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Saudi-led Arab coalition's military intervention in Yemen from the international law perspective

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Abstract

The present study aims to examine the military intervention in Yemen from the perspective of international law through the cross-case comparisons research method. As a result, the illegitimate Arab coalition invasion of the independent Yemeni state violated numerous international humanitarian rules, including attacking civilians and civilian sites. As a conclusion, the use of prohibited weapons against the Yemeni people, including chemical weapons and cluster bombs, is also among the other war crimes in this crisis. These examples provide solid evidence for human rights violations and the commission of war crimes in Yemen's armed conflict.

Keywords: law, Arab, Military, intervention, Yemen.

La intervención militar de la coalición Saudi-Árabe en Yemén desde la perspectiva de la ley internacional

Resumen

El presente estudio tiene como objetivo examinar la intervención militar en Yemen desde la perspectiva del derecho internacional a través del método de investigación de comparaciones entre casos. Como resultado, la ilegítima invasión de la coalición árabe al estado yemení independiente violó numerosas normas humanitarias internacionales, incluido el ataque a civiles y sitios civiles. Como conclusión, el uso de armas prohibidas contra el pueblo yemení, incluidas armas químicas y bombas de racimo, también se encuentra entre los otros crímenes de guerra en esta crisis. Estos ejemplos proporcionan pruebas sólidas de violaciones de derechos humanos y la comisión de crímenes de guerra en el conflicto armado de Yemen.

Palabras clave: ley, árabe, militar, intervención, Yemen

1. INTRODUCTION

International obligations, including obligations arising from fundamental human rights principles, are called community commitments that require the conventional consent of states. Basically, membership in the international community necessitates the observation of these obligations, and the consent of states is taken for granted. Violation of human rights has been regarded as an illegitimate act from the time their observation has been considered an international obligation, allowing states and international organizations

to respond in accepted ways within the framework of international law. The intense, widespread, organized, and ever-increasing violation of human rights has rightly turned into a source of widespread public anger and disgust, prompting numerous states and international organizations to resort to various measures to ensure respect for human rights (Zadeab, 2010). With the formation of the United Nations, the new order established in the post-Charter period on the basis of accepted principles such as respect for the sovereignty and equality of states, equality of rights and the right of nations to self-determination, the independence and territorial integrity of states, the prohibition of resorting to force and even threatening to use force, respect for human rights and respect for humanitarian principles. The international community believed to be having a life of peace and comfort based on friendly relations and humane behavior in prospect, but developments in the recent decades, especially in the Middle East do not indicate such ideals and values. The prohibition of the use of force in the United Nations Charter does not forbid governments to resort to force, and despite the credibility of this rule, major armed conflicts have occurred more than before, one of which was the war between the Saudi-led Arab coalition forces against the defenseless Yemeni people. Yemen is a Middle Eastern country that is the victim of internal conflicts caused by political divisions, poverty, tribal conflicts, and explicitly the competition between regional and trans-regional powers.

Saudi Arabia attacked Yemen on the pretext of Mansour Hadi's request through the formation of an Arab coalition, while calling for a military repression against a nation that is in pursuit of peaceful

demands is not legal. Of course, it should be added that, in accordance with article 144 of the Yemeni constitution, Mansour Hadi did not have any legal position at the time of his request. On the other hand, the contemporary principles of the public international law has not identified any rules regarding the permissibility of warfare, which has been also referred to in the paragraph 1 of Article 1, and paragraph 4 of Article 2 of the United Nations Charter. The Charter only allows using force in two cases: legitimate defense and coercive measures by the Security Council. Therefore, Saudi Arabia and the Arab coalition invasion of Yemen is not a legitimate defense as there was no military strike against them by Yemeni groups and it was not authorized by the Security Council. In other words, the Saudi Arabia invasion under the international Jus Cogens rules, i.e. the principle of non-use of force by states, is an illicit attack on Yemen and a serious threat to regional and international peace and security (Fazaeli, 2016). Human rights are an inseparable part of international law that can be applied to armed conflicts and seek to humanize wars irrespective of their fair or unfair nature. The four Geneva Conventions and the two Geneva Additional Protocols of 1977 constitute the most important sources of these rights, violations of which cause violation of human rights. Several important principles are derived from the specified conventions: The principle of the prohibition of imposing additional suffering on patients and wounded people, the principle of the distinction between civilians and combatants, the principle of environmental protection, etc. The Saudi-led Arab coalition forces have violated the provisions of Geneva Conventions, as they attacked schools, hospitals and civilian centers in numerous cases. In the law of armed conflicts, any attack on these

centers is deemed to be a violation of international humanitarian law and causes the state(s) violating these rules to be held accountable to the international community. A review of Yemen's events suggests that there is no acceptable justification for launching a military attack on the Yemeni people. The disasters brought in this country are clear violations of several fundamental humanitarian principles and rules. In this study, the legitimacy of military intervention in Yemen or lack thereof is first examined. To this end, the events in Yemen are first reviewed. A brief explanation of the principles and rules of international use of force is subsequently provided. Finally, the human rights principles and rules in this intervention are examined.

2. FEATURES OF YEMEN AND ITS POLITICAL DEVELOPMENTS AND POPULAR REVOLUTION

Yemen is located in the south of Arabian Peninsula with vast sea boundaries along the Red Sea and the Gulf of Aden. Yemen's strategic location has been of great significance due to adjoining the Horn of Africa through the southern and western borders, as well as the Socotra Island. In addition, its adjacency to the Bab Al-Mandeb strait has assigned more significance to this country in terms of energy security provision and goods transportation. In fact, a large number of vessels passing through the Suez Canal also pass through the Bab Al-Mandeb strait, making it as important as the Suez Canal (Dreidel and Belbek, 2007). From an economic perspective, Yemen is one of the poorest countries in the world and one of the most deprived countries

in the Middle East. At the same time, it has great potential in terms of natural resources and strategic position. The most important advantages of this country include its position in the northern part of the Bab Al-Mandeb Strait, its significance in the Red Sea and Indian Ocean, and rich oil and gas resources (Firouzkalaei, 2015). Ali Abdullah Saleh reigned Yemen from 1990, when the United Republic of Yemen was formed, until 2011. After his resignation, Abd Rabbuh Mansour Hadi, the vice-president of Ali Abdullah Saleh took over the government. Based on an agreement, it was agreed that the presidential election would be held for a transitional period. But Mansour Hadi held a sham presidential election in 2012, the only candidate for which was him; but the opposition and revolutionary groups boycotted the election owing to its non-competitive nature. However, with the intervention of the Gulf Cooperation Council, as the regional mediator of the Arabs, Mansour Hadi was decided to be the transitional president for two years until 2014 and the presidential election was supposed to be held in 2015. During this period, national dialogues were held when Mansour Hadi suddenly resigned, while his transitional presidential term was over. He traveled to Aden and from there to Oman and then to Saudi Arabia, asking for help to regain power. Subsequently, on March 25, 2015, a coalition of several Saudi -led Arab countries in the region launched air strikes against Yemen. The reason for the invasion, as specified in a letter by the Saudi-led Arab coalition to the United Nations Secretary-General and head of

the United Nations Security Council, was to respond to the request of the Yemeni President, Mansour Hadi, to support Yemen and its people against the invasion of the Houthi quasi-militias, who have always been puppets of foreign forces and are continually seeking to undermine Yemen's security and stability. In this letter, they claimed that the Houthi group was supported by regional forces who seek to develop their hegemony over Yemen and use this country as a base for gaining influence over the region. Hence, the threat is not only directed at the security, stability and sovereignty of Yemen, but also at the security of the region and international peace and security.

3. LEGAL REVIEW OF THE SAUDI-LED ARAB COALITION MILITARY INVASION OF YEMEN

As stated, the Saudi-led Arab coalition began its military intervention on March 25, 2015 in the form of air strikes against the Yemeni people and announced that the reason for this military operation was the request of the Yemeni president, Mansour Hadi, to support the country and its people against the invasion of the Houthi group. But the main question is: Is this military intervention a legal and legitimate act, in accordance with international law? In order to examine this, the actions of Saudi-led Arab coalition are assessed in terms of two principles of non-use of force and non-intervention in the internal affairs of countries.

4. MILITARY ATTACK ON YEMEN AND THE PRINCIPLE OF THE PROHIBITION OF USING FORCE

In addition to being a rule of customary international law, the prohibition of the use of force, foreseen in Article 2, Paragraph 4 of the Charter of the United Nations, is commonly recognized as having the characteristic of fundamental principles of law in the procedure used by the states and the legal doctrine, and thus is a part of the Jus Cogens of the international law. However, there are some exceptions that make the use of force necessary and legitimate. Here, we first examine this principle and its exceptions, and then judge the legitimacy or illegitimacy of the military intervention in this country by comparing them with what is happening in Yemen. Today, there are three documents in relation to the principle of the prohibition of “the use of force by states”:

1. Article 2, Paragraph 4 of The United Nations Charter which introduces this prohibition as one of the recognized principles of the international law.
2. The United Nations Declaration of 1970 on the Principles of the International Law on Friendly Relations, based on which:
 - A war of aggression constitutes a crime against peace and entails international responsibility.

- Government or states shall refrain from using force to break international borders or resolve international disputes.

- Governments or states are obliged to refrain from resorting to force as countermeasures.

- Governments should not deprive nations of their self-determination right and independence by force.

- Governments or states shall refrain from organizing, provoking, helping or participating in domestic revolts or acts of terrorism in other countries.

3. The United Nations General Assembly also stated in Resolution 42/22 that this principle requires states to refrain from Armed intervention.

According to these documents, the use of force in advancing national politics is a flagrant violation of the fundamental principles of the international law. Since this principle is among the Jus Cogens of international law, any agreement to its contrary shall never be valid. Therefore, the formation of a coalition of several states for military actions against another country will not legitimize it. As stated above, there are exceptions to the prohibition of “the use of force by states”. In order to verify the claims of states in legitimizing their military interventions and actions, they should be evaluated in the light of the exceptions mentioned below:

Exception 1: The use of force as a legitimate defense:

Legitimate defense has long been recognized as one of the inherent rights in relations between individuals, people, groups and nations. Article 51 of the Charter of the United Nations also emphasizes this inherent right and regards it as an exception to the principle of the prohibition of the use of force by states. The general condition of this type of defense in the international law is as follows:

1. As stated in Article 51, launching a military strike is a prerequisite for legitimate defense, and any preventive attack in this regard is devoid of legal value and not considered a defense.
2. When a legitimate defense is necessary; i.e. it is done when there are no diplomatic and civilian ways of eliminating aggression.
3. There must be a proportion between attack and defense (principle of proportionality), that is, if the aggression is limited to a minor conflict, the defense should not cause a major destruction in aggressor country.
4. In order for a defense to be legitimate, it must be urgent and promptly followed by the aggression. Therefore, if the attack on a country has been launched and ended, the defense will not be considered legitimate if it has been carried out some time later.

5. Informing the Security Council is the fifth condition of a legitimate defense.

As seen, Article 51 authorizes the use of force by the states as a self-defense. However, this is only applicable to situations where a country is attacked by a foreign military force and defends itself accordingly. Therefore, unless an attack has been launched, the use of force is regarded as a principle of “the prohibition of the use of force by states”, and considered a case of the violation of the *jus cogens* of the international law. Therefore, the precondition for the use of a legitimate defense under Article 51 of the Charter is a foreign military attack, confirmed by the International Court of Justice. In particular, this court has emphasized that a state that exercises the right to a legitimate defense, or a group of states that defend this country, should be the victim of a military strike. Now, if we consider Mansour Hadi's letter or request for military intervention to defend him in accordance with Article 51 of the United Nations Charter, or examine the allegations or analyses outlined in the Saudi-led Arab coalition statement, including the pursuit of terrorist groups such as al-Qaeda, we see that this action is by no means justified; because neither Saudi Arabia nor any of GCC members or other coalition members have been victimized by any attack from Yemeni groups before the attack on Yemen. They did not even face any retaliation by the Yemenis long after the attack (Nezam, 2015).

Exception 2: The use of force by the decision of the United Nations Security Council (collective security system):

Based on Articles 12 and 24 of the Charter, the Security Council has a primary responsibility for maintaining international peace and security. If, in accordance with Article 39 of the Charter, a threat to peace, violation of peace or aggression is identified, the Security Council may decide on actions involving the use of armed force referred to in Article 42. According to Article 42 of the Charter, in cases where the Security Council has identified a situation that has seriously threatened international peace and security or has been subject to aggressive practices so that recommendations, decisions and actions of the Security Council are not considered to be adequate according to previous regulations, or it becomes obvious that they have not been sufficient, the Security Council may decide to use force in order to maintain peace or restore international peace and security. This exception is usually interpreted by the collective security system. In the subsequent provisions of Chapter 4 of the Charter (Articles 43 to 47), the executive mechanism of this system is foreseen, but has not yet been established; however, we see that today, the Security Council frequently refers to Chapter 7 of the Charter and, to the extent that it authorizes itself to, enters into purely domestic wars, such as in Somalia, Haiti and Albania, allowing the use of force, while these cases have not been limited to collective legitimate defense.

Now, if we look at the Yemeni case, we will see that, the Security Council adopted a passive stance against the actions of a

regional body by turning a blind eye to the facts of Yemen and issued one-sided resolutions against Yemen's popular and revolutionary groups, particularly in resolutions 2201 (6) and 2216 (paragraph 2 of the Introduction), in which the name of Mansour Hadi, as the President of Yemen, and his letter requesting any necessary assistance from the Gulf Cooperation Council and The Arab League, including military intervention (paragraph 2 of the introduction to resolution 2216) was mentioned in an attempt to justify the actions of the invading countries. In the light of what was mentioned, the resolutions and the legal basis for military intervention in Yemen, which is claimed to be in accordance with chapter 7 of the Charter, should be possibly viewed with suspicion. However, the endorsement of the military operation against the oppressed Yemeni people challenges the Jus Cogens rule of the prohibition of the use of force by states on the one hand, and violates the rule of Yemenis' right of self-determination, on the other.

5. THE MILITARY STRIKE AGAINST YEMEN AND THE PRINCIPLE OF NON-INTERVENTION IN THE INTERNAL AFFAIRS OF COUNTRIES

Given that only international disputes were the matter of interest at the time of the establishment of the United Nations, the principle of the prohibition of the "use of force by states" was related to relations between the states and not applicable to the domestic realm. This means that governments have the right to exercise power in order to maintain order and security in their internal affairs. Therefore,

every state can use force in emergencies such as confronting unrest and suppressing coups and internal riots, albeit with respect for human rights standards as well as the legal and international humanitarian standards.

However, what happened in the Yemeni case raises such questions as what position should be taken by states on the internal issues and crises of other countries? Can governments and states ask other states for intervention, and military intervention in particular, when dealing with internal affairs? To arrive at these answers, we must analyze the principle of non-intervention and the possibility of intervention with the request and consent of governments or states.

One of the recognized principles of the customary international law, which has been emphasized in Article 7, Paragraph 2 of the United Nations Charter, is the principle of non-intervention in the internal affairs of states. Initially, the purpose of Article 7, Paragraph 2, was to strengthen the support of United Nations for states against the encroachment of newly established Collective Security on the internal affairs of states. This paragraph has been diminished in practice, not because of the fact that the term “intervention” has been interpreted narrowly, but more because there are/were more and more issues that are/were not in any way considered to be in the framework of the internal authority of states.

The United Nations Declaration on Non-Intervention, issued within the framework of the General Assembly Resolution 31/21 in

1965, explicitly prohibits any intervention that threatens the sovereignty and political independence of states. In 1981, the General Assembly also issued Resolution 26/25 on the implementation of the Declaration about inadmissibility of intervention in the internal affairs of states, took another step to strengthen the principle of non-intervention, and stated that the principle of non-intervention in internal and external affairs includes the following rights and assignments:

- Avoiding any coercive and violent action that deprives nations under the rule of colonialism or the occupation of foreigners of the exercise of their right to self-determination, freedom and independence

- Refraining from misuse and misrepresentation of human rights as a means of interfering in the affairs of other countries (Naderi, 2006).

Therefore, there is no doubt in the initial prohibition of intervention in the internal affairs, or in the interpretation of the Article 7, Paragraph 2 of the Charter, about "the matters that are inherently in the domestic jurisdiction of each state". The jurisdiction of these matters, as expressed by the International Court of Justice in the Nicaragua case, includes matters related to the choice of the political, social and economic system of the country and the determination of its foreign jurisdiction. It has also been accepted that, if the intervention has been taken place following the invitation or consent of the target

state, it is considered exceptional and authorized. What was mentioned above indicates that any intervention in the internal affairs of another state, with the invitation or consent of that state, is an exception to the principle of the prohibition of intervention in the internal affairs of the states.

According to the International Law Commission, “valid consent of a state to the commission by a given act by another state precludes the wrongfulness of that act in relation to the former state to the extent that the act remains within the limits of that consent”. Of course, this consent should be expressed in a credible manner by a qualified organization or person. Taking such interpretations into account, the Yemeni case raises the question of whether the military intervention in Yemen has taken place with the invitation or consent of the Yemeni government. At the same time, it should be noted that the Commission, in addition to specifying the prerequisites for credible consent, refers to cases where consent or satisfaction can never be valid, such as satisfaction with a behavior that violates the Jus Cogens rules. This is because one of the legal effects of the Jus Cogens rules is that any conditions contrary to these rules are considered void and that any resolution against it, even the coercive resolutions of the Security Council, should be annulled and stopped. Therefore, can consent justify intervention in the internal affairs of states if it is considered a matter of violation of the international Jus Cogens rules? The general principle has long been that, states could invite [others] to intervene, with the state being the one with the power to control the entire land of a state. But after the Cold War, it came to be seen that repressive

regimes lacking legitimacy should not ask foreigners to help them suppress protesters. If a government or state does not have complete control over the land or lacks democratic legitimacy, its invitation will not be justified (Ghanbari, 2015). As previously stated, Saudi Arabia announced that its military intervention in Yemen is in response to the invitation of the President of Yemen, Mansour Hadi, to support the country against persistent Houthi aggression on the basis of the principle of self-defense, contained in Article 51 of the United Nations Charter, with all necessary means, including military intervention. Here, we examine Saudi Arabia's legitimacy/illegitimacy in relation to the principle of "Non-Intervention", both from the perspective of the legal rights of Yemen and that of international law. In accordance with the Principles 37 and 38 of the Yemeni Constitution, the conditions under which another country can intervene to stabilize the internal situation of Yemen do not correspond to the current situation. There are two ways to legitimize the use of military forces of other states to stabilize Yemen's internal affairs: first, through parliamentary approval; and second, through the approval of the National Defense Council chaired by the President.

Article 37 of the Yemeni Constitution allows the declaration of the mobilization of forces by the President after the approval of the National Defense Council. Although, in accordance with the principles of Article 111 of the Yemeni Constitution, the President is the highest authority of the armed force, he cannot decide independently without the vote of consent of the Consultative Assembly on the mobilization

of forces or the intervention of other states in the internal affairs, including military intervention.

On the other hand, and in accordance with Article 38 of the Constitution, the Supreme Council of the National Defense had not been formed and no decision had been made prior to the Saudi invasion of Yemen. If the request for foreign military intervention is deemed relevant to the protection of the republic and its security in face of domestic crises, the matter has to be approved by the parliament (Council of Representatives) or the National Security Council in accordance with the two principles mentioned above, and the President is not competent for taking any measure, individually. Moreover, the provisions of Article 92, which stipulate the necessity of ratification of international treaties in the House of Representatives (parliament), especially those relating to defense, coalition, compromise, peace or border issues, are the evidence for the illegitimacy of foreign military intervention without the approval of parliament. What happened as a result of the foreign military attack on Yemen by Mansour Hadi's invitation is a flagrant violation of the provisions of the presidential oath and contrary to his legal obligations. In addition, the legitimacy of Mansour Hadi and his representation of the Yemeni people are a matter of serious suspicion, if not entirely void. This is because under article 116 of the Yemeni Constitution, if his the presidential position is vacated or the president is permanently incapacitated, his duties will be temporarily assigned to the vice-president for a period not exceeding 60 days, during which a new election must be held. On the other hand, according to principle 108

(the campaign), the number of presidential candidates in each election should not be reduced to two, which was the case in Yemen. Therefore, one cannot ignore all these facts and therefore it is not possible to justify the massive military attack of the Arabian coalition on the oppressed Yemeni people with such a shallow justification as the request letter of Mansour Hadi. If we look at the case of Yemen from the international perspective, given the importance of the United Nations Charter in defensive measures in the international arena, and since Saudi Arabia and other coalition countries have invoked this Charter, it is essential that the articles and paragraphs related to the matter be reviewed and analyzed. In the first chapter, in accordance with Paragraph 3 of Article 2 of the Charter, "all members shall peacefully settle their international disputes in such a way that international peace, security and justice are not compromised". This paragraph explicitly prohibits the use of non-peaceful means by the member states. Chapter 6 of the Charter, which deals with the peaceful settlement of disputes, indicates that before taking any measure, the States must find a resolution through negotiation, mediation, compromise, arbitration, prosecution and resort to regional arrangements or other peaceful means of their choice. What is striking in this chapter is how the Security Council intervenes to resolve these conflicts. Accordingly, the Council first requires the parties to settle their disputes using the manner described above (Article 33, paragraph 2). Otherwise, the parties should refer the dispute to the Security Council (Article 37). The most important point is the role considered at the end of this chapter (Article 38), which is merely advising the disputing parties. Chapter 7 of the Charter deals with violations of

peace and aggression. Article 51 of the Charter stipulates that "in case of an armed attack against a UN member state, as long as the Security Council does not take the necessary steps to maintain international peace and security, none of the provisions of this Charter shall violate the inherent right of self-defense, whether individual or collective. Members should immediately report to the Security Council on the measures they are going to take to exercise the right to self-defense. In this regard, it should be noted that Saudi justification for the request of Mansour Hadi to stabilize the situation in Yemen is not justified in any way, as he had resigned before the Saudi military attack on Yemen. Therefore, the aggression cannot be legitimized on the basis of such a request. Saudi Arabia would have only been able to justify this if, first, Mansour Hadi was still holding the presidency position of Yemen, and second, Saudi Arabia had submitted a report on the situation to the Security Council before any military operation and received the necessary authorization. The authority of Mansour Hadi in Yemen was only legitimate as the person in charge of the transition phase in Yemen and not as a legitimate president. Therefore, he could not have asked the Saudi government to intervene as a legitimate president. This can be inferred from the Security Council Resolution 2204 in which the name of Mansour Hadi has not been mentioned as the president of Yemen. Article 1, Paragraph 1 of the Charter obliges countries to obtain authorization from the Security Council to carry out any operation against each other; something that the Saudis did not seek to do, which is clear and unequivocal opposition to the United Nations Charter. It is obvious that the Security Council, with resolution 2216 dated April 4, 2015, has turned a blind eye to this clear violation of

rules by the Saudis. Of course, it should be added that the above reasons can be regarded as a violation of the Charter of the Organization of Islamic Cooperation (OIC) and the Arab League. According to the Charter, Islamic countries should resolve their disputes within the framework of the Organization of Islamic Cooperation (OIC), and the Arab countries should resolve their disputes in the Arab League. Contrary to the charter of these two organizations, Saudi Arabia did not consult any of these two organizations before attacking Yemen.

7. INVESTIGATION OF THE MILITARY INTERVENTION OF THE SAUDI-LED ARAB COALITION TO YEMEN IN TERMS OF THE HUMAN RIGHTS CONSIDERATIONS

There are generally two types of armed conflicts in the international law: first, International Armed Conflicts (IAC), which is at least between two state actors; and, second, Non-International Armed Conflicts, which have been recognized since the 1950s, and occur between a state actor and one or more non-state actors, or between two or more non-state actors (Nejad, 2009). The conflict in Yemen is of the second type (NIAC), given that the Houthis and their advocates have a sufficient level of military operation organization and can adhere to human rights. International humanitarian law has stipulated the necessary rules for each category of armed conflicts to be complied with by the parties during armed conflicts. The purpose of these rules is to restrict the use of violence and military equipment

during armed conflicts with the aim of reducing war-induced suffering and supporting individuals who are not directly involved in the war or have stopped fighting, such as the wounded, patients, prisoners and civilians.

In international armed conflicts, humanitarian laws are fully implemented. However, they are not implemented in internal armed conflicts, except for a few rules. There are, in total, three categories of humanitarian international law which govern internal armed conflicts that should be observed by the parties involved in a conflict. They include the contractual laws governing domestic armed conflicts, which are limited to Article 3 of the Fourth Geneva Conventions (1949), the Second Additional Protocol to the Geneva Conventions of 1949 regarding the protection of victims of non-international armed conflicts and the rules of customary international law. In the following, each of these categories is examined in relation with the Yemeni case.

8. ARTICLE III OF THE FOURTH GENEVA CONVENTIONS OF 1949

Article 3 is one of the hallmarks of the Fourth Geneva Conventions which is shared by all of them and regarded as a milestone in humanistic and humanitarian rights. According to Article 3, state parties of these Conventions agree that, if armed conflicts do not have an international dimension and occur on the territory of a

Contracting State, each hostile state is required to observe the following minimum principles:

- Those who are not directly involved in the war, including combatants who have laid down their arms or those unable to fight due to illness or wounds or for any other reason should be treated humanely.

- Wounded people and patients should be salvaged and nursed. In addition, hostile parties shall endeavor to implement all or parts of other provisions of this Convention through special agreements.

As seen, the shared Article 3 prohibits violence against individuals and the lives of people who have not actively participated in these hostilities in any form, time, or place. Violation of the third article equals to a serious violation of international humanitarian laws.

9. SECOND ADDITIONAL PROTOCOL TO THE GENEVA CONVENTIONS OF 1949;

This protocol, to which Yemen and Saudi Arabia are parties, is related to the protection of victims of non-international armed conflicts, which is applicable to this conflict as long as the conflict in Yemen is considered a NIAC conflict.

The key provisions of this protocol are:

- Prohibition of violence against life, physical and mental health, as well as collective punishments (Article 4)

- Prohibition of attack on medical and transportation units (Article 11)

- Prohibition of attacks on or destruction of objects essential for the survival of civilians, including food, facilities and drinking water sources (Article 14). Violation of this rule can lead to individual criminal liability in cases where it is done intentionally by a person or his subordinate group(s) (Niakui and Ejazi, 2016).

10. CUSTOMARY INTERNATIONAL HUMANITARIAN LAW

Regarding the role of custom in international humanitarian law it can be argued that, there are still a number of states, especially those with armed conflicts in their territories that have not approved the Additional \protocols to the Geneva Conventions despite the ratification of the Geneva Conventions by all states.

However, since many of the rules and regulations of this protocol involve customary features, they are binding to all member or non-member states. In fact, the convention eliminates the deficiencies

caused by the lack of ratification of the treaty or the lack of contractual rights. Therefore, customary international law and the international human rights obligations arising from public institutionalized procedures, rather than treaty obligations, are binding to all parties to the conflicts in NIACs and IACs. Cases of customary humanitarian violations include targeted attacks on civilians or civilian objects, including buildings with religious, educational, artistic, scientific or charity functions, monuments, hospitals and places where patients and wounded people are gathered, provided that they are not military targets.

Given what was mentioned above, it should be examined whether the humanitarian laws have been violated in the military intervention of Saudi-led Arab coalition in Yemen.

Reports of the human rights institutions indicate that the Saudi-led Arab coalition has launched massive air strikes in Yemen. On April 24, 2015, the Amnesty International announced that coalition air strikes targeted five demographic regions (Sa'adah, Sana'a, Hadida, Hajejab) and killed at least 97 people, including 33 children and 57 quasi-militias. While warning the use of cluster bombs in Yemen by Saudis, the Amnesty International reported that children and civilians were killed or injured due to the use of cluster bombs. Local human rights organizations also predict that the highest civilian casualties and injuries in the conflict were associated with the heavy explosive weapons dropped from coalition aircrafts, including in densely populated areas.

The United Nations' High Commissioner for Human Rights has emphasized that a large number of civilian casualties should be considered as a clear indication that serious issues are involved in such hostile acts, including;

- The air strikes on March 30, 2015, at al-Mursraq refugee camp for domestic refugees in Herad, with a population of over 300 homeless families that killed at least 19 civilians and injured 200 people.

- The air strike on April 18, 2015, at Alsafam storage facility in Saada, which included humanitarian supplies.

- Identification of the entire cities of Sa'da and Maran as military targets and the subsequent air strikes on May 8, 2015, which resulted in the widespread destruction of civilian buildings.

According to the United Nations Children's Fund (UNICEF), on average, eight children per day are killed in Yemen as a direct result of hostilities. According to the report of the Red Cross, nearly 4 million children face serious threats to their safety and life, including the outbreak of infectious diseases such as cholera and diarrhea. At present, 82 percent of the 24 million Yemeni people need some kind of basic life support. Ninety percent of cereals and foodstuff needed for the Yemeni people are imported and humanitarian decline caused by these hostilities is directly related to the impediment to humanitarian

aids. The deliberate disruption of key procurement infrastructures, including bridges and roads, by the Houthis and coalition forces, has had alarming consequences for civilians. Food shortages, transport barriers, etc. all exacerbate the prevalence of malnutrition.

11. HUMANITARIAN LAW VIOLATIONS IN YEMEN

In each armed conflict, there are at least two parties who resort to weapons; but are the parties completely free to use weapons? Can one party use any kind of weapon while the other is limited in this regard?

This is where humanitarian law seeks to limit these conflicts. Humanitarian law has relevant principles that must be respected; the principle of distinction [between civilians and combatants] is the basic principle of human rights, which is rooted in customary law and has enjoyed such a status in the international legal system that can be argued to be the essence of international law. The main purpose of the international humanitarian law is to require the conflicting parties to distinguish between civilians and combatants. Such a goal is accepted by all legal systems, and humanitarian law achieves this goal when it is actually taken into consideration by the conflicting parties. Therefore, the principle of distinction [between civilians and combatants] has no meaning but distinction between military targets and civilian targets. According to this principle, individuals and properties that do not interfere in the commission of hostile and violent acts are immune

from attack. In fact, the principle of proportionality protects civilians from damage and destruction of residential properties and limits them. In addition, each of the parties to the conflict must apply all practical precautions to protect civilians and civilian targets against the effects of attacks. But have all parties involved in Yemen met the principles of proportionality and precautionary measures? Regarding what was mentioned above; you see that the parties involved in Yemeni conflict have violated these principles through the use of heavy explosive weapons inside and around residential areas and civilian targets which is a violation of the humanitarian law. Some of these acts are as follows:

A) Sixty percent of civilian casualties and wounded people were due to the explosive weapons dropped from aircrafts used in the air strikes.

(B) Twenty percent of civilian casualties and wounded people were due to the ground-based explosive weapons.

(C) Seventy percent of civilian casualties and wounded people were due to hand-made weapons (Mousavi, 2007).

Moreover, shooting the carriers of civilians fleeing the war in Aden, or targeted firing of ballistic missiles in the city of Aden, which destroyed civilian homes and the lives of defenseless people as well as putting [mines] on retreated lands are examples of other human rights

violations. In this conflict, the Arab coalition has also violated the principles of human rights.

The Saudi Arabian military spokesman pointed out that Saudi Arabia has used cluster bombs against armored vehicles, not civilian targets. Two international NGOs and a United Nations agency have provided images of cluster bombs and their use in Yemeni villages (Nejad, 2009). In other words, due to non-compliance with war laws, including the principles of distinction between civilians and combatants (such as attacks on hospitals, medical centers and stadiums), prohibition of unnecessary suffering (violence and the use of prohibited weapons) as well as the clear violation of the use of chemical weapons in the war, Saudi Arabia has undoubtedly violated the humanitarian rules, particularly the provisions of the Geneva Conventions. Preventing the victims' access to humanitarian aids by the Red Cross is also in violation of the Geneva Conventions. In addition, bombarding a hospital on the sixth day of the attack on Yemen, and a gymnasium and several houses in the province of Marib and killing civilians, including children and women, as well as attacking the wheat silos in the Ab province, preventing medical and pharmaceutical aids from being available to the victims, attacking on the civilian infrastructures in Yemen, attacking on the airport of Safa, and preventing the entry of airliners to send humanitarian aids are of other war crimes of Saudi Arabia and the Arab coalition states, indicating war crimes and international human rights violations committed by Saudi Arabia which is the subject of criminal jurisdiction in the International Criminal Court (Khosravi, 2016).

12. CONCLUSION

According to what was mentioned, it is found that the attack of a number of Arabian states headed by Saudi Arabia is not consistent with the principles, norms and international laws, and lacks legitimacy. Although the intervention did not initiate by the Security Council's permission; and the Arab Coalition has launched a military intervention based on the regional arrangements set forth in the chapter eight of the Charter, it appears that the United Nations Security Council Resolution 2216, adopted by Russia's abstention, was to somehow legitimize this intervention. Of course, it should be noted that in accordance with Article 52, paragraph 2, of the Charter, regional institutions should make every effort to resolve disputes peacefully, but in the case of Yemen, Saudi Arabia and its allies have been directly involved in military intervention. Today, the Yemeni conflict seems to have become an actual international conflict, and what is happening in this country is a violation of Yemeni sovereignty, the violation of its territorial integrity and disrupting the right of Yemeni people for self-determination which is definitely contrary to the purposes and goals of the United Nations; because not only it did not contributed to the peace and security of the region, but also paved the way for the expansion of the activities of terrorist groups on the peninsula. In addition to what was mentioned above, Saudi Arabia has violated one of the fundamental principles of the international law by violating the principle of the prohibition of "the use of force by states" under article 2, paragraph 2 of the Charter, which was introduced as a Jus Cogens rule in the Nicaraguan case. In

the Yemeni conflict, civilian targets were attacked and more than a thousand people were killed. Casualties were also widespread due to drug and food siege. On the other hand, an attack was taken place on a dairy factory used for civilian purposes and the humanitarian aids of the Red Cross were prevented from being available to civilian and military victims. All of this is a violation of all Four Geneva Conventions and can be considered a war crime. The use of prohibited weapons against the Yemeni people, including chemical weapons and cluster bombs, is also among the other war crimes in this crisis. These examples provide solid evidence for human rights violations and the commission of war crimes in Yemen's armed conflict.

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