



كلية الشريعة والقانون بدمنهور



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مجلة البحوث الفقهية والقانونية

مجلة علمية محكمة
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**Collateral Damage Vs Indiscriminate Attacks On
Civilians / Use Of Legal Munitions In Illegal Ways**

**الأضرار الجانبية مقابل الهجمات العشوائية على المدنيين
استخدام الذخائر القانونية بطرق غير قانونية**

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مجلة علمية عالمية متخصصة ومُحكمة
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Collateral damage vs indiscriminate attacks on civilians / Use of legal munitions in illegal ways

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Abstract:

Indiscriminate bombing of civilians is prohibited under international law, humanitarian law and international treaties. Indiscriminate bombing is a crime against humanity, and international law requires parties to war to commit crimes against civilians. Military targets between civilian homes, hospitals, and schools oblige warring parties to stay away from these targets in order to protect civilians and property. The Houthi group carried out random violations against civilians. International law condemns all parties to the war for committing violations against civilians. International law prohibits the use of civilians as an instrument of war. This also violates the rights of civilians. Indiscriminate bombing of civilians is prohibited, except for proportionality and discrimination. In these cases, the parties to the war must know the impact of these attacks on civilians and the importance and value of the attack.

Keywords: International law, Indiscriminate, Civilians.

الأضرار الجانبية مقابل الهجمات العشوائية على المدنيين

استخدام الذخائر القانونية بطرق غير قانونية

عبدالله بن علي الأسمرى

قسم القانون، كلية الدراسات القضائية والأنظمة، جامعة أم القرى، مكة المكرمة، المملكة العربية السعودية.

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ملخص البحث:

القصف العشوائي للمدنيين محظور بموجب القانون الدولي والقانون الإنساني والمعاهدات الدولية. يعتبر القصف العشوائي جريمة ضد الإنسانية، والقانون الدولي يجرم أطراف الحرب بارتكاب جرائم ضد المدنيين. الأهداف العسكرية بين منازل المدنيين والمستشفيات والمدارس تجبر الأطراف المتحاربة على الابتعاد عن هذه الأهداف لحماية المدنيين والممتلكات. ارتكبت جماعة الحوثي انتهاكات عشوائية بحق المدنيين. ويدين القانون الدولي كافة أطراف الحرب لارتكابها انتهاكات ضد المدنيين. ويحظر القانون الدولي استخدام المدنيين كأداة للحرب. وهذا أيضاً ينتهك حقوق المدنيين. يحظر القصف العشوائي للمدنيين باستثناء مبدأ التناسب والتمييز. وفي هذه الحالات، يجب على أطراف الحرب معرفة تأثير هذه الهجمات على المدنيين وأهمية الهجوم وقيمه.

الكلمات المفتاحية: القانون الدولي، العشوائي، المدنيون.

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I. INTRODUCTION:

A- Scope:

This memo focuses on collateral damage using indiscriminate attacks against civilians. These attacks are using legitimate weapons. But attacks are unlawful on civilians, such as bombing a student bus in Yemen. International law, international humanitarian law and treaties and conventions protect the rights of civilians from indiscriminate attacks. This memo discusses whether coalition countries are condemned for attacks against civilians, and what are the legitimate ways to achieve military objectives other than civilians. This paper will explain the types of indiscriminate attacks and enforce of international law, treaties and conventions.

B- Summary of conclusion:

Indiscriminate bombing of civilians is prohibited under international law, humanitarian law and international treaties. Indiscriminate bombing is a crime against humanity, and international law criminalizes war parties for committing crimes against civilians. Military targets between civilian homes, hospitals and schools force warring parties to move away from these targets to protect civilians and property. The Houthi group committed random violations against civilians. International law condemns all parties to the war for any violations against civilians. International law prohibits the use of civilians as an instrument of war. This also violates the rights of civilians. Indiscriminate bombing of civilians is prohibited, except for proportionality and discrimination. In these cases, the parties to the war must know the impact of these attacks on civilians and the importance

and value of the attack. The research problem is the absence of international control in the use of legal and illegal weapons to target civilians. In addition to using civilians as a tool in war. The Houthis use schools, hospitals, and civilians to achieve their goals and violate civilians.

II. BACKGROUND:

A- Victims of indiscriminate attacks using legitimate weapons exceed millions worldwide:

Indiscriminate attacks have caused casualties around the world. Parties to the war have horrific abuses against civilians such as murder, torture and rape. All these attacks are indiscriminate attacks in many countries and have caused heavy casualties and a humanitarian crisis in those countries and the war parties are responsible for these criminal crimes.¹

Around 8,000 people were killed and wounded in Taiz governorate as a result of the shelling of Houthi and ousted militias on residential neighborhoods in the city of Taiz, according to the Yemeni Coalition for Monitoring Human Rights Violations.²

The number of people kidnapped as a result of the shelling reached 214 people, including 93 activists, 45 politicians and four media workers. According to the report, the coup militia destroyed more than

¹ Human Rights. Indiscriminate Attacks. Indiscriminate Weapons in Hemnitra International Law, 38 PACE L. REV. 2, 4 (2016)

² Website Post, *Eight thousand people were killed and wounded as a result of shelling in the city of Taiz*, N.Y. Amawqea post (Nov. 11, 2016)

1,778 houses and private facilities, including 1,561, and displaced more than 9,500 families from the city.¹

Indiscriminate shelling caused the destruction of 172 government facilities, including 55 educational facilities and 21 health facilities. The United Nations recorded, due to indiscriminate shelling, nearly 20,000 civilian casualties in Yemen between March 2015 and June 2019, including more than 7,290 deaths.²

Indiscriminate shelling killed 606 civilians, including 157 children, 111 women (adult female), and 27 massacres.³

B- Civilian casualties caused by indiscriminate attacks throughout history:

International humanitarian law in its current form is based on several important principles, which in turn are subdivided into detailed provisions aimed at collectively identifying the safeguards necessary to limit the effects of armed conflict, military operations, on persons who are not or are unable to participate in hostilities. Such guarantees also extend to property that is not military objectives.⁴ The provisions of international humanitarian law require the warring parties to respect the guarantees contained in its charters.⁵ The use of certain means and methods of combat is restricted or prohibited. International humanitarian law, even though it does not prevent war, seeks to limit its effects in the interests of humanity, which cannot ignore military

¹ Syrian Network, *Idlib governorate and its surroundings under indiscriminate shelling*, Syrian Network for Human Rights, June. 15, 2019

² Human right watch, *Coalition unlawful airstrikes on the city of Saada in Yemen*, HRW, Jun. 30, 2015.

³ Human right watch, *Coalition unlawful airstrikes on the city of Saada in Yemen*, HRW, Jun. 30, 2015.

⁴ Amer Alzmal, *Islam and International Humanitarian Law: On some principles of conduct of hostilities*, ICRI, June. 15, 2014.

⁵ *Id.*

necessities. In addition to the principles of humanity and military necessity, the distinction between military objectives and civilian persons and property or civilian objects and proportionality in carrying out hostilities.¹

Due to indiscriminate shelling, at least 15 hospitals in Idlib (Syria) and Hama were damaged or destroyed. The escalation in attacks also displaced 180,000 people. This exacerbates an already desperate situation, where at least 1.5 million people are in dire need of humanitarian assistance.²

Indiscriminate shelling using chemical weapons is prohibited under the rules of international humanitarian law, regardless of the existence of actual military objectives, including the use of such weapons against the enemy, as this has a negative impact on civilians and the environment.³

The recent attack in Dohuk Governorate in the autonomous Kurdistan region of Iraq. This attack on civilians shows a disregard for international humanitarian law and international human rights law..

The attack involved five artillery shells hitting the park's resort - a well-known tourist destination crowded with visitors. Nine civilians were killed, including three children, including a one-year-old infant, and 33 others were injured.

¹ *Id.* at 6.

² Lynn Maalouf, *Syria: UN Security Council must address crimes against humanity in Idlib*, N.Y. TIMES, May. 17, 2019.

³ - Lynn Maalouf, *Syria: UN Security Council must address crimes against humanity in Idlib*, N.Y. TIMES, May. 17, 2019.

11 *Deadly Attack on Civilians at Tourist Site in Iraq Shows 'Shocking' Disregard for International Humanitarian Law, Senior Official Tells Security Council Format*, News and Press Release, Source UN SC ,Posted2 ,Jul 2022 Originally published 26, Jul 2022.

These attacks are violations of human and civilian rights and of universally accepted standards of international humanitarian and human rights law that seek to protect civilians.¹¹

C- Collateral damage to indiscriminate attacks through:

1- Genocide: On August 21, 2013, Assad committed his horrific crime, which claimed hundreds of lives and left thousands injured, indiscriminately shelling the regime's various weapons using rockets loaded with chemicals.¹

The war of extermination in Yemen left more than 60 people dead, including children, the elderly and women, and more than 200 wounded due to the indiscriminate shelling, the occupation of more than 800 houses, the destruction of about 2000 houses, and the burning of more than 300 farms. Education and Public Utilities in Koshar District.²

2- Education: The dramatic increase in the number of children deprived of education in Yemen due to the ongoing conflict in the country. Two million children are out of school, including nearly half a million who have dropped out of school since the conflict escalated more than four years ago.³

War in Yemen Conflict, delayed development and poverty have deprived millions of children in Yemen of their right to education and their hope for a better future. Due to the indiscriminate shelling of

¹ Abdulrahman Mohammed, *Chemical massacre: testimonies of terror in the time of genocide*, Orient Net, Aug. 17, 2013.

² - Yousef Al - Dini, *The Stones of Yemen: War of Extermination and Scorched Earth Policies*, Arabic Net, Mar. 12, 2019.

³ ICRC, *From Sana'a, Aden and Taiz: Education has become a mirage for Yemeni children*, ICRC. 25, 2019.

civilians, the educational infrastructure in the country has been destroyed and more than 2,500 schools have been damaged.¹

3- Health: Yemen is experiencing the worst humanitarian crisis in the world, and 75% of its population needs some form of humanitarian assistance and protection, including 8.4 million people who do not know how to get their next meal.²

This is a severe incident for MSF health facilities in three months. Haidan Hospital was destroyed by Houthi, and at a health center in Taiz, coalition forces were shelled, injuring nine people.³

4- Infrastructure: More than sixty-seven large factories, factories, and small facilities were damaged as a result of the raids, and fourteen of them were destroyed. Targeting the infrastructure of the economic and commercial sector in Yemen through systematic bombing will have repercussions on the ordinary citizen. Saudi Arabia is making efforts to rebuild Yemen, where more than half of its population suffers from malnutrition, and damage to infrastructure and economic losses in the civil war have so far exceeded \$14 billion.⁴

D. Legality of indiscriminate attacks:

There is much overlap regarding the difference in definition between the principle of international humanitarian law that prohibits the use of indiscriminate weapons and the prohibition of indiscriminate attacks.⁵

¹ The Arabs, *Yemen war kills education in killing*, UNICEF, Aug. 26, 2018.

² Ahmad zabiba, *Targeting Yemen's infrastructure*, Almayadin, Feb. 6, 2018.

³ Mohamed Mahmoud, *Air raids*, human right watch, Aug. 12, 2018.

⁴ Yara Bayoumi, *The war is costing Yemen \$ 14 billion*, Reuters, Aug. 16, 201

⁵ -Human right, indiscriminate attacks and weapons, IHL,38, REV.2,4.2016

While Article 20 (4) of Additional Protocol to the Geneva Conventions itself does not apply to armed conflicts, it defines indiscriminate attacks as those that do not target a specific military objective or use a method or means of combat that cannot be directed at a specific military objective or Which use a method or means of warfare that have implications that cannot be limited as required by international humanitarian law, and therefore would strike military objectives, civilians or civilian installations without discrimination.¹

There are two random attacks. The first involves the failure to define a specific military objective to target. The second type of indiscriminate attack can be said to involve the use of weapons whose effects cannot be controlled after being fired because of the method or means of use, the task of this weapon is limited only to disrupting the military objective, such as Certain types of cluster munitions or chemical or biological weapons.²

D. Indiscriminate weapons

Indiscriminate weapon is inherently random. According to the International Committee of the Red Cross, the use of indiscriminate weapons is inherently prohibited by international law.³

Also, in the Rome Statute of the International Criminal Court. There is no precise, agreed definition of what is indiscriminate, although the ICRC cites the two most common basic criteria:

¹ Geneva convention, Art.20(4).

² *Id.*at.19.

³ United nations, *The United Nations accuses the coalition of violating international law in Yemen*, WD, May. 9, 2015.

Whether the weapon can be directed at a military target and if the effects of the weapon can be limited as required by international law.¹

The warring parties must abide by the principles of international humanitarian law relating to discrimination, proportionality, and fraud in the attack. A simplified picture describes these principles as follows:

1- Discrimination: Parties to a conflict must distinguish between the civilian population and combatants, and between civilian installations and military objectives.²

2- Proportionality: Parties to a conflict are prohibited from carrying out an attack that is expected to cause civilian casualties or injury to civilians and damage to civilian objects that may be excessive (disproportionate) with the direct and obvious military benefit expected from the attack.³

Precautions in attack: In the conduct of military operations, care must always be taken to avoid civilian populations, persons and civilian installations and all possible precautions should be taken to avoid or in any event to minimize incidental loss of civilian life or injury to civilians and damage to civilian objects.⁴

¹ - Human right watch, *Coalition unlawful airstrikes on the city of Saada in Yemen*, HRW, Jun. 30, 2015.

² Human right, indiscriminate attacks and weapons, IHL,38, REV.2,4.2016

³ *Id.*

⁴ Amer Alzmali, *Islam and International Humanitarian Law: On some principles of conduct of hostilities*, ICRI, June. 15, 2014

III- Law and Analysis:

1- Geneva conventions in indiscriminate attacks:¹

Rule 12. Definition of Indiscriminate Attacks

Rule 12. Indiscriminate attacks are those:

- (a) which are not directed at a specific military objective;
- (b) which employ a method or means of combat which cannot be directed at a specific military objective; or
- (c) which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.²

*Practice Relating to Rule 11. Indiscriminate Attacks: Additional Protocol I

Article 51(4) of the 1977 Additional Protocol I provide:
“Indiscriminate attacks are prohibited.”³

According to Article 58(3)(b) of the 1977 Additional Protocol I, it is a grave breach of the Protocol to launch “an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects as defined in Article 57, paragraph 2 a) Geneva convention, Art. 58(3)(b), Art. 57(2)(a).²⁹

¹ Geneva convention. rule.12.

² - Human Rights. Indiscriminate Attacks. Indiscriminate Weapons in Hemnitra International Law, 38 PACE L. REV. 2, 4 (2016).

³ *Id.* at 26.

Additional Protocol I

Articles 3 and 5(2) of the 1938 ILA Draft Convention for the Protection of Civilian Populations against New Engines of War provides: The bombardment by whatever means of towns, ports, villages or buildings which are defended is prohibited at any time (whether at night or day) when objects of military character cannot be clearly recognized".¹

***Additional Protocol II**

"Article 26(3) of the draft Additional Protocol II submitted by the ICRC to the CDDH provided: "The employment of means of combat, and any methods which strike or affect indiscriminately the civilian population and combatants, or civilian objects and military objectives, are prohibited." Geneva convention, Art.26(3)²

***Protocol II to the Convention on Certain Conventional Weapons:**

"Article 3(3) of the 1980 Protocol II to the Convention on Certain Conventional Weapons provides: "The indiscriminate use of [mines, booby-traps and other devices] is prohibited". Geneva convention, Art. 3(3)³
Amended Protocol II to the Convention on Certain Conventional Weapons

"Article 3(8) of the 1996 Amended Protocol II to the Convention on Certain Conventional Weapons provides: "The indiscriminate use of [mines, booby-traps and other devices] is prohibited".⁴

¹ Geneva convention, Art. 3 and 5(2)1983.

² Geneva convention, Art.26(3)

³ Geneva convention, Art. 3(3).

⁴ Geneva convention, Art. 3(8).1996.

2- International treaties and conventions in the use of weapons:

Practice Relating to Rule 71. Weapons That Are by Nature

Indiscriminate.¹

*Convention on Certain Conventional Weapons:

The preamble to the 1980 Convention on Certain Conventional Weapons recalls “the general principle of the protection of the civilian population against the effects of hostilities”²

* Ottawa Convention on Anti-Personnel Mines:

The preamble to the 1997 Ottawa Convention on Anti-Personnel Mines specifies that the States parties are “basing themselves on the principle that a distinction must be made between civilians and combatants”³.

* ICC Statute:

Pursuant to Article 8(2)(b) of the 1998 ICC Statute, the following constitutes a war crime in international armed conflicts.⁴

Employing weapons, projectiles and material and methods of warfare which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute.⁵

Yemen war witness's crime and violations against humanity. Abuses by al-Houthi, including arbitrary killings, torture and recruitment of children as young as 12 years of age, as well as rape and other forms of sexual violence. A whole generation of children

¹ Geneva convention. rule 71.

² Convention on Certain Conventional Weapons, 1980.

³ Ottawa convention on Anti- personal mines 1997.

⁴ ICC. Art. 8(2).1998.

⁵ Human Rights. Indiscriminate Attacks. Indiscriminate Weapons in Hemnitra International Law, 38 PACE L. REV. 2, 4 (2016).

are at risk of death and an additional 1 million children are at risk of starvation in Yemen. A child was killed and his brother and another person were injured in an explosive device planted by al-Houthi militias in al-Hima area south of al-Tahita district in al-Hudaydah governorate as they returned by car to their homes.¹

A- Challenges against the prohibition of indiscriminate attacks against civilians

1- The concept of indiscriminate attacks:

Article 51(4) of Additional Protocol I of the Geneva Conventions,² while itself formally not applicable in non-international armed conflicts, defines attacks which are indiscriminate as follows:

(a) which are not directed at a specific military objective;

(b) which employ a method or means of combat which cannot be directed at a specific military objective;

or (c) which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, are of a nature to strike military objectives and civilians or civilian objects without distinction.³

Article 51(6) of the same Protocol,⁴ offers the following useful examples of what would therefore constitute an indiscriminate attack:

(a) an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct

¹ - AP, Reuters, *UN investigators accuse Yemen's warring parties of "war crimes"*, Reuters, Mar. 19, 2019.

² Geneva conventions 51(4).

³ - Human Rights. *Indiscriminate Attacks. Indiscriminate Weapons in Hemnitra* International Law, 38 PACE L. REV. 2, 4 (2016).

⁴ Geneva Convention indiscriminate attacks, article 51(6).

military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and (b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.¹

1- Conditions of indiscriminate weapons:

An indiscriminate weapon is a weapon that cannot be directed at a military objective or whose effects cannot be limited as required by international humanitarian law (IHL). Under IHL, the use of such an 'inherently' indiscriminate weapon is prohibited. regards new weapons, the Pamphlet states. A new weapon or method of warfare may be illegal, per se, if it is restricted by international law including treaty or international custom [T]he legality of new weapons is determined by whether the weapon's effects are indiscriminate as to cause disproportionate civilian injury or damage to civilian objects.²

2- Violation of international laws and treaties:

The Houthis are committing human rights violations in Yemen that amount to a violation of international humanitarian law. Indiscriminate shelling of residential areas and the use of government facilities to protect weapons depots violates international humanitarian law.³

The use of internationally prohibited weapons is in violation of the 1868 St. Petersburg Declaration banning the use of explosive missiles,

¹ - Human Rights. Indiscriminate Attacks. Indiscriminate Weapons in Hemnitra International Law, 38 PACE L. REV. 2, 4 (2016).

² Human right watch, *Yemen War - Arms sales to Saudi Arabia must be banned*, HRW, Mar. 21, 2016.

³ - AP, Reuters, *UN investigators accuse Yemen's warring parties of "war crimes"*, Reuters, Mar. 19, 2019

as well as the 1907 Hague Convention (aimed at restricting the use of weapons in armed conflicts), Article 23 prohibiting the bombing and destruction of public and private property. It also violates Article 25, which prohibits attacking or bombing cities, villages, dwellings, and unprotected buildings, whatever the means used.¹

4- The use of civilians in war:

Modern international humanitarian law prohibits starvation of civilians - deliberately depriving them of food - as a method of warfare. This rule, derived from the principle of distinction enshrined in international humanitarian law, is first introduced in the 1977 Additional Protocols (Article 54 (1) of Additional Protocol I; Article 14 of Additional Protocol II) and today is customary law in international and non-international armed conflicts. (Study of customary international humanitarian law, rule 53).²

The Rome Statute provides that “the intentional use of starvation of civilians as a method of warfare” is a war crime in international armed conflicts (ICC Statute, Article 8 (2) (b) (25)), but surprisingly it does not mention in non-international armed conflicts.³

Under domestic criminal law and in the context of non-international armed conflicts, individuals have also been convicted of the crime of starvation of civilians (see, for example, Croatia, Zadar District Court, Perisic et al., Verdict, 24 April 199277).⁴

¹-- Human Rights. Indiscriminate Attacks. Indiscriminate Weapons in Hemnitra International Law, 38 PACE L. REV. 2, 4 (2016).

² Toxicity Khashab, *The conflict in Yemen: the horror of life under the siege in Taiz*, B.B.C, Dec. 1, 2016.

³ - ICC statue Article 8(2)(b) 1998.

⁴ Geniaki Noir, *Armed conflicts*, Amnesty International, Feb. 10, 2014.

International humanitarian law requires that parties to a conflict distinguish between protected civilians and combatants who are legitimate targets of attack. Civilians may not be deliberately targeted; although they may not be killed or injured, if this occurs as part of a proportionate attack on a military target. All parties to the conflict must take measures to minimize damage to civilians and civilian objects (such as residential buildings, schools and hospitals), and must not carry out attacks that cannot distinguish between civilians and combatants or cause disproportionate harm to civilians.¹

B - Weak international laws and conventions to protect the rights of civilians

1- Violation of the laws on the use of weapons:

Over the past year, governments that illegally arm the Houthis know they are committing abuses and may face charges of complicity in the unlawful killing of civilians by using the Houthis to attack neighboring countries.²

2-Violation and abuse of illegal weapons:

Spain has ratified the Arms Trade Treaty, which prohibits transfers between states of arms, ammunition, and related materials when it is known to be used for war crimes in Yemen, or where there is a high risk that they could contribute to serious violations of international human rights and humanitarian law. Spain's arms export law prohibits

¹ - Human Rights. Indiscriminate Attacks. Indiscriminate Weapons in Hemnitra International Law, 38 PACE L. REV. 2, 4 (2016).

² Human right watch, *Yemen War - Arms sales to Saudi Arabia must be banned*, HRW, Mar. 21, 2016.

arms transfers when there is reasonable doubt that they can be used in human rights violations, for example Yemen.¹

Under the Geneva Conventions, Spain is also required to respect and ensure respect for international humanitarian law, including by refraining from supplying weapons used in breach of the Conventions.²

3- Difficulty negotiating with militias:

The Yemeni government hopes for a peaceful solution, but the history of the Houthis confirms that they are evasive and use political consultations only to rearrange their cards and even get them more Iranian support because the battle of Hodeidah exhausted them and want to buy time. Al-Houthi has not adhered to more than 85 agreements reached by the Gulf and Yemeni parties under the supervision of the United Nations and included commitment to the Gulf initiative and UN resolution 2216, and the principle underlying the Security Council resolution 2216, which requires withdrawal and the delivery of weapons, as a gateway to sustainable peace in Yemen.³

4- Inability to enforce sanctions against militias:

One of the biggest challenges facing the coalition is imposing sanctions on the Houthis. After the February 11 revolution, it became clear on many fronts regarding Iranian support and financing, both official and unofficial. Also, Iranian support is not everything to support the group, as it has its own sources of income and funding, and these are sources that the group relies on within its religious and

¹ - Human right watch, *Yemen War - Arms sales to Saudi Arabia must be banned*, HRW, Mar. 21, 2016.

² Arms Trade Treaty, span.

³ Khaled Salah *Stop the war*, Alyawm al ssabie, July. 5, 2018.

sectarian beliefs, such as five, for example, smuggling and everything related to war economics.¹

The Houthi militia managed to bring down the 310 Brigade led by Brigadier Hamid al-Qushaibi Bamran, one of the strongest brigades of the Yemeni army, which was brought down by a conspiracy and collusion by President Hadi and his defense minister, Mohammed Nasser Ahmed, which enabled the Houthi group and its ally President Saleh to storm the brigade in June 2014. And control of his entire heavy weapon, which was used to topple Sana'a later September 21, 2014. Therefore, there is no way to deal with the Houthis or impose any force on this militia.²

C- Collateral damage against civilians through indiscriminate attacks

1- Millions perished due to indiscriminate attacks:

On August 21, 2013, Assad committed his horrific crime, which claimed hundreds of lives and left thousands injured, as he randomly bombed the regime's various weapons using missiles loaded with chemicals.³

The war of Houthi attacks in Yemen against the right left more than 60 dead, including children, the elderly, and women, and more than 200 wounded as a result of indiscriminate bombing, the occupation of more

¹ Center of Strategic Thought for Studies, *The Houthis Military Truth and Sources of Support*, CSTS, May. 18, 2015.

² *Id.*

³ DW, *Yemen: Continuing War Prevents Marriage and Spinsterhood*, DW, Nov. 22, 2015n.

than 800 homes, the destruction of about 2,000 homes, and the burning of more than 300 farms. Education and public facilities.¹

2- Lack of education:

The significant increase in the number of children deprived of education in Yemen due to the ongoing conflict in the country. Two million children are out of school, including nearly half a million who have dropped out of school since the conflict escalated more than four years ago. The war in Yemen: Conflict, delayed development, and poverty have deprived millions of children in Yemen of their right to education and their hope for a better future. Because of Houthi ideologies and their destruction of civilians, the country's educational infrastructure was damaged, more than 2,500 schools.²

3- Decline in health:

Yemen is witnessing the worst humanitarian crisis in the world, and 75% of its population needs some form of humanitarian assistance and protection, including 8.4 million people who do not know how to get their next meal. This is a serious incident for MSF health facilities within three months. Hospitals were disabled and destroyed by Houthi groups, and a health center in Taiz.³

4-Infrastructure destruction:

More than sixty-seven large factories, factories, and small facilities were damaged as a result of the raids, of which fourteen were completely destroyed. Targeting the infrastructure of the economic and

¹Yousef Al - Dini, *The Stones of Yemen: War of Extermination and Scorched Earth Policies*, Arabic Net, Mar. 12, 2019.

² - ICRC, *From Sana'a, Aden and Taiz: Education has become a mirage for Yemeni children*, ICRC. 25, 2019.

³Ahmad zabiba, *Targeting Yemen's infrastructure*, Almayadin, Feb. 6, 2018.

commercial sector in Yemen through systematic bombing will have repercussions on the ordinary citizen. The efforts of the Saudi program to rebuild Yemen, where more than half of the population suffers from malnutrition, and the damage to infrastructure and economic losses in the civil war have so far exceeded \$14 billion.¹

5- Fear and terror among civilians:

In parts of Taiz, a war-torn southwestern city, snipers lurk in streets and open spaces. Civilians there say the bullets come from where they do not know and without warning. The indiscriminate shelling of any gathering in Yemen makes wedding parties take place at home and without guests. The continuation of the war raises the unemployment rate among young men and spinsterhood among young women, as they are unable to pay the costs of marriage. Al-Houthi militias have liquidated 4 people from Yemen Al-Yawm channel cadres, and that more than 250 people have been killed during the past days in the clashes and committed many kidnappings and arrests of GPC cadres in Sana'a and the governorate.²

6- Declining standard of living for a long time:

Food shortages, displacement, malnutrition, disease outbreaks and erosion of health care have significantly affected the health of 1.1 million pregnant and lactating women currently suffering from malnutrition.³

Nearly half of health facilities are no longer functioning in Yemen, including those providing reproductive health services that are

¹ Ahmad zabiba, *Targeting Yemen's infrastructure*, Almayadin, Feb. 6, 2018.

² Toxicity Khashab, *The conflict in Yemen: the horror of life under the siege in Taiz*, B.B.C, Dec. 1, 2016.

³ Blogs. ICRC, *War crimes and punishment of perpetrators*, ICRC, Spet.18, 2018.

supposed to diagnose and treat pregnant women. But with support for Saudi Arabia's program to rebuild Yemen. This program was very medical focused¹

D-Challenges in condemning and enforcing sanctions against perpetrators of indiscriminate attacks

1- Weakness in the application of sanctions to powerful countries:

Economic sanctions are the most important and most successful in finding solutions to those countries that seek to destabilize peace in the region. Economic sanctions as the last option in the management of political conflicts between states before resorting to direct military options, and some consider it a kind of "palliative" type of indirect "military interventions", they are in the end is nothing but a form of coercion and coercion. Articles 39 and 41 of the Charter of the United Nations represent the legal framework on which the United Nations and the Security Council specifically base economic sanctions on certain States.²

2- Strengthening international law through past expert:

International humanitarian law has not overlooked the responsibility for breaching its provisions and has identified two categories of violations, namely "grave breaches", which are contained exclusively in the four Conventions and Additional Protocol I (the instruments applicable in international armed conflicts)

..and the rest of the countless "violations". The first category is a part of war crimes, and the treaties entrusted each Contracting State with the

¹ Blogs. ICRC, *War crimes and punishment of perpetrators*, ICRC, Spet.18, 2018.

² Al Jazeera, *Economic sanctions: wars without fire*, Al Jazeera, Jan, 2018.

task of prosecuting and prosecuting the perpetrators by its national courts or extraditing them to another Contracting State concerned for their prosecution and obliging the Contracting States to adopt national legislation to determine the penalties to be applied to offenders and the like. As for the other violations, humanitarian law instruments have obliged states to act to put an end to them by taking the necessary measure.¹

The established principles of international criminal law that war crimes do not fall over time or statute of limitations and that the official capacity is not considered to be exempt from criminal responsibility. They apply to all other international crimes (crimes against humanity, genocide, war crimes, aggression according to the Statute of the International Criminal Court).²

3-Modernization of international humanitarian law:

International humanitarian law shall:³

1. It protects persons not taking part in hostilities, such as civilians, medical personnel or relief workers.
2. Protects persons who are no longer able to fight, such as wounded soldiers or prisoners.
- 3-The targeting of civilians is prohibited. Targeting them is a war crime.
4. Recognizes the right of civilians to be protected from the dangers of war, as well as their right to receive the assistance they need. All possible precautions must be taken to avoid damaging them or their

¹ Geniaki Noir, *Armed conflicts*, Amnesty International, Feb. 10, 2014.

² Al Jazeera, *Economic sanctions: wars without fire*, Al Jazeera, Jan, 2018.

³ Julia Gagioli, *War crimes and punishment of perpetrators*, ICRC , Apr. 17, 2018.

homes or destroying their means of survival, such as water, crops and livestock.

5. It stipulates that the sick and wounded shall have the right to care, regardless of the party in which they stand.

6. It stipulates that medical personnel, medical vehicles and hospitals designated for humanitarian work shall not be attacked.

7. Torture and degrading treatment of prisoners shall be prohibited

8. Provides that detainees should have access to food and water, as well as access to loved ones.

9. Restricts the range of weapons and tactics that can be used in warfare in order to avoid unnecessary suffering.

10. Rape or other forms of sexual violence during armed conflict are expressly prohibited.¹

4- Imposing sanctions on states and militias:

In accordance with rule 39, the Security Council shall decide whether a threat to the peace has been committed or a breach of the peace or an act of aggression and shall make recommendations or decide on the measures to be taken in accordance with the provisions of articles 41 and 42 for the maintenance or restoration of international peace and security.²

Article 41 provides that the Security Council may decide on measures to be taken that do not require the use of armed forces to implement its resolutions. It may request the Members of the United Nations to apply such measures, which may include the suspension of economic, rail,

¹ Julia Gagioli, *War crimes and punishment of perpetrators*, ICRC , Apr. 17, 2018.

² United nations, *The United Nations accuses the coalition of violating international law in Yemen*, WD, May. 9, 2015.

sea, air, postal, telegraphic and wireless links, etc. By means of transportation, partial or total suspension of diplomatic relations).¹

5- Modernization of the Arms Trade Act:

Article 6 explicitly addresses the prohibition on transfers where they are inconsistent with international legal obligations, or when the State is aware that the weapons will be used to commit a crime of genocide or genocide. These provisions establish a clear point of reference that would allow States parties to adhere effectively and consistently to such prohibitions.²

Under Article 7, the exporting authorities are to consider the possibility of Weapons or items were: Contribute to or undermine peace and security and can be used to: Grave breach of international humanitarian law or international human rights law Committing an act that constitutes a crime under international conventions or protocols relating to terrorism or transnational organized crime to which the exporting State is a party, or to Gender-based violence or violence against women and children.³

¹ Security Council, rule, 39.

² Arms trade act, article 6, 7.

³ Geniaki Noir, *Armed conflicts*, Amnesty International, Feb. 10, 2014.

Conclusion:

Indiscriminate bombing of civilians is prohibited under international law, humanitarian law and international treaties. Indiscriminate bombing is considered a crime against humanity, and international law criminalizes and punishes war parties for committing crimes against civilians.

Military targets between civilian homes, hospitals, and schools oblige warring parties to stay away from these targets in order to protect civilians and property. All countries participating in the Yemen war are obligated to commit all indiscriminate attacks against civilians. International law condemns all parties to the war for committing violations against civilians. International law prohibits the use of civilians as an instrument of war. This also violates the rights of civilians. Indiscriminate bombardment of civilians is prohibited, except for:

1- Distinction: Parties to a conflict must distinguish between civilian populations and combatants, and between civilian installations and military objectives.

2- Proportionality: Parties to the conflict are prohibited from launching attacks that are expected to cause heavy civilian casualties or civilian casualties that may be disproportionate to the direct military advantage. In these cases, the parties to the war must know the impact of these attacks on civilians and the importance and value of the attack.

3- International sanctions approved by a council on the parties to the war in the event of violating the rights of civilians and tampering with hospitals, schools, and places of worship.

4-Imposing sanctions on the sale of weapons and ammunition and punishing parties.

5-The Security Council advises tightening logistical, commercial and besiegement sanctions on parties that violate the rights of civilians..