DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume I Issue X is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis
EDITORIAL TEAM

EDITORS

Ms. Ezhiloviya S.P.
Nalsar Passout

Ms. Priya Singh
West Bengal National University of Juridical Science

Mr. Ritesh Kumar
Nalsar Passout

Mrs. Pooja Kothari
Practicing Advocate

Dr. Shweta Dhand
Assistant Professor
ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

2582-6433 is an Online Journal is Quarterly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN

2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.
INTERNATIONAL LAW VIOLATIONS IN THE YEMEN CRISIS AND THE ACTIONS OF SAUDI ARABIA

By : Biruchan Chetia Phukon
ABSTRACT

The ongoing civil war conflict in Yemen has been held to the worst humanitarian crisis in the world according to the UN report. This ongoing civil war conflict between the rebel anti-state Houthi groups and the Hadi government has resulted in an unfortunate set of events, whose consequences include half of the population in need of humanitarian aid, children being recruited as soldiers, internal displacement, migration to other countries and use of illegal mines and cluster bombs because of the ongoing civil war coupled with the Saudi Arabian military forces backing the support of the Hadi government. In discussing about this clash of power struggle and control of the State, the research project will be particularly emphasizing on the international legal aspect of the legality of forces by such parties; who are liable for such human rights violations etc. Since the key players include both “Anti-State” (i.e. ISIS, Al-Qaeda, Iran, Hezbollah, United States) and “State Actors” (i.e. Hadi Government, Saleh Forces, and the Saudi-led coalition), this paper will try to highlight upon only two key players in the formation and aggravation of the conflict, that is, Saudi Arabia and Iran. The issue of breach of various international laws and the position of international organisations such as the United Nations has also been discussed in this paper.

The Keywords used in this paper are: **Yemen, Saudi Arabia, Houthis, Hadi government, intervention by invitation, use of force, illegitimacy, human rights, humanitarian laws, international law, invasion, and sovereignty.**
1. **Introduction**

1.1 Introduction

The United Nations has designated the humanitarian crisis in Yemen the worst humanitarian crisis in the world.¹ This ongoing civil war conflict between the rebel “anti-state” Houthi groups and the Hadi government (led by Mansour Hadi Abdrabbuh) backed by the Saudi-Arabian coalition has resulted in an unfortunate set of events, whose consequences include half of the population in need of humanitarian aid, children being recruited as soldiers, internal displacement, migration to other countries and use of illegal mines and cluster bombs because of the ongoing civil war coupled with the Saudi Arabian military forces backing the support of the Hadi government.

The tensions began as early as 2004 when Ansar Allah (commonly known as Houthis) established a political armed group in the northern part of the country in the 1990s. This group constantly tried to seize power from the government and for a long time, the government was in an armed conflict with them. In order to curb the insurgency initiated by the Houthis, heavy security measures were implanted by the President leading to a set of violent activities before the beginning of the conflict.²

In late 2011, President Saleh stepped down due to the months-long protests that arose during the wider “Arab Spring”.³ Finally, with Ali Abdullah Saleh's agreement with the Persian Gulf cooperation council and the handover of power to his deputy, Yemen crisis entered the fifth stage that is the hand-over of power.⁴ Although Mansour Hadi Abdrrabuh, Ali Abdullah Saleh’s deputy (who was the ruler of Yemen back then), gained power, but they failed to divide power amongst the protest groups. This caused discontentment among the opposition groups as a result of which the government was forced to sign an agreement of peace and participation with the opposition. This agreement put obligations on the government for national unity with the participation of opposition and revolutionary groups including the Houthis. However, Mansour Hadi contravened this agreement, and held a “comedy election” on 21st February 2012, which was against the principle of 108 of the Constitution of Yemen since he was the ‘sole candidate’ of the election.

---

² Geneva Academy, Non-International Armed Conflicts in Yemen, at ♠http://www.rulac.org/browse/conflicts/noninternational-armed-conflicts-in-yemen#collapse4accord accessed> 21st September 2020
In order to consolidate power, Hadi fled to Riyadh in Saudi Arabia on 25th March, 2015 and requested military intervention in flushing out the Houthis who were advancing to the capital city. Saudi Arabia and its coalition initiated Operation Decisive Storm. This finally marked the beginning of the armed conflict between the so called, “state-actors” and “non-state actors”. The present political and military landscape of Yemen remains deeply fragmented.

1.2 Literature Review

Ahmad Qureshi D, 'The Crisis In Yemen: Armed Conflict And International Law' (2020) 45 North Carolina Journal of International Law: 
This journal article discussing broadly about the background and key players involved in the Yemen Crisis. It also discusses about other important questions such as the nature of conflict (whether it was international or non-international), humanitarian and international law violations on the part of various actors, and some important doctrines such as ‘doctrine of proportionality’, ‘doctrine of distinction’ and ‘doctrine of precaution’. It also discusses about the possible international law violations made during the arms transfer by U.S., Iran and other counter allies.

Taghi Ghasemzade M, and Heiderpour M, 'The Investigation Of Yemen Crisis From The Perspective Of International Law And The Actions Of Iran And Saudi Arabia' (2019) 6 International Journal of Multicultural and Multireligious Understanding: 
This journal article investigates the Yemen crisis and the effect of foreign players from the perspective of international law. The theoretical framework of this study is focused on legal legitimacy of Iran and Saudi Arabia’s actions in the Yemen crisis from the perspective of humanitarian laws and the process of forming and aggravation of this conflict in which Iran and Saudi Arabia have a determinative role.

This paper by the International Commission of Jurists (ICJ) looks into the brief historical and political development in the Yemen Crisis. It also looks into other issues like the accessibility of justice, access to humanitarian relief, arms transfer, arbitrary arrest and detention etc.

1.2 Research Problem

The United Nations Security Council state that the use of force under the concept of ‘intervention by invitation’ by the Saudi Arabian coalition in their role in the Yemen crisis was legitimate. However, as per Article 114 of the Constitution of Yemen, President Mansour Hadi had terminated his position by an official resignation two months before he requested for Saudi Arabian military intervention and assistance in countering the aggressive Houthi forces. There is a debate over this matter of legitimacy.
1.5 **Research Questions**

1. Was there any legality on the use of force under the concept of ‘intervention by invitation’ by the Saudi Arabian coalition in their role in the Yemen crisis?

1.6 **Hypothesis**

1. The use of force under the concept of ‘intervention by invitation’ by the Saudi Arabian coalition in their role in the Yemen crisis is legal.

1.7 **Scope and Objectives**

The scope of this research paper is limited to international laws, Yemen Constitution, humanitarian laws and international human rights. Following are the objectives:

1. To know about the crisis and the current political situation of Yemen.
2. To understand the important key players (particularly Iran and Saudi Arabia) in the Yemen conflict and their responsibility in the aggravation of the conflict.
3. To understand and analyse the international laws applicable to the Yemen Crisis.
4. To understand and analyse the role of UN Security Council in the Yemen Crisis.

1.8 **Methodology**

This paper is based on doctrinal research method. The sources used by the paper are the articles, journal articles, commentaries, briefing papers, news articles and scholarly websites. The researchers have also made use of some articles of UN Charter.
2. **Saudi Arabia’s intervention in the Yemen Crisis**

This chapter will be focusing on and analyzing the research question, “Was there any legality on the use of force under the concept of ‘intervention by invitation’ by the Saudi Arabian coalition in their role in the Yemen crisis?” The researcher will also be addressing other important topics such as the illegitimacy of Saudi Arabia’s intervention from the point of view of different international law violations.

2.1 **The Roots of the Crisis in Yemen**

As far as the roots of the Yemen crisis is concerned, it began in 2011 following the Arab Spring (in Tunisia) and protests over other oppressive regimes in countries such as Egypt. In these changes of patterns, the opposition took an opportunity for public mobilization and overthrowing the then regime through uprisings. The protests then were not from a single rebel group (like Houthis) but from entire Yemen with different groups and clans. The entire population came collectively to tackle the economic ineffectiveness, prevalent corruption, political suppression and abuse of political participation, etc.

Finally, with Ali Abdullah Saleh’s agreement with the Persian Gulf cooperation council and the handover of power to his deputy, the Yemen crisis entered the fifth stage that is the hand-over of power. Although Mansour Hadi Abdrabbuh, Ali Abdullah Saleh’s deputy (who was the ruler of Yemen back then), gained power, they failed to divide power amongst the protest groups. This caused discontentment among the opposition groups as a result of which the government was forced to sign an agreement of peace and participation with the opposition. This agreement put obligations on the government for national unity with the participation of opposition and revolutionary groups including the Houthis.

However, Mansour Hadi contravened this agreement and held a “comedy election” on 21st February 2012, which was against the principle of 108 of the Constitution of Yemen since he was the ‘sole candidate’ of the election. Even the holding Election Commission announced that he was the winner with 6 million votes.

Although the opposition and the revolutionary groups boycotted the election for being unfair, pre-determinative, and non-competitive, the Persian Gulf Cooperation Council as the Arab regional mediatory agency intervened to arrange Hadi as the president for 2 years, from 2012 to 2014 and 2015 presidential elections. While the debate over this issue was still in progress, Hadi resigned from his position, and on 21st February 2015 (when his transitional presidential term also ended), he went to Eden and from there to Oman and then Saudi Arabia for seeking help in order to return to power (thus breaching the laws of Yemen).

2.2 **Background of the relationship between Saudi Arabia and Yemen**

The root causes of the intervention can be traced back as early as 1969 when Southern Yemen
attacked Saudi Arabian boundaries with the help of Russia and China. However, this war ended without any definite results. Saudi Arabia for a long time had been in a territorial conflict over its southern region with neighbors, Yemen and Oman. Besides this, the two countries had seen conflicts over other issues like the oil exploring activities, disagreements over the Asir region, and disputes over oil-rich regions, where both these countries lay the same claims. The conflicts over the boundary lines still remain insoluble.

2.3 Saudi Arabia’s breach of Yemen sovereignty and invasion of territorial integrity
First of all, there was no legality of Saudi Arabia’s intervention in Yemen politics, largely because of the fact that Mansour Hadi did not hold any legal position when he invited for foreign military suppression. Hadi officially terminated his position when he laid down his office two months before his request, that is, on 22nd January 2015. In spite of this, the Arabs formed a coalition and attacked Yemen. Moreover, the United Nations Security Council also tried to legitimize his actions under resolution 2216.

In the introduction of this resolution, the UN Security Council invoked a letter by Hadi addressed to the President by the council, where they stated that the intervention by Saudi Arabia was in accordance with a legal request which had been done. The fact that Hadi’s resignation was invoked under Article 114 of the Yemen Constitution makes it crystal clear that this was no way legal. Hadi did not hold any power and based on human rights and international humanitarian rights, he could not request another country to militarily attack civilian citizens.

Also the UN Security Council was not acting within its powers, since it cannot elect a president on its own and against a living constitution of a living nation. His act is equivalent to war crimes and his role is that of an accomplice in war crimes in the coalition led by Saudi Arabia against Yemeni people.

2.1 The Illegitimacy of Saudi Arabia’s intervention from the Perspective of International Law

Since the UN charter plays an important role in the actions of countries and in international arena and as the Saudi Arabian coalition have resorted to this charter, therefore, it is necessary to look into the article and clauses concerned with this issue and criticise accordingly.

Chapter 1, Clause 3 of the Article 2 of the charter states that, “All member nations shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.”

The literal interpretation of this clause makes it clear that the intervention in Yemen was clearly against the principles mentioned in the charter, that is, international peace, security and justice. Moreover, in Article 4, member nations have been banned from the threat of force or use of it or
any other way which contradicts with the purposes of the UN.5

In Article 6(2) of the charter, it is stated that a member of the UN may be expelled from the organization if they are found to have continuously violated the principles enshrined in the Charter. This can be done upon the recommendations of the Security Council.

Going by the words of this Article, it puts Saudi Arabia and allied countries in a vulnerable position given the fact that their role was not at all legitimate and against the principles of the UN charter.

Article 51 of this charter prescribes inherent right of any individual or “collective self-defence” shall not be impaired in case an there is a threat or attack against a member state of the UN until the necessary measures are taken by the Security Council to maintain international peace and security.

In this case, the principle that makes the invasion to Yemen distorted, illegitimate, and illegal is the Clause 1, Article 53 of the Charter which obligates member nations first to gain the authorization of the Security Council to take any action against each other; an action which has not been done by Saudi authorities before invasion to Yemen and this has been done in an obvious and open opposition to the Charter of United Nations.6

From the resolution 2216 dated April 14th 2015, it is clear that the UN Security Council turned a “blind eye” on the violations made by Saudi Arabian coalition. Firstly, Saudi Arabian intervention was also illegitimate based on the facts that Yemen is not a member of the Persian Gulf Council and that no government in the Persian Gulf margin can enter the Yemen crisis. Secondly, from the wordings of the charter of Islamic Cooperation Organization (OIC) and Arab Union, it is clear that Saudi Arabia did not consult any of these two organisations before launching an attack on Yemen.

2.2 The Illegitimacy of Saudi Arabia’s intervention from the perspective of Human Rights

Among the basic rights banned for the people of Yemen during the Saudi Arabian intervention include: reserving the rights of children, vulnerable and elderly people, the right to development, the right to peace, the right to have an honorable life, the right to access to food, housing, safe drinkable water etc. It is to be noted that although Saudi Arabia was amongst the eight countries that abstained from voting for the approval of Universal Declaration of Human Rights (UDHR), in practice like many other countries, it was not to take any extreme positions overtly and in violation of the principles of Declaration. The use of cluster bombs by Saudi Arabia in Yemeni

6 Ibid
cities bombardment is another instance of gross violation of Human Rights by Arab. However, the none-existence of the names of Saudi, UAE, Bahrain and Saudi Arabia’s other companions among 116 current members (up to the middle of June 1994) in Yemeni people bombardments has apparently provided this authorization for the governing Saudi regime to massacre the innocent Yemeni people without any obstacle.\(^7\)

### 2.3 The Illegitimacy of Saudi Arabia’s intervention from the perspective of International Humanitarian Laws

#### 2.3.1 Meaning of International Humanitarian Laws

The branch of human rights, known as international humanitarian law which is also a law of war or law of armed conflict clearly applies in the present intervention of Saudi Arabia in Yemen crisis. It is a set of rules which seeks to limit the consequences of an armed conflict. Since it is a part of international law, many of the provisions of this are now accepted as customary law, that is, general rules by which all states are bound to abide. Based on this law, it can be presumed that the conflict is an international armed conflict since more than two states are involved in the Yemen crisis.

There are two branches of laws under international humanitarian laws, that is Hague laws and Geneva laws, both applicable in armed conflicts. The Hague laws, especially the laws related to the rules and conduct of ground war, determine the rights and duties of belligerent parties in their military actions and limit the rights of belligerent parties to use methods and means of warfare of their choice to cause damage to the enemy in an international armed conflict. The Hague laws protect human individuals and/or properties and things which have been or will be damaged in conflicts.\(^8\)

Geneva laws, which protects war victims and attempts to provide the disabled personals of armed forces and people who do not participate in war with the necessary guarantees, includes the conventions of 1864, 1906, 1929, and especially 1949.\(^9\) Humanitarian laws are mandatory for all parties of an armed conflict; there is a consensus that since the objective of international humanitarian laws is the protection of individuals, a country cannot be deprived from its benefits and advantages due to the violation of the imperative rule of the prohibition of recourse to force.\(^10\)

#### 2.3.2 Violations of UN announcement and Resolutions

\(^7\) Kiani Nezhad, M.; Dr. Golshan Pazhouh, ‘M.R., The Legal Examination of the legitimacy of Saudi's invasion of Yemen’ (2015) 87 Political Citizen Monthly (Political-analytical)


\(^9\) Ibid

The damages caused by the Saudi Arabian aggression were in contravention of the following:

i. UN announcement approved under the title of "Geneva announcement" to protect children dated September 16th 1924.

ii. Child rights convention approved on November 20th 1959

iii. Announcement made by the UN general assembly on December 14th 1974 concerning the protection of women and children in times of crisis and armed conflicts

iv. Article 77 of first additional protocol to Geneva conventions of 1977 related to special respect for children against any form of attack "disrespectful, and

v. Resolutions 2444 dated December 19th 1968, 2597 dated December 16th 1974, 2675 and 2674 dated December 9th 1970: Concerning the protection of human rights and fundamental principles referent to the protection of civilians in the time of armed conflicts

In respect of these gross violations made, the Human Rights Watch deeply criticized the Saudi Arabia and the coalition members and wanted a maximum reduction to the harm and damages caused to the civilians.

2.4 **Saudi Arabia's Intervention by Invitation: Legitimate or Illegitimate**

The use of force in other states is prohibited by the UN Charter;\(^1\) the only exceptions are the use of force in self-defense\(^2\) and the use of force with UN Security Council authorization.\(^3\) The statements made by Saudi Arabia are contradictory since they claim that their actions were legitimate (by referring to the UNs statements) and that they were allowed with the consent of the government of Yemen, where in fact, the government (under Hadi) was not at all legitimate (since he had already terminated his position and resigned two months before he went to Saudi Arabia under 114 of the Yemen Constitution).

Article (114) of the Constitution of Yemen states basically that about ninety days before the term of the President ends, steps must be taken for the election of a new president. The prolongation of this term can only be if there is an emergency situation, natural disaster or a state of war.

Here, neither there was any natural disaster, nor war situation with any other country. In addition to this, as the President of Yemen requested for military intervention from Saudi Arabia two months after he had resigned, as per the Article it would seem that his actions were legitimate (since he can continue for another month). However, the President officially resigned from this position and there is a question over this matter.

Intervention by invitation is the use of force by a foreign state in a host state under the legal

---

\(^1\) U.N. Charter Art. 2, ¶ 4.
\(^2\) U.N. Charter Art. 51
\(^3\) U.N. Charter arts. 39–41.
authority of the host state. However, if the opinions of United Nations are taken into consideration it would appear that the Hadi government was indeed a legitimate government under resolution to 2216 (2015) where it was acknowledged that President Hadi as the legitimate acting president of the government of Yemen. In the case of DRC v. Uganda, the ICJ established that intervention by invitation is “allowable at the request of the government.” Under customary international law, intervention by the invitation of the host state is seen as a third exception to the UN Charter’s prohibition on using force. Therefore, the UN unequivocally implies that the actions undertaken by the Saudi-led coalition do not violate the international law of using force, the law of nonintervention, or the prohibition on the use of force, because they are aligned with the customary laws of intervention by invitation endorsed by state practice, ICJ case law, The Republic of Nicaragua v. The United States of America, and legal doctrines. This again raises the question if the intervention was actually legal because the person (Mansour Hadi Abdrabbuh) who is supposed to acting in this behalf was not at all in his power to do so. Therefore, as far the question, “Was there any legality on the use of force under the concept of ‘intervention by invitation’ by the Saudi Arabian coalition in their role in the Yemen crisis?” is concerned, it can be answered that, the use of force by intervention by invitation is legitimate. The researchers have come to the conclusion that the hypothesis, “The use of force under the concept of ‘intervention by invitation’ by the Saudi Arabian coalition in their role in the Yemen crisis is legal” is proved to be correct. However, it is still unclear as other state actors like Iran claim and differently and also since there is a question regarding the official position of Mansour Hadi as the president and his resignation of the same under Article 114 of the Yemen constitution.

3. Conclusion

Even after five years of the conflict in Yemen, the Houthi militia also known as Ansar Allah continues to target civilians in areas close to the cities of Marib, Taiz, and districts south of Hodeidah. These attacks still continue the use of ballistic missiles and other weapons of extreme

---

15 Ibid
18 Ibid
20 G.A. Res. 3314 (XXIX), ¶ 3(e) (Dec. 14, 1974)
nature, putting the lives of Yemeni citizens at stake. The situation has only worsened and been 
aggravated by the outbreak of the COVID-19 pandemic which has added a new layer to the 
unspeakable suffering for millions of civilians in Yemen. While Europe has tried to extend its 
support, it has also failed to provide accountability.\textsuperscript{21}

Besides the war on land, the Houthis have continued to terrorize people with launch missiles, 
rockets, and unmanned aerial vehicles (UAV). On April 8\textsuperscript{th}, 2020, Saudi Arabia unilaterally 
declared a two-week ceasefire in Yemen and a pledge of 500 million dollars humanitarian aid. 
While Saudi Arabia and the Houthis have been engaged for months in negotiations over how to 
de-escalate their conflict, there is some speculation that the demands of limiting the COVID-19 
outbreak may provide some common settlement among the two groups\textsuperscript{22}. This crisis along with 
the ongoing pandemic has made the diplomatic and financial campaigns way too expensive.

Prior to the pandemic, the country’s situation was already worsened by the outbreak of other 
diseases like cholera, diphtheria, measles, and dengue fever. There were almost 2 million 
suspected cases since 2016. The Houthis also use starvation as a weapon of war, further 
hampering the already collapsing system of healthcare facilities. This obstruction of 
humanitarian aid and gross violation of human rights requires urgent accountability by other 
international organizations particularly, the European organization.

In December 2019, the European Centre for Constitutional and Human Rights, supported by five 
nongovernmental groups, pressurized the International Criminal Court (ICC) prosecutor to 
investigate the role of executives of arms companies of Europe and licensing authorities for the 
possible international law violations and war crimes in Yemen. However, six months later, the 
secretary-general removed the Saudi-led coalition from his “list of shame” countries even 
though they are completely responsible for continued violence against children in Yemen.

While most of the countries are occupied with their problems in this pandemic situation, aids to 
Yemen by the local and international human rights groups continue to be given and their works 
remain to be robust and vital. Still, there is a need for urgency over this matter as there cannot 
be any more gross violations to the already worsened situation.

\textsuperscript{21} Nasser A, ‘War And COVID-19 In Yemen’ (Human Rights Watch, 2020) 
\textsuperscript{22} Ibid
Reference

Journal Articles

Websites
1. 'Iran Admits Supporting Houthis In Yemen For The First Time' (Middle East Monitor, 2020) <https://www.middleeastmonitor.com/20191003-iran-admits-supporting-houthis-in-yemen-for-the-first-time/> accessed 8 November 2020