

# Yemen, Potential Existence and Effects of Naval Blockade

**INTRODUCTORY TEXT:** *This case study is derived from Security Council Resolution 2216 and a joint letter addressed to Saudi Arabia, the head of the Coalition Forces instituting a potential naval blockade in Yemen, from various UN Special Rapporteurs and Independent Experts. Security Council Resolution 2216 (2015) authorized measures that could amount to air and naval blockades of Yemen by the Cooperation Council for the Arab States of the Gulf and the League of Arab States. UN Special Mandate holders subsequently brought the negative impact of the potential blockades to the Coalition's attention. This case will discuss those effects from an IHL perspective.*

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## A. UNITED NATIONS SECURITY COUNCIL RESOLUTION 2216

[Source: United Nations Security Council, Resolution 2216, 14 April 2015, available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2216\(2015\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2216(2015))]

[1]

*Security Council,*

[...]

*[Preambular paragraphs]*

[PP 2] *Noting* the letter dated 24 March 2015 from the Permanent Representative of Yemen, to the United Nations, transmitting a letter from the [exiled] President of Yemen, in which he informed the President of the Security Council that ‘he has requested from the Cooperation Council for the Arab States of the Gulf and the League of Arab States to immediately provide support, by all necessary means and measures, including military intervention, to protect Yemen and its people from the continuing aggression by the Houthis’, and noting the letter dated 26 March 2015 from the Permanent Representative of the State of Qatar, S/2015/217, transmitting a letter from the Representatives of the Kingdom of Bahrain, the State of Kuwait, the State of Qatar, the Kingdom of Saudi Arabia and the United Arab Emirates,

[...]

[PP7] *Reiterating* its support for the efforts of the Gulf Cooperation Council in assisting the political transition in Yemen and *commending* its engagement in this regard,

[PP8] *Reaffirming* its support for the legitimacy of the President of Yemen, Abdo Rabbo Mansour Hadi, and *reiterating its call* to all parties and Member States to refrain from taking any actions that undermine the unity, sovereignty, independence and territorial integrity of Yemen, and the legitimacy of the President of Yemen,

[PP9] *Expressing* grave alarm at the significant and rapid deterioration of the humanitarian situation in Yemen, and *emphasizing* that the humanitarian situation will continue to deteriorate in the absence of a political solution,

[PP10] *Recalling* that arbitrary denial of humanitarian access and depriving civilians of objects indispensable to their survival, including wilfully impeding relief supply and access, may constitute a violation of international humanitarian law,

[...]

[PP13] *Alarmed* at the military escalation by the Houthis in many parts of Yemen including in the Governorates of Ta'iz, Marib, AlJauf, Albayda, their advance towards Aden, and their seizure of arms, including missile systems, from Yemen's military and security institutions,

[PP14] *Condemning* in the strongest terms the ongoing unilateral actions taken by the Houthis, and their failure to implement the demands in resolution 2201 (2015) to immediately and unconditionally withdraw their forces from Government institutions, including in the capital Sana'a, normalize the security situation in the capital and other provinces, relinquish government and security institutions, and safely release all individuals under house arrest or arbitrarily detained, and *reiterating* its call on all non-State actors to withdraw from government institutions across Yemen and to refrain from any attempts to take over such institutions,

[...]

[PP23] *Recognizing* that the continuing deterioration of the security situation and escalation of violence in Yemen poses an increasing and serious threat to neighbouring States and *reaffirming its determination* that the situation in Yemen constitutes a threat to international

peace and security,

[PP24] *Acting* under Chapter VII of the Charter of the United Nations,

*[Operative clauses]*

1. *Demands* that all Yemeni parties, in particular the Houthis, fully implement resolution 2201 (2015), *refrain* from further unilateral actions that could undermine the political transition in Yemen, and *further demands* that the Houthis immediately and unconditionally:

- (a) end the use of violence;
- (b) withdraw their forces from all areas they have seized, including the capital Sana'a;
- (c) relinquish all additional arms seized from military and security institutions, including missile systems;
- (d) cease all actions that are exclusively within the authority of the legitimate Government of Yemen;
- (e) refrain from any provocation or threats to neighbouring States, including through acquiring surface-surface missiles, and stockpiling weapons in any bordering territory of a neighbouring State;
- (f) safely release Major-General Mahmoud al-Subaihi, the Minister of Defence of Yemen, all political prisoners, and all individuals under house arrest or arbitrarily detained; and
- (g) end the recruitment and use of children and release all children from their ranks;

[...]

8. *Calls on* all parties to comply with their obligations under international law, including applicable international humanitarian law and human rights law;

9. *Reaffirms*, consistent with international humanitarian law, the need for all parties to ensure the safety of civilians, including those receiving assistance, as well as the need to ensure the security of humanitarian personnel and United Nations and its associated personnel, and *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;

10. *Calls on* all parties to facilitate the evacuation by concerned States and international organizations of their civilians and personnel from Yemen and *commends* steps already taken in this regard;

[...]

### ***Arms Embargo***

14. *Decides* that all Member States shall immediately take the necessary measures to prevent the direct or indirect supply, sale or transfer to, or for the benefit of Ali Abdullah Saleh, Abdullah Yahya al Hakim, Abd al-Khaliq al-Huthi, and the individuals and entities designated by the Committee established pursuant to paragraph 19 of resolution 2140 (2014) [...] from or through their territories or by their nationals, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical assistance, training, financial or other assistance, related to military activities or the provision, maintenance or use of any arms and related materiel,

including the provision of armed mercenary personnel whether or not originating in their territories;

15. *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;

16. *Decides* to authorize all Member States to, and that all Member States shall, upon discovery of items the supply, sale, or transfer of which is prohibited by paragraph 14 of this resolution, seize and dispose (such as through destruction, rendering inoperable, storage or transferring to a State other than the originating or destination States for disposal) of such items and decides further that all Member States shall cooperate in such efforts;

[...]

### **Additional Designation Criteria**

[...]

19. *Reaffirms* paragraph 18 of resolution 2140 (2014), and *underscores* that acts that threaten the peace, security, or stability of Yemen may also include the violations of the arms embargo imposed by paragraph 14 or obstructing the delivery of humanitarian assistance to Yemen or access to, or distribution of, humanitarian assistance in Yemen;

[...]

25. *Decides* to remain actively seized of the matter.

## **B. INFORMATION RECEIVED CONCERNING THE NEGATIVE IMPACT ON THE ENJOYMENT OF HUMAN RIGHTS OF THE APPARENT BLOCKAGE OF AIRCRAFT AND VESSELS CARRYING ESSENTIAL GOODS FROM ENTERING YEMEN**

[Source: United Nations Office of the High Commissioner for Human Rights, Information Received Concerning the Negative Impact on the Enjoyment of Human Rights and the Apparent Blockage of Aircraft and Vessels Carrying Essential Goods from Entering Yemen, 17 November 2016, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunication><sup>[2]</sup>

**Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Independent Expert on the promotion of a democratic and equitable international order; the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights and the Special Rapporteur on the human rights to safe drinking water and sanitation**

[...]

Excellency,

[1] We have the honour to address you in our capacities as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Independent Expert on the promotion of a democratic and equitable international order; Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights and Special Rapporteur on the human rights to safe drinking water and sanitation [...].

[2] In this connection, we would like to bring to the attention of your Excellency's Government, as the leading member of the Coalition Forces, information we have received concerning **the negative impact on the enjoyment of human rights of the people in Yemen due to the apparent blockade of aircraft and vessels carrying essential goods along the Red Sea, including basic food items, fuel and essential medicines.**

[3] According to the information received:

[...]

In March 2015, before UNSC Resolution 2216 had been adopted, the Coalition Forces [The coalition consists of all the States members of the Gulf Cooperation Countries (with the exception of Oman), as well as Egypt, Jordan, Morocco, Senegal and the Sudan.

(A/HRC/33/38, paragraph 10)] imposed an aerial and naval blockade against Yemen. It has been reported that 'one of the Saudi-led Gulf coalition's first actions was to close Yemen's airspace and placed its ports under naval blockade, in part to prevent the military resupply of the Houthis and elements supporting former president Ali Abdullah Saleh.' Once coalition forces took control of Yemeni airspace, they quickly disabled air-traffic control at Sana'a International Airport and other regional airports. Yemen was thereafter closed as an international civil aviation route. Iranian attempts at delivering humanitarian supplies to Yemen have been denied by the coalition, which also bombed the runways at Sana'a airport, forcing the planes to turn back. The alleged purpose of this blockade is to



implement the UNSC aforementioned resolution. Nevertheless, in practice, this blockade appears to encompass a unilateral coercive measure from the Coalition to Yemen, restricting and disrupting both the import and export of commercial goods (including food, medical and fuel supplies) and humanitarian aid. Given the fact that Yemen is a net-food-importing State, this situation has led to a severe lack of basic goods and services, as well as to an increase in their respective prices, destabilizing the market system. Consequently, the human rights situation has deteriorated rapidly in the country. Additionally, the humanitarian situation in Yemen has also deteriorated significantly, and the number of people in need of humanitarian assistance in the country is now among the highest in the world. As of October 2016, the Humanitarian Country Team estimates that 21.2 million people in Yemen (82 % of the population) are in need of humanitarian assistance. Some 14.1 million are food insecure, including 7.6 million who are severely food insecure. Access for 14.1 million people to healthcare services is disrupted.

*(i) Aerial and naval blockage*

[4] Regarding the aerial and naval blockade, it is reported that humanitarian aid into Yemen is being hampered, by a variety of regulatory or even apparently in some cases arbitrary impediments from the Coalition. There is a long list of vessels waiting to enter the ports of Yemen and sometimes those which have already entered the port are removed from the dock before unloading the goods. Moreover, there is an unreasonable delay and/or denial of entry to vessels that have been inspected and proven to not be carrying weapons, and also for those that are not suspected of carrying weapons. This situation illustrates the discretionary criteria when inspecting vessels. Due to aforementioned uncertainties, security and insurance considerations, a number of vessel operators and shipping lines have reduced or pulled out their operations in Yemen. One of the most affected ports is Al Hudaydah.

[5] The blockade of Yemen is reported to have entailed serious humanitarian and socio-economic consequences on the Yemeni people. The conditions of life have become

untenable for the vast majority of people in Yemen. As summarized by the Panel of Experts on Yemen established pursuant to UN Security Council resolution 2140 (2014):

[t]he systematic and widespread blockade of commercial goods has directly contributed to the obstruction of deliveries of aid and humanitarian assistance, while restricting vital imports of commercial fuel, food and other goods not within the purview of resolution 2216 (2015) or currently subject to sanction.

[6] The impact of the blockade has been further documented in the report “2016 Humanitarian Needs Overview” issued by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) in November 2015, as follows:

Since the crisis began, Coalition restrictions on imports – as well as damage to port infrastructure due to air strikes – have added to the humanitarian burden by preventing or discouraging commercial imports into the country. Over 90 per cent of staple food (such as cereals) in Yemen was imported prior to the crisis, and the country was using an estimated 544,000 metric tons of fuel per month before the crisis. Fuel is essential to distribute food, pump water and run hospital generators, among other critical activities. In September [2015], OCHA estimated that commercial fuel imports fell to just 1 per cent of monthly requirements, and food imports hit their second-lowest level since the crisis began. These restrictions constitute a major driver of shortages and rising prices of basic commodities, which have in turn contributed to crippling the economy. Health facilities continue to close at alarming rates due to shortages of fuel and other basic supplies. Without critical commodities, needs across sectors are rising, and response efforts are being hampered.

[7] The latest Yemen Food Security Update (October 2016) also observes that “[b]lockades on importation and high prices of essential food commodities has further plugged households to limited access to food and hence to dire food security needs.”

[8] On 6 August 2015, the Government of Yemen requested the Secretary General to establish the United Nations Verification and Inspection Mechanism (UNVIM). The aim of this mechanism is to facilitate the unimpeded flow of commercial items to Yemen and to revive the economy of the State, in line with the UNSC Resolution 2216. On 2 May 2016, the UNVIM started its operations but it functions solely on a voluntary basis. Thus, any inspection would require the vessel's permission.

*(ii) Right to health*

[9] According to reports received, the blockade and ongoing conflict have seriously undermined the national health system's ability to respond to the situation. The lack of availability and inadequate quality of basic healthcare services are severely affecting the right to health of people in Yemen, in particular the elderly, sick and infants. In addition, there is a severe shortage of essential medicines, especially vaccinations, and an important number of people, especially children, are at immediate risk of malnutrition and diarrhoea.

[10] According to information available, as a result of the blockade and the ongoing hostilities, including airstrikes, over 54 per cent of health facilities in 16 governorates are not functioning or partially functioning, only 37 per cent of hospitals remain fully functional, and 70 per cent of governorates report levels of staffing below the minimum benchmark of 22 health workers for every 10,000 persons. Moreover, hospitals are increasingly unable to provide basic healthcare services due to the shortage of fuel, which prevents the power generators from functioning correctly. As a result, several hospitals and medical services have shut down. Moreover, the lack of fuel makes it difficult to transport patients in ambulances and hampers the ability of the staff and patients to access healthcare services.

[11] In the context of the conduct of hostilities, substantial allegations pointing to possible violations of international humanitarian law in Yemen have been documented. In particular,

reports indicate a lack of respect by the parties for the international law principles of precautions, distinction and proportionality, including in conducting air strikes. This has resulted in the killing and injuring of thousands of civilians and the extensive destruction of and/or damage to protected civilians objects, including healthcare facilities and health personnel. In this connection, the partial or full damage on 23 healthcare facilities has been documented.

[...]

[12] The Saudi-led Coalition enforced a four-day aerial blockade on Sana'a Airport, between 9 and 12 August 2016, preventing the access of humanitarian and commercial flights to Sana'a airport. On 13 September 2016, humanitarian flights to Sana'a International Airport resumed; however, commercial flights have not yet been permitted. Yemen's Civic Aviation and Meteorological Authority, has stated that approximately 3,700 Yemenis are currently abroad since they left the country seeking medical care, and are not able to return due to aerial blockade on the airport.

*(iii) Right to Safe Drinking Water and sanitation*

[13] Fuel prices, which are more than double the pre-crisis levels, have affected the water supply system, especially in many public hospitals and health centres. Considering the Yemenis' reliance on water trucks and pumps, the shortage of fuel is preventing drinking water from being pumped and transported to civilian residences.

[14] It is reported that two-thirds of Yemen's population do not have access to clean water supply. The lack of safe drinking water forces people to drink and use untreated water for cooking and personal use, and increases the chance of getting diarrhea and other water-borne diseases. This situation mainly affects children and women, who are subjected to long distance travel to fetch water.

*(iv) Right to food*

[15] The food security and nutrition situation in Yemen continues to deteriorate. At present, nearly 50% of the total population is food insecure. This is due in part to the extreme poverty faced by Yemeni people, which limit their accessibility to food, but also to stressed livelihoods as well as a high level of indebtedness. Malnutrition is further compounded by extremely poor water and sanitation conditions, poor food utilization, and scarce health facilities, goods and services. According to the Yemen Food Security Update of October 2016, the food security and nutrition situation is under continuous deterioration. It has also been reported that the ongoing conflict has significantly affected the fishing sector, the importance of which is critical to the nutrition situation in Yemen. It also notes that the “Yemen Fish market and supply chain has suffered huge loss due to the conflict and blockage of the export market to neighboring countries and Europe” and further states that “swift action is required to lift the blockage and support the actors along the fish value chain”.

[...]

[16] While we do not wish to prejudge the accuracy of these allegations, we express grave concern over the deteriorating human rights conditions in Yemen due to, among others, the vessel and aerial blockade. This hampers the trade of goods, resulting in the shortage and rise of basic commodities’ prices. The blockade has contributed to the obstruction of humanitarian assistance and aid. Very serious concern is expressed on the impact that these measures, which could be considered as unilateral coercive measures and not the implementation of the UNSC Resolution 2216, have had on a number of fundamental human rights, including the enjoyment of the right to health, food, and safe drinking water and sanitation. Concern is also expressed at the procedure used to inspect vessels in Yemenis ports, which may not be considered as neutral, impeding the effective and prompt clearance.

[...]

## Discussion

### I. Classification of the Conflict and Applicable Law:

1. (*Document A, paras [PP2] – [PP8], [PP13] – [PP24]; Document B, para. [3]*)

a. How would you classify the situation in Yemen? Who are the parties to the conflict? What effect, if any, on classification does the exiled President of Yemen's request for support from the Cooperation Council for the Arab States of the Gulf and the League of Arab States have on the classification of the conflict (*Document A, para. [PP2]*)? Absent such a request, would you classify the conflict in the same manner? (GC I-IV, Art. 2 <sup>[3]</sup> and 3 <sup>[4]</sup>; P I, Art. 1 <sup>[5]</sup>; P II, Art. 1 <sup>[6]</sup>)

b. What is the makeup of the Coalition force? Who authorized the Coalition to use force? The exiled Yemeni President? The UN Security Council under Chapter VII of the UN Charter? How would each of those scenarios affect the classification of the conflict? (GC I-IV, Art. 2 <sup>[3]</sup> and 3 <sup>[4]</sup>; P I, Art. 1 <sup>[5]</sup>; P II, Art. 1 <sup>[6]</sup>)

c. What is the applicable law? Is Additional Protocol II applicable? Is the legal framework applicable to blockades the same for both international and non-international armed conflict? Why/Why not? (GC I-IV, Art. 2 <sup>[3]</sup> and 3 <sup>[4]</sup>; P I, Art. 1 <sup>[5]</sup>; P II, Art. 1 <sup>[6]</sup>; San Remo Manual <sup>[7]</sup> on International Law Applicable to Armed Conflicts at Sea, 12 June 1994, Rules 1-9; HPCR Manual on International Law Applicable to Air and Missile Warfare, 15 May 2009 <sup>[8]</sup>)

### II. Naval and Air Warfare: Blockade

2. (*Document A, paras 14 –16; Document B, paras [3]–[8], [12], [16]*)

a. What is a naval blockade? What is an aerial blockade? Can a blockade constitute occupation generally? In this case? Why or why not? What are the similarities and differences between blockades and occupation? (GC I-IV, Art. 2 <sup>[3]</sup>; Hague Convention IV, Art 42 <sup>[9]</sup>; San Remo Manual, Arts. 93-108 <sup>[10]</sup>; HPCR Manual, Rules 147-159 <sup>[11]</sup>)

b. Are blockades unlawful under the laws of war? Does this depend on their type (naval, aerial, land blockade)? Do IHL treaties regulate blockades? Does your

answer depend on whether the conflict is international or non-international? If you consider that the legal institution of blockade does not apply to non-international armed conflicts, could the government, or third States with the consent of the government, nevertheless prohibit ships from entering its ports and/or inspect such ships? (GC IV, Art 23 [12]; P I, Arts. 18 [13], 35 [14], 70 [15], 71 [16], CIHL, Rules 17 [17], 55 [18], 56 [19]; San Remo Manual, Arts. 93-108 [10]; HPCR Manual, Rules 147-159 [11])

c. What may render a blockade unlawful under IHL? Does the Coalition have obligations under IHL or IHRL *vis-à-vis* the Yemeni population? Could one argue that, under the functional theory of occupation, the powers imposing a blockade have rights and obligations that are akin to those of an Occupying Power? What about for NIACs? (GC I-IV, Art. 2 [3]; GC IV, Art 23 [12], 55-56 [20], 59-63 [21]; P I, Arts. 18 [13], 35 [14], 70 [15], 71 [16]; Hague Convention IV, Art 42 [22]; CIHL, Rules 17 [17], 55 [18], 56 [19]; San Remo Manual, Arts. 93-108 [10]; HPCR Manual, Rules 147-159 [11])

d. Does the Coalition have an obligation to allow free passage of humanitarian relief supplies? (GC IV, Art. 23 [23]; P I, Art. 70 [24]; P II, Art. 18 [25]; CIHL, Rule 55 [26]; San Remo Manual, Rules 102-103 [27], HPCR Manual, Rules 157-159 [11])

e. By establishing an arms embargo, do you think that the UNSC authorized a subsequent blockade of Yemen's naval and aerial ports, in the manner in which it was executed by the Coalition? Does the fact that the embargo was mandated by the UN have bearing on the lawfulness of such a potential blockade under IHL? (GC I-IV, Art. 1 [28])

3. (*Document A, paras [PP10], 8 – 9; Document B*)

a. Under IHL, what objects are classified as “indispensable to the survival of the civilian population”? Is fuel as such covered by this definition? Does the fact that it is indispensable for the functioning of water installations and the powering of hospital generators affect your answer? May a potential blockade's impact on fuel prices and, by way of consequence, on food prices, be taken into account in determining what is indispensable to the survival of the civilian population? (P I, Art. 54(2) [29]; P II, Art. 14 [30]; CIHL, Rule 54 [31])

b. If there was a blockade in the present case, do you think it was specifically enacted with the specific purpose of depriving civilians of means of sustenance? Must this have been the sole or primary purpose of the blockading party in order

for the relevant IHL prohibition to apply? (P I, Art. 54(2) [29]; P II, Art. 14 [30]; CIHL, Rules 53 [32], 54 [33])

4. (*Document A, paras 14 – 15; Document B, para [4]*)

- a. Do the Coalition forces have the right, under the UNSC Resolution, to inspect ships in Yemeni territorial waters? Outside of Yemeni territorial waters?
- b. Do the Coalition forces have the right, under the law of naval/aerial blockade, to inspect ships outside Yemeni territorial waters? To inspect aircraft arriving at Yemeni airports? If the conflict is not of an international character (and if, by hypothesis, the legal institution of blockade did not apply to such conflicts)? (San Remo Manual, Rule 122 [34], HPCR Manual, Rules 148, 156-159 [11])
- c. May coalition forces attack neutral air/sea craft if they do not comply with the instructions? (San Remo Manual, Rule 98 [10]; HPCR Manual, Rule 156 [11])
- d. Which measures towards Yemeni and neutral ships authorized by *Document A*. could not have been taken without a UN Security Council authorization? If there was an IAC? If there was a NIAC? (San Remo Manual, Rules 94, 99 [10]; HPCR Manual, Rules 137, 140-142, 148, 150 [11])

5. (*Document B, paras [3] and [16]*) May blockade, generally speaking, constitute collective punishment? If there is a blockade in the present case, may it be considered as such? (GC III, Art. 87 [35]; GC IV, Art. 33 [36]; Hague Regulations, Article 50 [37]; CIHL, Rule 103 [38])

### III. Conduct of Hostilities

6. (*Document B, para [11]*)

- a. Does IHL of NIAC specifically protect medical personnel, facilities and transports? (P II, Art. 9 [39], 10 [40] and 11 [41]; CIHL, Rule 25 [42], 26 [43], 28 [44] and 29 [45] )
- b. May hospitals be targeted in military operations? Under what circumstances might this be allowed? Would your answer remain the same if the hospitals were also used to treat wounded opposition combatants? (P I Arts 12 [46] and 13 [47]; P II, Art. 11(2) [41]; CIHL, Rule 28 [44])



#### **IV. Humanitarian access and assistance**

7. (*Document A, para. [PP 10]*]; *Document B, paras [2], [4], [11]*)

- a. Who may provide humanitarian aid? Who is obliged to do so and in what circumstances? Third States? Humanitarian and impartial organizations? Other NGOs? What do the terms (impartial and humanitarian) mean? Does IHL require the entity providing assistance to be neutral? (GC I-IV, Art. 3 <sup>[4]</sup>; GC I-IV, Art. 9/9/9/10 <sup>[48]</sup>; GC IV, Art. 59-63 <sup>[49]</sup>; P I, Art. 70-71 <sup>[24]</sup>; P II, Art. 18 <sup>[25]</sup>)
- b. Does the provider of humanitarian aid have to require permission to deliver aid? In IACs? In NIACs? In NIACs, does the entity have to ensure the consent of the territorial state or of the rebel group(s) in question? Of both? Only of the belligerent controlling the territory in question? (GC I-IV, Art. 3 <sup>[4]</sup>; GC IV, Art. 23 <sup>[12]</sup>; P I, Art. 70 <sup>[15]</sup>; P II, Art. 18 <sup>[25]</sup>; CIHL, Rule 55 <sup>[26]</sup>)
- c. In this case, who is the appropriate entity from which consent for the delivery of humanitarian assistance should be sought? Is the government free to deny consent? (GC I-IV, Art. 3 <sup>[4]</sup>; P II, Art. 18 <sup>[25]</sup>; CIHL, Rule 55 <sup>[26]</sup>)
- d. May the belligerents subject the delivery of assistance to conditions? What considerations may justify a refusal to accept humanitarian aid? If access for the delivery of humanitarian assistance is denied, does the belligerent have a responsibility to meet the needs of the population in the territory under its control? If it cannot, must it allow access to a third party? Would you say that the Member States of the Coalition have an obligation to allow the free passage of humanitarian assistance through a blockade? (GC IV, Art. 59 <sup>[49]</sup>; P II, Art. 18 <sup>[25]</sup>; CIHL, Rule 55 <sup>[26]</sup>)
- e. Was it lawful for the Coalition to deny Iranian attempts to deliver humanitarian assistance? If it was a NIAC? If it was an IAC and Yemen consented to the delivery? (GC I-IV, Art. 3 <sup>[4]</sup>; GC IV, Art. 23 <sup>[12]</sup>; P I, Art. 70 <sup>[15]</sup>; P II, Art. 18 <sup>[25]</sup>; CIHL, Rule 55 <sup>[26]</sup>)
- f. Assuming that the conflict is not of an international character, must a third State delivering humanitarian aid to rebel-controlled areas obtain consent from the rebels? From the government? From both? Does the government have the right to

inspect such aid deliveries at its borders? To insist that they pass through territory it controls? May it deny delivery if it fears that the humanitarian aid will be diverted to rebel fighters or sold? (GC IV, Art. 23(2) <sup>[12]</sup>; P II, Art. 18(2) <sup>[50]</sup>; CIHL, Rule 55 <sup>[18]</sup>)

## V. IHL and Human Rights

8. (*Document B, paras [8] – [15]*) To what extent does IHL also seek to safeguard the specific human rights mentioned in the letter (right to health, right to safe drinking water and sanitation, right to food)? (GC IV, Arts 16, <sup>[51]</sup> 23 <sup>[12]</sup>, 55-56 <sup>[20]</sup>, 59-63 <sup>[21]</sup>; P I, Arts. 54 <sup>[52]</sup>, 68-71 <sup>[53]</sup>; P II, Art 18 <sup>[50]</sup>; CIHL, Rule 55 <sup>[18]</sup>)

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### Links

[1] [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2216\(2015\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2216(2015))

[2] <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22818>

[3]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=41229BA1D6F7E573C12563CD0>

[4]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=BAA341028EBFF1E8C12563CD0>

[5]

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[6]

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[7] <https://www.icrc.org/ihl/INTRO/560%3FOpenDocument>

[8] <http://reliefweb.int/sites/reliefweb.int/files/resources/8B2E79FC145BFB3D492576E00021ED34-HPCR-may2009.pdf>

[9] <https://ihl-databases.icrc.org/ihl/WebART/195-200052?OpenDocument>

[10] [https://ihl-](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=96F4C27D2F07BE8FC12563FB004)

[databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=96F4C27D2F07BE8FC12563FB004](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=96F4C27D2F07BE8FC12563FB004)

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