

Yemen, UN Report on the Armed Conflict since 2014

***INTRODUCTORY TEXT:** The Group of Eminent International and Regional Experts on Yemen was mandated by the UN Human Rights Council under resolution 36/31 of 29 September 2017 to investigate human rights and other international law violations in Yemen. In a detailed report to the UN Human Rights Council in 2019, the Group raised allegations of violations by almost all of the parties to the conflicts in Yemen. The report's findings allow for a discussion of some of the “emblematic situations” (as the Group refers to them) that raise complex issues of IHL, particularly regarding the classification of armed conflict situations and conduct of hostilities.*

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N.B. As per the disclaimer, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

Situation of human rights in Yemen, including violations and abuses since September 2014

[**Source:** Situation of human rights in Yemen, including violations and abuses since September 2014, Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen, 3 September 2019, A/HRC/42/CRP.1, available at https://www.ohchr.org/Documents/HRBodies/HRCouncil/GEE-Yemen/A_HRC_42_CRP_1_AR.PDF]

[...]

I. Introduction and Mandate

[...]

2. The Group of Experts was mandated to carry out a comprehensive examination of all alleged violations and abuses of international human rights and other appropriate and applicable fields of international law committed by all parties to the armed conflict in Yemen since September 2014, [...]

[...]

III. Legal Frameworks

A. Introduction

[...]

44. The situation in Yemen is mainly described as a conflict between the Government of Yemen, supported by the international coalition of States led by Saudi Arabia, and the Houthis. However, it also features a number of other separate but inter-linked non-international armed conflicts involving different armed groups, whether or not affiliated with or supporting the parties to the main conflict.

B. Applicable Law

1. International Humanitarian Law

[...]

46. The conflict between the armed forces of the Government of Yemen (hereafter “Yemeni armed forces”) and the Houthis qualifies as a non-international armed conflict between a State Party and a non-State armed group, respectively. The conditions for the existence of an armed conflict, in particular the necessary level of intensity in hostilities, have been present for the entire period under review. Non-international armed conflicts are regulated by treaty law, in particular Article 3 Common to the Four Geneva Conventions of 1949 (hereinafter “Common Article 3”), and Additional Protocol II thereto [...], to which Yemen is a party, as well as customary international humanitarian law.

[...]

49. Non-State armed groups are bound by Common Article 3 of the Geneva Conventions and – provided that the necessary requirements as to level of organization and exercise of territorial control are reached – also by Additional Protocol II. [...]

50. [...] The member States of the coalition [Saudi Arabia, United Arab Emirates, Bahrain, Egypt, Kuwait, Sudan, Jordan, Morocco, and Qatar, as well as Pakistan, Djibouti, and Senegal] supporting the Government of Yemen became parties as “co-belligerents” to the pre-existing non-international armed conflict between Yemen and the Houthis, from the time of the coalition intervention in March 2015. [...]

51. All members of the coalition have ratified the four Geneva Conventions and both Additional Protocols of 1977. [...]

52. Several other non-international armed conflicts of different levels of intensity are also ongoing in Yemen between the Yemeni armed forces and non-State armed groups, such as Al Qaeda in the Arab Peninsula (hereinafter “AQAP”) and the so called “Islamic State”, as well as between different non-State armed groups, sometimes in support of or in opposition to a specific party to the main conflict between the Yemeni armed forces and the Houthis. [...]

53. Also of relevance to the period under review are operations including the use of unmanned aerial vehicles (drones) by the United States of America in the territory of Yemen within the scope of its operations against AQAP and the Islamic State, Such operations have reportedly been launched in support of the Government of Yemen’s fight against Al Qaeda as a non-State armed group, [...]

54. The obligations of third States to ensure respect for international humanitarian law, in accordance with Article 1 common to the four Geneva Conventions (hereinafter “Common Article 1”), are also particularly relevant in this context. This is particularly the case for any State that influences or provides support to parties to the conflict, such as France, the Islamic Republic of Iran, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

[...]

V. Context, background, and update on the political situation

92. While a detailed discussion of Yemeni political history is beyond the scope of this report, a brief review of the depth and breadth of the roots of the current conflict is undertaken in order to establish the context from which it arose, as well as to explain the background of the different actors involved in the armed conflict whose alliances continue to shift.

[...]

B. Armed Conflict and Political developments: September 2014 to August 2019

107. On 21 September 2014, President Hadi [Abd-Rabo Mansour Hadi, president of Yemen since 2011], together with Ansar Allah [official name of Houthi] delegates and other major political parties, signed a ceasefire brokered by the UN, the “Peace and National Partnership Agreement”, ostensibly ending a month of fighting that had resulted in hundreds of casualties. However, on the following day, Houthi fighters attacked and seized the headquarters of the regional military command in Sana’a.

108. The security situation remained very tense and late in January 2015 fighting broke out in Sana’a between Houthi-Saleh fighters [alliance between the Houthis and forces loyal to former President Saleh] and members of the Presidential Guard. The Houthis seized the presidential palace on 20 January and the residence of President Hadi, who was then placed under house arrest, together with other senior officials. On 22 January, the President, Prime Minister and the entire cabinet resigned. President Hadi managed to escape to Aden on 21 February 2015 and from there he announced his intention to continue to exercise his presidential functions.

109. In March 2015, Houthi-Saleh fighters launched a military offensive to take control of the south. On 19 March, the presidential palace in Aden came under aerial attack, allegedly by pro-Houthi-Saleh supporters from the Yemeni Air Force.

110. On 24 March 2015, President Hadi requested the GCC [the Gulf Cooperation Council] and the League of Arab States to intervene militarily, notifying the United Nations Security Council and requesting a Chapter VII resolution inviting all willing countries to provide support to deter the Houthi advance. On 25 March 2015, 10 countries, led by Saudi Arabia, formed a coalition to intervene militarily in Yemen, in response to President Hadi’s request. The United States announced that it would provide logistical and intelligence support for the coalition. Coalition forces launched an aerial military campaign which they named “Decisive Storm” against Houthi military targets in Yemen on 26 March. In addition to airstrikes, coalition naval forces imposed a *de facto* blockade on the ports of Aden and al-Hudaydah.

111. On 9 August 2016, the Government of Yemen and coalition forces closed the airspace surrounding Sana’a, effectively closing Sana’a International Airport. The airport remains closed to commercial aviation to date. [...]

[...]

115. On 4 November 2017, the Houthis fired a missile from Yemen towards the Saudi Arabian capital, Riyadh. [...] In response, Saudi Arabia intensified airstrikes across Yemen and as of 6 November announced a complete blockade of all Yemen borders – air, sea, and land. [...] On 22 November, the coalition announced that it would allow humanitarian flights to resume to the capital, Sana’a, and “urgent humanitarian and relief materials” to begin moving to the Houthi-controlled port of al-Hudaydah.

116. From 28 November 2017, following continued tensions between the allied Houthis and former president Saleh, their forces clashed in Sana'a. On 2 December, in a televised statement, Saleh declared his split from the Houthis, calling on his supporters to take back the country and expressing a willingness to enter a dialogue with the coalition. On 4 December, Houthi fighters attacked Saleh's house in Sana'a. Saleh was killed by the Houthis that day [...].

117. On 21 January 2018, the STC, allied with the United Arab Emirates, declared a state of emergency in Aden and issued an ultimatum to President Hadi to dismiss his government, [...]. Following the expiration of their one-week deadline, and in response to President Hadi's countermeasures [...] the STC and its supporters clashed heavily with pro-Hadi forces. Forces supported by the United Arab Emirates aligned with the STC took control of most of the city and surrounded the presidential palace in what President Hadi described as a "coup attempt", though they were stopped from entering the palace by troops from Saudi Arabia.

118. From May 2018, Yemeni armed forces and groups backed by the United Arab Emirates began to mobilize for an offensive, which officially began on 13 June, as they moved towards al-Hudaydah city [...]

[...]

122. On 14 May [2019], the Houthis claimed responsibility for drone attacks striking oil facilities in Saudi Arabia, which led to an intensification of the coalition air campaign and subsequent missile attacks claimed by the Houthis, including some that reportedly killed and injured civilians at Abha International Airport in Saudi Arabia.

123. The security situation remained very tense in the south. In August 2019, Aden saw the worst violence since the 2015 fighting. [...] Ensuing tensions came to their peak on 7 August, when fighting broke out between UAE-backed Security Belt forces and those loyal to President Hadi. After a few days of fighting, [...], Security Belt Forces had gained control of most of Aden and parts of Abyan and Shabwah. [...]

VI. Emblematic Situations

A. The battle of Aden (March – September 2015)

[...]

2. Violations and Alleged Crimes

[...]

(a) Shelling by Houthi-Saleh fighters

130. Houthi-Saleh fighters used explosive weapons with wide area effects to attack areas densely populated with civilians and civilian objects, causing a large number of victims and extensive suffering and destruction.

[...]

[...]

Killing of civilians and destruction of civilian residential areas and attacks on oil refinery in al-Bureiqa peninsula

133. Starting mid-June 2015, Houthi-Saleh fighters fired dozens of rockets at the al-Bureiqa peninsula from within the al-Towaihi District across the bay. [...] The shelling also hit the Aden oil refinery, causing extensive environmental and economic damage to the city of Aden, and further exacerbated the humanitarian situation.

[...]

134. On 27 June 2015, between 10:00 hrs and 13:00 hrs, several rockets landed on the perimeter of the Aden oil refinery. The rockets landed on one large oil storage tank and on the pipelines connecting the refinery to the oil port. [...] The director of operations of the refinery died while attempting to extinguish the fire, and other refinery workers sustained burn injuries. On 29 June, a second attack was launched on the refinery, from which no further damage or casualties were reported. On 13 July 2015, in the afternoon, another series of rockets landed on the refinery, causing damage to at least two storage tanks and setting the tanks ablaze, which produced flames and black smoke for at least two more days. On both occasions, air pollution in the area and suffocation risks had reached critical levels. The emission of fumes also caused potential long-term health damage to the inhabitants of al-Bureiqa. [...]

[...]

(c) Military use of Hospitals resulting in damage, civilian casualties, and denial of access

[...]

The People's Obstetrician Hospital, Craiter District, Aden

163. In April 2015, when Houthi-Saleh fighters took control of several locations in Craiter district, they deployed around the People's Hospital, which specialised in obstetric and neonatal care. The hospital had closed because of the fighting and medical personnel had fled. Houthi-Saleh fighters established a military base and deployed military vehicles and snipers into the premises of the hospital. They also used the building as a transit detention facility for arrested members of the Southern Resistance, before their transfer to a larger detention facility. [...] On 14 July, a coalition airstrike hit the hospital, causing extensive damage to

the main hospital compound and the perimeter wall.

[...]

Occupation of Hospitals

166. Houthi-Saleh fighters also occupied hospital buildings, preventing civilian access to essential medical care and endangering the existing medical infrastructure. As noted above, (para 163), [...], they deployed around the People's Obstetrician Hospital. [...] Houthi-Saleh fighters established a military base and deployed military vehicles and snipers into the premises of the hospital. [...] Houthi-Saleh fighters also took over the Military Hospital in al-Towaihi and the General Hospital of al-Musaymir. Both hospitals had been evacuated by the time the Houthis occupied them.

[...]

Violations

[...]

170. [...] [T]he Group of Experts has reasonable grounds to believe that the Houthi-Saleh fighters violated the obligation to respect and protect medical personnel and facilities at all times and in all circumstances, as well as the obligation to respect and protect the wounded and sick. [...]

[...]

(e) Use of protected objects for military purposes, and subsequent attacks thereon

[...]

Cultural Site of Bazraa Elementary School, Craiter district, Aden

177. The Bazraa Elementary School, built in 1912, is one of the oldest schools in Aden. It was considered as one of Aden's monuments. The school had closed at the outset of the war, in March 2015. In April 2015, Houthi-Saleh fighters occupied it and used it for military purposes, including as a detention facility for captured fighters from the Resistance. On 14 July 2015, a coalition airstrike inflicted considerable damage to the school.

[...]

Violations

[...]

185. With regard to schools and other education facilities, the Group of Experts has reasonable grounds to believe that the parties to the conflict have violated the principle of precautions against the effects of attack in using schools for military operations. They may also have violated the principle of distinction, in blurring the distinction between civilian and military objects in using schools for military operations. In using schools for military purposes, including in occupying them, parties to the conflict may have further prevented the realisation of the right to education, as guaranteed by both international humanitarian law and human rights law.

(f) Coalition airstrikes impacting civilian objects and a cultural site

[...]

Al-Fyoush cattle market, 6 July 2015

187. On 6 July 2015, at around 0600 hrs, coalition airstrikes hit a cattle market in al-Fyoush village in Lahij province, resulting in the killing of over 40 civilians and injury of over 20 others. [...] Cattle were also killed in the airstrike. Many of the victims were blown apart due to the magnitude of the blast and could not be identified in the aftermath of the strike. Due to the intense fighting in Aden, the numerous checkpoints at the entrance of Aden, and the restrictions on access to various areas of the city during the 2015 military offensive, the qat market of al-Fyoush had expanded to a wider market for cattle and other goods. Large numbers of civilians used to visit the market. [...] The Group of Experts noted that Houthi-Saleh fighters had a checkpoint at a petrol station in the immediate vicinity of the market, where there usually were large gatherings of Houthi-Saleh fighters and where they parked their vehicles.

Musa'ab Bin Omer School

188. On 9 July 2015, at 13:00 hrs, a coalition airstrike hit Musa'ab Bin Omer School in Tahrour district of Lahij province, killing 11 civilians and injuring 19 others. The injured included three women and seven children, including a five-month-old baby. The strike fell in the middle of the eastern side of the building, severely damaging the school, with seven classrooms destroyed and the remaining classrooms considerably damaged. Sources indicated that the airstrike may have targeted an alleged Houthi-Saleh fighters' position within the school. At the time of the airstrike, the school was providing shelter to 12 displaced families who had fled from fighting in neighbouring al-Hawtah. [...]

189. On 7 June 2018, the JIAT stated that on that morning, the coalition air forces had carried out two airstrikes against two buildings in which armed Houthi fighters were located, situated kilometres away from the school. [...]

[...]

Violations

[...]

194. In the cases described above, the Group of Experts has reasonable grounds to believe that coalition airstrikes hit civilian objects. Moreover, at the time of attack, these objects appeared to be civilian objects benefitting from protection under international humanitarian law, as a facility dedicated to education (Musa'ab Bin Omer School), [...], and objects indispensable for the survival of the population (the cattle market). In these cases, the Group of Experts found that the nature of the attack raises strong concerns with regard to the targeting processes of the coalition. Even if the coalition had effectively identified military targets, which is in itself in dispute, the location of the strike (i.e. a crowded market and a school sheltering displaced persons) should have raised concerns with respect to the principles of proportionality and precautions in attack, given that it could have been foreseeable that a number of civilians would be killed in the attack.

[...]

(g) Extrajudicial executions at Sri Hingraj Mataji temple by Resistance fighters

196. In April 2015, Houthi-Saleh fighters entered the district of Craiter, Aden. At the same time, the remaining Yemeni armed forces and civilian police deserted the district, handing over control to Resistance forces. Between 2 April 2015 and 10 May 2015, the Houthi-Saleh and Resistance forces fought for control of the district with most fighting concentrated on a frontline in the southeast. During this time, the northwest majority of the district remained under Resistance control. Within this area of control is situated the Craiter police station. The abandoned Sri Hingraj Mataji Mandir Hindu Temple lies one kilometre north of the police station.

197. During this period, Resistance forces took responsibility for law and order, and detained a number of people at the Craiter Police Station. This included four local civilians, two former Houthi-Saleh fighters, and another local civilian with a mental health disability.

198. On the morning of 10 May 2015, Houthi-Saleh fighters defeated the Resistance forces who retreated north, [...]. At 0830 hrs, as part of their retreat, armed Resistance fighters released the detainee with mental health issues, and took the remaining six detainees with them in two armoured vehicles to the Sri Hingraj Mataji Mandir Temple. [...] They took the six prisoners to an open area in front of and slightly to the east of the main temple.

199. All six of the detainees were handcuffed. The four civilians were forced by the fighters to lie down on the ground away from each other on their fronts. The fighters then proceeded to fire a number of shots into their

backs around the area of the heart using semi-automatic firearms. At the same time other fighters held the two former Houthi-Saleh fighters, and started cutting their throats with knives. [...]

Violations

200. Arbitrary deprivation of life is strictly forbidden under international human rights law. When an unlawful killing is carried out by representatives of authorities in control of an area who act as law enforcement officials, it amounts to an extrajudicial execution. Under international humanitarian law, when – within the context of an armed conflict – a party to the conflict intentionally kills a person who does not take a direct part in hostilities, or who has ceased to do so, it amounts to wilful killing or, in a non-international conflict, to murder. Murder is a serious violation of international humanitarian law, hence a war crime that may lead to individual criminal responsibility.

[...]

B. Control of Aden and the south (2016–2019)

[...]

1. Context

211. [...] In March 2015, when Houthi-Saleh fighters attacked areas of the South, including Aden, those in the Southern Movement integrated with the Resistance and Government forces opposing the Houthi-Saleh advance. The Resistance was formed by men and boys as young as 15 with different affiliations, including local civilians, the Southern Movement, Popular Committee militias who had previously supported the Government to fight AQAP, Salafists, al-Islah, AQAP and Islamic State affiliates. From April 2015, they were organised, equipped and funded by the United Arab Emirates under the strategic command of the United Arab Emirates-coalition commander. [...]

212. By August 2015, the counter attacks by Resistance and Saudi-United Arab Emirates led forces compelled the Houthi-Saleh fighters to retreat from Aden, Lahij, Abyan, Shabwah, Hadramaut, and southern Ta'izz. In the wake of this, a security vacuum occurred. The alliance within the Resistance forces broke down, in part due to differences in opinion between the constituent groups over secession and how close to ally with the Saudi Arabia-United Arab Emirates-led forces. Intra-Resistance clashes led to a split, with one group siding with the Government, and the other with the United Arab Emirates. The Southern Movement suffered a similar divide between UAE supporters and opponents. [...]

[...]

216. Between February and May 2017, United Arab Emirates and Security Belt forces fought against

Government and coalition forces for the control of Aden airport. As a result, on 27 April 2017, President Hadi relieved Minister of State Bin Breik and Governor al-Zubaidi of their positions. Security Belt leaders and fighters who defied the United Arab Emirates orders to attack Government forces were relieved of their commands by the United Arab Emirates, and some joined the Government forces. [...] On 11 May 2017, Bin Breik and al-Zubaidi, together with 10 other politicians, founded the Southern Transitional Council, claiming it to be the legitimate representative of southern Yemenis.

217. In January 2018, the Southern Transitional Council publicly declared it was launching a coup, following which Security Belt forces attacked Government-held areas of Aden. President Hadi publicly acknowledged the coup attempt. By 30 January 2018, the Southern Transitional Council declared victory in Aden, with the Security Belt achieving complete control of the governorate. Government ministers fled the country and Yemeni armed forces withdrew from all areas of Aden apart from the Presidential Palace and two military bases. Hani Bin Breik later stated that the attacks were ordered by the coalition. [...]

218. In September 2018, Hani Bin Breik stated publicly that Southern Transitional Council forces consisted of the 'resistance military forces' under the operational command of the coalition. On 1 November 2018, the Southern Transitional Council inaugurated the Southern National Assembly, a legislature of 303 representatives across southern Yemen. Since then the Southern Transitional Council, [...], has opened foreign representative offices, and developed a media presence and public profile internationally.

[...]

2. Detention-related violations: Arbitrary detention, enforced disappearances, torture and ill-treatment

220. [...] [T]he United Arab Emirates, Security Belt and Shabwah Elite operated a network of unofficial detention facilities. [...]

221. [...] The Group found that the secret detention facility at al-Bureiqqa coalition base (hereinafter "al-Bureiqqa") and the Bir Ahmed II detention facility (hereinafter "Bir Ahmed II") operate as hubs, to which detainees are transferred from satellite sites for longer-term detention. [...] Bir Ahmed II and Bureiqqa have also acted as the departure point for detainees to other facilities in Hadramaut, and Assab, Eritrea.

222. [...] In most cases investigated, the detainees were either Resistance leaders, Yemeni armed forces soldiers and officers, 'northerners', human rights activists, journalists or linked to religious leaders.

(a) Al-Bureiqqa coalition base detention facility, Aden

223. Al-Bureiqqa coalition base operates as the Headquarters for the coalition in Yemen and is controlled by

the United Arab Emirates. [...] Within the confines of the base, the coalition operates a secret detention facility. [...] In the more than 14 separate cases investigated between 2017 and May 2019, detainees, including one boy, were former Resistance fighters, Government soldiers, and human rights activists. [...]

224. At al-Bureiqa, all detainees were kept in solitary confinement. They were then taken to specific rooms, variously referred to by the United Arab Emirates military personnel as the 'Torture Room' or 'Room of Dreams' and subjected to lengthy interrogations and torture by United Arab Emirates military personnel over several hours, often repeatedly over a series of days, weeks or months. All detainees were hand cuffed and many were blindfolded during their interrogation as a means to disorient and disable them. In these interrogations, United Arab Emirates military personnel applied torture, threats, and sexual violence. They applied this purposefully in order to humiliate, degrade, stigmatise, and coerce detainees to confess or to forcibly recruit them. Torture included electrocutions, hanging from the ceiling for long periods, repeated beatings with metal cables, removal of finger and toenails, forced nudity, rape, and sexual assault.

[...]

(f) Al-Tin detention facility, Seiyoun

240. Al-Tin detention facility is a small secret facility located to the south of Seiyoun city within the Yemeni armed forces headquarters for the First Military District. [...] These facilities fall within the northern half of the governorate of Hadramaut, an area that is almost entirely under the control of the Government and Saudi Arabian armed forces. [...]

241. [...] At al-Tin, those responsible for interrogations and torture were witnessed to be a mixture of Saudi Arabian and Government of Yemen intelligence officers and understood by witnesses to be under the supervision of the Saudi personnel. [...]

242. [...] At al-Tin, detainees were kept in solitary confinement or two together in a one by one metre room referred to by guards as 'The Pressure Room.' All detainees were subject to what they described as a seemingly random routine of torture inside the rooms and on the grounds of the facility, including forced nudity whilst crawling through dirt with rocks on their back, beatings with guns and sticks, electrocutions, mock executions, and prolonged hanging from the ceiling by their arms. [...]

[...]

(g) Assab detention facility, Eritrea

244. Assab Detention Facility is located 12 km North of Assab city, in Southern Danakalia District, Southern Red Sea Region, and Eritrea. The facility is controlled by the United Arab Emirates and is adjacent to their Naval Base. It is located 2.5 km east of the United Arab Emirates Airbase in Assab. At the outset of the

coalition intervention in the war in May 2015, the United Arab Emirates publically established these bases in Assab as locations from which it would undertake its intervention in Yemen. [...]

245. Witnesses identified United Arab Emirates military personnel as the guards and interrogators at Assab. [...] In particular cases anti-United Arab Emirates fighters or fighters who had refused to work for Security Belt were disappeared to Assab and then coerced by United Arab Emirates military personnel to work for them in conducting assassinations. They were then transferred back to Yemen via al-Bureiqa or Bir Ahmed I and II. In 2018, there were at least nine male detainees witnessed at Assab, consisting of former Resistance, Security Belt members, and Houthi fighters. [...]

(h) Violations

[...]

248. Based on its investigations, the Group of Experts has reasonable grounds to believe that numerous cases of enforced disappearances took place [...]. A network of facilities has been used to disappear individuals, mainly those perceived to oppose the UAE, keeping them away from any judicial oversight, as well as from their relatives. This is the case for the following detention facilities: Al-Bureiqa coalition base detention facility (UAE-controlled secret facility); [...] Al-Tin detention facility (secret facility controlled by the Government of Yemen and Saudi armed forces); Assab detention facility, Eritrea (UAE secret facility).

[...]

251. [...] In all these facilities, torture has been used during interrogations, mainly in order to coerce confessions. In al-Bureiqa, it was also reportedly used to recruit.

[...]

C. Ta'izz, the Continual frontlin

1. Context

300. The city of Ta'izz, capital of Ta'izz governorate, is Yemen's third largest city by population. Once known as the country's cultural capital, Ta'izz was the birthplace of the 2011 protests that led to the end of the rule of President Ali Abdullah Saleh. [...]

301. The Group of Experts examined the situation in Ta'izz over two periods of time considered emblematic of the varying conflict dynamics in the governorate. First, the Group examined violations relating to the conflict in Ta'izz during its first year in 2015-2016, known as the "Battle of Ta'izz", which followed the Houthi-Saleh takeover of the city in March 2015 and the ensuing hostilities between Houthi-Saleh fighters and the

Resistance. This period was marked by the siege-like situation created by the Houthi-Saleh fighters who cut off the main supply roads to the city after being pushed to its outskirts. Next, the Group examined violations taking place in 2018 and 2019 during the ongoing fight for the control of Ta'izz. [...]

2. The Battle of Ta'izz (2015-2016)

302. On 22 March 2015, the Houthis, supported by armed groups loyal to former President Ali Abdallah Saleh whose role was instrumental in seizing Ta'izz, entered the governorate during their southern advance from Sana'a to Aden and seized the international airport of Ta'izz and other key locations. The Houthi-Saleh fighters soon set up military camps inside the city, leading to increasing local protests and the forming, in April, of the Resistance, which joined forces with citizens from Ta'izz and military brigades that remained loyal to President Hadi [...]

303. Between March and July 2015, heavy fighting took place in Ta'izz city and surrounding districts between Houthi-Saleh fighters and those aligned with the Yemeni armed forces. [...] Coalition forces provided support to the Resistance in Ta'izz through airstrikes on purported Houthi-Saleh positions and the airdrops of weapons and ammunition to the Resistance inside the city. [...]

[...]

5. The “siege” of Ta'izz

345. When Yemeni armed forces and affiliated armed groups pushed Houthi-Saleh fighters out of Ta'izz city to its surrounding areas in July 2015, the latter engaged in attempts to weaken the Resistance and regain control of the embattled city. The centre of Ta'izz nevertheless remained under the military control of the Resistance, which by then had significant popular support. During the early stages of the conflict in Ta'izz, armed confrontations were taking place in different parts of the city, with Houthi-Saleh fighters aiming to reach its centre, [...]. These attempts to take over Ta'izz centre nevertheless failed. By August/September 2015, Houthi-Saleh fighters had positioned themselves along the city's main entrances, laying a “siege” that specifically affected the districts of al-Mudhafer, al-Qahira and al-Saleh. According to various sources, this new form of warfare in Ta'izz had built up gradually. It was quickly choking the city and mainly impacting its civilian population [...]. The restrictions aimed at controlling the entry of weapons to the centre of Ta'izz were also imposed on drug supplies, equipment to run hospitals inside the city, oxygen tanks that were much needed for emergency rooms, and gas cylinders.

346. Restrictions continued to increase and soon affected access to food items, such as vegetables, flour, sugar and even drinking water. [...] According to sources, the city relied on wells in de facto authorities-controlled territories and the absence of wells inside Ta'izz rendered the situation even more precarious. People relied on firewood, cardboard and plastic products to replace gas for cooking, as gas cylinders could

not reach the city. [...]

347. While the city was never completely sealed, as civilians were able to leave Ta'izz and as different weeks and months saw different measures being imposed, in their arbitrariness, the measures nevertheless significantly contributed to a dire humanitarian situation inside the city. The varying measures made essential goods as well as medical supplies unavailable, impacting people's human rights including to healthcare and food. By October 2015, two thirds of the inhabitants of Ta'izz had already fled the city. By that time, only 175,000 to 200,000 remained, an estimated one-third of its pre-war population. [...] [T]he rise in the cost of living and hike in prices due to the creation of the "enclave" as well as lack of access to basic services was one of the main reasons that prompted civilians to move out of the city.

348. The first phase of the "siege" of Ta'izz lasted until March 2016. During this period, Houthi-Saleh controlled checkpoints were randomly closed. [...]

349. [...] The city of Ta'izz continued to suffer, including from the amassing of rubbish inside the city, as dumping sites, mainly located outside of the city, were inaccessible, contributing to increased health risks inside the city.

[...]

353. [...] The presence of the "enclave" within Ta'izz further complicated access to healthcare including for the population residing in the al-Hawban area. Reaching a hospital in Ta'izz from this part, which used to take approximately 15 minutes, is now a journey of several hours according to various sources. The "siege" also complicated the delivery of vaccines inside the city, and limited patients' access to specialised treatment, including cases requiring dialysis. Access to education has been similarly restricted, with students not being able to reach the university within the city. According to one source, 200 students are not able to attend their courses at the university due to the distance they must travel on the road leading to the city from various districts including al-Hawban [...].

[...]

356. [...] [T]he de facto authorities denied all allegations relating to preventing civilians from leaving the city, forcing them to walk distances, or stripping them from their belongings at checkpoints. [...] The de facto authorities also denied imposing restrictions on humanitarian access or essential supplies and stated that goods were only stopped for regular security checks to ensure no weapons or prohibited items were being smuggled.

357. [...] The impact of the "siege" by the Houthis on the civilian population's access to food, water and essential medical items to run hospitals and provide vital medical assistance was devastating. Both parties have failed, either by restricting the entry of humanitarian assistance or by diverting aid inside the city to fulfil

their obligation to provide essential supplies and to care for the sick and wounded. [...]

358. [...] Finally, evidence collected by the Group of Experts indicates that the Houthi-Saleh fighters may have used the siege as a form of collective punishment on the civilian population residing inside Ta'izz, for their perceived support of the Popular Resistance and Government-affiliated groups. Both starvation as a method of warfare and collective punishment is strictly prohibited under international humanitarian law. [...]

6. Targeting of humanitarian relief personnel

[...]

(a) Killing of an ICRC delegate, Ta'izz, April 2018

360. On 21 April 2018, a convoy carrying an ICRC delegation headed towards an undisclosed detention place inside Ta'izz city for a detention visit that had reportedly been cleared by the delegation with all relevant authorities. [...] On the morning of 21 April, the convoy moved through Ta'izz. It stopped on its way through al-Dabab area at a local cheese shop. Shortly after its stop, the leading car, containing an ICRC driver and three detention delegates, including their team leader Hanna Lahoud, reportedly slowed down before it reached a bump in the road. While slowing down, it was approached by a man wearing a head turban who asked the driver "who are you" and then immediately turned, before the driver could answer, and shot Hanna, who was sitting behind the driver, firing two shots in the head and five in the heart. A motorcycle with a man driving it was reportedly waiting for the armed man and the two drove off. The delegation turned and headed to a clinic where Hanna was pronounced dead. [...]

361. Following Hanna Lahoud's death, there were operations organized by the security authorities inside Ta'izz, with the aim of finding and arresting those responsible for his murder. A man was arrested on 26 November 2018, reportedly as one of the main suspects in his murder. [...] [H]e had been transferred to Aden but had not yet been sent to trial nor had charges against him been made public. [...]

[...]

Violations

[...]

364. The Group of Experts has reasonable grounds to believe that Hanna Lahoud was targeted in his capacity as an ICRC delegate, a deliberate attack on a humanitarian worker. The evidence available further indicates that the operation involved a party or parties to the conflict. The Group has until this point, however, not reached a conclusion with respect to determination of responsibility, partly because investigations remain

underway by authorities. [...]

365. This incident also illustrates the wider pattern of violence and attacks that have affected humanitarian work in Yemen, and specifically in Ta'izz. Parties to the conflict in Ta'izz have continued to block and restrict the work of humanitarian organisations, and such attacks have further narrowed the humanitarian space and the protection of civilians in Ta'izz. They are also a clear violation of the obligation of parties to allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need.

[...]

D. Life in Sana'a and other areas under de facto authority control

[...]

6. Coalition airstrikes in norther areas including Sana'a, Sa'dah, and Hajja

(a) Context

429. Between 1 March 2015 and 30 June 2019, the Yemen Data Project reported that coalition forces conducted 19,874 airstrikes on Yemeni territory. [...]

430. This section of the report specifically looks at a few select airstrikes in northern parts of the country over the last year, which illustrate an ongoing pattern where civilians and civilian objects have been directly affected. [...]

[...]

(c) Bus at Dhahyan market, 9 August 2018, Sa'dah

435. On 9 August 2018, at around 8:30 a.m. the coalition forces carried out an airstrike on Dhahyan area market in Majz district, Sa'dah governorate. The airstrike hit a bus carrying approximately 50 children, parked along the Highway of Dhahyan market. The Group of Experts verified the death of 11 children aged 10 - 15, and two male adults from the attack, [...]. On the day of the attack, the children had gathered at 07:00 am at the mosque for a day-trip [...]. The bus was completely destroyed by the strike, which also partially damaged 11 stores and a vehicle. Several of the children travelling on the bus as well as passers-by were torn apart by the strike such that their bodies could not be identified or recovered by their families to conduct a proper burial. [...]

436. Shortly after the attack, on 11 August, the Saudi Arabia Permanent Mission to the United Nations in Geneva stated that the airstrike had been a "legitimate military action that targeted Houthi leaders who were

responsible for recruiting and training young children, and then sending them to battlefields.” The letter also indicated the incident had been referred by the Kingdom of Saudi Arabia to the JIAT [Joint Incidents Assessment Team (of the coalition forces)] for investigation. On 1 September 2018, in a press release, the JIAT [...], stated that due to a clear delay in preparing the fighter jet, the airstrike was not carried out on the bus as a military objective in an empty and open area to avoid such collateral damage. The coalition stated that it agreed with the JIAT assessment, “expressed regret” for the attack, and said that it would “undertake legal proceedings to hold those who committed mistakes accountable” and “provide redress or assistance to the victims.” [The JIAT leader] said that the coalition had reviewed information “circulated and confirmed” by Houthi officials that four Houthi commanders, responsible for military training, recruiting or training fighters and producing IEDs, were present on the bus, without providing further information to support these allegations.

[...]

(g) Violations

[...]

449. With regard to the attack on the school bus in Sa’dah, it is striking that the JIAT considered the bus as a military objective despite the presence of so many children. Even if the principle of distinction was nonetheless respected, this strike raises serious concerns as to the principle of proportionality. There is also a violation of international humanitarian law in relation to precautions in attack, as acknowledged by the JIAT.

[...]

7. Targeting of the General People’s Congress (GPC) political party Affiliates 2017-2019

[...]

478. The Group examined the targeting of persons affiliated with the GPC following the split in [Saleh] alliance with the Houthis. [...]

[...]

(c) Assassination of shikh Dayfallah al-Muthana and Family

484. Sheikh Dayfallah al-Muthana was a well-known GPC leader, [...]

485. On 2 December 2017 at 0800, al-Muthana was at the Risabah Crossroads where a number of his properties were. He was driving the lead vehicle in a group of three vehicles, accompanied by family and

colleagues, including his brother, also a GPC member, his cousin, his adult sons, and his bodyguards. The area was busy with many bystanders. A large group of heavily armed Houthi fighters stopped the vehicles in what appeared to be a pre-planned operation. They opened fire targeting al-Muthana at will, and in the process injuring him and others, and killing al-Muthana's brother, his cousin and a bodyguard. The bodyguards returned fire, and al-Muthana fled with others with the help of bystanders.

486. The Houthis searched the area for al-Muthana. [...] Al-Muthana and a colleague sought refuge inside al-Nur Mosque, 500 meters south of the crossroads. On 2 December 2017 at 2030 hrs, Houthi fighters found al-Muthana in the mosque, surrounded it from all sides and opened fire on the mosque, killing al-Muthana and his colleague.

[...]

E. The battle of al-Hudaydah (2018-2019)

1. Context

498. In 2018, the al-Hudaydah governorate, already one of the most deprived areas in Yemen, suffered intense fighting leading to numerous civilian casualties and damage, and a deterioration of the humanitarian situation during an offensive by Yemeni armed forces and UAE-backed armed groups aimed at regaining control of its capital, al-Hudaydah city.

[...]

2. Humanitarian situation

[...]

(a) Situation in al-Durayhimi

503. [...] [T]he Group of Experts examined allegations that parts of al-Durayhimi district were under siege. In early August 2018, the Yemeni armed forces and affiliated UAE-backed armed groups advanced to the outskirts of the district centre. Following periods of intense fighting that led to the destruction of many buildings, the Houthis retained control of most of the district, including its centre. The frontlines settled with the access points to the district centre under control of the Yemeni armed forces and affiliated groups. Access to the area was further complicated by the presence of landmines.

[...]

505. From August until December 2018, while the intense fighting was ongoing, humanitarian actors did not

have access to the district at all. In 2019, humanitarian actors were allowed briefly to access al-Durayhimi to deliver food in January and in late April/early May. In spite of this brief access, no humanitarian assessment has been carried out in al-Durayhimi since June 2018. Therefore, the number of individuals living today in al-Durayhimi district and the district centre itself (and their needs), is not confirmed, and a proper humanitarian response could not be devised or implemented. The continued restrictions, [...], were mainly due to Yemeni armed forces' and affiliated armed groups' control of access points, as well as the presence of landmines around these areas, which remained under the control of the de facto authorities.

[...]

(c) Violations

[...]

513. Parts of al-Durayhimi district under the control of the de-facto authorities, including its district centre, are facing severe humanitarian access restrictions. [...] Hence, the Group of Experts has reasonable grounds to believe that the Government of Yemen is violating its obligations to allow and facilitate access to humanitarian relief to people in need in parts of al-Durayhimi district.

[...]

Discussion

I. Classification of the Conflict and Applicable Law

1. (*Paras 46, 50, 52, 107 - 123*)

a. Who or which entities are the parties to the main conflict(s) in Yemen? How would you classify the conflicts in Yemen before March 25 and since March 26, 2015? Is there a single armed conflict or several armed conflicts since March 2015? What would be the effect (if any), on the classification of the conflicts, of the request for support or notifying the UN Security Council by President Hadi? (GC I - IV, Arts 2 and 3; P I, Art. 1; P II, Art. 1)

b. Does the resignation of the President and his cabinet on 22 January 2015 affect his later request for support from the intervening countries, and thereby the classification of the conflict?

2. (*Paras 53, 110 and 216*): How would you classify the United States' operation against AQAP and the Islamic State? Would you characterize this as a separate armed conflict? Does the logistical and intelligence support the United States provide to the Coalition make it a party to the conflicts the Coalition has engaged? (GC I - IV, Arts 2 and 3; P I, Art. 1)

3. (*Paras 117, 211, and 216-218*):

a. Does fighting of the United Arab Emirates and Security Belt forces against Government and coalition forces in 2017 for the control of Aden airport affect the nature of the armed conflict? How would you classify such a situation? (GC I-IV, Arts 2 and 3; P I, Art. 1; P II, Art. 1)

b. How do you assess the statement by Hani Bin Breik that the attacks since 2018 on the Government-held areas were ordered by the Coalition? Would that affect the nature of the armed conflict since January 2018?

4. (*Paras 46, 52, 163, 196, and 345*):

a. How do you classify the situations between the Houthi-Saleh and Resistance groups on different occasions? Has the threshold of a NIAC been reached? If so, are these a single armed conflict interspersed with “cease-fires” or are they a chain of succeeding separate conflicts? Could the Resistance groups be seen as belonging to the government or coalition? Could they be considered co-belligerents? Does the training, equipment, and funding by Coalition members have any bearing on your answer? (GC I-IV, Art. 3; P II, Art. 1)

b. Based on the information in paras. 116 and 483, how would you qualify the clash between the Houthis and former president Saleh’s forces? Does the existence of various armed conflicts in Yemen impact on the qualification of this situation? (GC I-IV, Art. 3; P II, Art. 1)

c. What is the impact of intra-Resistance clashes mentioned in para. 212 on the applicable IHL?

(*Paras 46, 51, 53, 54 and 244*)

a. Is Additional Protocol II (P II) applicable to all parties to the conflict in Yemen (including, all non-state armed groups, the Coalition forces, and the USA)? Does the fact that Yemen and all members of the coalition have ratified P II matter? (P II, Art. 1)

b. How is Common Article 1 of GCs I-IV relevant in the context of Yemen? Which States have an obligation under Common Article 1 with respect to the armed conflict(s) in Yemen? Do State Parties which are not belligerent parties to an armed conflict have obligations under Common Article 1? If the conflict in question is not of an international character? In this case, does the USA have obligations under Common Article 1 regarding the situation in Yemen? What about Eritrea? (GC I-IV, Art. 1; CIHL, Rule 144)

II. Geographical Scope

6. (*Paras 46, 50, 115, 122 and 244*): What is the territorial scope of the IHL of NIACs? Does IHL apply in the entire territory of Yemen or only in those places where armed conflicts occur? What about the territory of States that are members of the Coalition? The USA? Would it apply to the territory of Eritrea where a UAE

army base and detention facility exists? (GC I-IV, Art. 3; P II, Art. 1(1); ICTY, *The Prosecutor v. Tadic*, Appeals Chamber, Jurisdiction, para. 70)

III. Treatment of persons

7. (*Paras 196-200*)

a. Does IHL apply to the alleged acts of extra-judicial killings described in para.199? What did the Group of Experts say on the applicable legal regime, i.e., is it IHL or IHRL? Do you agree with the assessment and conclusion of the Group of Experts? Why? Why not? Is there a difference under IHL between the execution of the four civilians and that of two fighters (GC I-IV, Art. 3; P II, Art. 4 (2) (a); CIHL, Rule 89; Rome Statute, Art. 8 (2) (c) (i))

b. Was the detainee with a mental health disability protected under IHL (*Paras 97 and 98*)? Does IHL require Resistance forces to release such detainee? Did the Resistance forces comply with IHL during the release of the detainee? (P II, Art. 5 (4))

8. (*Paras 220-224, 240-245, 248 and 449*)

a. Does IHL apply to the situation of the detainees in the Al-Bureiqa Al-Tin and Assab (Eritrea) detention facilities? What does IHL have to say about deprivation of liberty and the treatment of detainees? Does it matter if the conflict is international or non-international? Is the notion of an “arbitrary deprivation of liberty relevant from an IHL perspective? How do you assess the conclusion of the Group of Experts on the nexus between the violations and the armed conflicts? Is there under IHL a difference between the detention of former Resistance fighters, Government soldiers, and human rights activists mentioned in para. 223? (GC I-IV, Art. 3; P II, Art. 4 (1); CIHL, Rule 99)

b. Is solitary confinement of detainees lawful under IHL? Under IHRL? (GC I-IV, Art. 3; GC III, Arts 21, 22, 25, 88, 97, 98 and 108; GC IV, Arts 27, 76, 78, 118 and 125; P II, Art. 4 (1) and (2) (a) and (e))

c. (*Paras 245 and 248*)What does IHL have to say about the detention and transfer of persons overseas (e.g., detention in Assab)? What about coercing detainees to serve the enemy? Does IHL apply to the cases of enforced disappearance of persons that took place in detention facilities? (GC I-IV, Art. 3; CIHL, Rule 98; Convention on Enforced Disappearance, Art. 1)

d. Does conflict-related detention make Eritrea a party to the conflict? Does Eritrea commit a violation of IHL by the mere fact that IHL is violated on its territory? (GC I-IV, Art. 2; P I, Art. 2)

IV. Conduct of Hostilities

9. (*Para. 430*) Does a pattern where civilians and civilian objects have been directly affected by airstrikes show that IHL was violated?

10. (*Paras 133 and 134*) – *attack on the oil refinery:*

a. Under what circumstance could the oil refinery in al-Bureiqa peninsula be a military objective? If it was, based on the information available, do you think that the attacks were conducted in accordance with IHL? What kind of additional information, if any, would you need to determine the lawfulness of the attack? (P I, Arts 51, 52 (2), 57; CIHL, Rules 1, 8, 20, 21, 22 and 23)

b. In your opinion, do the consequent environmental damage and effects on the health of the civilian population constitute part of the proportionality assessment?

11. (*Paras 163, 166, 177 and 185*) – *targeting and military use of specially protected objects:*

a. May hospitals be targeted in military operations? Under what circumstances? What is the difference between protection given to a hospital and that given to any other civilian object? (GC I, Art. 21; GC II, Art. 34; GC IV, Art. 19; P I, Arts 13 (1) and 57 (2); P II, Art. 11; CIHL, Rules 25 and 28)

b. Does IHL prohibit occupation or taking control of specially protected objects for military purposes? May the Huthi-Saleh fighters occupy a hospital building? Prevent civilian access? Are the rules concerning civilian and military hospitals different? (GC IV, Art. 18 (5); P I, Arts 12, 13, 14 and 58 (c); P II, Art. 7 (2); CIHL, Rules 22 and 28)

c. Does the coalition airstrike on the People's Obstetrician Hospital violate IHL? Should warnings be given before the attack on the Hospital? (P I, Art. 13; P II, Art. 11; CIHL, Rule 28)

d. May a school be used for military purposes? Does such use violate the obligation to take passive precautions against attacks? Would the Bazraa Elementary School turn into a military objective due to its use by the enemy as a detention facility for captured fighters (*Para. 177*)? (P I, Art. 58 (c); CIHL, Rule 22)

e. Do you agree with the assertion of the Group of Experts that the military use of schools may prevent the realization of the right to education "as guaranteed by both IHL and IHRL"? Is there a right to education under IHL? (P II, Art. 4 (3) (a))

12. (*Paras 187, 194, 435, 436 and 449*) – *airstrikes on a school bus and the cattle market:*

a. Do you agree with the Group of Experts' analysis of the principle of distinction related to the targeting of the school bus (*Para. 449*)? Please explain the reasoning for your answer. Does the presence of the Houthi commanders in the school bus make it a military objective? (P I, Arts 51 (5) (b) and 52 (2); CIHL, Rules 8 and

14)

b. According to IHL, would the Al-Fyoush cattle market constitute an object indispensable for the survival of the civilian population (para. 187)? Does the attack on the market violate IHL? What if the checkpoint established by Houthi-Saleh fighters at a petrol station in the immediate vicinity of the market was actually targeted? (P I, Art. 54 (2); P II, Art. 14; CIHL, Rule 54)

13. (*Paras 360-365*) – *killing of an ICRC delegate*:

a. Is the killing of an ICRC delegate regulated otherwise in IHL than that of any other civilians?

b. Does the IHL of NIACs specifically protect humanitarian personnel, facilities, and transport? (P II, Arts 11 and 18; CIHL, Rules 31 and 32)

c. How would you assess the situation leading to the killing of an ICRC delegate in Ta'izz city? Does IHL apply to the incident (i.e., was there nexus to the armed conflict)? Do you agree with the preliminary conclusion of the Group of Experts (*Para. 365*)? Why? Why not?

14. (*Paras 345, 349, 353, 358, 503, 505 and 513*) – *siege warfare*

a. Is holding a city under siege a prohibited method of warfare? If not, which limits does IHL prescribe? Is your answer the same for both IAC and NIAC? If so, do the same rules apply in both cases? (GC I-IV, Art. 3; P I, Art. 54; P II, Art. 14; CIHL, Rule 53)

b. What obligations do the besieging forces have towards the civilian population in the areas they besiege? Under IHL? Under IHRL? Do states and armed groups have different obligations under IHRL towards the civilian population in territories under their control?

c. In your opinion, does the situation in al-Durayhimi constitute a siege? To constitute a siege, must a city or a district be completely sealed off? Would control of access points be sufficient?

d. Must a besieger allow supplies to be brought into a besieged area? Only for the benefit of the civilian population? May the besieger insist upon control of the distribution of relief to ensure that it only benefits to the civilian population? What if the besieged party does not agree with such control? (GC IV, Art. 23; P I, Art. 70; P II, Art. 18 (2); CIHL, Rule 55)

e. (*Paras 346 and 353*) Must a besieger allow gas cylinders to be brought into a besieged area? Delivery of vaccines inside the city? Allow patients to have access to specialised treatment? Facilitate access to education outside the besieged area?

- f. In the context of the alleged siege in Taízz, if the inhabitants were allowed to leave the city, would that affect the determination whether IHL was violated? Must a besieger allow for the evacuation of rubbish? Would the humanitarian problems created for the population living in adjacent district, e.g., al-Hawban, be relevant for this assessment?
- g. What are the obligations of the besieging forces towards the civilian population in the areas under siege? What possible violations of IHL can you identify from the behaviour of the parties as listed in the paragraphs cited here?
- h. (*Para. 357*) Do both the besieging and the besieged party have obligations under IHL? Does the besieger violate IHL by restricting the entry of humanitarian assistance? The besieged party by diverting aid inside the city?
- i. Do you agree with the assertion of the Group of Experts that the siege in Ta'izz may amount to a form of collective punishment? Why? Why not? (P II, Art. 4 (2) (b); CIHL, Rule 103)