

THE RIGHT TO INTERVENTION IN AN INTERNAL CONFLICT OF STATES: THE CASE IN YEMEN

Dr. Eisa Al-Enezy*
Dr. Nada Al-Duaij**

I. INTRODUCTION.....	326
II. NATURE OF THE RIGHT TO INTERVENTION IN INTERNATIONAL LAW	328
III. EVOLUTION AND DEVELOPMENT OF INTERVENTION.....	330
IV. CONTEXT OF THE CONFLICT AND NUANCES OF INTERVENTION BY PARTIES IN YEMEN.....	331
V. LEGAL STATUS OF THE INTERVENTIONS IN YEMEN UNDER INTERNATIONAL LAW	334
A. <i>Exceptions to Forceful Intervention</i>	337
1. U.N. Security Council Authorization.....	337
2. Self-Defense by Use of Force	342
3. Is Unilateral Humanitarian Intervention an Exception Under Customary International Law?	344
VI. THE ROLE OF U.N. GENERAL ASSEMBLY IN AUTHORIZING INTERVENTION	348
VII. PUBLICISTS' CONDITIONS FOR RECOURSE TO HUMANITARIAN INTERVENTION	349
VIII. CONCLUSION	352

* Dr. Eisa Al-Enezy is an associate Law Professor at Kuwait Law School. DEA and Doctorate from Rennes I Univ. France.

** Dr. Nada Al-Duaij is an associate Law Professor at Kuwait Law School. Master Degree from Kuwait University; SJD from Pace Law School (NY).

Abstract

The right to intervention has taken center stage in many internal crises across the globe. The conflict in Yemen is no different. What started as an intra-state conflict has now escalated into an international armed conflict with a Saudi Arabian-led coalition supporting the Yemeni government, and Iran supporting the Houthi group. International law has entrenched the principle of sovereignty and the codification of non-interference in both positive and customary international law. Yet, there are practical situations of endemic interference in member states' domestic affairs. Thus, this paper analyses the right to intervene in internal conflicts of states under international law in juxtaposition with the situation in Yemen. The interventions in Yemen offend the basic principles of positive and customary international law. Moreover, the interventions not only fail to resolve the conflict, but further escalated it, aggravating the humanitarian catastrophe and the gross human rights violations in Yemen. The situation has in fact become an international armed conflict with intermediates, prolonging it more than necessary. This paper suggests strategic steps that should be taken to settle the disputes amicably and peacefully in line with the dictates of Article 2(4) and Chapter 6 of the UN Charter.

I. INTRODUCTION

Generally, the term “intervention” in international law implies a situation in which one state interferes in another’s intra-state affairs or engages in military operations within the other’s territory in a way that compromises the state’s sovereignty over its own people and territory. For many centuries, the right to intervene in domestic affairs has remained highly controversial and debatable,¹ primarily because sovereignty remains a very strong concept which defines the global political order.² The idea of sovereignty can be traced back to the Treaty of Westphalia³ which, in 1648, put to an end the 30 Years’ War. The Treaty also created a political order whereby states were able to territorially exercise exclusive control or sovereignty over their populations and political affairs. Scholars later developed the principle of non-interference which prohibits dabbling in

1. Foreign and Commonwealth Office, *Is Intervention ever Justified? UK Foreign Office Policy Document No. 148*, 57-1 BYIL 614 (1986); see Adam Roberts, *The So-Called Right of Humanitarian Intervention*, 3 Y.B. INT’L HUMANITARIAN L. 1, 14 (2009).

2. See NIKOLAOS K. TSAGOURIAS, JURISPRUDENCE OF INTERNATIONAL LAW: THE HUMANITARIAN DIMENSION 65-66 (2000).

3. *Peace of Westphalia*, ENCYCLOPAEDIA BRITANNICA (Jul. 20, 1998), <https://www.britannica.com/event/Peace-of-Westphalia>.

another states' domestic affairs.⁴ The purpose was to reduce international conflict and provide order in areas that are prone to conflict. This aim was officially codified in the Charter of the United Nations, which clearly proscribes member states from meddling in another's internal affairs.

Despite the significance of the notion of sovereignty and the codification of principles of non-interference in international law, there are practical situations of endemic interference in member states' internal affairs.⁵ After the Cold War, many argued that sovereignty and principles of non-interference should give way when a state is engaged in gross human rights violations.⁶ This position appears to have generated much controversy in numerous interventions such as those in East Timor in 1974,⁷ Kuwait in 1992,⁸ the Bosnian civil war,⁹ and the Kosovo war in 1999.¹⁰ Central to this argument is the continued relevance of state sovereignty and non-interference principles in today's world, the right or obligation of states or the international community to intervene in internal crisis, and the positive impacts of intervention on states' peace and stability at reasonable costs.¹¹ In fact, since 2001, and after the United States' invasion of Afghanistan, the issue has turned to how these interventions can be made effective in a way that will not complicate the existing peace and stability of the states.

On the same note, the situation in Yemen is similar, if not worse. In March 2015, Saudi Arabia, under the pretext of halting the Houthi advances through Yemen, launched a military attack on Yemen. No one can deny that the Houthi are part of Yemeni society, as Houthis coexisted in peace with all Yemini a long time ago. Intervention in Yemen's internal affairs became attractive when the Houthi became a threat to Saudi Arabia's plans for future expansion in Yemen. To properly coordinate an effective intervention, Saudi Arabia formed a coalition with countries such as Qatar, United Arab Emirates

4. Marcelo Kohen, *The Principle of Non-Intervention 25 Years After the Nicaragua Judgment*, 25 *LIEDEN J. INT'L L.* 157, 160 (2012).

5. HUMANITARIAN INTERVENTION: ETHICAL, LEGAL, AND POLITICAL DILEMMAS (J.L. Holzgrefe & Robert O. Keohane eds., Cambridge Univ. Press 2003) [hereinafter HUMANITARIAN INTERVENTION].

6. See ANNE ORFORD, *READING HUMANITARIAN INTERVENTION: HUMAN RIGHTS AND THE USE OF FORCE IN INTERNATIONAL LAW* 20 (Cambridge Univ. Press 2003).

7. *Id.* at 22-23.

8. *Id.*

9. FERNANDO R. TESÓN, *HUMANITARIAN INTERVENTION: AN INQUIRY INTO LAW AND MORALITY* 322-27 (Transitional Publishers, Inc. ed., 3rd ed. rev. 2005).

10. Nico Krisch, *Unilateral Enforcement of the Collective Will: Kosovo, Iraq, and the Security Council*, 3 *MAX PLANCK UNYB* 78, 80-81, 86 (1999).

11. *Id.*

(U.A.E.), Kuwait, Bahrain, Jordan, Sudan, Morocco, Egypt and Pakistan.¹² The Gulf Cooperation Council announced that the military intervention action occurred in light of Yemen President Hadi's request to leaders of Saudi Arabia,¹³ Bahrain, Oman, Kuwait and Qatar, to engage in such military intervention. According to President Hadi, the purpose of the invention was to protect Yemeni citizens from Houthi aggression.¹⁴ While the United Kingdom and the United States provide arms and military intelligence support to the Saudi-led intervention,¹⁵ Iran allegedly supports the Houthi, who follow the same sect of Tehran (Shiite), with weapons, financial support, and military advice.¹⁶

Against this backdrop, this paper analyzes the right of intervention under international law, and then juxtaposes that right with the Yemini experience. To achieve this objective, this study examines the nature, evolution, and development of the power of intervention in internal conflicts of another state. This paper will also examine the legal standing of the Saudi-led intervention, the interventions by Iran in support of the Houthis group through the use of force, and the various legal issues that arise from the intervention in Yemen.

II. NATURE OF THE RIGHT TO INTERVENTION IN INTERNATIONAL LAW

The right of intervention through the use of force can be broadly normative, with historical and legal perspectives depending on a particular

12. Ryan Goodman, *Saudi Arabia's Misleading Email to Congress After Bombing of MSF Cholera Hospital*, JUST SEC. (June 25, 2018), <https://www.justsecurity.org/58437/saudis-deceptive-email-congress-bombing-msf-cholera-hospital/>.

13. It is primordial to mention that President Hadi was chosen after the thrown of former Yemeni President, Saleh, and supported by the government of Riyadh. He practices his authorities from his office in Saudi Arabia. *Yemen's President Ali Abdullah Saleh cedes power*, BBC NEWS (Feb. 27, 2012), <https://www.bbc.com/news/world-middle-east-17177720>.

14. *Yemen's Hadi Seeks UN Military Support to Deter Houthis*, AL JAZEERA (Mar. 25, 2015), <https://www.aljazeera.com/news/middleeast/2015/03/yemen-hadi-seeks-military-support-deter-houthis-15032422335704.html>.

15. Barbara Bodine et al., *The Trump Administration Must Extend Temporary Protected Status for Yemenis*, JUST SEC. (June 26, 2018), <https://www.justsecurity.org/58459/trump-administration-extend-tps-yemenis/>; see generally Albert Fox Cahn & Karin Bashir, *Carpenter Ruling Brings Us Back from Brink of Orwellian Surveillance State*, JUST SEC. (June 28, 2018), <https://www.justsecurity.org/58607/carpenter-ruling-brings-brink-orwellian-surveillance-state/>; Mohamad Bazzi, *America is Likely Complicit in War Crimes in Yemen. It's Time to Hold the U.S. to Account*, GUARDIAN (Oct. 3, 2019), <https://www.theguardian.com/commentisfree/2019/oct/03/yemen-airstrikes-saudi-arabia-mbs-us>.

16. Jonathan Saul et al., *Exclusive: Iran Steps Up Support for Houthi's In Yemen's War – Sources*, REUTERS (Mar. 21, 2017), <https://www.reuters.com/article/us-yemen-iran-houthis/exclusive-iran-steps-up-support-for-houthis-in-yemens-war-sources-idUSKBN16S22R>.

case and the practical changes over time.¹⁷ Opinions on intervention have changed over many decades.¹⁸ For example, beliefs took many shapes after the Cold War,¹⁹ including the United States' position on the meaning of intervention in relation to foreign policy.²⁰ The debate has also centered around the conditions and requirements for a successful intervention.²¹ In Europe and Asia, the leading issues revolved around the complex political challenges in deciding where, when, and how to intervene, the intervention's implications, and the implementation of policy changes to ensure effective interventions.²²

Despite the above, the term intervention remains extremely vague in the context of international law, which fails to provide clarification on its restriction to humanitarian intervention.²³ As a result, there are both violent and non-violent interventions, which include the provision of food, clothing, and shelter.²⁴ The latter is better described as humanitarian aid, as the classical incarnation of intervention involves the use of force or threat of force by another state claiming to be motivated by humanitarian considerations.²⁵ This approach does not suggest any legal justification for the use of any type of force similar to the notion of self-defense, the United Nations Security Council's authorization, the protection of the foreign nationals, or military action upon actual consent of the aggrieved state.²⁶ Nonetheless, humanitarian intervention can be narrowly described as a

17. ELLERY C. STOWELL, *INTERVENTION IN INTERNATIONAL LAW* 317 (1921).

18. MARTHA FINNEMORE, *THE PURPOSE OF INTERVENTION: CHANGING BELIEFS ABOUT THE USE OF FORCE* 53 (Cornell Univ. Press 2003); *see generally* GARY J. BASS, *FREEDOM'S BATTLE: THE ORIGINS OF HUMANITARIAN INTERVENTION* (Random House Inc. 2008) (1969).

19. *See* MICHAEL C. DAVIS ET AL., *INTERNATIONAL INTERVENTION IN THE POST-COLD WAR WORLD* (M.E. Sharpe, Inc. 2004). [hereinafter DAVIS ET AL.].

20. *See id.*; *see* RICHARD N. HAASS, *INTERVENTION: THE USE OF AMERICAN MILITARY FORCE IN THE POST-COLD WAR WORLD* (1999).

21. PATRICK M. REGAN, *CIVIL WARS AND FOREIGN POWERS: OUTSIDE INTERVENTION IN INTRASTATE CONFLICT 1* (Univ. of Mich. Press 2005) (2000); Penelope C. Simmons, *Humanitarian Intervention: A Review of the Literature* (Project Ploughshares, Working Paper No. 01-2), https://ploughshares.ca/pl_publications/humanitarian-intervention-a-review-of-literature-3/.

22. Pascal Boniface, *What Justifies Regime Change?*, 26.3 WASH. Q. 61, 70-71 (2003); BASS, *supra* note 18, at 354; DAVIS ET AL., *supra* note 19, at 7-8.

23. P.H. Winfield, *The History of Intervention in International Law*, 3 BRIT. Y.B. INT'L L. 130, 130-31 (1922).

24. A non-violent intervention occurs when a state is providing food, clothing, and shelter to and within another country. QATAR INT'L LAW CONF. '94, INTERNATIONAL LEGAL ISSUES ARISING UNDER THE UNITED NATIONS DECADE OF LAW 891 (Najeeb Al-Nauimi & Richard Meese eds., Kluwer Law Int'l 1995).

25. Michael Wood, *The Law on the Use of Force: Current Challenges*, 11 SING. Y.B. INT'L L. 1, 3 (2007).

26. CHRISTINE GRAY, *INTERNATIONAL LAW AND THE USE OF FORCE* 13 (Oxford Univ. Press 2000).

situation where force is used to prevent endemic and gross human rights violations, especially when the aggrieved state is powerless or unwilling to act under the circumstance.²⁷ This description is also broad, as any military action can be deemed humanitarian intervention.²⁸ The term does not appear in any treaty, perhaps because its' boundaries have not been properly delineated.

III. EVOLUTION AND DEVELOPMENT OF INTERVENTION

The right of intervention dates back to Grotius' argument that if the punisher's hands are clean, war can be fought in order to punish the wicked, and on behalf of the oppressed.²⁹

This is similar to Alberico Gentili's argument, although his argument was essentially premised on a moral duty, rather than a legal one.³⁰ Emmerich de Vattel later supported the right of intervention to save the oppressed when they revolted against their government but argued that intervention in internal affairs of other states is not allowed in any other circumstance.³¹

Prior to the U.N. Charter, an established state practice to justify intervention through the use of force did not exist. However, many notable interventions were supported by academics who justified humanitarian interventions.³² As a result, the following interventions were justified on humanitarian grounds: interventions in defunct Ottoman Empire in the 19th century; the naval battle of Navarino in 1827 in backing the Greek rebellion, the French occupation of Lebanon and Syria in 1860 to 1861, and the United States' intervention in Cuba during the Cuba's war with Spain in 1898.³³ Nonetheless, history casts serious doubt that such interventions were indeed

27. SEAN D. MURPHY, *HUMANITARIAN INTERVENTION: THE UNITED NATIONS IN AN EVOLVING WORLD ORDER* 8-12 (Univ. of Penn. Press 1996).

28. Antonio Cassese, *Ex Iniuria Ius Oritur: Are We Moving Towards International Legitimation of Forcible Humanitarian Countermeasures in the World Community?*, 10 EUR. J. INT'L L. 23, 27 (1999).

29. HUMANITARIAN INTERVENTION, *supra* note 5.

30. SIMON CHESTERMAN, *JUST WAR OR JUST PEACE? HUMANITARIAN INTERVENTION AND INTERNATIONAL LAW* 14 (Oxford Univ. Press 2001).

31. *See* HUMANITARIAN INTERVENTION AND THE UNITED NATIONS 135 (Richard B. Lillich ed., Univ. Press of Vir. Charlottesville 1973).

32. *See* TARCISIO GAZZINI, *MELLAND SCHILL STUDIES IN INTERNATIONAL LAW: THE CHANGING RULES ON THE USE OF FORCE IN INTERNATIONAL LAW* 114 (Manchester Univ. Press 2005).

33. Vaughan Lowe & Antonios Tzanakopoulos, *Humanitarian Intervention*, MAX PLANCK ENCYCLOPEDIAS OF PUB. INT'L L. 30-3 & 40 (Oxford Univ. Press 2011).

‘humanitarian interventions’ given the nexus between these interventions, colonial enterprises, and trade interest.³⁴

The power of intervention has developed in the modern day due to the principle of collective security established under the U.N. Charter.³⁵ This principle has significantly changed the framework for imposing or invoking humanitarian intervention. In the provisions of Chapter VII, the U.N. is empowered to intervene in the crisis in any member state for humanitarian purposes, among others. As such, states’ reservation under Article 2(7) of the U.N. Charter does not apply. However, this power is limited by Article 39 of the UN Charter to circumstances that amount to threat to international peace and security, act of aggression, or breach of peace. In practice, nonetheless, since the 1990s, the U.N. has interpreted the act of threat to peace to include gross human rights violations since such violations have trans-boundary effects on refugee flows and regional destabilization.³⁶

The above principle of collective security is different from unilateral humanitarian intervention, which connotes situations where one or more states intervene in another states’ crisis. The intervening state may act alone or through an international organization separate from the U.N., as seen with the North Atlantic Treaty Organization (“NATO”) intervention in ex-Yugoslavia war, and the Organization of the African Unity (“OAU”) intervention in Burundi, Côte d’Ivoire, Liberia, Congo.³⁷ States intervene on their own authority on the basis of ‘humanitarian considerations.’ Furthermore, when multiple states or international organizations intervene in another states’ crisis, the action may still be regarded as unilateral intervention since such action is not authorized by the U.N. Notwithstanding the right to self-defense, the U.N. Charter reserves the power of authorization in the U.N., so any intervention without U.N. authorization is seen as unilateral.

IV. CONTEXT OF THE CONFLICT AND NUANCES OF INTERVENTION BY PARTIES IN YEMEN

There are currently many ongoing parallel and overlapping conflicts in Yemen that are non-international in nature. The notable examples include the conflict between the Saudi-led coalition, the government and the Houthis;

34. Nico Krisch, *Legality, Morality and the Dilemma of Humanitarian Intervention after Kosovo*, 13-1 EUR. J. INT’L L. 323, 330-1 (2002).

35. Fernando R. Tesón, *Collective Humanitarian Intervention*, 17 MICH. J. INT’L L. 323, 370 (1996).

36. Lowe & Tzanakopoulos, *supra* note 33, at 3.

37. Binaifer Nowrojee, *Africa on its Own: Regional Intervention and Human Rights*, HUM. RTS. WATCH WORLD REP. (Jan. 25, 2004, 7:00 PM), <https://www.hrw.org/legacy/wr2k4/4.htm>.

that between Al-Qaeda in the Arabian Peninsula (“AQAP”) and the Government; and those between diverse armed groups as well as the Southern movements. It is difficult to regard Iran as being a member of the National Iranian American Council (NIAC) because Iranian support to the Houthis is nominal and will not substantially direct the decision-making process of the local alliances. With the absence of any large-scale army gift or support to the Houthis, there is no substantial evidence that the military support provided by Iran to the Houthis goes beyond the training Houthi members receive from Hezbollah.³⁸

Formed in March 2015, the Saudi-led coalition is a major party in the conflicts. Due to the diplomatic crisis between Qatar and other coalition members, Qatar withdrew from the coalition in June 2017. Oman refused to join such a coalition.³⁹ In contrast, the U.A.E. played a major role in the coalition, operationally controlling the Aden and Mukallah, while Saudi Arabia controlled the Marib.⁴⁰ Yemen is another major party to the conflict despite having forces of approximately 43,500 with little training and equipment. The United States is also heavily involved, continuously carrying out both air and drone strikes against the AQAP in Yemen and supplying the Saudi-led coalition with a large scale of weapons, intelligence gathering, and logistics support.⁴¹ However, the United States is not allowed to participate anymore in ground troop operations due to previous controversial ground operations in Yemen.⁴² Today, the coalition is struggling to maintain a united front. When the UAE announced its withdrawal from Yemen,⁴³ its’ agents, the southern Militias, followed a different trend in the conflict when they started to attack the legitimate government army and the legitimate transitional council fighters. The acts of the southern Militias gave the impression that the UAE was working against the Saudi representatives in Yemen.⁴⁴ The situation in mid-August 2019 proved that the conflict in Yemen was not only war through agents, but war of agents by sub-agents, or

38. Mareike Transfeld, *Iran’s Small Hands in Yemen*, CARNEGIE ENDOWMENT FOR INT’L PEACE (Feb. 14, 2017), <http://carnegieendowment.org/sada/67988>.

39. Olivier Da Lage, *Coalition of the Unwilling*, GATEWAY HOUSE (Dec. 24, 2015), <https://www.gatewayhouse.in/saudi-coalition-of-the-unwilling/>.

40. U.N. Security Council, *Final Rep. from the Panel of Experts on Yemen*, ¶ 34-36, U.N. Doc. S/2018/594 (2018) [hereinafter *Final Reports from the Panel of Experts on Yemen*].

41. *Id.* at ¶ 69.

42. Leo Shane III & Joe Gould, *Should US Troops Be Involved in the Yemen Civil War?*, MIL. TIMES (Feb. 13, 2019), <https://www.militarytimes.com/news/pentagon-congress/2019/02/13/should-us-forces-be-involved-in-the-yemen-civil-war/>.

43. *Yemeni Official: UAE Won in Aden, Saudi Silent Over ‘Slaughter,’* AL JAZEERA, (Aug. 11, 2019), <https://www.aljazeera.com/news/2019/08/yemeni-official-uae-won-aden-saudi-silent-slaughter-190811144214211.html>.

44. *Id.*

civil war inside civil war.⁴⁵ The United States faces backlash for the human tragedies caused by the American arms provided to the coalition,⁴⁶ and Saudi Arabia will continue to pressure Washington to fill in the gap caused by the UAE withdrawal. At the same time, the Houthis continue to see reduced support as a result of the American-European sanctions against Iran.⁴⁷

Additionally, the Saleh aligned forces consist of military, political and tribal networks. The military network has enormously assisted the continued political influence of the Saleh alliance. The high-ranking officers appointed by Saleh during his reign as the President, are still loyal to him despite Hadi's reforms to unite the army.⁴⁸ The Houthis are also a major player in the conflict in Yemen. They are generally perceived as a Zayd Shia insurgent group based in Yemen. The Houthis take their name from Hussein Badreddin al-Houthi, who served as commander until 2004, when he was killed by Yemeni Soldiers.⁴⁹ The group is also known as Ansar Allah. From 2004 to 2010, there were about six rounds of conflicts, otherwise known as the six wars, which arose between the Houthis and Saleh regime.⁵⁰ In 2011, the group was heavily involved when the Houthis began an uprising which called for the regime to step down from power.⁵¹ The Houthis drew many supporters during Yemen's uncertain transition and the subsequent power vacuum in the country. Then, the Houthis aligned politically and militaristically with Saleh forces in September 2014.⁵² Together, the Houthi and Saleh forces took control of capital.⁵³ The Houthis rely on the militias for their military support.

The Southern Traditional Council, otherwise known as the Southern Movement, and the AQAP, are the other prominent players in the conflict in Iran. There are several military units loyal to former President Saleh, that

45. *Id.*

46. Thembisa Fakude, *Saudi Arabia's Dilemma as the UAE Pulls Out of Yemen*, MIDDLE EAST MONITOR (July 15, 2019 5:24 PM), <https://www.middleeastmonitor.com/20190715-saudi-arabias-dilemma-as-the-uae-pulls-out-of-yemen/>.

47. Abdulhadi Habtor, *Yemeni Official: US Sanctions on Iran Hit Houthis Hard*, ASHARQ AL-AWSAT (July 1, 2019, 6:00 AM), <https://aawsat.com/english/home/article/1792441/yemeni-official-us-sanctions-iran-hit-houthis-hard%C2%A0>.

48. *Final Reports from the Panel of Experts on Yemen*, *supra* note 40, at ¶ 64.

49. Saeed Al Batati, *Who are the Houthis in Yemen?*, AL JAZEERA (Mar. 29, 2015), <https://www.aljazeera.com/news/middleeast/2014/08/yemen-houthis-hadi-protests-201482132719818986.html>.

50. *Id.*

51. *Id.*

52. *Final Reports from the Panel of Experts on Yemen*, *supra* note 40, at ¶ 59.

53. Geneva Academy, *THE ARMED CONFLICT IN YEMEN: A COMPLICATED MOSAIC: THE WAR REPORT 2017*, at 6.

have joined forces with the Houthis since March 2015.⁵⁴ Hadi appointed Mohsin, Saleh's former ally, as the Deputy Supreme Commander of the armed forces, to gather military and local tribe support, but whether Yemini security forces will fully commit to Hadi is doubtful.⁵⁵ In 2009, the AQDP's Saudi and Yemini groups emerged.⁵⁶ During the uprising, AQAP was internationally recognized as significant local insurgents interested in territory capturing.⁵⁷ In order to gain acceptance and distinguish itself from the international brand, the AQAP established Ansar Al-Sharia as a parallel body.⁵⁸ The group took advantage of a security breach in 2011 in order to take control of territories like Mukallah in the South but adversaries subsequently forced the group out in 2016.⁵⁹ Nonetheless, the group still experiments its local governance system in regions such as Abyan, Shabwa and Hadhramout.⁶⁰

V. LEGAL STATUS OF THE INTERVENTIONS IN YEMEN UNDER INTERNATIONAL LAW

The UN Charter is most significant legal document guiding interventions in state affairs. The Charter not only establishes the principle of sovereign equality of all states,⁶¹ but also obliges those states to settle disputes by peaceful means,⁶² and prohibits the use of force.⁶³ The Charter emphasizes the principle of non-intervention in member states' domestic

54. ARAB CTR. FOR RES. & POL. STUD. POL. ANALYSIS UNIT, Assessment Report, *Operation Golden Arrow: The Prospects for a Resolution to the Yemeni Conflict in 2017*, (Mar. 8, 2017), https://www.dohainstitute.org/en/PoliticalStudies/Pages/Operation_Golden_Arrow_the_Prospects_for_a_Resolution_to_the_Yemeni_Conflict_in_2017.aspx.

55. See Yemen President Appoints Ali Mohsin as Deputy Supreme Commander, THE NEW ARAB (Feb. 23, 2016, 3:54 PM), <https://www.alaraby.co.uk/english/news/2016/2/23/yemen-president-appoints-ali-mohsin-as-deputy-supreme-commander>; see also Ryan Goodman & Alex Moorehead, *UAE, A Key US Partner in Yemen, Implicated in Detainee Abuse*, JUST SEC. (May 15, 2017), <https://www.justsecurity.org/40978/uae-key-partner-yemen-implicated-detainee-abuse/>; Nadwa Al-Dawsari, *Policy Brief - Breaking the Cycle of Failed Negotiations in Yemen*, PROJECT ON MIDDLE EAST DEMOCRACY (May 5, 2017), https://pomed.org/wp-content/uploads/2017/05/PolicyBrief_Nadwa_170505b-1.pdf.

56. See generally *Yemen's al-Qaeda: Expanding the Base*, INT'L CRISIS GRP. (Feb. 2, 2017), <https://d2071andvip0wj.cloudfront.net/174-yemen-s-al-qaeda-expanding-the-base.pdf>.

57. *Id.*

58. *Id.* at 6.

59. *Id.* at 9.

60. *Id.* at 26.

61. U.N. Charter art. 2, ¶ 1; Lowe & Tzanakopoulos, *supra* note 33, at 3.

62. U.N. Charter art. 2, ¶ 3; Lowe & Tzanakopoulos, *supra* note 33, at 3-4.

63. U.N. Charter art. 2, ¶ 4; Lowe & Tzanakopoulos, *supra* note 33, at 4.

affairs.⁶⁴ Despite the relatively weak legal power of the declaration in international law, these principles were reiterated and further developed in the Friendly Relations Declaration.⁶⁵ Thus, any intervention not in accordance with these principles or any of the exceptions has no legitimate legal basis under international law. The two major exceptions under Article 51 are self-defense and the authorizations of the U.N. Security Council.⁶⁶ Since use of force is prohibited as a general rule, any legal intervention must rest under these exceptions. The question now is what is the scope of Article 2(4), which prohibits the use of force?

Article 2(4) precludes “the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”⁶⁷ Courts have subjected this language to many interpretations. In *Corfu Channel*,⁶⁸ the United Kingdom argued that the Article seeks to only restrict the use of force that is targeted at the political independence of a sovereign state or the force that might affect the territorial integrity of the state. Thus, when force is used for a limited purpose, these features are not affected. Another argument is that uses of force not inconsistent with the U.N.’s purposes, such as human rights promotion, are permissible.⁶⁹ This narrow interpretation of Article 2(4) has paved the way for many claims of intervention based on humanitarian purposes. This approach does not offend any provisions of the Article since the intervening state withdraws immediately after the catastrophe or danger, which initially provoked such intervention in the target state, is quelled. Since the purpose of this iteration of invasion is to avert severe and flagrant violation of human rights, it promotes the purpose of the UN.

However, *Corfu Channel* provided a different approach to the argument offered above. In *Corfu Channel*, the International Court of Justice (“ICJ”) rejected British arguments that it did not violate Albania’s territorial integrity and sovereignty when conducting a compulsorily sweep for mines in

64. U.N. Charter art. 2, ¶ 7. See also Maziar Jamnejad and Michael Wood, *The Principle of Non-Intervention*, 22 L.J. INT’L L. 345–82 (2009); V Lowe, *The Principle of Non-Intervention: Use of Force*, THE UNITED NATIONS AND THE PRINCIPLES OF INTERNATIONAL LAW: ESSAYS IN MEMORY OF MICHAEL AKEHURST (Routledge London 1994) 66–84; Coman Kenny & Sean Butler, *The Legality of ‘Intervention By Initiation’ in Situations of R2P Violations*, 51 N.Y.U. J. INT’L L. & POL. 135 (2018).

65. Lowe & Tzanakopoulos, *supra* note 33, at 4.

66. *Id.*

67. *Id.*

68. *Id.*; *Corfu Channel Case* (U.K. and N. Ir. v. Alb.), Merits, 1949 I.C.J. Rep 4, (Apr. 9) <https://www.icj-cij.org/files/case-related/1/001-19490409-JUD-01-00-EN.pdf> [hereinafter *Corfu Channel Case*].

69. U.N. Charter art. 1, 3, 55, 56; Lowe & Tzanakopoulos, *supra* note 33, at 4.

Albanian waters.⁷⁰ The court declared the U.K.'s intervention as a "manifestation of a policy of force."⁷¹ Thus, in the view of the ICJ, the phrases "political independence," territorial integrity, and "in any other manner inconsistent with the purposes of the United Nations" reinforce the prohibition on the use of force.⁷² This reassures smaller, less powerful states that the use of force is prohibited. In actuality, however, it does not qualify the scope of such prohibition under Article 2(4) of the U.N. Charter. In *Military and Paramilitary Activities in and Against Nicaragua*, the ICJ reiterated the unqualified proscription of compulsory intervention, and held that "the use of force could not be the appropriate method to monitor or ensure ... respect" for human rights.⁷³ Thus, when the U.N. authorized the use of force for possible humanitarian purposes, such as protecting citizens in Libya⁷⁴ and in Côte d'Ivoire in 2011, it established that armed force will ordinarily have to target a ruling regime to justify the intervention.

Therefore, the narrow interpretation of Article 2 (4) is hostile to the U.N.'s purpose and structure to preserve international peace and security through a collective security system. One might argue that Article 2(4) prohibits any use of force beyond the limited number exceptions. This will be the focus of the following sections in this article.

It is clear that the military interventions in Yemen amount to an unlawful use of force under the spirit and letters of Article 2(4), which obliges the states to settle disputes through peaceful means.⁷⁵ This interpretation is consistent with the ICJ decisions in the cited cases above. Moreover, the interventions also violated Yemen's sovereignty. No invitation for use of force will absolve the intervening state's obligation to comply with the provisions of the Charter. Nevertheless, there are exceptions to the general rule. Iran's alleged financial and arms support of the Houthis is unlawful and at odds with Article 2(4). According to *Military and Paramilitary Activities in and Against Nicaragua*, any state that arms, trains, equips, or finances rebel forces or otherwise supports, encourages, or aids military and paramilitary activities in and against a state, has breached its obligations

70. Lowe & Tzanakopoulos, *supra* note 33, at 5.

71. Corfu Channel Case, *supra* note 68, at ¶ 35; Lowe & Tzanakopoulos, *supra* note 33, at 5.

72. Lowe & Tzanakopoulos, *supra* note 33, at 5.

73. Lowe & Tzanakopoulos, *supra* note 33, at 5.

74. Mehrdad Payandeh, *The United Nations, Military Intervention, and Regime Change in Libya*, 52 VA. J. INT'L L. 355 (2012).

75. Mehrdad Payandeh, *The United Nations, Military Intervention, and Regime Change in Libya*, 52-2 VA. J. INT'L L. 355 (2012).

under customary international law – obligations that imposes a duty not to intervene in another states’ domestic affairs.⁷⁶

One might argue that there is an armed conflict in Yemen. According to rebel leader Abdul-Malik Al-Houthi, the purpose is to occupy and invade Yemen.⁷⁷ However, it is doubtful whether this conflict can be regarded as international in scope. Assuming Iran has total control over the Houthi rebels, applying the test from the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia (“ICTY”) in *Prosecutor v. Tadić* might show that the conflict is international if the rebels are deemed agents of Iran.⁷⁸ However, Iran’s influence over the Houthi rebels does not meet this threshold. Therefore, the effective control test does not apply and there is no reason for speculating attribution of state responsibility. Since the separate Saudi-led and Iran-supported interventions do not come under the general rule, the question as to whether the interventions are justified must be analyzed through the exceptions.

A. *Exceptions to Forceful Intervention*

Although international law prohibits the use of force, there are exceptions to the rule against compulsory intervention.

1. U.N. Security Council Authorization

The use of force by the Military potentially falls under the so-called “UN Security Council-authorized collective humanitarian intervention” or simply “collective humanitarian intervention” under Chapter VII UN Charter.⁷⁹ Since 1990, and in order to maintain and restore international peace and security, the Security Council has interpreted “threat to the peace” to include pure intentional armed conflicts and gross human rights violations within a

76. Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), Judgment, 1986 I.C.J. Rep. 14, ¶ 268 (June 27) [hereinafter *Military and Paramilitary Activities in and Against Nicaragua*]; see also Ryan Goodman & Michael Schmitt, *Having Crossed the Rubicon: Arming and Training Syrian Rebels*, JUST SEC. (Sept. 26, 2014), <https://www.justsecurity.org/15660/crossed-rubicon-arming-training-syrian-rebels/>.

77. *Id.*; Goodman & Schmitt, *supra* note 76; see *Yemen FM urges swift end to air strikes on Houthis*, BBC NEWS, (Mar. 27, 2015), <https://www.bbc.com/news/world-middle-east-32082616>.

78. *Prosecutor v. Tadić*, Case No. IT-94-1-T, Decision on the Defence Motion on Jurisdiction in the Trial Chamber of the International Tribunal, ¶ 70 (Int’l Trib. for the Prosecution of Persons Responsible for Serious Violations of Int’l Humanitarian Law Committed in the Territory of Former Yugoslavia since 1991 Oct. 2, 1995) <https://www.icty.org/x/cases/tadic/acdec/en/51002.htm>.

79. Thomas M. Franck, *RECOURSE TO FORCE: STATE ACTION AGAINST THREATS AND ARMED ATTACKS* 136 (Cambridge Univ. Press 2002).

state and purely internal armed conflicts.⁸⁰ In fact, this was the practice in the aforementioned *Prosecutor v. Tadić* Case in 1995.⁸¹ This interpretation is justified on the basis that such actions would lead to refugee flows which could destabilize regions and spark armed reaction from neighbouring states. However, the Security Council also recognized purely intra-state matters may qualify as threats to the peace, notwithstanding the marginal nature of transboundary consequences.⁸² The Security Council may sanction States to take compulsory measures to halt human rights violations and prevent the humanitarian crises.⁸³ In these situations, the Security Council deems the use of force as humanitarian in nature and the States which heed the call by intruding on the global community engage in “humanitarian intervention.” Examples of these armed U.N.-authorized interventions include the crises in Somalia,⁸⁴ Haiti,⁸⁵ Rwanda,⁸⁶ Bosnia and Herzegovina,⁸⁷ Albania,⁸⁸ and East Timor.⁸⁹ In each case, the Security Council authorized using “all necessary means” to deliver humanitarian assistance or to monitor the execution of the peace agreement.⁹⁰ Another example is when the U.N. Secretary General authorized France and the U.N. Operation in Côte d’Ivoire (“UNOCI”) to forcefully engage with one of the warring parties to prevent the use of devastating weapons against non-combatants in Abidjan.⁹¹ The French and UNOCI’s actions conformed with the Security Council’s directive to use “all necessary means” to protect non-combatants threatened with violence.⁹²

80. See generally Jost Delbruck, *A Fresh Look at Humanitarian Intervention Under the Authority of the United Nations*, 67 IND. L.J. 887 (1992) (noting that in 1990, after the Cold War era, the former American president, George Bush, talked for the first time about the new world order, which gives priority to human rights protection over state’s sovereignty).

81. *Prosecutor v. Tadić*, Case No. IT-94-1-T, *supra* note 78, at ¶ 30.

82. Philip Alston, *The Security Council and Human Rights: Lessons to be Learned from the Iraq-Kuwait Crisis and its Aftermath*, 13 AUSTL. Y.B. INT’L L., 107, 133 (1992); Lowe & Tzanakopoulos, *supra* note 33, at 5-6.

83. Lowe & Tzanakopoulos, *supra* note 33, at 4.

84. G.A. Res. 794, (Dec. 22, 2007); Lowe & Tzanakopoulos, *supra* note 33, at 6.

85. S.C. Res. 940 (July 31, 1994); Lowe & Tzanakopoulos, *supra* note 33, at 6.

86. S.C. Res. 929 (June 2, 1994).

87. S.C. Res. 836 (June 4, 1993); S.C. Res. 1031 (December 15, 1995); S.C. Res. 1088 (Dec. 12, 1996); Lowe & Tzanakopoulos, *supra* note 33, at 6.

88. S.C. Res. 1101, ¶ 5 (Mar. 28, 1997).

89. S.C. Res. 1264, ¶ 2 (Mar. 28, 1997).

90. See generally U.N. Dep’t of Peacekeeping Operations (DPKO), *United Nations Peacekeeping Operations: Principles and Guidelines*, U.N. Doc., USG/DPKO (2008), <https://www.refworld.org/docid/484559592.html>.

91. Lowe & Tzanakopoulos, *supra* note 33, at 6.

92. S.C. Res. 1933, ¶ 16-17 (June 30, 2010); S.C. Res. 1975, ¶ 6 (March 30, 2011); S.C. Res. 1739, 208 (Jan. 10, 2007); S.C. Res. 1962, ¶ 17 (Dec. 20, 2010); Lowe & Tzanakopoulos, *supra* note 33, at 6.

Despite U.N. assurances that operations were to protect civilians under self-defense, contrary evidence revealed that the attacks were directed at one of the parties to the conflict.⁹³ Although the U.N.'s authorization to use excessive force in Libya was intended to protect "civilians...under threat of attack,"⁹⁴ the force was similarly directed at one party to the conflict. Thus, the scope of authorization, the covered targets, and the measures taken are questions of interpretation. This can only be done when the Security Council members do not hold bias against a party and remain neutral. In these circumstances, the use of force was authorized by the Security Council for questionable humanitarian reasons.

Furthermore, the Security Council has implicitly and retrospectively authorized interventions through several cases. In 1991, the U.K., France, and the U.S. intervened in Iraq to "alleviate" Kurdish, and later, Shia, civilian suffering.⁹⁵ In doing so, the intervening countries primarily relied on the U.N. Security Council Resolution⁹⁶ to support their intervening actions. The U.N. Member States' authorization to forcefully implement Security Council Resolutions⁹⁷ to restore peace and security in the country,⁹⁸ subsequent to Iraq's invasion of Kuwait, had already ceased, in line with U.N. Security Council Resolution 687 of April 3, 1991.⁹⁹ They argued that creating safe havens and no-fly zones were in line with Security Council Resolution 688. However, Chapter VII did not adopt this and did not comprise the shibboleth "all necessary means," which tacitly sanctioned the limited use of force to just for the limited purpose of protecting the Kurdish and Shiite civilians.

In the same vein, there are cases that highlight when intervening states sometimes act on implied authorization. The NATO's intervention in Kosovo is a prime example.¹⁰⁰ The implied authorization was meant to justify the NATO bombardments on the ground of a U.N. Security Council Resolution,¹⁰¹ which stated the Security Council would consider extra

93. See U.N. Secretary-General, Letter dated Mar. 4, 2011 from the Secretary General addressed to the President of the General Assembly, U.N. Doc. SG/SM/1346 (Mar. 4, 2011).

94. S.C. Res. 1973, ¶ 4 (March 17, 2011); Lowe & Tzanakopoulos, *supra* note 33, at 6.

95. They intervened by the creating safe havens and subsequent introduction of no-fly zones over the country [Iraq, Non-Fly Zones] which were kept in place until the 2003 Iraqi invasions, though France withdrew from their enforcement in 1998. GORDON W. RUDD, HUMANITARIAN INTERVENTION: ASSISTING THE IRAQI KURDS IN OPERATION PROVIDE COMFORT, 1991 (CMH Pub. 2004).

96. See generally S.C. Res. 688 (Apr. 5, 1991).

97. S.C. Res. 660, ¶ 3 (Aug. 2, 1990).

98. S.C. Res. 687 (Apr. 3, 1991).

99. Lowe & Tzanakopoulos, *supra* note 33, at 7.

100. INDEPENDENT INTERNATIONAL COMMISSION ON KOSOVO, THE KOSOVO REPORT: CONFLICT, INTERNATIONAL RESPONSE, LESSONS LEARNED (OUP OXFORD 2000), at 55-61.

101. S.C. Res. 1199, ¶ 2-3 (Sept. 23, 1998).

measures if the initial measures provided for in the resolution¹⁰² were ineffective in curbing violence and terrorism. Similarly, France also construed this as implied authorization by the Security Council Resolution¹⁰³ when it found that further breaches of measures occurred. Also, it has been argued that the Security Council covertly, and retrospectively, gave authorization to use force against the then Federal Republic of Yugoslavia (“FRY”).¹⁰⁴ To support this claim, proponents point out that the Security Council endorsed, rather than condemned, NATO’s threat of force, which resulted in agreements between the FRY, NATO, and the Organization for Security and Co-operation in Europe (“OSCE”) in 1998.¹⁰⁵

Similarly, there are cases of retrospective *ex post facto* Security Council authorizations. One instance includes the subsequent ratification of the Economic Community of West African States’ (ECOWAS) interventions in Sierra Leone and Liberia and also the Economic Community of West African States Monitoring Group’s (ECOMOG) actions between 1990 and 1999. The Security Council not only commended such actions, but authorized it. Comparably, the Security Council approved and authorized French action in the Central African Republic in 1997.¹⁰⁶ Thus, the Security Council retrospectively authorizes and ratifies forceful inventions even when there are significant reservations due to the target State’s right of self-defense against the use of force which is, at the material time, illegal, but retroactively authorized by the Security Council. On the contrary, no established *ex post facto* authorization was given to create the international civilian and military presence in Kosovo after the NATO bombardment.¹⁰⁷ Thus, forcible

102. S.C. Res. 1160, ¶ 6 (Mar. 31, 1998).

103. S.C. Res. 119, 1203 (Oct. 24, 1998).

104. Paul C. Szasz, *The International Legal Aspects of the Human Rights Programme of the United States*, 12 CORNELL INT’L. L. J. 161 (1979); M. Bossuyt, *Human Rights and Non-intervention in Domestic Matters*, 35-2 R. OF THE INT’L COMM’N OF JURIST 45-52 (1985); A. Rosen, *Canada’s Use of Economic Sanctions for Political and Human Rights Purposes*, 51 UNIV. OF TORONTO FAC. L. R. 1 (1993); G. Arangio-Ruiz, *Human Rights and Non-intervention in the Helsinki Final Act*, 157 RCADI 195 (1977); G. Arangio-Ruiz, *Droits de l’homme et non-intervention: Helsinki, Belgrade, Madrid*, 35 LA COMMUNITÀ INTERNAZIONALE 453 (1980); A. Bloed and P. van Dijk, *The Conference on Security and Cooperation in Europe, Human Rights and Non-Intervention*, 5 LIVERPOOL L. R. 117 (1983); A. Rosen, *Canada’s Use of Economic Sanctions for Political and Human Rights Purposes*, 51 UNIV. OF TORONTO FAC. L. R. 1 (1993); K. Zemanek, *Human Rights Protection vs. Non-intervention: A Perennial Conflict?*, in Lal Chand Vorah et al., *MAN’S INHUMANITY TO MAN: ESSAYS IN HONOUR OF ANTONIO CASSESE* (2003), 935; see generally Press Release, Security Council, Security Council Rejects Demand For Cessation of Use of Force Against Federal Republic of Yugoslavia U.N. Press Release SC/6997 (Mar. 26, 1999).

105. S.C. Res 1203, ¶ 1 (Oct. 24, 1998).

106. S.C. Res. 1136 (Nov. 6, 1997).

107. S.C. Res. 1244, ¶ 7 (June 10, 1999).

interventions, which the Security Council authorizes (even if *ex post facto*) under Chapter VII of the U.N. Charter, would establish a claim of collective enforcement action, which is legal under the U.N. Charter as an acceptable exception to the proscription of the use of force.¹⁰⁸ Such actions would not be regarded as justified unilateral intervention, nor support the right to involve in unilateral intervention. The Security Council's failure to act in similar situations, particularly when the invader is permanent member of the Security Council, cannot be hidden. For instance, the Security Council did not seriously examine the Russian intervention in Ukraine because the five permanent members (the Russian Federation, U.S., U.K., France, and China) enjoyed the veto right, which can paralyze Security Council resolution issuance.¹⁰⁹

The case of Yemen presents an interesting scenario of intervention with the use of force. Since 2004,, there has been a steady crisis between the internationally recognized Government and the Houthi rebel group with respect to the Saada Province.¹¹⁰ In September 2014, the crisis took a new dimension when the Houthis overtook Sanaa, the capital of Yemen, and extended their operation to Aden, Yemen's second-largest city.¹¹¹ In 2015, and to stem the tide, Saudi Arabia, together with nine other African and Middle Eastern States, intervened with military force in Yemen. Both the U.S. and U.K. intelligence communities support this coalition's actions. The Saudi-led coalition bombed Yemen in an attempt to depose or displace the rebel group.¹¹²

Despite the Saudi-led coalition's intervention, the Yemen crisis continued unabated. The situation worsened with violent air strikes and counter attacks by the rival group,¹¹³ using Iranian technology.¹¹⁴ Yemenis

108. U.N. Charter art. 43, ¶ 2.

109. Illia Ponomarenko, *Russia to Offer Citizenship to Residents of Occupied Donbas*, KYIV POST (Apr. 24, 2015, 5:28 PM), <https://www.kyivpost.com/russia/russia-to-offer-citizenship-to-residents-of-occupied-donbas.html?cn-reloaded=1>

110. K. Zemanek, *Human Rights Protection vs. Non-intervention*, in L. C. Vorah, MAN'S INHUMANITY TO MAN: ESSAYS IN HONOUR OF ANTONIO CASSESE (2003); JEREMY M. SHARP, CONG. RES. SERV. R43960, YEMEN: CIVIL WAR AND REGIONAL INTERVENTION (2019).

111. *Key Facts About the War in Yemen*, AL JAZEERA (Mar. 25, 2018), <https://www.aljazeera.com/news/2016/06/key-facts-war-yemen-160607112342462.html> [hereinafter *Key Facts*].

112. *Id.*

113. See generally Shavana Musa, *The Saudi-Led Coalition in Yemen, Arms Exports and Human Rights: Prevention Is Better Than Cure*, 22 J. CONFLICT & SEC. L. 433 (2017); Stephen J. Rapp, *Time for a Reckoning in Yemen*, JUST SEC. (July 5, 2018), <https://www.justsecurity.org/58910/time-reconing-yemen/>. NGOs such as Amnesty International condemns such attacks.

114. Michael Knights, *The Houthi War Machine: From Guerrilla War to State Capture*, 11 CTC SENTINEL 15, 17 (2018).

and these airstrikes are responsible for nearly 67% of civilian deaths, a percentage which primarily includes women and children.¹¹⁵ In contrast, the Houthi attacks caused minor casualties among civilians in the border cities of Saudi Arabia, and among the armed forces.¹¹⁶

The Security Council passed some resolutions after the Saudi-led intervention in Yemen. However, it is clear that there was no Security Council resolution in place when the Saudi-led coalition intervened in the crisis. The subsequent resolutions were passed in categories or phases. The first resolution expressed the Security Council's strong support of a political transition, and created sanctions against individuals and groups which threatened Yemen's security, peace, and stability.¹¹⁷ Another resolution allowed for Yemen's sanction measures to extend until February 26, 2017 and authorized the Panel of Experts to expire March 27, 2017.¹¹⁸ Another resolution placed an arms embargo on the Houthis, as well as on the forces loyal to former President Ali Abdullah Saleh.¹¹⁹ Similarly, one resolution renewed the frozen assets and travel ban until February 26, 2016, and also extended the mandate of the Panel of Experts until March 25, 2016.¹²⁰ Another resolution of the Council strongly condemned the Houthis' actions when they disbanded Parliaments on February 6, 2015, taking over the institutions of government and urging that negotiations accelerate in order to have a consensus on the region's political impasse.¹²¹ All of these resolutions show that there is no U.N. Security Council resolution that supports the interventions in Yemen. Thus, this exception does not weigh in favor of the interventions.

2. Self-Defense by Use of Force

International law vests the right to self-defense in states, but does not make it applicable to a sub-state entity consisting of a local population.¹²²

115. See *Key Facts*, *supra* note 111; Bel Trew, *UK and US Bombs Caused Nearly 1,000 Civilian Casualties in Yemen, Damning Report Finds*, INDEPENDENT (Mar. 6, 2019, 7:10 AM), <https://www.independent.co.uk/news/world/middle-east/yemen-war-uk-...n-casualties-mwatana-university-human-rights-network-a8809401.html>

116. *Yemen War: Houthi Missile Attack on Saudi Airport 'Injures 26'*, BBC NEWS (June 12, 2019), <https://www.bbc.com/news/world-middle-east-48608213>; *5 UAE Soldiers Killed in Attack in Yemen*, MIDDLE EAST MONITOR (Nov. 24, 2018, 2:01 PM), <https://www.middleeastmonitor.com/20181124-5-uae-soldiers-killed-in-attack-in-yemen>.

117. S.C. Res. 2140, ¶ 1 (Feb. 26, 2014).

118. S.C. Res. 2266, ¶ 1 (Feb. 24, 2016).

119. S.C. Res. 2216, ¶ 1 (Apr. 14, 2015).

120. S.C. Res. 2204, ¶ 1 (Feb. 24, 2015).

121. S.C. Res. 2201, ¶ 1 (Feb. 15, 2015).

122. Richard B. Lillich, *Forcible Self-Help by States to Protect Human Rights*, 53 IOWA L. REV. 325, 326-27 (1967).

Thus, self-defense is not justified by a mere showing that it was meant to alleviate the local population's sufferings. An armed attack against a state must occur before self-defense is justified under international law.¹²³ In many cases, gross human rights violations may not reach the enormity verge of an armed attack. Even in cases where the oppression reaches the verge of an armed attack, the attack is against the state population with the inaction or support of state authorities, and not against the state. More so, oppression usually does not start in another state, but rather begins when a government acts against its own people.

In the North Atlantic Assembly, a proposal emerged to extend the right to self-defense to include situations such as "defense of common interests and values, including when the latter are threatened by humanitarian catastrophes, crimes against humanity, and war crimes."¹²⁴ However, international law does not currently support the proposition and it has not yet extended to cover these identified situations. The argument is that since defending a population is needed as much as defending a political structure, the right to self-defense should extend beyond attacks on states to also cover attacks on the local population.¹²⁵ This argument will stretch the intention of Article 51 of the U.N. Charter far beyond its intended breaking point. This suggestion also lacks any basis in the practice and *opinio juris* of States.

When India intervened in the crisis in East Pakistan (now Bangladesh) in 1971, a similar argument was put forward, but the U.N. General Assembly rejected it.¹²⁶ India argued that there was "civil aggression" against the State resulting from the influx of millions of Bengali refugees fleeing Pakistani repression. This civil aggression was likened to an armed attack. The General Assembly overwhelmingly rejected this contention and India's other justifications and ultimately ordered India to stop the aggression and withdraw the armed forces.

However, intervening states have claimed the right to self-defense in situations where the intervening state argues that the target state attacked it in a traditional armed-attack, a manner of attack that is subsumed under Article 51 of the U.N. Charter. Vietnam used this to claim to justify its

123. U.N. Charter ch. 7 art. 51, ¶ 1.

124. North Atlantic Assembly, Resolution 283, ¶ 15(e) (Nov. 1998); *Recasting Euro-Atlantic Security: Towards the Washington Summit*, in Marialetizia Longo, *Legitimation of Interventions of International Organizations in Peacekeeping Operations*, <https://www.nato.int/acad/fellow/99-01/longo.pdf> (2001), at 17.

125. Ruth Wedgwood et al., *Editorial Comments: NATO's Kosovo Intervention, NATO's Campaign in Yugoslavia*, 93 AM. J. INT'L L. 829, 833 (1999).

126. Secretariat of the Int'l Comm'n of Jurists, *The Events in East Pakistan, 1971*, 57 (1972).

intervention in Democratic Kampuchea (Cambodia) in 1978.¹²⁷ Vietnam's intervention eventually ended the violent rule of Khmer Rouge.¹²⁸ In 1979, Tanzania also used this claim in order to justify its intervention when using force against Uganda.¹²⁹ The intervention later brought an end to the gross human rights violations of Idi Amin's regime.¹³⁰ Tanzania's reliance on the theory was not based on the humanitarian situation in Uganda, but under Tanzania's own right to self-defense within the traditional paradigm. Thus, the humanitarian consideration is not enough to justify self-defense under international law, except when the intervening state or its allies engage in collective self-defense in response to an armed attack.¹³¹ Again, the self-defense exception only justifies the intervening state's use of force when countering the alleged attack, and not when the state is attempting to change the regime of the target state.

As described above, interventions cannot be justified on the grounds of self-defense. Since self-defense only applies to states within limited exceptions under international law, Saudi Arabia and Iran cannot claim they engaged in interventions in Yemen to protect the local population or their nationals abroad. Claiming these interventions as self-defense would expand the interpretation of Article 15 of the U.N. Charter beyond its intended boundaries.

3. Is Unilateral Humanitarian Intervention an Exception Under Customary International Law?

As described above, humanitarian intervention without the UN Security Council's authorization cannot justify intervention through the use of force. In addition, an armed attack against a state is necessary to justify intervention on ground of the right to self-defense. In view of the difficulty in justifying state interventions, arguments on new exceptions under customary international law seem to have emerged. States now want to re-interpret relevant provisions of the U.N. Charter¹³² or introduce the emergence of supervening custom under new customary rule. For instance, some states,

127. Oscar Schachter, Editorial Comments, *The Legality of Pro-Democratic Invasion*, 78 AM. J. INT'L L. 645, 648 (1984).

128. *Pol Pot Overthrown*, HISTORY (July 28, 2019), <https://www.history.com/this-day-in-history/pol-pot-overthrown>.

129. W. Michael Reisman, *Editorial Comments Coercion and Self-Determination- Construing Charge Article 2(4)*, 78 AM. J. INT'L L. 642, 644 (1984).

130. *Ugandan Dictator Idi Amin Overthrown*, HISTORY (July 27, 2019), <https://www.history.com/this-day-in-history/idi-amin-overthrown>.

131. Reisman, *supra* note 129, at 645.

132. Vienna Convention on the Law of Treaties Vienna art. 31, May 23, 1969, 1155 U.N.T.S. 331 [hereinafter Vienna Convention].

under a new interpretation, may refer to Article 2(4) of the U.N. Charter's reference to "territorial integrity and political independence" as an exception to the proscription of the use of force.¹³³ States may claim that this interpretation gives effect to Article 108 and 109 of the U.N. Charter, but this will undoubtedly require acceptance by an overwhelming majority of U.N. Member States.

The other argument involves state practice and *opinio juris* as a new rule under customary international law. But can this be couched as an exception to the use of force that has gained the status of *jus cogens*? The answer is in the negative, as it must meet the requirement of a custom which has a *jus cogens* status, or must be even more exacting than the ones of ordinary custom.¹³⁴ In this regard, some states and authors have attempted to invoke this as evidence supporting a right to unilateral intervention as a way to put an end to humanitarian crises or gross human rights violations in a target state. The examples that states typically rely upon include India's intervention in East Pakistan in 1971, Tanzania's intervention in Uganda in 1978, Vietnam's intervention in Democratic Kampuchea in 1978, France's intervention in the Central African Empire (now the Central African Republic) in 1979, the United States' interventions in Grenada in 1983 and Panama in 1989, and ECOWAS/ECOMOG interventions in Liberia in 1990 and Sierra Leone in 1997. Other instances include the American, British, and French interventions in Iraq to "protect Kurdish and Shia" from 1991 to 2003, the interventions in Somalia in 1992, the interventions in Rwanda in 1994, the interventions in East Timor in 1999, and NATO's interventions in Kosovo in 1999.¹³⁵

Thus, in order to demonstrate the emergence of new customary law, states must show that their forceful interventions are lawful on a humanitarian basis. In *Military and Paramilitary Activities in and Against Nicaragua*, the ICJ stated that no one has "authority to ascribe to States legal views which they do not themselves advance."¹³⁶ Some proponents argue that states may take actions if they believe they are entitled to do so and can later justify their actions. This argument is weak, and the practice is itself limited as it would allow recalcitrant states to act unjustly because of their belief in

133. U.N. Charter ch. 1 art. 2, ¶ 4.

134. Vienna Convention, *supra* note 132, at art. 53.

135. U.K. House of Commons Select Committee on Foreign Affairs, *Fourth Report (Kosovo)* (2000), <https://publications.parliament.uk/pa/cm199900/cmselect/cmfa/28/2802.htm>; M Kohen, *L'emploi de la force et la crise du Kosovo: vers un nouveau désordre juridique international* 32 L. REV. BELGE DETROIT INT'L 122-48 (1999); G Nolte, Kosovo und Konstitutionalisierung: Zur humanitären Intervention der NATO-Staaten 59 ZaöRV 941-60 (1999).

136. Lowe & Tzanakopoulos, *supra* note 33, at 11; *Military and Paramilitary Activities in and Against Nicaragua* (Nicar. V. U.S.), Judgment, 1986 I.C.J. Reports 1986, ¶ 207 (June 27).

their actions, which will only later be deemed illegal. Hence, no *opinio juris* that might support a new customary law exception can be inferred on the U.N. Charter's prohibition by states that receive the U.N. Security Council's authorization. Various interventions cited above, such as the ECOWAS/ECOMOG interventions in Liberia and Sierra Leone, received the Security Council's authorization. A claim based on *opinio juris* can only be made when there is no Security Council authorization. Even so, many of the aforementioned states did not justify their actions on any new customary law rule which allowed humanitarian interventions. In fact, many of the intervening states, such as India, Tanzania, and Vietnam, justified their interventions as self-defense against border incursions and other acts or threat of force.¹³⁷ These intrusions attracted wide condemnation from the international community, notwithstanding that of Tanzania, where the international community remained silent.¹³⁸

Moreover, some states described above relied on the Security Council's implied authorization to justify their use of force, rather than on a new customary rule. For instance, in 1991 and 1992, those who forcefully created the Iraqi safe havens and no-fly zones claimed to have received an implied Security Council resolution.¹³⁹ In 1993, the U.S. forcefully implemented no-fly zones on the basis of self-defense against threats of attacks on the coalition's zone patrolling aircraft.¹⁴⁰ Nonetheless, these arguments also require justification. France and the U.K. have also claimed implied authorization of the Security Council.¹⁴¹ In many instances involving the use of force, such as the U.S. interventions in Grenada and Panama, the U.S. justified intervention on the basis of rescuing U.S. nationals abroad, on the premise that a legitimate government invited the intervention, or on a claim of restoring democratic governance.¹⁴² U.N. General Assembly resolutions condemned these justifications.¹⁴³ Thus, there are no examples of states that solely claimed humanitarian intervention as the only justification for

137. See Julia Brower et al., *Historical Examples of Unauthorized Humanitarian Intervention*, YALE L. SCHOOL (Aug. 26, 2013), https://law.yale.edu/sites/default/files/documents/pdf/cglc/GLC_historicalExamples.pdf.

138. *Id.* at 6-7.

139. S.C. Res. 688, ¶ 1 (Apr. 5, 1991).

140. "The No-Fly Zone War" (*U.S./U.K.-Iraq Conflict*) 1991-2003, HIST. GUY, https://www.historyguy.com/no-fly_zone_war.html (last visited Nov. 15, 2019).

141. See Marc J. Bossuyt, *Human Rights and Non-Intervention in Domestic Matters*, 35 INT'L COMM'N OF JURIST 45 (1985).

142. Andrew Glass, *United States Invades Grenada, Oct. 25, 1983*, POLITICO (Oct. 25, 2017), <https://www.politico.com/story/2017/10/25/united-states-invades-grenada-oct-25-1983-244072>;

Andrew Glass, *United States Invades Panama, Dec. 20, 1989*, POLITICO (Dec. 20, 2018), <https://www.politico.com/story/2018/12/20/united-states-invades-panama-1989-1067072>.

143. G.A. Res. 44/240, ¶ 1 (Dec. 29, 1989); G.A. Res. 38/7, ¶ 1 (Nov. 2, 1983).

intervention. The claims were combined with some other exception, such as self-defense or the express or implied authorization of the U.N. Security Council.

Notwithstanding the law prior to 1999, it is unlikely that the requisite *opinio juris* and state practice can be inferred from NATO's intervention in the FRY to constitute an exception to the prohibition of the use of force in a humanitarian intervention. The reason is that some intervening states expressly denied that the Kosovo Campaign established their right to act under international law.

In fact, in October 16, 1998, the German Foreign Minister before the German Parliament acknowledged that NATO's decision to intervene with airstrikes in the FRY "must not become a precedent."¹⁴⁴ The major debate in the German Parliament relates to the denial of precedential values to NATO's decision on FRY.¹⁴⁵ Similarly, in a U.N. General Assembly session on September 26, 1999, Belgium stated that Security Council Resolution 1244 achieved "a return to legality," and that it hoped states would not resort to force without the Security Council's authorization as a precedent.¹⁴⁶ The U.S.' argument is similar, and is well connected with the German view.¹⁴⁷ All of these views reveal the absence of any *opinio iuris* with respect to a unilateral right to humanitarian intervention. Additionally, non-NATO states overwhelmingly argued there was no legal basis for the Kosovo bombing campaign.¹⁴⁸ Furthermore, half of the U.N. Member States, or the Non-Aligned Movement ("NAM"), clearly condemned NATO's use of force against the then F.R.Y.¹⁴⁹ Thus, based on these situations, it is clear that the right to forceful humanitarian intervention has yet to emerge as a rule under customary international law.

Some authors argue that the motive for the interventions in the aforementioned examples are in fact humanitarian, and notwithstanding the legal justification which the states offer, it can still amount to state practice which favors the right to such humanitarian intervention. However, this perspective is contrary to the clear ICJ decisions on custom formation, in which both state practice and *opinio juris* are required. The requirement for *opinio juris* is interested in the reason, not the motives. The two are obviously

144. Regierungsentwurf, DEUTSCHER BUNDESTAG: DRUCKSACHEN [BT] 13/248, <http://dip21.bundestag.de/dip21/btp/13/13248.pdf> (Ger.).

145. Bruno Simma, *NATO, The UN and the Use of Force: Legal Aspects*, 10 EUR. J. INT'L L., 1, 12-13 (1999).

146. Lowe & Tzanakopoulos, *supra* note 33.

147. Wedgwood et al., *supra* note 125, at 829.

148. Louis Henkin, *Kosovo and the Law of "Humanitarian Intervention"*, 4 AM. J. INT'L L. 825 (1999).

149. Lowe & Tzanakopoulos, *supra* note 33, at 12.

different. Moreover, states which rebut the presumption of *opinio juris* and justify their actions on a legal basis further illustrates that it is not state practice. Again, the fact that many intervening states are extremely reluctant to place reliance on a right of humanitarian intervention shows that it is extremely difficult to find any properly countable *opinio juris* upon which a right of humanitarian intervention can be established.

Furthermore, the post-Kosovo practice does not show a reasonable reliance on a right of humanitarian intervention. The 2011 Libyan crisis saw applied force after the Security Council adopted a resolution¹⁵⁰ to protect the civilians. The Council authorized the U.N. Member States to ensure protection by “all necessary means” of Libyan “civilians and civilian populated areas under threat of attack”¹⁵¹ and to ensure enforcement of a no-fly zone.¹⁵² When the time for a resolution approached, many states, such as the U.K., the U.S., and NATO Member States, jointly emphasized the need for U.N. Security Council authorization before using any armed force in Libya.

Based on the analysis above, it is clear that the interventions in Yemen are unilateral interventions, and were never supported by the Security Council’s resolutions related to Yemen.¹⁵³ Currently, unilateral humanitarian interventions, through the use of force, are not supported by the international customary law. There are no state practices and *opinio iuris* to support this unilateral intervention.

VI. THE ROLE OF U.N. GENERAL ASSEMBLY IN AUTHORIZING INTERVENTION

As previously noted, unilateral humanitarian intervention has no place in customary international law.¹⁵⁴ The U.N. Security Council must authorize interventions or intervening states must act in self-defense. However, the absence of UN Security Council authorisation is not a final word in determining the legality of an intervention. The U.N. General Assembly has a role to play as well. The direct involvement of the U.K. and the U.S. (as permanent members) in the armed conflict in Yemen, to support the Saudi-led coalition, prevents the Security Council from undertaking its’ designated role, which is to maintain peace and security.¹⁵⁵ This is because although the

150. S.C. Res. 1973, ¶ 3 (Mar. 17, 2011).

151. S.C. Res. 1973, ¶ 4 (Mar. 17, 2011).

152. S.C. Res. 1973, ¶ 8 (Mar. 17, 2011).

153. S.C. Res. 2481, ¶ 4 (July 15, 2019).

154. Lowe & Tzanakopoulos, *supra* note 33, at 13; Legal Consequences of the Construction of a Wall in the Occupied Palestinian State, Advisory Opinion, 2004 I.C.J. 136 ¶ 162 (July 9).

155. *See generally* Musa, *supra* note 113.

Security Council has a duty to maintain and restore international peace and security,¹⁵⁶ it cannot exercise that power to the exclusion of the U.N. General Assembly. The U.N. General Assembly laid down a procedure, created under the Uniting for Peace Resolution (1950),¹⁵⁷ which enables it to act if the Security Council cannot act due to the exercise of the veto power under the Charter. Thus, in situations where the UN Security Council is paralyzed, states that intend to intervene would prefer to take the matter to the U.N. General Assembly to authorize the intervention instead of engaging in unilateral intervention.

NATO believes that it will stand ready “to act should the U.N. Security Council be prevented from discharging its purpose of maintaining international peace and security.”¹⁵⁸ However, such a position is problematic. The issue is how can the Security Council be prevented from doing its job. Is it when the Council fails to have the requisite majority or when they simply refuse to act? Can it also be as a result of the recalcitrant attitude of a permanent member of the Council? The answers to these questions require proof. At any rate, the UN General Assembly can get a two-third majority of the Member States in line to unite for peace resolution.¹⁵⁹ In Yemen, there is no evidence to show that the interventions received the support of Member states, let alone the two-third majority support of the Member States.

VII. PUBLICISTS’ CONDITIONS FOR RECOURSE TO HUMANITARIAN INTERVENTION

Undoubtedly, the right to unilateral humanitarian intervention is not grounded in international law. Some commentators have specified conditions that must be fulfilled before recourse can be made to seek unilateral humanitarian intervention. According to these commentators, states may unilaterally intervene without the Security Council’s authorization when these conditions are fulfilled. What is equally important here is how the conditions are met and who determines whether such conditions are fulfilled.

Although the conditions are not sacrosanct, and the legality is doubtful, some writers have stated that the conditions include: (i) a humanitarian “emergency, disaster, crisis, catastrophe, necessity, or tragedy” that is generally related to the prevalent and gross human rights violation of a

156. G.A. Res. 377 (V), at A (Nov. 3, 1950).

157. G.A. Res. 377 (V), at 1 (Nov. 3, 1950).

158. North Atlantic Assembly, Resolution 283, ¶ 15 (Nov. 1998); Lowe & Tzanakopoulos, *supra* note 33, at 13.

159. Bruno Simma, *NATO, the UN and the Use of Force: Legal Aspects*, 10 EUR. J. OF INT’L LAW, 1, 17 (1999).

State's population (or any part thereof) or the commission of serious international crimes;¹⁶⁰ (ii) a territorial State unwilling or unable to act under the circumstance;¹⁶¹ (iii) the exhaustion of all possible remedies, including recourse to the Security Council or U.N. General Assembly and all other peaceful remedies;¹⁶² and (iv) that the use of force is limited in scope and time and only for humanitarian objectives while respecting the rule of proportionality.¹⁶³ Still, the issue remains as to who determines whether the substantive conditions have been sufficiently fulfilled.

The procedure for determining these conditions are significant.¹⁶⁴ Nonetheless, under Article 39, the Security Council can objectively determine whether a humanitarian catastrophe amounts to a "threat to international peace and security."¹⁶⁵ This does not resolve how other conditions will be addressed, and the task may not be easy. It is likely to reduce the U.N. Security Council's power of actual authorization of the use of force to merely determining the first substantive condition. Yet, unilateral intervention will not be permitted without any condition because it will clearly contradict the prohibition of the use of force.

Furthermore, actions arising to unilateral humanitarian intervention will fail to meet at least one condition. Yet, states continue to assert a right to intervention without proper articulation on the criteria for such intervention. Hence, states' responses are sometimes met with silence by the international community. The international community sometimes condemns these interventions. Despite this, the international community may sometimes tolerate or withdraw a response depending on how efficient the breach is.

The notion of responsibility to protect, as it relates to intervention, requires further study.¹⁶⁶ After the Kosovo crisis, some states and authors argued that since the right to unilateral humanitarian intervention is unknown to positive international law, a law needs to be developed to cater to instances of gross human rights violations.¹⁶⁷ Canada led such an initiative and created

160. Barry M. Benjamin, *Unilateral Humanitarian Intervention: Legalizing the Use of Force to Prevent Human Rights Atrocities*, 16 FORDHAM INT'L L.J. 120, 138 (1992).

161. *Id.*

162. Mona Fixdal & Dan Smith, *Humanitarian Intervention and Just War*, 42 MERSHON INT'L STUD. REV. 283, 302 (1998).

163. *Id.*

164. Ian Brownlie & C.J. Apperley, *Kosovo Crisis Inquiry: Memorandum on the International Law Aspects*, 49 INT'L & COMP. LAW Q. 878, 899 (2000).

165. 328 Parl Deb HC (1999) col. 617 (UK).

166. INT'L COMM'N ON INTERVENTION AND STATE SOVEREIGNTY, THE RESPONSIBILITY TO PROTECT 11 (Gareth Evans & Mohamed Sahnoun et al. eds Int'l Dev. Res. Ctr. 2001) [hereinafter THE RESPONSIBILITY TO PROTECT].

167. Christopher Greenwood, *Humanitarian Intervention: The Case of Kosovo*, 10 FIN. Y.B. INT'L LAW 141, 174 (2002).

the International Commission on Intervention and State Sovereignty.¹⁶⁸ This commission created the responsibility to protect report,¹⁶⁹ with an objective to create a fine balance between effectively responding to humanitarian crises and maintaining an effective legal framework for responding to such crises.

Moreover, the report does not allow unilateral humanitarian intervention under current international law. In fact, in 2005, at the 60th anniversary of the U.N., the General Assembly re-established the traditional method to the use of force for humanitarian purposes, subjecting it to Chapter VII powers of the Security Council, without making reference to a unilateral right of humanitarian intervention.¹⁷⁰ This shows that states are reluctant to recognize a right of humanitarian intervention separate from the U.N. Charter's provisions, as well as, the procedures for collective response therein created.

Therefore, gross human rights violations continue to occur. As such, humanitarian law remains a matter of public concern, beyond the control of states. Issues arise when the U.N. apparatus refuses or neglects to act in deserving situations to avert humanitarian consequences. However, it appears that states are unwilling to commit financial or material support and resources for such interventions. The states are also reluctant to be involved in some situations linked with the deficient U.N. constitutional structure. Based on state responses, it is also apparent that states are not willing to forgo the prohibition of the use of force as well as the U.N. machinery in support of the unilateral right to intervention. States even agree that in rare humanitarian emergency, that despite the intervention's significance, the U.N. is unable to take action. Accordingly, states may accept some humanitarian reflections in order to mitigate the intermittent violation of the prohibition of the use of force and put a limit to their reactions. In any case, the Security Council should not be excluded, should demand to be updated as to the developments of the situation, and consequently be allowed to use its authority to seize control when an intervention presents a threat to international peace and security.

The interventions in Yemen have not met all of the conditions laid down by the opinions of the publicists. Even if it is assumed that that these conditions were met, the legality of these conditions in view of the stands of positive international law is doubtful. The responsibility to protect would have solved the situation in Yemen. However, based on the analysis above, it still does not cover situations involving unilateral intervention through the use of force.

168. *See generally* THE RESPONSIBILITY TO PROTECT, *supra* note 166, at VII.

169. *See generally* THE RESPONSIBILITY TO PROTECT, *supra* note 166, at VIII.

170. G.A. Res. 60/1, ¶ 1 (Sept. 16, 2005).

Today, the humanitarian interventions are the main causes of human tragedy in Yemen, including civilian and military casualties, poverty, sickness, and environmental contamination. Essentially, the humanitarian interventions caused and furthered humanitarian crises. Additionally, the money spent on the interventions' costs, if used to build rather than destroy, could raise each of Yemen's, Saudi Arabia's, and Iran's industrial structures to that of developing countries.

VIII. CONCLUSION

The entire international legal architecture supports the prohibition of the use of force, except when force is used in a manner consistent with the purpose of the U.N. Charter. In analyzing the legal framework, Article 2(4) and Article 51 of the U.N. Charter take center stage. While the former prohibits the use of force, the latter allows for exceptions in situations in which disputes can be settled through the use of force. Thus, under international law, the intervention must be predicated on the U.N. Security Council's authorization, which may be either implied or explicit. Some states have justified their interventions on either explicit or implicit authorization of the U.N. Security Council. The other exception is the right of self-defense, which applies to states and not the civil population, and cannot be asserted to protect nationals abroad. Similarly, authors and states have attempted to justify interventions under customary law, but state practices and *opinio juris* do not support the assertion. The ICJ decisions also do not support unilateral intervention in internal crises. The U.N. General Assembly's role in authorizing interventions is important because it can authorize intervention with a two-third majority of Member States, a seemingly better approach than unilateral interventions, which is why states are reluctant to endorse unilateral intervention. Although commentators attempt to establish conditions which would allow for unilateral interventions, the legality of such conditions is doubtful.

Thus, international law principles do not support either the Saudi-led or Iran-backed interventions in Yemen. The two major interventions in Iran are not legally equivalent, in part, because the intervention of Iran is very limited when compared to the Saudi-led interventions. Nonetheless, both interventions are not lawful, as they are not supported by the general rule under Article 2(4) of the U.N. Charter, nor do the interventions fall within any of the exceptions outlined in Article 51. Additionally, neither the U.N. General Assembly nor Security Council authorized either intervention, and the actions of Saudi Arabia and Iran cannot be justified on the ground of self-defense. Furthermore, customary international law cannot support either intervention because state practice and *opinio juris* do not favor unilateral

interventions. More so, the interventions have not solved the problem, but instead, have exacerbated human rights violations in the Country. What started as an internal armed conflict seems to have graduated to an international armed conflict with intermediaries for over four years. The interventions and their consequences will remain until all involved states take urgent steps toward amicably and peacefully settling the disputes, as established in Article 2(4) of the U.N. Charter.

Although the Security Council did not authorize such interventions, this does not prevent it from intervening at any time itself today to save human lives. Each day the interventions are ongoing, the repercussions gets harsher. If allowed to continue, these interventions will grow into a direct war between Saudi Arabia and Iran Riyadh and Tehran.

The Security Council did not permit such intervention from the very beginning, but it can still intervene today to save human lives. Every day, this intervention gets harsher, and without a decisive intervention from the Security Council, this war will probably turn into a direct war between Saudi Arabia and Iran, and move from Yemen to Riyadh and Tehran.