amounts to prohibited inhuman treatment. Considered serious violations of international humanitarian law, these acts may lead to criminal responsibility for war crimes.) Security Council, Final report of the Panel of Experts on Yemen established pursuant to Security Council Resolution 2140 (2014), S/2011/73, 26 January 2016, para 167 (the systematic blockade of a city or country, as a form of military siege, to prevent goods from entering and people from leaving, raises serious implications from the perspective of international humanitarian law)

433. See supra, paras. 37-40.

434. Mwatana For Human Rights and Global Rights Compliance, Report, The Starvation Makers: the use of starvation by warring parties in Yemen, September 2021, pp. 216-226.



b. Starvation as a war crime

240. The war crime of starvation was initially only incorporated in the ICC Statute in the context of an international armed conflict.⁴³⁵ On 6 December 2019, the Assembly of State Parties, on the basis of a proposal from Switzerland, adopted an amendment to the ICC Statute to include the war crime of starvation in the context of a non-international armed conflict. In accordance with Article 121 of the ICC Statute, an amendment to one of the crimes of the Statute only applies to the states that ratified or accepted this amendment. This last becomes applicable only one year after it was ratified or accepted. To date, only eight States have ratified or accepted this amendment.⁴³⁶

Nevertheless, the crime of starvation can be considered a war crime under international customary law.⁴³⁷

241. The amendment to the ICC Statute inserted as Article 8(2)(e)(xix) defines the war crime of starvation in line with Article 14 of Additional Protocol II as 'intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies'. In addition to the contextual elements, the requirements for the crimes are first that the perpetrator deprived civilians of objects indispensable to their survival, and second that the perpetrator intended to starve civilians as a method of warfare.⁴³⁸

435. See Article (2)(b)(xxv) of the ICC Statute ('Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions'.)

436. UN Treaty Collection, Chapter XVIII, Penal Matters, 10.g [Amendment to Article 8 of the Rome Statute of the International Criminal Court \(intentionally using starvation of civilians\)](#), The Hague, 6 December 2019...

437. See ICC-ASP, [Report of the Working Group on Amendments](#), ICC-ASP/18/32, 3 December 2019, Annex IV, Non-paper submitted by Switzerland: Propose amendments to Article 8 of the Rome Statute on the inclusion of Starvation as a war crime in non-international armed conflicts, para. 5. See also [ICRC database on Customary IHL, Rule 156](#) (definition of War Crimes)

438. [Resolution ICC-ASP/18/Res.5](#), adopted on 6 December 2019.

The material element

242. The criminal conduct lies in the ‘deprivation’ or the act of impeding relief supplies. The Swiss proposal to amend the ICC Statute, based on Article 14 of Additional Protocol II, states that the amended definition would encompass ‘attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population or denying access of humanitarian relief intended for civilians in need, including deliberately impeding humanitarian aid or restricting the freedom of movement of humanitarian relief personnel’.⁴³⁹ An omission from the perpetrator could be accepted under

this definition.⁴⁴⁰ As shown above, the coalition’s conduct could amount to deliberately impeding humanitarian aid. More generally, to the extent that the naval and aerial blockade wilfully restricted civilians’ access to food, fuel, and medical supplies as well as humanitarian aid, the blockade could be considered as depriving the civilian population of objects indispensable to their survival. Moreover, objects indispensable to the survival of civilians shall include in this case humanitarian assistance in the form of food, as well as commercial food, medicine, and fuel.

The criminal intent

243. As a specific crime of intent, for the war crime of starvation to be established, it must be shown that the perpetrator must have intended to starve the population as a method of warfare. There is no need to prove that civilians were actually starved to death or suffered as a result of lack of food. The crime is inchoate and thus completed without the burden of proof that the perpetrator’s intent to starve the population as a method of warfare materialised. Nevertheless, evidence that people died or suffered from the deprivation of indispensable objects is generally the most compelling evidence of the intent to starve.⁴⁴¹

244. As shown above, some individual perpetrators in the chain of command of the coalition intended by maintaining, and even increasing with the full blockade of November 2017, naval and aerial restrictions on essential goods that resulted in death, severe physical or mental pain or suffering

or severe humiliation, degradation or otherwise violation of dignity of civilians.

245. In light of the above, the same evidence could support the conclusion that the naval and aerial blockade in Yemen should also be investigated as a possible war crime of starvation. The problem arises of the inapplicability of the prohibition of starvation as a war crime in situations of non-international armed conflict at the ICC. Thus, if the jurisdiction of the ICC could be established, which remains unlikely given the political context, the qualification of war crimes of starvation could not be retained here. It further shows the importance for state parties to the ICC to ratify the amendment of Article 8(2)(e)(ix) of the ICC Statute in order for the Court to be in a position to investigate and prosecute the use of starvation in a non-international armed conflict consistent with international customary law.

439. Article 14 of Additional protocol II; ICC-ASP, *Report of the Working Group on Amendments*, ICC-ASP/18/32, 3 December 2019, Annex IV, Non-paper submitted by Switzerland: Propose amendments to Article 8 of the Rome Statute on the inclusion of Starvation as a war crime in non-international armed conflicts, para. 4.

440. Global Rights Compliance and World Peace Foundation, *The crime of Starvation and Methods of Prosecution and Accountability*, 2018, para.34; IBA, War Crimes Committee of the International Bar Association, Report on the Swiss proposal to amend the Rome Statute to include the war crime of Starvation in non-international armed conflicts, November 2019, para. 23

441. Global Rights Compliance and World Peace Foundation, *The crime of Starvation and Methods of Prosecution and Accountability*, 2018, paras. 47-50, 94.

c. Individual and corporate criminal responsibility

246. This report only envisages the conduct of the coalition member States and the arms supplying States as a whole and does not attempt to identify individual perpetrators that could potentially be responsible for the alleged war crimes documented. Further investigation is required to establish which individuals within the member states of the coalition and third countries supporting through weapons transfers could potentially be criminally responsible and liable for punishment pursuant to Articles 25 and 28 of the ICC Statute.

247. Pursuant to Article 25 of the ICC Statute, individual perpetrators, whether part of the political or military chain of command of the member states of the coalition that played a role in the decision-making process, establishment and implementation of the blockade, could potentially be held liable before the ICC if it can be shown that they committed, ordered, solicited, induced, aided, abetted or in any other way contributed to the commitment of war crimes or in their attempted commitment. An individual could also be held responsible as a co-perpetrator if they intentionally contributed to the commitment or attempted commitment of crimes by a group of persons acting with a common purpose. Article 28 of the ICC Statute further recognises the responsibility of military commanders and other superiors for the crimes committed by their forces or subordinates falling under their effective authority and control. Such liability includes situations in which the commander or superior knew, should have known, or consciously disregarded information that clearly indicated their subordinates were committing or about to commit crimes and failed to take all necessary and reasonable measures to prevent or repress these acts or to punish the perpetrators.⁴⁴²

248. In addition to the criminal responsibility of perpetrators from the coalition member states, Article 25(3)(d) of the ICC Statute could be relevant to assess the responsibility of individuals from foreign States who authorized the export of weapons to the Coalition and of individuals acting on behalf of foreign defence companies who have substantially contributed to some of the war crimes committed by the coalition by providing weapons, including pieces and components of weapons, ammunitions, technical assistance, maintenance, trainings on the use of weapons, and the like. For example, the Article could allow the close examination of the conduct of some French defence companies who continued after 2015, despite knowing the role played by the coalition in the implementation of a blockade that impacted the humanitarian situation in Yemen, to implement contracts of renovation and maintenance for vessels of the Royal Saudi Navy and the UAE Navy and their related military equipment. Under Article 25(3)(d), an individual may be criminally responsible if he intentionally contributes to the commission or attempted commission of a crime by a group of persons acting with a common purpose. The contribution shall be made with the aim of furthering the criminal activity or criminal purpose of the group or in the knowledge of the intention of the group to commit the crime.⁴⁴³ In 2019 a communication was submitted to the ICC by a Coalition of NGOs requesting the Office of the Prosecutor to launch an investigation into the potential complicity of government officials and executives of arms manufacturing companies from the UK, France, Italy, Spain and Germany, for supplying weapons which could have contributed to the allegedly illegal airstrikes perpetrated by the Coalition, and could amount to war crimes.⁴⁴⁴

442. Article 28 ICC Statute. See ICC, Pre-Trial Chamber II, *The Prosecutor v. Bemba Gombo*, Decision on the Confirmation of Charges, Case No. ICC 01/05-01/08-424, 15 June 2009, paras. 405-407.

443. Article 23(3)(d) of the ICC Statute. See ICC, Trial Chamber II, *The Prosecutor v. Katanga*, Judgement pursuant to Article 74, 7 March 2014, paras. 1619-1642. See also, *Opinio Juris*, Marina Akseova and Linde Bryk, *Extraterritorial Obligations of Arms Exporting Corporations: New Communication to the ICC*, 14 January 2020.

444. Mwatana, *Made in Europe, Bombed in Yemen (Case Report)* Joint Communication to The ICC Prosecutor Office, 12 December 2019.

Likewise, if the blockade is found to constitute a war crime under the ICC statute as developed above, article 25(3)(d) could also allow to examine the conduct of executives of French arms manufacturing companies who decided to continue to implement contracts of renovation and maintenance for vessels of the Royal Saudi Navy and the UAE Navy and their related military equipment after 2015, despite knowing the role played by the Coalition in the implementation of the blockade, and its impact on the humanitarian situation in Yemen.

249. As follows from article 25(1) of the ICC Statute, only natural persons, i.e. individuals, can be prosecuted by the ICC. However, several national jurisdictions, including France, allow for criminal prosecutions against legal persons, such as companies. In a case brought in France against a French cement company accused of complicity in crimes against humanity in Syria, the French Supreme Court notably held that the rules on complicity applied equally to companies and to individuals.⁴⁴⁵ It further ruled that a company acting in pursuit of its business activities could become an accomplice in international crimes even if it did not share the intention to commit the main crimes, but only knew that the perpetrators were planning or committing the crimes and that by its action the company facilitated the commission or preparation

of the crime.⁴⁴⁶ As a result, companies can no longer hide behind the argument that they only acted from a business perspective to gain a financial advantage, and without the intention to facilitate the main crime. Capitalizing on this groundbreaking ruling, three NGOs (ECCHR, Mwatana and Sherpa) filed a criminal complaint in France to ask the judiciary to launch an investigation into the potential complicity in war crimes and crimes against humanity of three French arms manufacturers for supplying and maintaining weapons of the Coalition which could have aided and abetted illegal airstrikes.⁴⁴⁷ Besides seeking the criminal liability of individuals, the responsibility of arms manufacturing companies, as legal entities, for the supply and maintenance of weapons used by the Coalition to implement the blockade could therefore also be investigated by national jurisdictions.

445. Cour de cassation, chambre criminelle, 7 September 2021, Pourvoi no. 19-87.367.

446. Ibid.

447. *Aiding and abetting war crimes in Yemen: Criminal complaint submitted against French arms companies*, 2 June 2022.

448. Security Council, *Resolution 2417*, S/RES/2417, 24 May 2018.

VIII.

CONCLUSION



250. The adoption of Resolution 2417 on the Protection of Civilians in armed conflict adopted by the United Nations Security Council on 24 May 2018 seemed at the time to suggest that the community of states had finally recognised the gravity of the threat of conflict-induced famine and food insecurity in situations of armed conflict. The Security Council strongly condemned ‘the use of starvation of civilians as a method of warfare’ as well as the ‘unlawful denial of humanitarian access and depriving civilians of objects indispensable to their survival, including willfully impeding relief supply and access for responses to conflict-induced food insecurity in situations of armed conflict’.⁴⁴⁸ The Council warned that these practices could constitute war crimes and called on states to provide justice to the victims and punish the perpetrators.⁴⁴⁹

251. This resolution is timely in relation to the gravity of the Yemeni situation, and one could not help but think that such a stance on the part of the UN’s main political decision-making body would augur a change in attitude on the part of member states. This has not been the case. High-ranking WFP staff regret that advocacy from UN bodies and humanitarian and human rights NGOs on hunger resulting from conflicts ‘have not been enough to trigger any level of accountability for the use of such tactics or the deaths that have been the result. Similarly, they have not been enough to trigger investments and action to halt the immediate decline in food security or prevent the reoccurrence beyond a brief cessation of hostilities. Instead, they are used primarily as fund-raising instruments that provide an important, albeit temporal, alleviation of suffering.’⁴⁵⁰

252. In the context of Yemen, the coalition has continued its asphyxiation of civilians with the support of its arms suppliers. In 2020, WFP’s Executive Director David Beasley twice addressed the Security Council on the impact of the conflict on the populations in Yemen: ‘The feedback from Council members, however, has been that this is not enough; the information lacks the necessary detail and is too anecdotal to trigger action.’⁴⁵¹

253. Moreover, in September 2021, the Human Rights Council refused to renew the mandate of the Group of Eminent Experts, which played a crucial role in documenting serious violations of international humanitarian law committed by the parties to the conflict. In doing so, far from ending the suffering of the Yemeni people,

449. The Security Council ‘strongly urges States to conduct, in an independent manner, full, prompt, impartial and effective investigations within their jurisdiction into violations of international humanitarian law related to the use of starvation of civilians as a method of warfare, including the unlawful denial of humanitarian assistance to the civilian population in armed conflict, and, where appropriate, to take action against those responsible in accordance with domestic and international law, with a view to reinforcing preventive measures, ensuring accountability and addressing the grievances of victims’.

450. Brian Lander and Rebecca Vetharaniam Richards, *Pandemic of Hunger Symposium: What is Needed to Trigger Real Action in the Application of UNSCR 2417?*, 19 May 2021.

451. *Ibid.*

the international community has made it invisible. As the Netherlands' ambassador to the UN in Geneva rightly summarised, by ending the Group of Independent Eminent Experts, the Council has 'failed the people of Yemen'.⁴⁵² While eyes turn away from the 'man-made famine' in Yemen, this report hopes to make a modest contribution to keeping the humanitarian catastrophe in Yemen on the radar of what the Security Council calls in its resolution 'those with influence over parties to armed conflict'.⁴⁵³

254. The first urgent need, for the Yemeni people, is that the restrictions on the import of essential goods be lifted immediately. This must not be a bargaining chip in talks between the parties for a cessation of hostilities, but a prerequisite for any potential dialogue between the parties to the conflict.

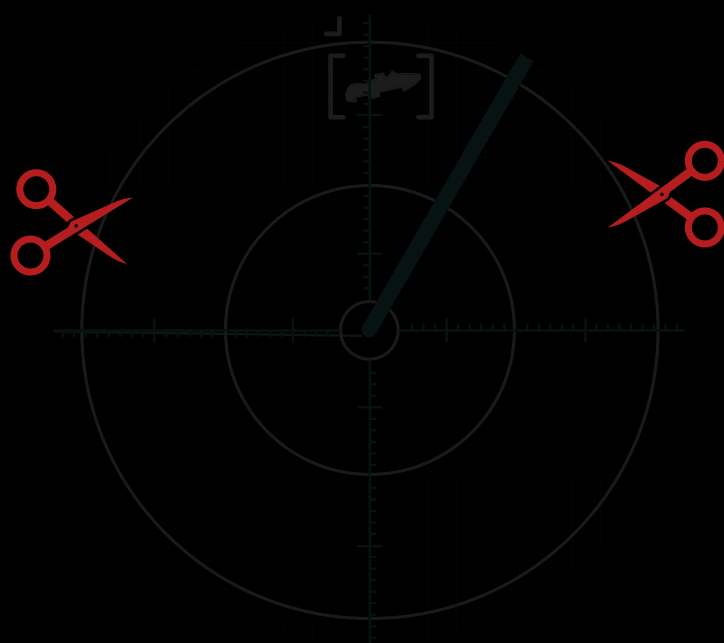
255. Justice and reparations for the victims also constitute a critical need. As Dannenbaum summarises, 'Starvation inflicts specific kinds of physical and psychological suffering, has life-changing impacts on children, heightens the affected population's vulnerability to the spread of infectious disease, contributes to mass displacement and economic deprivation, portends transgenerational reverberating effects, and ultimately kills via these and other mechanisms'.⁴⁵⁴

256. Faced with a crime of such a societal dimension, redress for the victims is imperative yet complex and requires thorough documentation. While calling for the urgent establishment of an independent international investigative body, this report also aims to contribute to the titanic work of documentation of the crimes committed in Yemen since the beginning of the conflict in the hope that one day justice will be rendered to the Yemeni people, either within the framework of a possible transitional justice process in Yemen or before the International Criminal Court or national tribunals that may wish to declare themselves competent for the task.

452. Reuters, [UN ends Yemen war crimes probe in defeat for Western states](#), 8 October 2021.

453. Security Council, [Resolution 2417](#), S/RES/2417, 24 May 2018.

454. T. Dannendaum, *op.cit.*, pp. 405-406.



IX.

RECOMMENDATIONS



To the coalition members:

- Lift all the restrictions, i.e., denial of entry, excessive delays and rerouting, placed on commercial imports of essential goods, including fuel for Yemen ports in Houthi-controlled areas;
- Facilitate the delivery of humanitarian assistance, as well as rapid, safe, and unhindered access for humanitarian actors to reach people in need of humanitarian assistance, in accordance with Resolutions 2417 and 2216;
- When a coalition member undertakes an inspection on a commercial vessel, submit promptly to the Sanctions Committee established pursuant to Resolution 2140 a written report including explanation of the grounds for the inspection, the results of such inspection, and, if relevant, details on the items seized;
- Conduct prompt, serious, and impartial investigations into credible allegations of violations (i.e., torture and ill-treatment, starvation and impediments of the passage of humanitarian relief) committed in relation to the restrictions on the import of basic necessities in Yemen and sanction those found responsible for violations;
- Ensure prompt, effective, and adequate reparations to impacted civilians.

To States supplying weapons to the coalition members:

- Immediately suspend the export licenses granting authorizations to deliver weapons—including ammunitions, maintenance and training activities—to the coalition members, as there is a high risk that these materials will be used to perpetrate violations of international humanitarian law and other war crimes;
- Conduct prompt, serious, and impartial investigations into credible allegations of complicity of war crimes committed by defence companies and government officials through the authorisation and transfer of weapons used to impede the delivery of essential goods to Yemeni civilians.

To the UN Security Council:

- Refer the situation in Yemen to the International Criminal Court;
- In accordance with Resolution 2140 (2014) read together with Resolution 2216 (2015), add to the list of sanctions individuals and entities from the coalition engaging in or providing support for acts that threaten the peace, security or stability of Yemen, including through obstructing the delivery to Yemen of objects indispensable to the survival of the population, including fuel;
- Demand all parties to the conflict of the obligation immediately cease the obstruction of the delivery of life-saving goods to the Yemeni people.

To the UN General Assembly:

- Establish an independent and impartial international accountability mechanism for Yemen to investigate and publicly report on the most serious violations and abuses of international law committed in Yemen, while also collecting and preserving evidence and preparing files for possible future criminal prosecution.

To all states:

- Support the establishment of an international accountability mechanism for Yemen;
- Prompt the parties to the conflict to immediately cease the obstruction the delivery of life-saving goods to the Yemeni people;
- Conduct prompt, serious, and impartial investigations into credible allegations of violations committed in relation with the restrictions on the import of basic necessities in Yemen and sanction those found responsible for violations;
- Criminalise starvation as a method of warfare in the context of international and non-international armed conflicts;
- For the states party to the ICC, ratify the amendment of the Statute adding starvation in a non-international armed conflict as a war crime under the ICC Statute.

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OMCT International Secretariat

Geneva, Switzerland
Tel: +41 22 809 49 39
omct@omct.org

OMCT Office in Tunisia

Phone: + 216 71 791 115
omct-tun@omct.org

www.omct.org



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