



**RIGA
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LAW**

**(UN)JUST WAR:
ASSESSING THE LEGALITY OF THE SAUDI
ARABIAN-LED INTERVENTION IN YEMEN**

BACHELOR THESIS

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I declare that this thesis is my own work, and that all references to, or quotations from, the work of others are fully and correctly cited.

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SUMMARY

The multi-faction civil conflict in Yemen gained an international status on March 26, 2015 when a coalition led by Saudi Arabia intervened at the request of the internationally-recognized Government of Yemen (GoY) to restore its authority and control after the Houthi rebels captured the Capital city Sanaa. However, the intervention was not commenced upon the authorization of the United Nations Security Council (UNSC). Instead, the GoY and the Coalition states invoked a twofold legal justification – (1) the intervention was launched following an invitation by the GoY, and (2) it constitutes an exercise of Yemen’s right to collective self-defense. The aim of this thesis is to put these two justifications to test by posing the following research question - does the Saudi Arabian military intervention in the ongoing civil war in Yemen comply with the *jus ad bellum* principle, as codified in international law?

Chapter I discusses the causes of the conflict between the GoY and the Houthi rebels. It may appear on the surface that this is a classic example of an internationalized sectarian conflict in the Middle East, given that the Houthi rebels mainly represent the Zaydi Shi’a minority (supported by the Shi’a theocracy Iran) of the predominantly Sunni Yemen (the GoY is supported by Iran’s main Sunni rival Saudi Arabia). However, the root causes of Houthi disgruntlement are the decades-long marginalization of Zaydi political interests by the GoY and the poor governance structures that neglected the development of Zaydi-populated areas. After the influential Zaydi cleric Hussein Badreddin al-Houthi was assassinated in 2004, violent clashes erupted between the Houthi rebels and the GoY. Even though the Arab Spring revolution in Yemen brought about a change of government, the still-dissatisfied Houthis used the UN-installed interim government’s lack of control over Yemeni territory to further expand their military presence. This resulted in the capture of Sanaa in September 2014 and the forced resignation of Abd-Rabbu Mansour Hadi, the President of Yemen. Hadi relocated to Aden, an interim capital, revoked his resignation, and not having received any form of UNSC assistance, requested the Coalition states to intervene in the conflict.

Chapter II proceeds to devise a checklist of criteria for the legality of an intervention by invitation (IBI) where it lacks a UNSC authorization, exploring two potential legal justifications based on the Charter of the United Nations. First, the inapplicability of the Art.2(4) prohibition on the use of force on grounds of a valid invitation to intervene is discussed. Based on existing academic work, the interpretation of the elements of Art.2(4) is outlined, stressing that an IBI is not covered by Art.2(4) because it does not adversely affect a state’s international relations or territorial integrity, as the application of Art.2(4) would stipulate. However, the invitation to intervene must be valid, i.e. issued by the legitimate authority (effective control being a controversial sub-requirement for it), issued in the context of an internal armed conflict, and issued prior to the intervention. The invitation must also be clear, specific, *ad hoc*, and, according to state practice, pursuant to a legitimate aim, as there appears to be no general right to intervene in a civil war.

Second, the thesis discusses the criteria for the exercise of the Art.51 right to collective self-defense. It is argued that for the sake of the effectiveness of the right to self-defense, the notion of “armed attack” – the key criterion triggering Art.51 – should not be dependent on the attributability of an attack to another state. Instead, the occurrence of an “armed attack” ought to

depend on the gravity and the destructiveness of the attack. In context of collective self-defense, the victim state must first recognize that it has been a victim to an armed attack and request assistance similarly to the IBI doctrine. Furthermore, the measures taken in exercise of self-defense must be necessary and proportionate to their repellent aim, and they must be reported to the UNSC and cease when the UNSC takes its own measures to restore international peace.

Chapter III analyzes the compliance of the Saudi-led intervention in Yemen with the criteria outlined prior. First, it is established that in absence of a valid intervention to intervene, the case would be covered by the Art.2(4) Prohibition on the use of force. Nevertheless, the UN-recognized President Hadi is the competent authority to issue the invitation (assuming, however, that there is no effective control requirement, that the GoY benefits from a *presumption* of effective control, or that the lack of effective control is trumped by the subsequent UNSC recognition of the validity of the invitation). The letter sent to the Coalition states by President Hadi fulfils the established formal criteria, and the intervention in itself pursues a legitimate aim – the territorial unity of Yemen, the sovereignty of the GoY over the territory, and the maintenance of international peace and security. Therefore, the intervention in Yemen is legal according to the IBI doctrine.

Second, the applicability of Art.51 to the case is scrutinized. No clear link of even overall control can be established between the Houthi rebels and Iran, which under strict traditional interpretation of Art.51 would automatically invalidate an Art.51 justification. However, as argued prior, it bears no impact on the conclusions of this thesis. Indeed, as the Houthis managed to seize the Capital of Yemen, along with multiple other large population centers, the GoY was clearly a victim to an armed attack for the purposes of Art.51. The self-defense measures were reported to the UNSC by the Coalition states, transferring Hadi's letter to them which explicitly requested a military intervention pursuant to Art.51, thus complying with the procedural requirements. As the UNSC had yet to take any meaningful measures against the Houthis, the Coalition was, in principle, free to proceed with the intervention, which, given the rapidly increasing military capabilities and expansion of the Houthis, was indeed necessary to restore the GoY in power. However, the Coalition has failed to fully reinstall the legitimate GoY and its efforts have been misapplied to disproportionately target civilian population. Thus, while the military intervention in itself is a necessary and adequate measure to counter the Houthi threat, its execution appears to significantly violate the rules for the conduct of hostilities. Therefore, even if one assumes the Art.51 criteria to be met, thus justifying the Saudi-led intervention under the right to collective self-defense, the application of international humanitarian law (IHL) norms could nonetheless render it illegal.

Therefore, in conclusion, the Saudi Arabian-led intervention in Yemen is legal on the grounds of a valid invitation to intervene removing it from the scope of Art.2(4), assuming that the GoY lack of effective control over Yemen does not prejudice its capacity to request an intervention. However, the application of the Art.51 right to self-defense is problematic due to the disproportionate targeting of purely civilian objectives. While this may not render the mere fact of the intervention illegal, as the situation clearly warranted international involvement, there is ample reason for further scrutiny under international humanitarian law.

TABLE OF ABBREVIATIONS

AL	Arab League (formerly the League of Arab States)
GCC	Gulf Cooperation Council
GoY	Government of Yemen
IBI	Intervention by Invitation
ICJ	International Court of Justice
IHL	International Humanitarian Law
UN	United Nations
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
VCLT	Vienna Convention on the Law of Treaties

INTRODUCTION

The ongoing multi-faction civil war in Yemen is a humanitarian catastrophe. As of 2018, 40 000 people are estimated to have been killed during hostilities, 3 million civilians have been internally displaced, and 22 million are in dire need for humanitarian assistance as Yemen faces widespread starvation, water contamination, and disease outbreaks.¹ One of the main culprits behind the crisis - the March 26, 2015 Saudi Arabian-led military intervention - was commenced on the basis of an invitation by the internationally recognized interim Government of Yemen (GoY), as it struggled to regain control over the rebel-occupied territories and restore order in Yemen.

However, despite the GoY request for assistance to the United Nations Security Council (UNSC) prior to the intervention, no authorization to use force was issued. The UNSC simply *acknowledged* the request without taking any meaningful action to restore stability in Yemen.² Nonetheless, a Coalition of the willing led by Saudi Arabia proceeded with military operations, justifying them on the grounds of an intervention by invitation (IBI) and the exercise of Yemen's right to collective self-defense.

Therefore, given the grave humanitarian crisis in Yemen, the lack of UNSC attention to the issue, and the increasing trend of foreign interventions in internal conflicts upon the invitation of the legitimate government (the ongoing civil war in Syria is a better-known example), this thesis puts forward a very topical research question: **does the 2015 Saudi Arabian-led military intervention in Yemen comply with the *jus ad bellum* principle, as codified in international law?** The research method is to put the two justifications offered by the Coalition states and the GoY to a test by interpreting the relevant rules on the use of force, devising universally applicable legality criteria for an IBI, and applying these criteria to the intervention in Yemen.

In Chapter I, the main causes and events of the Yemeni conflict will be explained to highlight the relevant legal issues. Chapter II will discuss the interpretation of the relevant articles of the Charter of the United Nations (the Charter) by academics, tribunals, and state practice. The aim is to devise two separate lists of criteria for a lawful IBI, based on the two justifications – (1) inapplicability of the prohibition on the use of force due to a valid invitation to intervene; and (2) the applicability of the right to collective self-defense. Finally, Chapter III will apply these criteria to the intervention in Yemen to assess its legality. The conclusion will summarize the findings of the thesis, concisely answer the research question, and briefly comment on the potential future developments.

While the concept of IBIs and the legality of the intervention in Yemen have already been subject to academic research, this thesis will contribute to the existing scholarship by providing a comprehensive list of criteria for the two possible legal justifications that can be applied to assess any other case of IBI. Because the criteria are based on emerging state practice and forward-

¹ UN High Commissioner for Human Rights and UN Office for the Coordination of Humanitarian Affairs, as referred to in “Key facts about the war in Yemen,” *Al-Jazeera*, March 26, 2018, <https://www.aljazeera.com/news/2016/06/key-facts-war-yemen-160607112342462.html>

² S.C. Res. 2216, U.N Doc. S/RES/2216 (2015). Available on: [http://undocs.org/S/RES/2216\(2015\)](http://undocs.org/S/RES/2216(2015))

looking academic discussions, rather than a strict traditionalist interpretation of the Charter, the conclusions of the case study on Yemen also differ from those put forward in other works.³

CHAPTER I: CAUSES AND TIMELINE OF THE YEMENI CONFLICT

Before proceeding to a legal analysis of the Yemeni civil war, it is necessary to explain the legal issue at hand to establish the relevant legal norms for further analysis. In that cause, the first chapter will first explain the history and the causes of the Houthi revolt against GoY and then outline the key events leading up to the intervention.

1.1. Roots of the GoY-Houthi conflict

Many different factions are involved in the Yemeni civil war opposing not only the government, but one another as well.⁴ However the main conflict triggering the intervention is between the UN-recognized interim GoY, led by President Abd Rabbu Mansour Hadi, and the Houthi rebels.⁵ The Houthi movement primarily comprises of the supporters of the al-Houthi family, native to the Saada governorate of the former North Yemen (*See Annex I*) and representing Zaydism – a branch of Shi'a Islam,⁶ followed by approximately 40% of Yemenis, residing primarily in North Yemen⁷ (the rest of the population is predominantly Sunni).⁸ This fact may suggest sectarian divisions as the cause of the conflict, and indeed North Yemen saw a rise in Sunni reformism and consequent anti-Zaydism in the 1980s.⁹ Nonetheless, a religion-based explanation of the conflict in Yemen grossly overlooks the complexities of the Yemeni history and its fractured tribal society.¹⁰ Instead, the root causes of the conflict concern domestic power dynamics and governance policies.¹¹

³ See, e.g., Tom Ruys and Luca Ferro, “Weathering the Storm: Legality and Legal Implications of the Saudi-led Military Intervention in Yemen” *International and Comparative Law Quarterly* 65, No. 01 (January 2016): pp.61-98.

⁴ The Conflict Barometer of the Heidelberg Institute for International Conflict Research in 2015 has identified five ongoing violent conflicts between various factions in Yemen. See “Conflict Barometer 2015” (Annual report, Heidelberg Institute for International Conflict Research, 2016), pp.166-167. Available on: <https://hiik.de/conflict-barometer/bisherige-ausgaben/?lang=en>

⁵ Barak A. Salmoni, Bryce Loidolt, and Madeleine Wells, *Regime and Periphery in Northern Yemen: The Huthi Phenomenon* (RAND Corporation, 2010), p.1

⁶ World Directory of Minorities and Indigenous Peoples “Zaydi Shi'a”. Available on: <http://minorityrights.org/minorities/zaydi-shias/>. Accessed April 15, 2018.

⁷ North Yemen refers to the territories of the former Yemen Arab Republic, which ceased to exist upon the unification with South Yemen, a.k.a. People's Democratic Republic of South Yemen in 1990. Its territories roughly correspond to those that are currently occupied by the Houthi rebels or fall under their influence. See, e.g., Encyclopaedia Britannica, “Yemen: History”. Available on: <https://www.britannica.com/place/Yemen/The-age-of-imperialism#ref45274>. Accessed April 15, 2018

⁸ Asher Orkaby, “Houthi Who?” *Foreign Affairs*, March 25, 2015, <https://www.foreignaffairs.com/articles/middle-east/2015-03-25/houthi-who>

⁹ World Directory of Minorities and Indigenous Peoples, “Zaydi Shi'a”

¹⁰ Orkaby, “Houthi Who?”; Jacob Olidort, “The Truth About Sectarianism.” *Foreign Affairs*, January 25, 2016, <https://www.foreignaffairs.com/articles/middle-east/2016-01-25/truth-about-sectarianism>

¹¹ Salmoni, Loidolt, and Wells, *Regime and Periphery in Northern Yemen*, pp.19-43.

First, there has historically been a significant distance between the local tribes in different regions of North Yemen and the government, particularly after a coup in 1962 ended the rule of Zaydi imams and created a republic based on Arab nationalism ideas.¹² After Ali Abdullah Saleh came to power in North Yemen in 1978 and exercised a governance strategy, whereby formal sovereignty over the territory was retained without direct government control, actual governance was left up to local tribal leaders, amounting to *de facto* autonomy.¹³ Consequently, North Yemen has historically been deeply divided into different factions, some even seeking formal separation,¹⁴ which managed to avoid conflicts largely due to internal trade networks and the shared religious beliefs – Zaydism.¹⁵

Second, as a consequence of the autonomy of regions in North Yemen, direct government involvement in social, economic, and infrastructure development was confined to the Capital city Sanaa and resource-rich regions, neglecting the rest of North Yemen.¹⁶ The government neglect and shared awareness and concern for issues like prosperity, education, healthcare, and employment, as well as the aforementioned rise in anti-Zaydism facilitated the development of a much deeper sense of common Zaydi identity in the 1980s. In the 1990s, this shared identity manifested itself in the emergence of a Zaydi civil society and political groups representing Zaydi interests, advocating for the development of the peripheral regions. While this was initially met with support by the GoY, the post-reunification economic collapse and civil conflicts did not contribute to improving the situation.¹⁷ Thus, Zaydis nonetheless felt discontent with the social and economic policies of the government and the continuous neglect to the periphery, and perceived themselves as being specifically discriminated by the government on religious grounds.¹⁸ This Zaydi civil society would later form the basis of the Houthi movement,¹⁹ although it is also important to note that not all Houthis are Zaydi or that not all Zaydis are Houthis.

Third, following the September 11, 2001 terrorist attacks in the United States, Yemen sought to offer its support in the battle on terrorism. However, Hussein Badreddin al-Houthi, an influential Zaydi cleric one of the leaders of the movement,²⁰ denounced the U.S. and Israel, undermining the GoY agenda and causing great embarrassment thereto.²¹ This would be insignificant ancillary cause, had the GoY not responded to al-Houthi's call for an armed anti-GoY revolt in 2004 by killing al-Houthi in a military operation and thus infuriating the northern tribes to the point of them commencing armed insurgency under the Houthi name.²²

¹² World Directory of Minorities and Indigenous Peoples, "Zaydi Shi'a"

¹³ Salmoni, Loidolt, and Wells, *Regime and Periphery in Northern Yemen*, p.3

¹⁴ Bilal Y. Saab, "Houthi and the Blowback." *Foreign Affairs*, March 29, 2015, <https://www.foreignaffairs.com/articles/saudi-arabia/2015-03-29/houthi-and-blowback>

¹⁵ Salmoni, Loidolt, and Wells, *Regime and Periphery in Northern Yemen*, p.4

¹⁶ Salmoni, Loidolt, and Wells, *Regime and Periphery in Northern Yemen*, p.5

¹⁷ Encyclopaedia Britannica, "Yemen: History."

¹⁸ Asher Orkaby, "Yemen's Humanitarian Nightmare." *Foreign Affairs*, October 16, 2017, <https://www.foreignaffairs.com/articles/yemen/2017-10-16/yemens-humanitarian-nightmare>

¹⁹ Salmoni, Loidolt, and Wells, *Regime and Periphery in Northern Yemen*, pp.5-6

²⁰ Orkaby, "Yemen's Humanitarian Nightmare."

²¹ Salmoni, Loidolt, and Wells, *Regime and Periphery in Northern Yemen*, p.7

²² Orkaby, "Yemen's Humanitarian Nightmare."

Finally, the measures employed by the GoY to contain the Houthis are also said to have provoked Houthi insurgency, in that it has sent military troops to a historically *de facto* autonomous region,²³ thus facilitating the perception that the GoY specifically targets Zaydis in its policies.

It follows that the conflict is primarily caused by historically weak governance of the region social and, importantly, religious factors being ancillary causes and a tool for rallying support.²⁴ The local tribes are primarily concerned with everyday matters and standard of living, thus their allegiance is determined not by religion, but rather by each conflict party's potential to secure those goals and appeal to the tribe leaders.²⁵ This is supported by the fact that the Houthis are not the only separatist political faction – for example, *Al-Hirak*, a movement for the independence of South Yemen, also enjoys a significant following.²⁶

Furthermore, it is widely alleged that the Houthis are supported by Iran – a Shi'a theocracy aiming to gain influence by supporting non-state, particularly Shi'a groups throughout the region and destabilizing states it seeks to influence, like Lebanon, or significantly undermine, like Iran's main regional rival Saudi Arabia and the arch-enemy Israel.²⁷ Indeed, e.g., the ballistic missiles launched at Saudi Arabia's Capital – Riyadh – are allegedly of Iranian origin.²⁸ Thus, the conflict may have also been significantly facilitated by the geopolitical interests of other states – an argument supported by the willingness of Saudi Arabia to lead the intervention. Nonetheless, the key issue remains the struggle for national power and domestic dominance.²⁹

1.2. Events leading up to the Saudi Arabian-led intervention (2004-2015)

The spark, 2004: As mentioned prior, the death of Hussein Badreddin al-Houthi in 2004 not only gave the Houthi movement its name, but also inspired al-Houthi's followers to take up arms in resistance against the GoY, in response to al-Houthi's prior calls for an uprising. This is said to mark the beginning of the Houthi-GoY conflict.³⁰ From this point until the Arab Spring, both sides engaged in sporadic armed confrontations confined to the Saada Governorate (located in the very north of Yemen, bordering Saudi Arabia),³¹ neither side achieving significant victories.³² In

²³ Salmoni, Loidolt, and Wells, *Regime and Periphery in Northern Yemen*, p.2

²⁴ Ayisha Amr, "Houthis, Divided." *Foreign Affairs*, September 18, 2015, <https://www.foreignaffairs.com/articles/yemen/2015-09-18/houthis-divided>

²⁵ Charles Schmitz, "In Cahoots With the Houthis." *Foreign Affairs*, April 19, 2015, <https://www.foreignaffairs.com/articles/yemen/2015-04-19/cahoots-houthis>

²⁶ Orkaby, "Houthi Who?"

²⁷ It must, however, be noted that while Zaydism is a branch of Shi'a Islam, it significantly diverges from the Twelver Shi'a Islam characteristic to Iran and its theocratic government.

David Rothkopf, "Is a Nuclear Iran a Threat or a Distraction?", *Foreign Policy*, March 24, 2015, <http://foreignpolicy.com/2015/03/24/is-a-nuclear-iran-a-threat-or-a-distraction>

²⁸ "Saudi says it shot down Houthi missiles over Riyadh and southern cities," *Reuters*, April 11, 2018, <https://www.reuters.com/article/us-mideast-crisis-syria-air-space/braced-for-air-strikes-on-syria-some-airlines-re-route-flights-idUSKBN1HI01E>. Also "Yemen's Houthi rebels fire ballistic missile at Saudi capital," *Al-Jazeera*, April 11, 2018, <https://www.aljazeera.com/news/2018/04/yemen-houthi-rebels-fire-ballistic-missile-saudi-capital-180411153418562.html>

²⁹ Heidelberg Institute for International Conflict Research, "Conflict Barometer 2015," p.167

³⁰ Heidelberg Institute for International Conflict Research, "Conflict Barometer 2015," p.167

³¹ Salmoni, Loidolt, and Wells, *Regime and Periphery in Northern Yemen*, p.1

³² Orkaby, "Yemen's Humanitarian Nightmare."

2007, Qatar mediated a peace deal, albeit it was soon broken.³³ As the legitimacy of the GoY gradually decreased among the population, Yemen saw rise to extremist groups such as Al-Qaeda vying for popular support as well.³⁴

The Arab Spring, 2011: Citizen revolts throughout the Arab world inspired months-long general mass protests in Yemen as well, which aimed at ousting president Ali Abdullah Saleh and pushed the country closer to a civil war. Formally supported by the GCC, the UN intervened and successfully handed the power over to Abd Rabbuh Mansur Hadi, intending him as an interim leader tasked with bridging the gap between the faction elites and transforming Yemen into a stable, sustainable regime,³⁵ to no avail.

The National Dialogue Conference, 2013-2014: Despite Hadi proving to be unable to deliver physical or economic stability to Yemen or rally nation-wide support,³⁶ the GoY nonetheless began dialogue with some of the opposition groups, eventually proposing a new constitution and division of Yemen into six federal provinces.³⁷ However, the Houthis continued to lead mass anti-government protests,³⁸ rejecting the proposal from the beginning, claiming it would only further limit the power of the northern tribes.³⁹ While the GoY was distracted with negotiations, the Houthis proceeded to extend their control over larger and larger territories,⁴⁰ eventually overtaking Sanaa in September 2014. (*See Annex II*)⁴¹

The Intervention, 2015: Early 2015 saw the dissolution of the interim parliament, Hadi's resignation and subsequent revocation of the resignation,⁴² and the establishment of a Houthi revolutionary committee and a transitional government.⁴³ On March 24, Hadi asked the UNSC to authorize "willing countries that wish to help Yemen to provide immediate support for the legitimate authority by all means and measures to protect Yemen and deter the Houthi aggression" and notified them that such a request on the basis of Art.51 of the UN Charter has been made to the GCC and AL states.⁴⁴ The letter did not receive immediate UNSC response.⁴⁵

³³ World Directory of Minorities and Indigenous Peoples, "Zaydi Shi'a"

³⁴ Farea Al-Muslimi, "The Gulf's Failure in Yemen," *Foreign Affairs*, May 6, 2015, <https://www.foreignaffairs.com/articles/2015-05-06/gulfs-failure-yemen>

³⁵ Al-Muslimi, "The Gulf's Failure in Yemen"

³⁶ Al-Muslimi, "The Gulf's Failure in Yemen"

³⁷ European Council on Foreign Relations, "Mapping the Yemen Conflict". Available on: <http://www.ecfr.eu/mena/yemen>, Accessed March 1, 2018. See also Ginny Hill, *Yemen Endures: Civil War, Saudi Adventurism and the Future of Arabia* (Oxford University Press, 2017), pp.263-265.

³⁸ Amr, "Houthis, Divided."

³⁹ Orkaby, "Yemen's Humanitarian Nightmare."; Hill, *Yemen Endures* p.264.

⁴⁰ Al-Muslimi, "The Gulf's Failure in Yemen"

⁴¹ Amr, "Houthis, Divided."

⁴² "Yemen's Ousted President Withdraws Resignation," *Al-Jazeera*, February 24, 2015, <https://www.aljazeera.com/news/2015/02/yemen-abd-rabbu-masnour-hadi-150224001628332.html>

⁴³ Orkaby, "Yemen's Humanitarian Nightmare."

⁴⁴ "Identical letters dated 26 March 2015 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General and the President of the Security Council" S/2015/217 (26 March 2015), Available on: http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_217.pdf

⁴⁵ United Nations Security Council, "Resolutions Adopted by the United Nations Security Council in 2014." Available on: <http://www.un.org/en/sc/documents/resolutions/2015.shtml>, Accessed April 15, 2018.

Nonetheless, on March 26, Saudi Arabia launched an air campaign, a naval blockade, and the deployment of ground troops⁴⁶ supported by Bahrain, Egypt, Jordan, Kuwait, Morocco, Pakistan, Qatar, Sudan, and the United Arab Emirates (hereinafter the Coalition), believing that limited military action will be sufficient to eliminate Houthis' most significant offensive capabilities and restore the elected Hadi government.⁴⁷ However, this measure was not preceded by any expression of support by the UNSC, formal or informal, nor did the SC even comment on the intervention in its Resolution 2216 (April 14, 2015), in which it simply condemned the violence, sanctioned select Houthi rebels, urged negotiations and transition processes, and called on UN Members to enforce the arms embargo on Houthis.⁴⁸

Thus, the intervention was not commenced under authorization by the UNSC, which displayed an abnormally passive stance despite its own recognition of the Yemeni conflict as a threat to international peace and security and attempts to facilitate peace talks.⁴⁹ This raises the question whether the Saudi-led intervention is legal on the basis of invitation and/or the Art.51 right to self-defense for Yemen.

1.3. Conclusion

The aim of this introductory chapter was to highlight the key events leading up to the Saudi-led intervention and to place the conflict in a wider context by briefly explaining its root causes. Three key points must be reiterated. First, the cause of the conflict is not only sectarian divisions, as is the conventional surface-level explanation, but rather the decades-long neglect by the ruling authorities, weak central governance, and the development of a common Zaydi identity. Second, while the violent clashes between the GoY and the Houthis date back to 2004, the escalation of violence corresponds to the Arab Spring in 2011, with the Houthis successfully taking advantage of the transitional period and the power vacuum by capturing most of North Yemen, including Sanaa, in 2014. Third, President Hadi's request for a UNSC-authorized Coalition of the Willing was met with instant involvement by Saudi Arabia and other members of the GCC and/or the AL, despite the lack of prior authorization by the UNSC, which failed to comment on Hadi's request in any of the following resolutions on Yemen.

Therefrom arises the legal issue examined by this thesis – is an IBI legal under international law and if the established criteria for IBI have not been met in this or other potential cases, can the right to collective self-defense for the inviting state be invoked instead?

CHAPTER II: CRITERIA FOR A LAWFUL MILITARY INTERVENTION

2.1. Preliminary considerations

2.1.1. Principles for interpretation of the UN Charter

⁴⁶ Heidelberg Institute for International Conflict Research, "Conflict Barometer 2015," , p.194

⁴⁷ Saab, "Houthi and the Blowback."

⁴⁸ S.C. Res. 2216.

⁴⁹ S.C. Res. 2216.

The 1969 Vienna Convention on the Law of Treaties (VCLT)⁵⁰ in its Art.31 clearly prioritizes a grammatical interpretation of the Charter ("ordinary meaning [of] the terms of the treaty"). It also points towards an interpretation of the relevant Charter provisions "in the light of [the] object and purpose" of the Charter as a whole,⁵¹ supplemented by preparatory works and the historic context of the Charter, envisaged in Art.32.⁵² Subsequent state practice may also be considered as interpretative as long as it can be said to establish an agreement among the parties.⁵³

However, two issues complicate the use of treaty purposes as interpretive guidelines. First, the purpose-based interpretation cannot entirely override the specific provisions, even if extending or restricting the application of a legal rule in a given case would serve the purpose of the treaty itself or save the case from a practically inefficient legal solution.⁵⁴ Second, most treaties, particularly such as the Charter, which embody a wide variety of international law customs and principles, have numerous different objects it pursues, without always clearly indicating the prevalence of one aim over another, or even clarifying the meaning of the aim.⁵⁵ Nonetheless, the object and purpose of a treaty can be a crucial determining factor in cases where, either due to ambiguous or conflicting rules or inconclusive facts, an answer cannot be found through grammatical interpretation only.

Furthermore, conflicts involving the regular forces of State A and a non-state actor in State B are one of the key characteristics of the contemporary conflict evolution.⁵⁶ Thus, there is also merit in studying state practice as a final factor guiding the interpretation of ambiguous rules according to contemporary challenges. Such practice may be the foundation for emerging customary norms or, at least, constitute "subsequent practice" for the purposes of Art.31(3) VCLT.⁵⁷ As such, the thesis will proceed to establish the general principles and purposes of the Charter, found in its Preamble and Art.1, that are to guide the interpretation of the Charter provisions relevant to this case. Subsequent practice, on the other hand, will be addressed during the in-depth discussion of the specific elements of the relevant articles.

First, the Preamble of the Charter clearly states its ultimate goal - "to save succeeding generations from the scourge of war", resolving to maintain international peace and security and ensure that armed force is not used if it does not serve the common interest.⁵⁸ Therefrom two observations can already be drawn – (1) given that the title of the treaty is *Charter* of the United Nations, it is

⁵⁰ In this case, even though the VCLT does not apply retroactively, it is argued that the UN Charter nonetheless constitutes a treaty for the purposes of the VCLT and is thus subject to its rules on treaty interpretation, even if the VCLT rules are simply to be considered as reflections of the customary international law.

⁵¹ Vienna Convention on the Law of Treaties (Vienna, 23 May 1969) 1155 U.N.T.S. 331, entered into force 27 Jan. 1980. Art.31, Para 1. Available on: http://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

⁵² Vienna Convention on the Law of Treaties, Art.32

⁵³ Vienna Convention on the Law of Treaties, Art.31, Para 3(b).

⁵⁴ Richard Gardiner, *Treaty Interpretation*, (Oxford University Press, 2008), p.190

⁵⁵ Gardiner, *Treaty Interpretation*, pp.192-196

⁵⁶ Erika de Wet "The Modern Practice of Intervention by Invitation in Africa and Its Implications for the Prohibition of the Use of Force" *European Journal of International Law* 26, No. 4, (November 2015): pp.979–998; Karine Bannelier-Christakis, "Military Interventions against ISIL in Iraq, Syria and Libya, and the Legal Basis of Consent" *Leiden Journal of International Law* 29 No. 3 (September 2016), pp. 743-775

⁵⁷ Gardiner, *Treaty Interpretation*, p. 255. Also ICJ in *Kasikili/Sedudu Island (Botswana/Namibia)*, Judgment, I.C.J. Rep. 1999 (Dec. 13), p. 1045., Para.48.

⁵⁸ Charter of the United Nations (San Francisco, 26 June 1945), 3 Bevans 1153, 59 Stat. 1031, T.S. No. 993, entered into force 24 Oct. 1945, Preamble. Available on: <http://www.un.org/en/charter-united-nations/index.html>.

intended to have a more constitutional character, thus rising war prevention and the maintenance of peace and security to the status of “the purpose of all purposes”;⁵⁹ (2) not all use of armed force is unlawful, as there may be instances whereby the use of armed force may actually serve the common interests of the international community. If this second observation were to be taken at a face value, states would be constrained by ceaseless debates on what the common interest entails. Thus, it is rightly accepted among states that the Preamble does not create any legal obligations on the UN members, but merely emphasizes that the provisions are to be interpreted with the war-prevention objective in mind. Consequently, the Preamble is not invoked in practice,⁶⁰ stipulating a closer look at Art.1 of the Charter.

In Art.1(1), the drafters expand on the maintenance of international peace and security principle by resolving to collectively act to remove threats and breaches of peace and to prevent aggression.⁶¹ In other words, maintenance of peace is understood not only as efforts to prevent conflict, but also as positive action to stabilize the international system, remove the causes of conflict,⁶² and prevent threats to peace, among which already the 1986 Proclamation of the International Year of Peace includes internal conflicts and civil wars.⁶³

Interestingly, Art.1(2) also mentions the right to self-determination of peoples, a *jus cogens* norm, as a principle for the development of “friendly relations among nations”. As this principle might also apply to the Houthi rebels, the aim to limit the use of force, read in conjunction with the self-determination rights, might also protect them from external attacks as the Houthis establish their own governance structures. Indeed, the Charter does not aim at strictly preserving an international *status quo*, as that may hinder “healthy development[s]”.⁶⁴ Nonetheless, even if the Houthis can be considered benefactors of the right to self-determination, it appears that the international peace and security concerns as “the purpose of all purposes” may trump this right, unless it is established that the self-determination of the Houthis would, in fact, serve that purpose better than the restoration of the interim government.

In short, if the legal assessment based on grammatical interpretation is inconclusive or vague, the purpose-based approach will favor the solution that is better suited for the maintenance of international peace and security, be it preserving or changing the status quo. If state practice appears to be widespread and uncontested to the point of seemingly constituting a tacit agreement among most of states, it will also be considered.

2.1.2. The General Prohibition on the use of force

⁵⁹ Bruno Simma et al., *The Charter of the United Nations: A Commentary*, Third Edition (Oxford University Press, 2013), pp.102-109

⁶⁰ Simma et al., *The Charter of the United Nations*, p.105.

⁶¹ Charter of the United Nations, Art. 1, Para 1

⁶² This objective was envisaged already at the Yalta Conference in 1945. See, for example, “Yearbook of the United Nations 1946-1947”, Available on: http://cdn.un.org/unyearbook/yun/chapter_pdf/1946-47YUN/1946-47_P1_SEC1.pdf. Accessed on June 1, 2016.

⁶³ Simma et al., *The Charter of the United Nations*, p.110.

⁶⁴ Simma et al., *The Charter of the United Nations*, p.104.

Prohibition on the threat or use of force, enshrined in Art.2(4) of the Charter⁶⁵ is undoubtedly the foundation of the contemporary legal order, consistently referenced in a wide variety of sources of international law and accepted as a *jus cogens* norm.⁶⁶ As such, the prohibition itself is not subject to debate, but rather its limitations and applicability of exceptions. Regarding the limitations it is argued that an IBI falls outside the scope of the General Prohibition.⁶⁷ Regarding the exceptions, a quick survey of the Charter leads to the conclusion that the only express exceptions to the prohibition are (1) action against a former enemy state,⁶⁸ which is clearly irrelevant to this thesis, (2) military action on the basis of UNSC authorization, which also is not applicable to the case at hand,⁶⁹ and (3) the Art.51 right to self-defense – the only potentially applicable exception in this case, as also invoked by the GoY in its request for an intervention.

Consequently, the thesis will examine two potential legal justifications for an IBI lacking UNSC authorization – first, the inapplicability of Art.2(4) due to a valid invitation to intervene, and second, the applicability of the Art.51 right to collective self-defense for the inviting state.

2.2. Intervention by invitation - beyond the scope of Article 2(4)

2.2.1. Scope of Article 2(4)

Entities bound and protected by the General Prohibition

Art. 2(4) explicitly states that it binds all of its members to comply with the prohibition to use force. Interestingly, the scope of the *protection* granted by Art. 2(4) appears wider, as “any state” is protected against violations of the prohibition. If understood strictly on the basis of this wording, the article could mean that hypothetically any state not a member of the UN – such as a *de facto* regime not yet legally recognized as a state – would be entitled to the rights provided by the prohibition without incurring any of the relevant obligations. The discrepancy is resolved by state practice and commonly shared interpretation which accepts that both the rights and the obligations enshrined in Art. 2(4) apply to *de facto* states as long as they constitute a “stabilized authority”⁷⁰ – a view well in line with customary law and, indeed, the *jus cogens* status of the article.

Importantly, if *de facto* regimes do benefit from Art. 2(4) protection, the Houthis might be protected as well, as they have established their own government in the territories under their

⁶⁵ Charter of the United Nations, Art. 2, Para 4: “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”

⁶⁶ Simma et al., *The Charter of the United Nations*, p.203.

⁶⁷ Sondre Torp Helmersen “The Prohibition of the Use of Force as Jus Cogens: Explaining Apparent Derogations” *Netherlands International Law Review* 61, No. 2 (August 2014) pp. 167-193. See also: de Wet, “The Modern Practice of Intervention by Invitation”; Ruys and Ferro “Weathering the Storm,” pp.61-98.

⁶⁸ Charter of the United Nations, Art.107 “Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.”

⁶⁹ Charter of the United Nations, Art.42 “Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.”

⁷⁰ Simma et al., *The Charter of the United Nations*, p. 213

control. While this observation does not seem to be featured in academic discussion of use of force against non-state actors, a brief discussion of the case at hand based on the 1933 Montevideo Convention criteria for statehood - permanent population, defined territorial boundaries, a government, and an ability to enter into agreements with other states⁷¹ - might nonetheless highlight some issues complicating the application of the IBI doctrine and warranting further academic research.

On the other hand, the entities *excluded* from the scope of the prohibition are international organizations and private individuals and groups, unless they commit an armed attack attributable to a state other than the one affected by the attack.⁷² In short, internationally recognized states and also *de facto* states are both protected by the prohibition and bound to comply with it, the latter obligation extending to private individuals committing armed attacks attributable to a state.

“Force”

The term “force” for the purposes of Art. 2(4) does not cover all kinds of force, but is prevalently understood as only referring to “armed force”, excluding, e.g. political or economic force.⁷³ This is confirmed by both the drafting history and a purpose-based interpretation of the article, arguing that if states were deprived of other forms of force, they would lose their ability to pressure other states to comply with the international law.⁷⁴ Furthermore, state practice also dismisses any interpretation that construes the Art. 2(4) term “force” more broadly than, e.g., the Art.51 term “armed attack”, despite attempts by smaller powers during the Cold War to achieve the contrary.⁷⁵

Alternatively, some interpretations of “force” propose the assessment of the purpose and the effect of the use of force, concluding that *coercive* armed force is prohibited by the Charter. However, this interpretation does not establish a clear line between lawful and unlawful coercion, which is of utmost importance considering the widespread use of coercive tactics by states in their day-to-day dealings.⁷⁶ Finally, another understanding interprets “force” from the perspective of protecting states’ rights to freedom from interference,⁷⁷ although this aspect is already enshrined in the principle of non-intervention and does not directly ensure the prevention of interstate conflict. Therefore, because even the recent discussions on reinterpretation of the use of

⁷¹ Montevideo Convention on the Rights and Duties of States (Montevideo, 26 December 1933), *entered into force* 26 December 1934, Art.1. Available on <https://www.ilsa.org/jessup/jessup15/Montevideo%20Convention.pdf>; It must be noted that the Montevideo Convention has not been signed by any of the states concerned by the case study of this thesis, however it is commonly referred to by scholars discussing the legal aspects of statehood, thus implying that the Montevideo criteria may be an indication of customary law.

⁷² International organizations may nonetheless be bound by customary law obligations if they are capable of conducting military activities, while private bodies are excluded even if they have the capacity to conduct military activities. See Simma et al., *The Charter of the United Nations*, pp. 213-214

⁷³ Ido Kilovaty, “Rethinking the Prohibition on the Use of Force in the Light of Economic Cyber Warfare: Towards a Broader Scope of Article 2(4) of the UN Charter” *Journal of Law and Cyber Warfare* 4, No.3 (Winter 2015): pp.210-244

⁷⁴ Kilovaty, “Rethinking the Prohibition on the Use of Force in the Light of Economic Cyber Warfare”; Simma et al., *The Charter of the United Nations*, p. 209

⁷⁵ Matthew C. Waxman, “Cyber Attacks as Force under UN Charter Article 2(4)”, *Yale Journal of International Law* 36 No.2 (2011): pp.421-459.

⁷⁶ Waxman, “Cyber Attacks as Force under UN Charter Article 2(4)”

⁷⁷ Waxman, “Cyber Attacks as Force under UN Charter Article 2(4)”

force and self-defense doctrines, e.g., in the context of cyber warfare, use the destructiveness of military attacks as a point of reference for interpretation by analogy,⁷⁸ it can be concluded that Art.2(4) prohibits the threat or use of armed force.

If the prohibition is limited to “armed force”, then within those limits it needs to be interpreted broadly to further the purposes of the Charter. This has twofold implications. First, a broad interpretation stipulates that there is no minimum threshold of geographic scope or gravity for Art.2(4) to apply, as long as there is an actual armed confrontation between two states.⁷⁹ Second, Art.2(4) ought to apply both to direct use (i.e. entering of regular military forces into the territory of another state or cross-border attacks thereto)⁸⁰ and to indirect use, i.e. the involvement of one state in the use of force of another state or a non-state military body. Indeed, as states often choose to destabilize or even topple enemy governments in pursuit of their interests, support for anti-government groups in the target state is much more resource-efficient than the deployment of ground troops,⁸¹ yet the purpose of the act remains equally inconsistent with Art.2(4). In short, the key point is that Art.2(4) prohibits direct or indirect threat or use of armed force.

Other terms

Art. 2(4) prohibits the use of force “in international relations” “against the territorial integrity and the political independence” of a state or the use of force “in any other manner inconsistent with the purposes of the UN”.⁸² These terms require further clarification.

First, “international relations” requirement means that, in line with the principles of state sovereignty and non-intervention, use of force exclusively within the borders of a state is not covered by the prohibition.⁸³ Importantly, for the purposes of Art.2(4), external intervention automatically renders the conflict international.⁸⁴ Second, the purpose of including the “territorial integrity” principle in Art. 2(4) is not to limit its application, but rather to ensure that any possible form of cross-border use of armed force is covered by the article, even if the incursion is not intended to gain control over a part of another state’s territory. Thus, “territorial integrity” ought to be understood more as “territorial inviolability” and prohibition of “forcible trespassing”.⁸⁵ Third, the “purposes of the UN” are an umbrella term for potential gap-filling,⁸⁶ whereby it could be argued that military action causing a large-scale humanitarian crisis might be prohibited under this term.

Most importantly, however, it is argued that because of the terms discussed above, IBI, defined as “direct military assistance by the sending of armed forces by one state to another state upon

⁷⁸ Waxman, “Cyber Attacks as Force under UN Charter Article 2(4)”

⁷⁹ This conclusion is supported by, for example, ICJ in *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, I.C.J. Rep. 1986 (June 27). See Tom Ruys, “The Meaning of Force and the Boundaries of the Jus ad Bellum: Are Minimal Uses of Force Excluded from UN Charter Article 2(4)” *American Journal of International Law* 108, No. 2 (April 2014): pp.159-210.

⁸⁰ Simma et al., *The Charter of the United Nations*, p.211

⁸¹ Simma et al., *The Charter of the United Nations*, p. 211

⁸² Charter of the United Nations, Art. 2, Para 4

⁸³ Simma et al., *The Charter of the United Nations*, p. 214

⁸⁴ Gregory H. Fox, “Intervention by Invitation” (Research Paper, Wayne State University Law School, 2014) p.8

⁸⁵ Simma et al., *The Charter of the United Nations*, p. 215

⁸⁶ Ruys, “The Meaning of Force and the Boundaries of the Jus ad Bellum”.

the latter's request",⁸⁷ remains outside the grasp of Art.2(4).⁸⁸ Indeed, assuming that the intervening states comply with the scope of the territorial state's authorization to intervene, such use of force would not affect the territorial integrity or political independence of the territorial state.⁸⁹ Nor would it be coercion or "forcible trespassing", as under the sovereignty principle the territorial state is free to use its territory however it wishes, including to authorize foreign military operations,⁹⁰ subject to IHL norms. With this argument in mind, the thesis will now outline the lawfulness criteria for such interventions, as derived from recent legal scholarship and state practice.

2.2.2. Criteria for a legitimate IBI

Naturally, the invitation to intervene needs to be valid for it to fall outside the scope of the prohibition and meet three cumulative legality criteria explained below.⁹¹

Legitimate representative authority

The capacity to request an intervention originates primarily from the domestic authority of the government.⁹² However, this is not to suggest a popular legitimacy requirement, as it does not affect the legitimacy of a government in the eyes of international law.⁹³ Otherwise, all non-democratic governments would automatically be illegitimate – a view grossly incompatible with current realities. Instead, to have the legal capacity to freely dispose of its territory and authorize foreign intervention, the requesting government needs to have international legitimacy, i.e. international *de jure* recognition of the government.⁹⁴ It may be tempting to require that the inviting government also has at least a minimum degree of effective control – acceptance or acquiescence by the local population of the government's right to exercise authority and represent the state.⁹⁵ Indeed, "failed state" governments are generally not seen as having the necessary consent power,⁹⁶ and, e.g., during the anarchy in Somalia in 1990s, the UN Secretary General held that there was no government that could authorize the use of force on its territory. Thus, at least some minimum degree of effective control of a "sufficiently representative" portion

⁸⁷ de Wet, "The Modern Practice of Intervention by Invitation", p.980

⁸⁸ Eliav Lieblich, *Intervention in Civil Wars: Intervention and Consent*, (Columbia University, 2012) p.241

⁸⁹ Ruys and Ferro, "Weathering the Storm," pp.61-98.

⁹⁰ Ruys and Ferro, "Weathering the Storm," pp.61-98.

⁹¹ The three criteria derive from the four cumulative grounds for the legality of an IBI discussed in a case study of Iraq: the UN recognition and support of the legitimacy of the Iraqi government, the inclusion of Da'esh in official lists of terrorist organizations, Iraqi government being the victim of Da'esh attacks, and the Iraqi government's request for "international assistance", as opposed to "intervention in a civil conflict". See Bannelier-Christakis, "Military Interventions against ISIL".

⁹² Kenneth Watkin, *Fighting at the Legal Boundaries: Controlling the Use of Force in Contemporary Conflict* (Oxford University Press, 2016), p.43

⁹³ Bannelier-Christakis, "Military Interventions against ISIL", p.760.

⁹⁴ de Wet, "The Modern Practice of Intervention by Invitation", p.982

⁹⁵ Traditionally, *de iure* status of a government was largely determined by the effective control it had over its territories. See, e.g. de Wet, "The Modern Practice of Intervention by Invitation", p.982.; Ruys and Ferro, "Weathering the Storm," pp.61-98.

⁹⁶ Lieblich, *Intervention in Civil War*: p.299.

of territory is necessary.⁹⁷ This view appears fairly popular among legal scholars, though lacks a consensus on how the degree of governmental control is to be assessed.⁹⁸

However, the lack of effective control arguably does not alter the legitimate status of the government under international law,⁹⁹ as shown by the coups d'état in Haiti and Sierra Leone in 1990s when the legality of the invitations to intervene issued by the ousted governments was not contested.¹⁰⁰ Therefrom one can conclude that the international law favors the *de jure* government, presuming it to be the representative authority with the right to military assistance¹⁰¹ even if it has lost a significant portion of its territory for an extended period of time. An alternative view argues that the effective control doctrine ought to be reinterpreted as the ability to effectively protect civilians. Thus, governments installed through international mediation processes also generally enjoy a presumption in their favour regardless of the control they exercise in practice, as they are best suited to protect civilians in the long-run.¹⁰²

Nonetheless, it is also argued that even if there is a presumption in favour of the *de jure* or the internationally-installed government, the government must assert its authority over the state territory,¹⁰³ and that the authority to request an intervention depends on the continued recognition of the requesting government by the international community.¹⁰⁴ This shows that the effective control requirement remains a highly controversial issue, as even those arguing for a presumption in favor of the *de jure* government recognize the need for additional criteria, while the proponents of the minimum effective control requirement remain silent on the specific threshold thereof.

To reconcile the debate, for the purposes of this thesis the main requirement for the capacity to request an intervention is the international recognition of the requesting government, as international law maintains a rebuttable presumption of “continued effective control”¹⁰⁵ in favor of the *de jure* authorities of the state. Evidence of such control will be used to strengthen the argument, while evidence of *lack* of any control will add a strong caveat to the conclusions.

Formal requirements

While there is considerable debate on the formal requirements for an invitation to intervene, the 2011 Resolution on Military Assistance on Request by the *Institut de Droit International* argues, in line with the ICJ judgment in *Armed Activities*, that the sole formal requirements are that the invitation is valid and specific and complies with the international obligations of the inviting

⁹⁷ Ruys and Ferro, “Weathering the Storm,” pp.61-98.

⁹⁸ Christopher J. Le Mon “Unilateral Intervention by Invitation in Civil Wars: The Effective Control Test Tested” *New York University Journal of International Law and Politics* 35 (2003): pp.741-793; de Wet, “The Modern Practice of Intervention by Invitation”, p.985.

⁹⁹ Bannelier-Christakis, "Military Interventions against ISIL", p.742.

¹⁰⁰ de Wet, “The Modern Practice of Intervention by Invitation”, p.985.

¹⁰¹ de Wet, “The Modern Practice of Intervention by Invitation”, p.979

¹⁰² Lieblich, *Intervention in Civil War*, p.301.

¹⁰³ An illustrative example is Russia’s intervention in Ukraine, whereby the request by the ousted president Viktor Yanukovich was deemed illegitimate, as he had already been in exile at the time the request was made, evidencing his complete lack of control over the territory, and furthermore had lost the international recognition of him as the legitimate leader of Ukraine. Corten and Lauterpacht, as referenced by Ruys and Ferro, “Weathering the Storm.”

¹⁰⁴ de Wet, “The Modern Practice of Intervention by Invitation”, p.992.

¹⁰⁵ de Wet, “The Modern Practice of Intervention by Invitation”, p.990.; Lieblich, *Intervention in Civil War*, p.286.

state.¹⁰⁶ Validity of an invitation depends on multiple criteria. First, somewhat overlapping with the requirements for the capacity to request an intervention, the invitation must be issued by the highest authority of the state without coercion of the officials,¹⁰⁷ so that it is “internationally attributable to a state”.¹⁰⁸ Second, the invitation must precede the actual intervention.¹⁰⁹ Third, to avoid potential abuse, the invitation must be clear and specific enough to indicate the scope or the purpose of authorization. This implies also that the intervention must be authorized on an *ad hoc* basis,¹¹⁰ even if there is a collective security treaty between the requesting and the intervening state.

Legitimate purpose

As a recent development in international law, IBIs pose a significant theoretical dilemma for legal professionals due to the conflicting legal principles it entails. On the one hand, there is an argument that if consent is issued by the legitimate authority, the sovereignty principle gives it full rights to request an intervention. On the other hand, because human rights law is said to prohibit the internal use of force in absence of an armed conflict, the legality of an IBI may require an internal armed conflict context as an objective justification for the derogations.¹¹¹ Interestingly, however, it is argued that states have no general right to intervene in a civil war in favor of the established government¹¹² as that might contradict the principle that in an internal armed conflict no faction truly represents the state¹¹³ or the principle of self-determination of peoples and their right to choose their own government freely from international interference.¹¹⁴ Therefore, according to this argument, a legitimate aim must be pursued, such as counterterrorism¹¹⁵ or counter-intervention.¹¹⁶

¹⁰⁶ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, I.C.J. Reports 2005 (19 December), Paras 45-53; *Institut de Droit International*, 10th Commission. “Present Problems of the Use of Force in International Law: Sub-Group C – Military assistance on request” (8 September 2011), Art. 4(2), Available on: http://www.idi-iiil.org/app/uploads/2017/06/2011_rhodes_10_C_en.pdf

¹⁰⁷ Fox, “Intervention by Invitation”, p.7

¹⁰⁸ *International Law Commission*, “Draft Articles on Responsibility of States for Internationally Wrongful Acts” (November 2001), Available on: <http://www.refworld.org/docid/3ddb8f804.html>, Art.20

¹⁰⁹ *International Law Commission*, “Draft Articles on Responsibility of States for Internationally Wrongful Acts”, Art.20. Also Ruys and Ferro, “Weathering the Storm,” pp.61-98.

¹¹⁰ Bannelier-Christakis, op.cit., p.743. Also *International Law Commission*, “Draft Articles on Responsibility of States”, Art.20

¹¹¹ Lieblich, *Intervention in Civil War*, p.292.

¹¹² Civil war could perhaps be defined as the situation of control and administration of a substantial portion of the state territory by opposition forces in the context of general hostilities (de Wet, “The Modern Practice of Intervention by Invitation”, p.992.) or along the lines of the definition of non-international armed conflict for the purposes of International Humanitarian Law (Fox, “Intervention by Invitation”, p.18.) However, there is no specific universal definition of the term, and therefore the thesis will examine the rhetoric employed by academic and professional analysis of the Yemeni conflict.

¹¹³ See, e.g., Christine D. Gray, *International Law and the Use of Force* (Oxford University Press, 2008), p.81.; *Institut de Droit International*, as referenced by Ruys and Ferro in “Weathering the Storm,” pp.61-98.

¹¹⁴ Unless it does not actually interfere with the right to self-determination.

Ruys and Ferro, “Weathering the Storm,” pp.61-98.

¹¹⁵ Counter-terrorism is one of the most prevalent justifications of interventions by invitation. See, e.g., Bannelier-Christakis, “Military Interventions against ISIL”, p.746, de Wet, “The Modern Practice of Intervention by Invitation”.

¹¹⁶ Fox, “Intervention by Invitation”, p.22.

State practice appears to support the latter view. Indeed, e.g., Russia's statements on its involvement in Syria (at the request of the internationally recognized president Bashar al-Assad) stress the counter-terrorism objective of the military activities. Similarly, the interventions against Da'esh have also been justified with claims of Da'esh being a terrorist organization.¹¹⁷ On the flip side, a general right to intervene in a civil conflict has been strongly criticized, with states in practice not daring to assert such a right.¹¹⁸ However, while state practice clearly establishes a requirement of a legitimate aim, if not specifically a counter-terrorism aim, this clarity creates further confusion, as there is no definition neither of what constitutes a legitimate aim, nor of terrorism.

The definition of terrorism in particular appears to be an impossible feat due to the subjective political characteristics of terrorist acts. Legislators have attempted to circumvent the controversy by simply outlawing certain acts often employed by terrorists, such as hijacking of planes (1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft) or hostage taking (1983 International Convention Against Taking Hostages) without specifying who the perpetrator must be¹¹⁹ for the purposes of applying the relevant legal instrument.¹²⁰ However, applying such conventions to specific acts carried out by the Houthi rebels would not directly indicate whether they can be considered terrorists, nor would it be a sufficiently clear, comprehensive, and efficient basis for that determination. Furthermore, such conventions are primarily aimed at establishing legal obligations for the signatory states to prevent and prosecute terrorism.¹²¹ 1999 UNGA International Convention for the Suppression of the Financing of Terrorism is, however, helpful in the sense that in outlining its scope of application, it not only refers to several treaties outlawing specific acts, but also contains a forward-looking umbrella provision that includes any action that in the context of an armed conflict is aimed at causing death or serious injury to any person not taking part in hostilities for the purpose of intimidating the population or compel a government or an international organization to act or refrain to act in a particular way.¹²²

While this formulation is not recognized as a universal legal definition of terrorism, it may serve as a guideline for assessing whether an act can potentially constitute "terrorism". Some additional guidance on the matter might be found in the UN resolutions and official terrorist lists of different governments. While such determination is based on subjective political considerations, it appears to be the most feasible method for determining whether the Houthis constitute a terrorist organization for the purposes of the emerging legitimate purpose requirement.

2.2.3. Conclusion: criteria for a lawful IBI

The following scheme can be derived from the discussion above:

¹¹⁷ Bannelier-Christakis, "Military Interventions against ISIL"

¹¹⁸ Bannelier-Christakis, "Military Interventions against ISIL". See also Ruys and Ferro "Weathering the Storm," pp.61-98.; de Wet, "The Modern Practice of Intervention by Invitation", p.992.

¹¹⁹ See, for example, International Convention Against the Taking of Hostages (New York, 17 Dec. 1979) 1316 U.N.T.S. 205, *entered into force* 3 June 1983. Art.1. Available on: <http://hrlibrary.umn.edu/instree/takinghostages.html>

¹²⁰ Jan Klabbers, *International Law* Second Edition (Cambridge University Press, 2017) p.216.

¹²¹ See, e.g., International Convention for the Suppression of the Financing of Terrorism (New York, 9 Dec. 1999) UN Doc. A/RES/54/109, *entered into force* 10 April 2002. Available on: <http://www.un.org/law/cod/finterr.htm>

¹²² International Convention for the Suppression of the Financing of Terrorism Art.2, Para 1(b)

Art.2(4) applies to interventions by invitation when:

1. a) a state, b) a de facto regime, or c) a private entity attributable to a state
2. uses armed force, directly or indirectly
3. in a non-internal context
4. against a) a state, or b) a de facto regime
5. unless the intervention is commenced on the basis of a valid invitation.

An invitation to intervene is valid when:

1. an internationally-recognized government (especially if it exercises effective control over the territory) not subject to coercion
2. issues a clear and specific *ad hoc* invitation to intervene before the use of force
3. to pursue a legitimate aim in the context of an internal armed conflict.

However, should the case study find that the Saudi-led intervention in Yemen is not lawful on the grounds of the GoY issuing a valid invitation, the lawfulness might nonetheless derive from the Art.51 right to collective self-defense for the inviting state.

2.3. Right to collective self-defense – an overriding exception to Art.2(4)

In practice, states most frequently justify use of force as an exercise of their “inherent” right to self-defense, enshrined in Art.51 of the Charter, as it requires neither prior UNSC authorization, nor consent of the territorial state.¹²³ The wording of the article suggests that no other provision of the Charter may prejudice the exercise of the right to individual or collective self-defense against an armed attack, provided that the state can prove that Art.51 is applicable and subject to immediate report to the UNSC the requirement to cease the operation upon UNSC intervention.¹²⁴ While the use of the word “inherent” may imply that the right also exists under customary law, in the interests of limiting the use of force, the ICJ and state practice confirm that Art.51 is the sole regulation on the right to self-defense, and any discussion on the matter must be confined to its limits.¹²⁵ Thus, to assess the self-defense justification, the criteria for the applicability of Art.51 will be outlined.

2.3.1. Entities protected by Article 51

The wording of Art.51 clearly states that any member of the UN is the benefactor of the right to self-defense. Given the aim of the case study of this thesis, this fact raises no further questions, as

¹²³ Nicholas Tsagourias, “Self-Defence against Non-state Actors: The Interaction between Self-Defence as a Primary Rule and Self-Defence as a Secondary Rule”, *Leiden Journal of International Law* 29, No.3 (September 2016): pp. 801-825

¹²⁴ Charter of the United Nations, Art.51: “Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.”

¹²⁵ Gray, *International Law and the Use of Force*, p.118.

it is Yemen that invokes collective self-defense (according to its letter to the Coalition states)¹²⁶. Likewise, it has been established even before the UN era that there is a right to self-defense against non-state actors.¹²⁷ However, the U.S. response to the 9/11 attacks raised the question of whether and to what extent the actions of the non-state actor need to be linked to a state to invoke the right to self-defense.

On the one hand, the traditional restrictive view maintains a state-centric approach, whereby a non-state actor must be linked to a state.¹²⁸ If the required link is not to the degree necessary for attribution (i.e. non-state actor being sent or effectively or overall controlled by another state or a state providing other forms of *substantial* support like harboring¹²⁹ so that the attack amounts to the same gravity as an attack by regular armed forces¹³⁰), then at least the territorial state from which the attacks are launched must be “unable” to fulfill its obligations or “unwilling” (responsible for complicity or failure to act)¹³¹ to suppress the non-state actor activities, in which case the ICJ has not excluded the possibility for the right to self-defense to be invoked.¹³² The “unable or unwilling” principle constitutes an insufficiently clear doctrine, as it envisages a subjective assessment of criteria such as the territorial state’s consent or cooperation in suppressing the non-state action or its compliance, its capacity to control the territory, prior interactions with the territorial state, nature of the non-state threat etc.,¹³³ as well as the question of whether there exists an obligation for the state to prevent such attacks in the first place. In either case, a state-centric approach is neither stipulated by Art.51, nor does it provide an adequate framework to deal with the increasing armed non-state actor threat,¹³⁴ particularly in cases of fractured or failed states. This is furthermore highlighted by the inter-state-like elements of some recent conflicts, e.g. between Israel and Hezbollah or the international coalition against Da’esh, which focus on the broader impact of the conflict, i.e., the result, as opposed to the perpetrator.¹³⁵ If the purpose of the UN is to maintain international peace and security, such criticism is indeed well-founded.

On the other hand, recognizing the inadequacy of the state-centric approach, the post-9/11 prevailing view suggests that there is increasing recognition of right to self-defense even in

¹²⁶ “Identical letters dated 26 March 2015”, S/2015/217

Alternatively, Saudi Arabia could perhaps also invoke its own right to (collective) self-defense, as it has been attacked by Houthis even before the intervention, and in light of the recent developments of the conflict, is now the main target for Houthi ballistic missile strikes, which constitute a continuous threat. While, consequently, there is ground to examine the self-defense justification from the point of view of Saudi Arabia, the case study will only be confined to the assessment of Yemen’s right to self-defense. Nonetheless, the criteria for a lawful exercise of collective self-defense remain the same in both cases.

¹²⁷ Amos Enabulele, “Use of Force by International/Regional NonState Actors: No Armed Attack, No Self-Defence” *European Journal of Law Reform* 12 No.3-4 (2010)

¹²⁸ Simma et al., *The Charter of the United Nations*, pp.1415-1416., referring to the ICJ in *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Rep. 2004 (July 9) and *Armed Activities on the Territory of the Congo*

¹²⁹ Watkin, *Fighting at the Legal Boundaries*, p.49

¹³⁰ *Military and Paramilitary Activities in and against Nicaragua*, Paras 64-65 and 195

¹³¹ Tsagourias, “Self-Defence against Non-state Actors”, p.852

¹³² Simma et al., *The Charter of the United Nations*, p.1418.

¹³³ Tsagourias, “Self-Defence against Non-state Actors”

¹³⁴ Frederica I. Paddeu, “Use of Force against Non-state Actors and the Circumstance Precluding wrongfulness of Self-Defence” *Leiden Journal of International Law* (2017): pp.93-115.

¹³⁵ Watkin, *Fighting at the Legal Boundaries*, pp.49-69.

situations when no clear link between the non-state group and another state can be established.¹³⁶ The underlying assumption is that the “armed attack” element – the most important requirement for Art.51 to apply – is defined as such not by the author of the attack, but rather by its physical attributes, as recognized by the separate judicial opinions and declarations on the *Legal Consequences of the Construction of a Wall* case.¹³⁷ It follows that attacks by non-state actors can amount to “armed attacks” for the purposes of Art.51, provided that they are of sufficient gravity.¹³⁸ Furthermore, UNSC Resolutions 1368 and 1371 also address the right to self-defense against non-state actors without mentioning any attribution requirements.¹³⁹ Finally, it must be stressed that neither legislative sources, nor the ICJ have explicitly excluded exercise of the right to self-defense against non-state actors not linked to a state. Such possibility simply has not been considered at the time of the drafting of the Charter.¹⁴⁰

Nonetheless, it is also argued that despite the evident inefficiency of the state-centric approach and despite the state practice, it is still too early to speak of a right to self-defense against a non-state actor if it is not linked to another state or, if indeed still required, that attribution may arise from mere tolerance of the host state of the terrorist presence on its territory.¹⁴¹ However, with the purposes of the UN to maintain peace and remove threats thereto in mind, the author of this thesis favors the focus on the nature, not the author, of the attack as the key requirement for invoking Art.51, with a view to ensure greater effectiveness of the right to self-defense.

2.3.2. Existence of an “armed attack”

Undoubtedly, the most important proviso for Art.51 to apply is that self-defense must be exercised to repel an “armed attack”. As the Charter contains no definition of an armed attack, it is up to judicial decisions and state practice to determine its scope of application, possibly with the aim of keeping Art.51 somewhat adaptable to the evolution of warfare.¹⁴² However, a clear definition is yet to be established, complicating the legal assessment of self-defense actions, which, as argued prior, rests primarily on the nature of the initial attack, not its perpetrator.

Instead, the closest the international community has come to a definition of an armed attack is possibly the “Definition of Aggression” by the UNGA, listing particular examples: invasion, bombardment, cross-border shooting of a scale that exceeds mere border incidents, blockade, and attacks on a state’s positions abroad (primarily meaning its military units and provided that the

¹³⁶ The 2006 Israeli invasion of Lebanon to counter Hezbollah, Israeli invasion of the Gaza till 2009, and the 2008 Turkish military operation in Iraq to suppress the attacks by the Kurdish Worker’s Party all constitute examples of this trend. Raphael van Steenberghe, “Self-Defence in Response to Attacks by Non-state Actors in the Light of Recent State Practice: A Step Forward?” *Leiden Journal of International Law* 23 (2010): pp. 183–208.

¹³⁷ Tsagourias, “Self-Defence against Non-state Actors”, p.813.

¹³⁸ van Steenberghe, “Self-Defence in Response to Attacks by Non-state Actors”

¹³⁹ S.C. Res. 1368, U.N Doc. S/RES/1368(2001), Para 3. Available on: [http://undocs.org/S/RES/1368\(2001\)](http://undocs.org/S/RES/1368(2001)); S.C. Res. 1373, U.N Doc. S/RES/1373(2001). Available on: [http://undocs.org/S/RES/1373\(2001\)](http://undocs.org/S/RES/1373(2001)); Watkin, *Fighting at the Legal Boundaries*, p.50.

These resolutions do, however, refer to international terrorism as a threat to international peace and security permitting self-defense, thus raising a question as to whether a similar requirement to that for the legitimate purpose of IBI is emerging.

¹⁴⁰ van Steenberghe, “Self-Defence in Response to Attacks by Non-state Actors”

¹⁴¹ Michael Brent, “Responding to Attacks by Non-State Actors: The Attribution Requirement of Self-Defence” *Australian International Law Journal* 16 (2009). pp.133-159.

¹⁴² Enabulele, “Use of Force by International/Regional NonState Actors”

force used on them is not insignificant).¹⁴³ The gravity of the attack must be assessed in light of the number of attacks linked together by the same aggressive intent,¹⁴⁴ however the ICJ in *Oil Platforms* did not exclude that a single attack may be of sufficient gravity as well.¹⁴⁵ Furthermore, the gravity of the attack must be such as to warrant the application of international law, not merely domestic criminal codes,¹⁴⁶ though a clear threshold has not been established. Alternatively, as recent developments in legal doctrine on self-defense against cyber warfare suggest, the “armed” nature of an attack can also be established on the basis of its destructiveness.¹⁴⁷ Finally, there seems to be an implicit requirement that the attack must have already taken place, as opposed to being a mere possibility, unless the *Caroline* criteria for anticipatory self-defense are met¹⁴⁸ (though the permissibility of anticipatory self-defense remains controversial).

Nonetheless, some guiding principles can be inferred. In cases of attacks by non-state actors, particularly terrorists, whereby the UNSC explicitly has recognized a right to individual or collective self-defense,¹⁴⁹ (1) self-defense is not necessary if the attack has happened a long time ago or has no evident chance of reoccurring;¹⁵⁰ (2) the response must be of minimum territorial infringement consistent with the repellant aim;¹⁵¹ and (3) if necessary, self-defense may be extended to the entire duration of the terrorist campaign, provided there is not a great delay between the initial attack and the response.¹⁵²

Generally, self-defense does not have to be the last resort after other means of conflict resolution have been applied and rendered ineffective,¹⁵³ as it follows from the ICJ judgment in *Caroline*, a case concerning the response to attacks by non-state actors, that it would make no sense to impose extra conflict resolution obligations for the victim state before it can defend itself against an armed attack that has already occurred, if even *preemptive* self-defense may be permitted under certain conditions.

2.3.3. Procedural requirements for collective self-defense

¹⁴³ Thomas M. Franck “Terrorism and the Right of Self-Defense” *American Journal of International Law* 95 No. 4 (October 2001): pp.839-843.

¹⁴⁴ van Steenberghe, "Self-Defence in Response to Attacks by Non-state Actors"

¹⁴⁵ *Oil Platforms (Islamic Republic of Iran v. United States of America)*, Judgment, I.C.J. Reports 2003, p.161, Para.72.

¹⁴⁶ van Steenberghe, "Self-Defence in Response to Attacks by Non-state Actors"

¹⁴⁷ Yoram Dinstein, “Computer Network Attacks and Self-Defense”, *International Law Studies* 76 No.1 (2002), p. 103.; Waxman, “Cyber Attacks as Force under UN Charter Article 2(4)”

¹⁴⁸ The criteria established by the *Caroline* case are that the state must prove that the necessity to exercise preemptive self-defense it is “instant, overwhelming, and leaving no choice of means, and no moment for deliberation”. See, *The Caroline* (1837) 2 Moore’s Digest of Int’l Law 409, and Martin Dixon, Robert McCorquodale, and Sarah Williams, *Cases and Materials on International Law* Fifth edition (Oxford University Press, 1997), p.576.; Anthony Clark Arend, “International Law and the Preemptive Use of Military Force”, *The Washington Quarterly* 26, No. 2 (Spring 2003): pp. 89-103.

¹⁴⁹ S.C. Res. 1368; S.C. Res. 1373

¹⁵⁰ Klabbers, *International Law*, p.210.

¹⁵¹ Watkin, *Fighting at the Legal Boundaries*, p.66.

¹⁵² Watkin, *Fighting at the Legal Boundaries*, p.68.

¹⁵³ The idea that self-defense against non-state actors is to be used as a last resort was put forward by van Steenberghe, "Self-Defence in Response to Attacks by Non-state Actors".

Finally, Art.51 permits the exercise of both individual and collective self-defense. “Individual” self-defense poses no controversy, as the wording itself clearly indicates who is entitled to exercise the self-defense right. However, the facts of the case at hand clearly suggest that the intervention in Yemen is an example of *collective* self-defense. This notion demands further clarification.

First, it must be stressed that the “collective” aspect of self-defense authorizes a non-attacked state to use force to assist in the defense of an attacked state, in other words, there is no requirement for the intervening state to even be affected by the attacking party.¹⁵⁴ Second, collective self-defense may be exercised either on the basis of a treaty, as in the case of the NATO collective security mechanism, whereby its application subject to international law is also regulated by treaty provisions, or it may be exercised on *ad hoc* basis. Third, the *Nicaragua* case displayed the risk of abuse by intervening states (the United States) to presume an attack against one state (El Salvador) as a sufficient ground to attack another (Nicaragua).¹⁵⁵ As a result, a procedural element was established, whereby the attacked state must first recognize that it has been attacked in a way that warrants an Art.51 response. Thus, fourth, the attacked state must consent to the use of force on its behalf through a “clear and verifiable” request for assistance.¹⁵⁶

2.3.4. Necessity and proportionality

Exercise of self-defense in good faith stipulates that it must not be punitive or retaliatory, instead only aiming to repel the attack.¹⁵⁷ This idea is enshrined in two key principles limiting the exercise of the right to self-defense – necessity and proportionality – derived not from the wording of Art.51, but from subsequent judicial practice and legal doctrine.¹⁵⁸

First, necessity indicates whether the action taken by the victim state, including its choice to invoke the right to collective self-defense,¹⁵⁹ is necessary to achieve the goal of self-defense, as the principle seeks to avoid conflict escalation and to limit state freedom to act to the achievement of a very specific objective.¹⁶⁰ Thus, one of the effects of the application of the necessity criterion is to determine the legitimate target of a self-defense operation.¹⁶¹ However, this is not to imply that the self-defense action must be identical to the attack, as sometimes more force may be necessary to repel the attack than to commit it.¹⁶² With necessity being a crucial requirement for the assessment of legality of self-defense, this poses a significant challenge of objective determination. Therefore, each case must be evaluated on an *ad hoc* basis.

Second, if a measure is deemed necessary, the principle of proportionality determines the extent to which it can be employed and how much force may be used in the pursuit of the legitimate

¹⁵⁴ Simma et al., *The Charter of the United Nations*, p. 1420.

¹⁵⁵ *Military and Paramilitary Activities in and against Nicaragua*; Dixon, McCorquodale, and Williams, *Cases and Materials on International Law*, p.593

¹⁵⁶ Gray, *International Law and the Use of Force*, p.172

¹⁵⁷ Gray, *International Law and the Use of Force*, p.150.

¹⁵⁸ Perhaps the most notable example is *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Rep. 1996 (July 8), p. 226., Para. 41.

¹⁵⁹ Gray, *International Law and the Use of Force*, p.174.

¹⁶⁰ Watkin, *Fighting at the Legal Boundaries*, p.64.

¹⁶¹ *Oil Platforms*, Para. 76. Also Watkin, *Fighting at the Legal Boundaries*, p.73.

¹⁶² Simma et al., *The Charter of the United Nations*, p.1426.

repellent aim.¹⁶³ In practice, however, once necessity is established, the measures taken are usually proportionate as well,¹⁶⁴ given the close link and overlap of the two principles. Not surprisingly, the greatest weight in the evaluation of these principles seems to be given to necessity. It must be noted that both principles are to be interpreted by the victim states in a future, not past-oriented manner,¹⁶⁵ as a reflection of the repellent aim emphasized before, and that the victim states bear the burden of providing sufficient evidence that their actions do, indeed, meet all of the criteria outlined so far.

2.3.5. The role of the UN Security Council

Procedurally, Art.51 stipulates immediate involvement by the UNSC – first, the defending state must immediately report its actions to the UNSC, and second, self-defense actions must cease as soon as the UNSC has taken the necessary measures to maintain international peace and security. The Charter leaves it unclear whether there is a specific form in which the report must be made or if it needs to explicitly invoke Art.51,¹⁶⁶ even though states themselves usually make sure to justify their actions and stress their defensive nature, as the lack of a report of any kind may imply that the state itself is not sure whether it acted with the aim of self-defense.¹⁶⁷ It is likewise unclear from the wording what kind of UNSC response constitutes the necessary measures upon which the attacked state must cease to act.

2.3.6. Extraterritorial application – right to self-defense juxtaposed to the rights of the host state

Exercise of the right to self-defense, particularly in the context of armed attacks by non-state actors not attributable to their host state, raises the issue of the adequate protection of the rights of the territorial state where the self-defense is exercised, e.g. territorial integrity (inviolability) and non-intervention, particularly if the territorial state is not a party to the conflict. A potential solution is to consider lawful self-defense as a circumstance precluding wrongfulness, excusing any violations of the host state's rights as long as the requirements of necessity and proportionality are met. This solution rests on the view that there can be no "self-defense against self-defense", as any violation of the host state's rights is incidental effect of the exercise of the victim state's "inherent" right¹⁶⁸ that shall not be prejudiced by any other provision of the Charter. This is supported by Art.21 of the *Draft Articles on State Responsibility for Internationally Wrongful Acts*, which, however, can be interpreted as establishing that only certain non-absolute rights of the host state may be violated.¹⁶⁹ Moreover, if the host state has, in effect, lost control over the part of the territory wherefrom the non-state actor operates, it would

¹⁶³ David Kretzmer, "The Inherent Right to Self-Defence and Proportionality in *Jus Ad Bellum*", *European Journal of International Law* 24, No. 1 (2013): pp.235-282

¹⁶⁴ Simma et al., *The Charter of the United Nations*, p.1426.

¹⁶⁵ Dinstein, "Computer Network Attacks and Self-Defense", p. 107.

¹⁶⁶ Simma et al., *The Charter of the United Nations*, p.1401., also ART.51

¹⁶⁷ Simma et al., *The Charter of the United Nations*, p.1405.

¹⁶⁸ Paddeu, "Use of Force against Non-state Actors", pp.93.-105., Tsagourias, "Self-Defence against Non-state Actors"

¹⁶⁹ The Draft Articles suggest that actions in pursuit of self-defense must always comply with IHL norms, such as the Geneva Conventions and their Additional protocols, and must not violate non-derogable human rights enshrined in various international treaties. *International Law Commission*, "Draft Articles on Responsibility of States" Art.21

appear that no territorial rights would be infringed by the victim state, however international law does not provide a distinction between legal and effective sovereignty.¹⁷⁰ In any case, it seems reasonable to take into consideration whether the territorial state itself asserts that its rights have been violated for a definite conclusion.

2.3.7. Conclusion: criteria for the lawful exercise of the right to collective self-defense

From the discussion above, it can be concluded that:

A military intervention in another state on the basis of collective self-defense is lawful when:

1. A UN member state
2. in response to an armed attack, i.e:
 - a. an attack perpetrated by a state or a non-state actor, independent or linked to another state,
 - b. an attack taking effect in the state territory or against its positions abroad,
 - c. an attack of sufficient gravity (not a mere border skirmish) in terms of the scope and destructiveness of the force used
3. determines an Art. 51 situation and issues a clear request for external assistance,
4. which would employ necessary and proportionate means with the sole aim of repelling the attack,
5. provided that the self-defense actions are immediately reported to the UNSC, and ceases to act after the UNSC has taken the necessary measures to maintain international peace and security.

With the formula for the assessment of both legal justifications outlined, the thesis will now proceed to a juxtaposition of the facts pertaining to the Saudi-led intervention in Yemen to the criteria for legality of a military intervention.

CHAPTER III: THE LEGALITY OF THE SAUDI-LED INTERVENTION IN YEMEN

3.1. Intervention by invitation and the inapplicability of the Article 2(4) prohibition of the use of force

3.1.1. Entities bound by Article 2(4).

As established prior, both fully fledged and *de facto* states are bound by the Art.2(4) prohibition on the use of force. This criterion raises no further doubts, since all of the intervening states -

¹⁷⁰ Tsagourias, “Self-Defence against Non-state Actors”

Saudi Arabia, United Arab Emirates, Egypt, Jordan, Bahrain, Kuwait, Qatar, Sudan, Morocco, and Pakistan – are internationally recognized states and members of the UN, and thus clearly obliged to comply with the Charter provisions.

3.1.2. Use of direct or indirect coercive armed force.

The use of armed force is likewise obvious from the very nature of the Saudi-led intervention. Operation “Decisive Storm”, commenced on March 26, 2015, and the subsequent operation “Restoring Hope” included the use of significant military capabilities by the intervening states. First, a series of naval operations were carried out to establish a full blockade, whereby the Yemeni territorial waters were closed for all commercial and military vessels that did not have a GoY authorization, and attack land-based targets to prevent arms delivery to the rebels.¹⁷¹ Second, the Coalition commenced an extensive air campaign, which saw “ceaseless” bombardment of Houthi targets by ~185 fighter jets¹⁷² and even the designation of the Saada and Marran cities in the Saada governorate (the main Houthi stronghold) as “free-fire zones” to coerce the Houthis to surrender. In effect, the city of Saada suffered the most extensive damage to civilian infrastructure despite the lack of ground fighting therein.¹⁷³ Finally, ground troops were also deployed in Yemen, the Emirati forces even suffering significant casualties.¹⁷⁴ However, the main weight was given to the air operations, which established sufficient air supremacy of the Coalition forces to end “Decisive Storm” on April 21, 2015, and commence operation “Restoring Hope”.¹⁷⁵ This clearly shows that the Coalition employed direct coercive armed force, as stipulated by Art.2(4).

3.1.3. Use of force in a non-internal context

It is likewise evident from the facts of the case that the force used by the Coalition was of cross-border nature, as the Houthis were targeted in Yemeni territory, and thus it clearly falls under the scope of Art.2(4).

3.1.4. Entities protected by Article 2(4)

Because the threat or use of force is prohibited against *any* state, according to Art.2(4) of the Charter, one could conclude that also *de facto* states that do not yet enjoy a UN membership or universal recognition might also be protected by the prohibition. While there does not appear to be much academic support for this assertion, the Houthis meeting the criteria for statehood might raise legal issues for further research to address.

The Houthi rebels cannot be considered to reach the threshold for any of the Montevideo criteria for statehood. First, considering that a permanent population and defined boundaries largely go

¹⁷¹ Martin D. Fink, “Naval Blockade and the Humanitarian Crisis in Yemen”, *Netherlands International Law Review* 64 (2017): pp.291-307.

¹⁷² Orkaby, “Yemen’s Humanitarian Nightmare”; Heidelberg Institute for International Conflict Research, “Conflict Barometer 2015,” p.194.

¹⁷³ Ralph Shield, “The Saudi Air War in Yemen: A Case for Coercive Success through Battlefield Denial” *Journal of Strategic Studies* 41, No. 3 (2018): pp.461–89

¹⁷⁴ Abu Amin “Crisis in Yemen and Countering Violence.” *Counter Terrorist Trends and Analyses* 7 (2015): pp.18–22.

¹⁷⁵ Shield, “The Saudi Air War in Yemen”.

hand-in-hand, a simple look at the maps displaying the fluctuations of Houthi control over Yemen will suffice to show that only a relatively small territory is under constant and consistent Houthi control, the others having varying degrees of influence and presence at best.¹⁷⁶ Second, the Houthis had formed their own interim governance structures after capturing Sana'a in September 2014, including the establishment of “popular committees” throughout their controlled territories¹⁷⁷ and were indeed considered to hold the *de facto* control over military, political and economic structures therein,¹⁷⁸ even including the Yemeni Central Bank.¹⁷⁹ However, Houthis have also been considered unable to efficiently govern the territories in the long run,¹⁸⁰ and the Houthi leadership has stressed the movement’s partnership aspirations, as opposed to governance and control.¹⁸¹ Thus, while there is some merit to concluding that the Houthis do show a degree of *de facto* governance their controlled territories, it is highly debatable whether this control is sustainable, given the destruction and economic collapse caused by the conflict and the refusal of a number of states to recognize the Houthis as a legitimate authority.¹⁸² It follows that, third, the Houthis are not practically capable of entering into binding legal agreements with other states just yet.

In short, the Houthis do not seem to enjoy Art.2(4) protection even if it were to extend to *de facto* state entities. Therefore, the effect the attack has on territorial inviolability, political independence, or UN purposes must be viewed from the GoY perspective, and it is the validity of an invitation to intervene that will ultimately determine if any of these factors have indeed been negatively affected by the intervention.

3.1.5. Legitimate representative authority

As established prior, the authority of a government to request a military intervention is heavily reliant on whether it is recognized and/or supported as the legitimate government by the international community. Such recognition not only reflects the decision-making authority under international and domestic constitutional law, but also influences the threshold for the “effective control” and perhaps even the legitimate purpose requirements assessed below.

¹⁷⁶ “al Houthi Areas of Influence” *Critical Threats*, July 16, 2015, <https://www.criticalthreats.org/analysis/al-houthi-areas-of-influence>

¹⁷⁷ Alexander Nicoll (ed.), “Middle East and North Africa.” *Strategic Survey* 115, No. 1 (January 2015): pp.159-196, <https://doi.org/10.1080/04597230.2015.1081403>

¹⁷⁸ Peter Salisbury, “Building Peace in Yemen From the Ground Up: How to End the Conflict”, *Foreign Affairs*, February 28, 2015, <https://www.foreignaffairs.com/articles/middle-east/2018-02-28/building-peace-yemen-ground>

¹⁷⁹ Eran Zohar, “A New Typology of Contemporary Armed Non-State-Actors: Interpreting The Diversity.” *Studies in Conflict & Terrorism* 39, No. 5 (May 2016): pp.423–450, <https://doi.org/10.1080/1057610X.2015.1099996>

¹⁸⁰ See, e.g. Peter Salisbury, “Yemen and the Saudi–Iranian ‘Cold War,’” (Research paper, The Royal Institute of International Affairs, Chatham House, 2015), p.12

¹⁸¹ Hill, *Yemen Endures*, p.273.

¹⁸² “Chorus of condemnation greets Houthi government in Yemen” *Euronews*, November 30, 2016, <http://www.euronews.com/2016/11/30/chorus-of-condemnation-greets-houthi-government-in-yemen>. Also “Yemen's Houthis form government in setback to peace process” *Reuters*, November 28, 2016, <https://www.reuters.com/article/us-yemen-security-government/yemens-houthis-form-government-in-setback-to-peace-process-idUSKBN13N1ZQ>

First, the request was issued by the UN-installed *de jure* interim leader President Hadi,¹⁸³ therefore the GoY greatly benefits from the international legitimacy point of view. In addition to the Coalition states, whose response to the invitation and establishment of embassies in the interim capital Aden clearly indicates their support for Hadi¹⁸⁴, the UN itself explicitly confirms Hadi as the legitimate leader of Yemen. For example, Resolution 2216 both noted the GoY letters requesting intervention and reaffirmed UNSC support for Hadi's legitimacy, urging all other states to respect Hadi's presidential authority, while also condemning Houthis for breaches of prior UNSC resolutions and demanding cessation of Houthi hostilities to give way for peaceful transition of power.¹⁸⁵ Furthermore, according to the UN, it is Hadi who has the exclusive right to choose which parties to involve in the peace talks.¹⁸⁶ Thus, it appears to not matter to the international community that Hadi's domestic support was limited from the outset of his leadership,¹⁸⁷ as significant criticism of the intervening in his support was expressed only by Iran, backed by the Iranian-affiliated government of Iraq,¹⁸⁸ while among the UNSC members, there were no explicit doubts about the legality of the intervention.¹⁸⁹ In short, the widespread international support enjoyed by Hadi and the fact that he gained power under UN auspices is clearly enough to shift the application of the remaining criteria in his favor.

Second, while there is considerable debate surrounding the extent of Hadi's control over Yemen at the time of the request, it appears not to meet the requirements even for the presumption of continuous effective control. On the one hand, it is argued that despite the loss of Sanaa and the adjacent territories to the Houthis, Hadi nonetheless asserted control over most of Yemeni territory along with sections of the armed forces and some tribal leaders even in March 2015,¹⁹⁰ revoking his resignation on the basis of duress exercised by the Houthis during Hadi's house arrest.¹⁹¹ This loss of control could have reasonably been seen as temporary, as there were doubts whether Houthis were capable of taking over the entire territory. Thus, it can be argued that an intervention could "save Yemen as a state" – such argument was invoked also in the case of Mali in 2013.¹⁹²

On the other hand, despite having been installed by the UN as the interim leader following Saleh's removal from power during the turmoil of the Arab Spring, Hadi is said never to have been fully in control of Yemen.¹⁹³ Indeed, e.g. the 2014 Fragile States Index lists Yemen under "high alert" states, indicating, *inter alia*, the lack of stable governance.¹⁹⁴ Hadi's government has

¹⁸³ Bannelier-Christakis, "Military Interventions against ISIL"

¹⁸⁴ Gabi El-Khoury, "News in Brief, December 2014–January 2015." *Contemporary Arab Affairs* 8, No. 3 (July 2015): pp. 449–55. <https://doi.org/10.1080/17550912.2015.1055903>

¹⁸⁵ S.C. Res. 2216.

¹⁸⁶ Salisbury, "Building Peace in Yemen From the Ground Up"

¹⁸⁷ Orkaby, "Houthi Who?"

¹⁸⁸ Ruys and Ferro "Weathering the Storm"

¹⁸⁹ Ruys and Ferro "Weathering the Storm"

¹⁹⁰ Ruys and Ferro, "Weathering the Storm," pp.61-98.

¹⁹¹ Ibrahim Fraihat, *Unfinished Revolutions: Yemen, Libya, and Tunisia after the Arab Spring* (Yale University Press, 2016), p.50.

¹⁹² Fox, "Intervention by Invitation", p.19.

¹⁹³ This argument is evidenced by the obvious failure of the National Dialogue Conference, which met significant resistance not only by the Houthi rebels, but also the Southern secessionist movement *Al-Hirak*. El-Khoury, "News in Brief, December 2014–January 2015."

¹⁹⁴ "Fragile States Index 2014," (The Fund for Peace, 2014), Available on: <http://www.library.fundforpeace.org/library/cfsir1423-fragilestatesindex2014-06d.pdf>

been criticized as highly ineffective and dependent on external, not internal legitimacy, with *de facto* governance left up to local tribal leaders that may or may not be loyal to Hadi (the relatively stable Mareb governorate, loyal to the official Yemeni prime minister Sultan al-Aradah, being a notable example).¹⁹⁵ This is eerily reminiscent of the weak, decentralized governance of Yemen Arab Republic before the unification.

Furthermore, Hadi's control over the military appears to be rather nominal, as the "Yemeni National Army" is said to comprise of a variety of diverse groups united only by their anti-Houthi agenda.¹⁹⁶ Moreover, a portion of the Yemeni security forces remained loyal to Saleh and, by extension, to the Houthis, which many argue is the reason for the successful takeover of Sanaa.¹⁹⁷ Finally, it is argued that upon conquering Sanaa, the Houthis installed their own effective governance structures, and while before the intervention they occupied less than half of the total territory of Yemen, they did effectively control the majority of its population (*Compare Annexes II and III*). Hadi, on the contrary, was forced to leave even Aden, the temporary capital of Yemen, and seek refuge in Riyadh,¹⁹⁸ effectively amounting to exile. Thus, the presumption of effective control in favor of the legitimate government may be rebutted in this case, rendering the invitation invalid.

Interestingly, however, the fact that the UNSC acknowledged Hadi's invitation in Resolution Resolution 2216 strongly suggests otherwise, confirming the principle of a presumption in favour of a government installed by an international reconciliation process. Furthermore, the previous Saudi intervention in Yemen in 2009 was not contested despite the then-GoY losing control over territories in Northern Yemen,¹⁹⁹ and the effective control requirement, especially the requirement that the government must not be in exile, finds its authority primarily in legal scholarship. Thus, it can be concluded that both previous state practice and the UNSC support for Hadi and the acknowledgment of his request for an intervention may trump the legal scholarship and confirm Hadi as the legitimate authority capable of authorizing an intervention regardless of the actual degree of GoY control over Yemen.

3.1.6. Formal requirements

First, there is next to nothing to suggest that Hadi was coerced into requesting the invitation. While it is undeniably in Saudi Arabia's security interests to seek to curtail the Houthi expansion in light of, e.g., the 2009 border skirmishes, and Saudi Arabia had, in fact, cut off foreign aid to Yemen in response to the developments in Yemen, which it saw as an expression of aggressive Iranian foreign policy,²⁰⁰ this would be a very indirect coercive measure towards the GoY at best. Furthermore, the intervention is clearly in Hadi's political interests to stay in power (expressed by the revocation of his resignation²⁰¹), considering that previous dispute resolution attempts had

¹⁹⁵ Salisbury, "Building Peace in Yemen From the Ground Up"

¹⁹⁶ Salisbury, "Building Peace in Yemen From the Ground Up"

¹⁹⁷ Fraihat, *Unfinished Revolutions*, p.47. See also Hill, *Yemen Endures*, p.278.

¹⁹⁸ Hill, *Yemen Endures*, p.278.

¹⁹⁹ Lieblich, *Intervention in Civil War*, p.288

²⁰⁰ Orkaby, "Houthi Who?"

²⁰¹ El-Khoury, "News in Brief, December 2014–January 2015."

failed to contain the Houthi rebellion.²⁰² Thus, the request cannot be rendered invalid on the basis of coercion.

Second, according to the annexes and enclosures to the March 26, 2015 identical letters submitted to the President and the Secretary General of the UNSC by the representatives of Bahrain, Qatar, Saudi Arabia, Kuwait, and the United Arab Emirates, the invitation to intervene was issued on March 24, 2015, thus predating the intervention by two days.

Third, the *ad hoc* nature of the invitation is reflected by the lengthy discussion of Houthi hostilities in the beginning of the letter, followed by a very explicit and specific urge to:

provide immediate support in every form and take the necessary measures, **including military intervention** [emphasis added], to protect Yemen and its people from the ongoing Houthi aggression, repel the attack that is expected at any moment on Aden and the other cities of the South, and help Yemen to confront Al-Qaida and Islamic State in Iraq and the Levant.²⁰³

However, the “specific” nature of the invitation warrants more scrutiny, as the letter was addressed only to five of the ten Coalition states. The text of the invitation also refers to the June 17, 1950 Treaty of Joint Defense and Economic Cooperation Between the States of the Arab League, which establishes a collective security mechanism among all members of the League,²⁰⁴ however this does not explain the Pakistan’s participation in the intervention. Instead, the legality of the Pakistani involvement most likely rests on the following formulation in Hadi’s letter: “I therefore appeal to you, **and to the allied States that you represent** [emphasis added], to [...] come to the country’s aid.”²⁰⁵ This formulation does raise some alarm, as the intervening states appear to have a degree of leeway in determining their allies, which might potentially enable abuse of the authorization. However, the invitation is very clear regarding its objectives, thus, in theory, blocking use of force that does not serve those purposes.

Therefore, Hadi’s letter to (some of) the Coalition states complies with the formal requirements for a valid invitation to intervene, as it most likely was not a result of coercion against Hadi, it predates the commencement of “Decisive Storm”, and it is explicit, *ad hoc*, and sufficiently specific regarding its scope and objectives.

3.1.7. Legitimate purpose

The final criterion for the validity of an IBI is the pursuit of a legitimate aim, as both states and scholars have rejected the idea of a general right to intervene in civil conflicts. Paradoxically, it is the existence of an internal armed conflict that legitimizes the use of armed force by a

²⁰² Syed Huzaifah Bin Othman Alkaff. “Yemen.” *Counter Terrorist Trends and Analyses* 7, No. 1 (January/February 2015): pp. 84-87

²⁰³ “Identical letters dated 26 March 2015”, S/2015/217

²⁰⁴ Treaty of Joint Defense and Economic Cooperation Between the States of the Arab League, (Cairo, 17 June, 1950), *entered into force* Aug. 22, 1952, Art. 2 Available on: http://avalon.law.yale.edu/20th_century/arabjoin.asp

²⁰⁵ “Identical letters dated 26 March 2015”, S/2015/217

government against its citizens, thus requiring the intervention to take place in the context of an internal armed conflict.

First, despite the lack of a universal legal definition, the Yemeni conflict is very commonly referred to as a “civil war” both by academics²⁰⁶ and by UN officials,²⁰⁷ with “Conflict Barometer 2015” classifying it as a high intensity violent conflict/war for national power.²⁰⁸ These claims are supported by two facts – the Houthis, allied with the ex-president Saleh, sought to establish a their own rule under the pretext of creating a “new civil state” and installed their own revolutionary committees and governance structures after the capture of Sanaa,²⁰⁹ while Hadi, after fleeing to Aden from Sanaa, declared Aden the interim capital of Yemen and established an alternative government therein.²¹⁰ This shows that the Yemeni conflict is a serious, prolonged contest for the governance of the state by multiple sizable factions, and thus appears to constitute a civil war, necessitating a legitimate purpose for the intervention.

Second, two main purposes appear in the rhetoric concerning the intervention. On the one hand, the intervention can be said to pursue if not counterterrorism objectives, then at least the maintenance of international peace and security. Firstly, even though the Houthis were not explicitly called terrorists neither by Hadi, nor by the majority intervening states, the intervening states did mention a counterterrorism aim of the intervention as a whole,²¹¹ and there have been reports of Saudi Arabian officials referring to the Houthis as terrorists.²¹² Academics are also increasingly referring to the Houthis as representing a new type of terrorist organizations, e.g. territorial terrorists²¹³ or terrorist semi-states.²¹⁴ Indeed, while the Houthi takeover does not appear to be aimed at instilling fear into civilian population, it does aim to coerce the GoY to succumb to Houthi demands, according to the aforementioned potential definition of terrorist acts by the Convention for the Suppression of the Financing of Terrorism. Secondly, the intervention is widely accepted as countering a threat to the territorial unity of Yemen, the sovereignty of the legitimate GoY over the territory, and ultimately international peace and security,²¹⁵ expressed by the repeated UNSC condemnation of the Houthis.²¹⁶ This clearly indicates that in the eyes of the

²⁰⁶ See, e.g., Louise Fawcett “States and Sovereignty in the Middle East: Myths and Realities” *International Affairs* 93, No.4 (2017): pp.789–807.; Shield, “The Saudi Air War in Yemen”.

²⁰⁷ “U.N. Leader: ‘Yemen Is Collapsing before Our Eyes.’” *USA Today*, February 12, 2015, <https://www.usatoday.com/story/news/world/2015/02/12/militants-yemen-military/23280747/>

²⁰⁸ Heidelberg Institute for International Conflict Research, “Conflict Barometer 2015,” p.193.

²⁰⁹ Fraihat, *Unfinished Revolutions*, pp.49-50.

²¹⁰ El-Khoury, “News in Brief, December 2014–January 2015.”

²¹¹ “Identical letters dated 26 March 2015”, S/2015/217

²¹² El-Khoury, “News in Brief, December 2014–January 2015.” Also the operation “Renewal of Hope” is said to explicitly pursue a counterterrorism aim – see Bin Othman Alkaff. “Yemen.”

²¹³ Gil Avriel “Terrorism 2.0: The Rise of the Civilitary Battlefield”, *Harvard National Security Journal* 7 (2016): pp.199-240.

²¹⁴ Or Honig and Ido Yahel. “A Fifth Wave of Terrorism? The Emergence of Terrorist Semi-States.” *Terrorism and Political Violence* 29 (2017): pp.1–19. <https://doi.org/10.1080/09546553.2017.1330201>

²¹⁵ Ruys and Ferro “Weathering the Storm,” pp.61-98. This can also be inferred from “Identical letters dated 26 March 2015”, S/2015/217. Furthermore, the UNSC in Resolution 2216, while not praising the intervention, does deem the situation in Yemen as a threat to international peace and security.

²¹⁶ Ruys and Ferro “Weathering the Storm,” pp.61-98. Also S.C. Res. 2216.and S.C. Res. 2201, U.N Doc. S/RES/2201 (2015). Available on: [http://undocs.org/S/RES/2201%20\(2015\)](http://undocs.org/S/RES/2201%20(2015))

international community, the intervention pursues legitimate goals, most criticism only being targeted at the conduct of the intervention, not the fact in itself.²¹⁷

On the other hand, more controversially, the intervention may also pursue a counter-intervention aim, as the intervening states, particularly Saudi Arabia, have accused Iran for being the driver of the Houthi rebellion.²¹⁸ While Saudi concerns are reasonable given Iran's foreign policy tactics and pro-Houthi rhetoric, Iranian involvement does not have sufficiently strong evidence, as the thesis will argue under the self-defense justification. In any case, it is clear from the UN statements on Yemen that it recognizes that the intervention formally pursues a legitimate aim.

3.1.8. Conclusion: inapplicability of Article 2(4) to the Saudi-led intervention in Yemen on the basis of a valid invitation by the GoY

To summarize, the intervention in Yemen is a clear case of cross-border use of force that does not constitute an Art.2(4) violation due to the applicability of the IBI doctrine. The invitation was issued by the UN-installed *de jure* GoY in compliance with the formal requirements (clear, specific, *ad hoc*, predating the intervention and not subject to coercion), and the intervention pursued a legitimate aim – maintenance of international peace and security and the territorial unity and sovereignty of GoY – in the context of an internal armed conflict. Importantly, however, this conclusion rests on the assumption that there is no effective control requirement, that the GoY benefits from a *presumption* of effective control, or that the lack of effective control is trumped by the subsequent UNSC recognition of the validity of the invitation.

3.2. Yemen's right to collective self-defense

3.2.1. Entities protected by Article 51

As only UN member states are entitled to the Art.51 right to self-defense and Yemen, along with all of the intervening states, is a member of the UN, this criterion raises no further questions.

3.2.2. Existence of an "armed attack"

Whether the state exercising the right to self-defense has, in fact, been a victim of an armed attack is usually subject to great controversy. However, given that the Art.51-based intervention was commenced in response to the Houthis gaining significant portions of the territory,²¹⁹ the incidence of an armed attack appears to be easily established, if one assumes that an armed attack is defined only based on its nature and gravity, not its perpetrator.²²⁰

More specifically, following the Arab Spring while the GoY was engaged in transitional efforts and the National Dialogue Conference, armed GoY-Houthi clashes expanded from the Saada

²¹⁷ Bannelier-Christakis, "Military Interventions against ISIL"

²¹⁸ Amin "Crisis in Yemen and Countering Violence."

²¹⁹ Amin "Crisis in Yemen and Countering Violence."

²²⁰ This assumption is where this thesis diverges from the analysis by Ruys and Ferro in "Weathering the Storm," which, in line with the narrow traditionalist interpretation of the right to self-defense, dismissed the Art.51 justification on the grounds that in absence of a clear link between a non-state actor and another state, no armed attack for the purposes of Art.51 can take place.

Governorate further south and east,²²¹ culminating in the capture of the Yemeni capital Sana'a in September 2014, placement of the government under house arrest and seizure of control over most state institutions.²²² This fact alone points to an attack of sufficient gravity to amount to an "armed" attack for the purposes of Art.51, especially since Houthis enjoyed the assistance of Saleh-loyal sections of the Yemeni army and possessed increasingly sophisticated military capabilities themselves, including long-range rockets, tanks, and anti-aircraft guns.²²³ Furthermore, the Houthis did not stop at Sana'a and advanced towards the "temporary capital" Aden, while capturing several other sizeable cities on the way.²²⁴ Finally, the International Committee of the Red Cross already on March 26, 2015 assessed that the situation in Yemen amounts to an armed conflict and warrants the application of IHL norms, in line with the "Conflict Barometer 2015" assessment.²²⁵ Clearly, the overall impact of the Houthi offensive clearly indicates that they had carried out an armed attack prior to the intervention, the separate operations being linked by the same aggressive intent.

However, even though the theoretical chapter argued for the right to self-defense against non-state actors regardless of whether they are linked to another state, there are widespread allegations of Iranian support of the Houthi rebels that warrant some discussion.

On the one hand, both GoY and Saudi Arabia have repeatedly accused Iran of orchestrating the Houthi rebellion.²²⁶ Indeed, support for non-state, particularly Shi'a Muslim, actor activity is one of the lynchpins of Iranian foreign policy, therefore such accusations are grounded in a rational realist understanding of geopolitics. In support of this view, the Houthis are arguably influenced by Iranian ideology,²²⁷ as shown by the previously discussed anti-American and anti-Israel rhetoric of al-Houthi, while Iran has welcomed the Houthi advances and expressed its strong support, engaging with Houthi leadership as if it were the *de facto* government.²²⁸ Furthermore, Iran is accused of supplying Houthis with Iranian-made missiles and other equipment, as well as training the rebels via its Lebanese proxy Hezbollah.²²⁹ Nonetheless, Iranian officials themselves have been ambiguous in this regard, claiming both that they are present in Yemen and that they are not.²³⁰

²²¹ El-Khoury, "News in Brief, December 2014–January 2015."

²²² Amin, "Crisis in Yemen and Countering Violence."

²²³ James Hackett (ed.), "Chapter Seven: Middle East and North Africa." *The Military Balance* 116, No. 1 (January 2016): pp.307–64. <https://doi.org/10.1080/04597222.2016.1127573>

²²⁴ Emile Hokayem and David B. Roberts. "The War in Yemen." *Survival* 58, No. 6 (2016): pp. 157-186 <https://doi.org/10.1080/00396338.2016.1257202>. Also Hubert Swietek, "The Yemen War: A Proxy War, or a Self-Fulfilling Prophecy" *Polish Quarterly of International Affairs* 2 (2017).

²²⁵ "Yemen: ICRC Concerned at Civilian Casualties amid Escalating Violence." News release. *International Committee of the Red Cross*, March 26, 2015, <https://www.icrc.org/en/document/yemen-icrc-concerned-civilian-casualties-amid-escalating-violence>; Heidelberg Institute for International Conflict Research, "Conflict Barometer 2015," p.194.

²²⁶ Ruys and Ferro "Weathering the Storm," pp.61-98.

²²⁷ Rory Miller, "Saudi Arabia's Security Alliances." *Foreign Affairs*, October 23, 2017, <https://www.foreignaffairs.com/articles/saudi-arabia/2017-10-23/saudi-arabias-security-alliances>

²²⁸ Hill, *Yemen Endures* pp.274-275.

²²⁹ Honig and Yahel, "A Fifth Wave of Terrorism?"

²³⁰ "I.R.G.C. Admits Aiding Houthis against Saudi-Led Coalition in Yemen." *Middle East Institute*, Nov 27, 2017, <https://www.mei.edu/content/io/irgc-admits-aiding-houthis-against-saudi-led-coalition-yemen>, in contrast to "Iran's Mohsen Rezaei Writes Open Letter To Yemen's Abdul Malik Al Houthi" *Critical Threats*, March 30, 2015, <https://www.criticalthreats.org/analysis/irans-mohsen-rezaei-writes-open-letter-to-yemens-abdul-malik-al-houthi>.

On the other hand, the proof of Iran's role in Yemen is considered inconclusive and insufficient to establish a direct link between the Islamic Republic and the Houthis. There is evidence only of small-scale arms supply and military consultation by Iranian forces,²³¹ and the Houthis are said to be largely independent both from Iranian arms support and direct Iranian control over Houthi decision-making.²³² Instead, it is argued that in the beginning of the Houthi-Coalition conflict, it was Saleh that had most influence over Houthis, not an external actor, with Iran simply taking advantage of the opportunity to counter Saudi Arabia in yet another arena.²³³ This would also explain the ambiguous reaction to the accusations by the Iranian officials. Finally, despite numerous indications of close Houthi-Iranian ties, even the UN Panel of Experts on the Situation in Yemen failed to provide sufficient evidence to establish a clear link between the two.²³⁴

In short, there does not appear to be sufficiently sound evidence to suggest that Houthi actions depend on Iranian decision-making even if there are noteworthy indicators. While this would invalidate a self-defense justification of the intervention under a strict traditional interpretation of Art.51, for reasons explained in Chapter II, this conclusion will not affect the assessment of applicability of Art.51 to the case at hand.

3.2.3. Procedural requirements for collective self-defense

Collective self-defense imposes two additional procedural requirements for the victim state. First, it must determine that it has been the victim of an armed attack and that an Art.51 situation exists, and second, it must explicitly invite external assistance. GoY meets these requirements by explicitly referring to both Art.51 and the collective security mechanism of the Arab League in its request for the Coalition states to intervene.²³⁵

3.2.4. Necessity and proportionality

With Yemen clearly being a victim of an armed attack (gravity-wise), it is certainly entitled to exercise its Art.51 rights. However, state practice stipulates limiting the availability of self-defense actions by the principles of necessity and proportionality. From the perspective of necessity, the thesis will focus on the necessity of the international intervention as such, whereas the adequacy of the general means of the intervention will be discussed under the proportionality criterion.

First, the international involvement in support of GoY was warranted - the very fact that the Houthis were able to seize control over Sana'a and quickly advance to Aden without being hindered by the Government forces speaks volumes of the balance of power between the two parties. Indeed, the rapid Houthi takeover of some of the largest cities in Yemen enabled them to seize significant military assets,²³⁶ raising alarm that further expansion might lead to a Houthi-

²³¹ Jeremy M. Sharp, "Yemen: Civil War and Regional Intervention" (Congressional Research Service report). Accessed on April 25, 2018. Available on: <https://fas.org/sgp/crs/mideast/R43960.pdf>

²³² Sharp, "Yemen: Civil War and Regional Intervention", Mohammed Nuruzzaman, "Saudi Airstrikes on Yemen: Limits to Military Adventurism" *Social Science Research Network*, May 20, 2015, Available on: <https://ssrn.com/abstract=2608411>

²³³ Peter Salisbury, "Yemen and the Saudi-Iranian 'Cold War,'"

²³⁴ Ruys and Ferro "Weathering the Storm," pp.61-98.

²³⁵ "Identical letters dated 26 March 2015", S/2015/217

²³⁶ Hackett (ed.), "Chapter Seven: Middle East and North Africa."

controlled air and naval force.²³⁷ Furthermore, Houthis allegedly received some arms support from the militarily more advanced Iran already in 2009.²³⁸ The concerns regarding increased Houthi capabilities indeed materialized when the rebels captured Aden in early April 2015 and the extensive Saudi-led air campaign did not restore Hadi's control thereover until July 2017 and it even incited the Houthis to carry out cross-border attacks against Saudi Arabia.²³⁹ Moreover, the loyalty of some sections of the Yemeni military to ex-president Saleh also left the Hadi-loyal (or at least anti-Houthi) part of the Yemeni forces at a serious disadvantage, as they were left in significantly smaller numbers and with outdated equipment,²⁴⁰ and they generally had a very fragmented command structure with shaky allegiance to Hadi.²⁴¹

As such, there is merit to the Saudi Arabian view that limited military action would, in fact, be necessary and capable of neutralizing Houthi offensive capabilities and incite the opposition factions to engage in peace talks with Hadi, thus restoring his authority.²⁴² Indeed, the Coalition eventually managed to seize Aden in July 17, 2015, allowing for the gradual return of the legitimate GoY to the *interim* Capital, even though the actual Capital – Sanaa – remains under Houthi control to this day (*See Annex V*). Therefore, considering that Hadi's legitimacy at the time stemmed primarily from external, not internal recognition as discussed prior, one can safely conclude that international action was indeed necessary to repel the Houthi offensive and reestablish Hadi's control over Yemen – the key purposes of the self-defense operation.

However, the proportionality of the intervention raises some doubts. On the one hand, on the surface the intervention did appear to pursue the specific self-defense related objectives by adequate means. It enforced an arms embargo by means of the naval and air blockade, thus preventing potential Iranian arms supply to the Houthis,²⁴³ applied a “scorched earth” strategy by bombing Yemeni airports and seaports to prevent Houthi acquisition of air and naval capabilities,²⁴⁴ bombarded of Houthi strongholds in Saada and ground deployment near the Saudi border to prevent spillover of the hostilities into Saudi territory,²⁴⁵ and generally targeted of Houthis throughout the country in its air strikes.²⁴⁶

On the other hand, the Coalition efforts appear grossly inefficient and misapplied. Despite weeks of what has been described as “ceaseless” bombardment, the Coalition failed to halt Houthi expansion (*See Annex IV*), let alone achieve any rollback until July 2015²⁴⁷ - a surprising struggle, considering that the intervention was carried out by nine Coalition states with additional

²³⁷ Hill, *Yemen Endures*, p.276.

²³⁸ Alex Vatanka, “Iran's Yemen Play,” *Foreign Affairs*, March 4, 2015, <https://www.foreignaffairs.com/articles/iran/2015-03-04/irans-yemen-play>

²³⁹ Amin, “Crisis in Yemen and Countering Violence.”

²⁴⁰ Amin, “Crisis in Yemen and Countering Violence.”

²⁴¹ Hill, *Yemen Endures*, p.260.

²⁴² Saab, “Houthi and the Blowback.”

²⁴³ Fink, “Naval Blockade and the Humanitarian Crisis in Yemen”; Amin, “Crisis in Yemen and Countering Violence.”

²⁴⁴ Hill, *Yemen Endures*, p.276.; Amin “Crisis in Yemen and Countering Violence.”

²⁴⁵ “Situation in Yemen Two Years after Launching Operation Decisive Storm,” *Middle East Observer*, March 29, 2017, <https://www.middleeastobserver.org/2017/03/29/situation-in-yemen-two-years-after-launching-operation-decisive-storm/>; Amin, “Crisis in Yemen and Countering Violence.”

²⁴⁶ Orkaby, “Yemen's Humanitarian Nightmare.”

²⁴⁷ Nicoll (ed.), “Middle East and North Africa.”; Orkaby, “Yemen's Humanitarian Nightmare.”; Heidelberg Institute for International Conflict Research, “Conflict Barometer 2015,” p.193.

arms and intelligence support from great powers, such as the United States and the United Kingdom.²⁴⁸ Instead, while initially the Coalition targeted Houthi-controlled military bases and weapon storage facilities, the Coalition has also repeatedly been accused of causing disproportionate and perhaps even intentional destruction of civilian targets, including refugee shelters, ~29 hospitals and medical centers, and grocery stores.²⁴⁹ Considering that the entire cities of Saada and Maran have been named military targets, Saada arguably suffering the greatest destruction of civilian infrastructure,²⁵⁰ and that already in 2015 human rights watchdogs and UN panel of experts pointed out serious violations of IHL by the Coalition,²⁵¹ such accusations are not unfounded.

For the purposes of this thesis, it suffices to conclude that while an external intervention in Yemen was, indeed, necessary to repel the Houthi expansion and restore Hadi in power and that the use of air, naval, and ground capabilities of the Coalition states could theoretically be a proportionate response to the extent of the armed attack suffered by GoY, the Coalition's military efforts were clearly misapplied already in the first months of the intervention, causing egregious civilian suffering while failing to achieve significant results. This issue undoubtedly warrants a separate analysis under IHL.

3.2.5. The role of the UN Security Council

Regarding the UNSC, states invoking the right to self-defense only have two obligations – to immediately report the actions taken in self-defense and to cease the action as soon as the UNSC has taken the necessary measures to maintain international peace and security. The Yemen case appears to meet both.

First, upon the launch of the intervention, representatives of Saudi Arabia, the United Arab Emirates, Qatar, Kuwait, and Bahrein submitted a joint statement to the UNSC notifying the Council of the military operation and clearly stating its reasons and justification, enclosing Hadi's letter which explicitly invoked the Art.51 right to collective self-defense.²⁵² Art.51 does not stipulate that a particular actor is obliged to submit the report of the self-defense actions. Furthermore, similarly to the UNSC tacit acceptance of the validity of Hadi's invitation to intervene, the UNSC likewise has not commented in any of the following resolutions that this

²⁴⁸ Michael A. Newton, "An Assessment of the Legality of Arms Sales to the Kingdom of Saudi Arabia in the Context of the Conflict in Yemen." (Research paper, Vanderbilt University - Law School, 2017) <https://doi.org/10.2139/ssrn.2971208>

²⁴⁹ Shield, "The Saudi Air War in Yemen"; Heidelberg Institute for International Conflict Research, "Conflict Barometer 2015," p.194.

²⁵⁰ Newton, "An Assessment of the Legality of Arms Sales to the Kingdom of Saudi Arabia"

²⁵¹ See, e.g., "Saudi-Led Airstrikes Kill Hundreds in Yemen." *Human Rights Watch*, November 26, 2015, <https://www.hrw.org/video-photos/video/2015/11/26/saudi-led-airstrikes-kill-hundreds-yemen>; "Saudi Strikes on Yemen Civilians May Be Crimes against Humanity: U.N." *Reuters*, January 27, 2016, <https://www.reuters.com/article/us-yemen-war-saudi-un/saudi-strikes-on-yemen-civilians-may-be-crimes-against-humanity-u-n-idUSKCN0V52QQ>; Newton, "An Assessment of the Legality of Arms Sales to the Kingdom of Saudi Arabia"

²⁵² "Identical letters dated 26 March 2015", S/2015/217

requirement has not been complied with.²⁵³ Thus, the duty to report the self-defense measures has clearly been fulfilled.

Second, while it remains unclear how to determine if the UNSC has taken the necessary steps to maintain international peace and security, the facts of the case clearly show that whatever action the UNSC has taken has not achieved a de-escalation of hostilities. On the one hand, the UNSC did issue its April 2015 Resolution under Chapter VII of the Charter, enabling itself to also employ military force, if necessary.²⁵⁴ The Resolution also urges the parties to the conflict to participate in UN-led peace talks and continue the transitional process within the framework of a National Dialogue conference,²⁵⁵ as envisaged already in the aftermath of the Arab Spring. On the other hand, the three rounds of UN-organized peace talks have all failed to achieve lasting results,²⁵⁶ with all of the agreed truces eventually broken.²⁵⁷ The alleged reason for the failure of the negotiations is the binary approach, primarily juxtaposing the Houthis and the GoY and overlooking the increasing role of other factions in Yemen, particularly separatists in the South, which are not yet motivated to facilitate the peace process, and the interests of external actors, particularly Saudi Arabia.²⁵⁸ The UNSC has also attempted to impose an arms embargo, which is in practice enforced by the intervening states,²⁵⁹ yet still has not prevented the Houthis from using missiles of Iranian origin. Finally, the Houthi leadership has been subject to asset freezes and travel bans, which have practically had no effect, as the financial dealings take place in cash and the Houthi leaders have not attempted to leave Yemen.²⁶⁰ Therefore, it seems fair to conclude that the UNSC has not taken the necessary action to maintain international peace and security, at least not effectively. Thus, the Saudi-led intervention cannot be delegitimized on this ground.

3.2.6. Conclusion: applicability of the Article 51 right to collective self-defense

In short, the intervention in Yemen appears to comply with the Art.51 criteria for invoking the right to collective self-defense. The Houthi takeover of a large portion of Yemen clearly amounts to an armed attack that, due to Houthi military capabilities in relation to those of GoY, necessitates an international intervention by deployment of air, naval, and ground forces, which could theoretically be adequate to the Houthi threat and the objectives of the self-defense operation. The procedural requirements both relating to collective self-defense specifically and the role of the UNSC have also been fulfilled, and the actions taken by the UNSC so far do not appear to amount to the measures for maintenance of international peace and security upon which the exercise of self-defense would be required to cease. However, the widespread targeting of

²⁵³ Ruys and Ferro, "Weathering the Storm," pp.61-98. Also S.C. Res. 2216 and S.C. Res. 2266, U.N. Doc. S/RES/2216 (2016). Available on: [http://undocs.org/S/RES/2266\(2016\)](http://undocs.org/S/RES/2266(2016))

²⁵⁴ S.C. Res. 2216.; Fraihat, *Unfinished Revolutions*, p.50.

²⁵⁵ S.C. Res. 2216.

²⁵⁶ Nicoll (ed.), "Middle East and North Africa."

²⁵⁷ "Situation in Yemen Two Years after Launching Operation Decisive Storm." *Middle East Observer*, March 29, 2017, <https://www.middleeastobserver.org/2017/03/29/situation-in-yemen-two-years-after-launching-operation-decisive-storm/>

²⁵⁸ Peter Salisbury "Yemen: National Chaos, Local Order" (Research paper, The Royal Institute of International Affairs, Chatham House, 2017), pp.45-49.

Available on: <https://www.chathamhouse.org/sites/files/chathamhouse/publications/research/2017-12-20-yemen-national-chaos-local-order-salisbury2.pdf>

²⁵⁹ Fink, "Naval Blockade and the Humanitarian Crisis in Yemen"

²⁶⁰ Al-Muslimi, "The Gulf's Failure in Yemen"

civilian structures by the Coalition forces renders the compatibility of the intervention with the proportionality requirement highly debatable, and even if this would not invalidate the intervention under Art.51, the application of IHL norms is clearly a relevant task for further research.

CONCLUSIONS

With ever-increasing civilian suffering and no resolution in sight, the ongoing conflict in Yemen has evolved from an issue of domestic misgovernance to another battlefield for regional powers vying for influence. What started out as a movement against political and economic marginalization of the periphery took on a sectarian character with Yemen's Zaydi Muslims increasingly feeling targeted by the policies of GoY and eventually, after consolidating under the al-Houthi leadership, engaged in armed clashes against the Government in early 2000s. The Arab Spring unrest and the subsequent domestic instability in Yemen proved to be an opportunity for the Houthi rebels to extend their control, resulting in the Houthis capturing Sana'a and the GoY requesting other states to intervene on its behalf on the basis of the right to collective self-defense.

Therefrom arose the legal issue examined by this thesis: whether the Saudi Arabian-led military intervention in Yemen complies with the principle of *jus ad bellum*, as enshrined by the UN Charter. The thesis examined two possible legal justifications – (1) the inapplicability of the Art.2(4) general prohibition on the use of force due to the intervention being commenced upon a valid invitation and (2) Yemen's Art.51 right to collective self-defense.

Art.2(4) is not applicable when an intervention follows a valid invitation – a specific, clear, and *ad hoc* invitation issued by the legitimate authority of the state not subject to duress – and takes place in the context of an internal armed conflict. Furthermore, the intervention must also pursue a legitimate aim. The intervention in the civil war in Yemen meets all of these criteria, given the timing and the nature of the invitation, the recognition of the international community of Hadi as the legitimate leader of Yemen, and the recognition by GoY, the intervening states, and the international community at large of Houthis as a threat to Yemen's unity and international peace and security. However, this conclusion is only valid insofar as the UNSC tacit acknowledgment of the validity of Hadi's request trumps any requirements of (presumed) effective control that the GoY may be required meet to be considered the representative authority of Yemen.

Art.51 right to collective self-defense is triggered by one key criterion –an armed attack against the victim state. While the specific requirements are subject to continuous debate, the thesis argues that the existence of an armed attack is determined by the gravity of the attack, and not its perpetrator – it can originate both from a state and a non-state actor, and the latter need not be linked to a state. In his request to the Coalition states, later forwarded to the UNSC as a notification of the intervention in Yemen, Hadi explicitly invoked Art.51. Indeed, the Houthi advances did amount to an armed attack, that, in line with the principle of necessity, warranted external military intervention. However, the proportionality requirement significantly undermines the application of Art.51 to the intervention, as the Coalition efforts were grossly misapplied, resulting in excessive and perhaps even purposeful harm to the civilian population, while failing

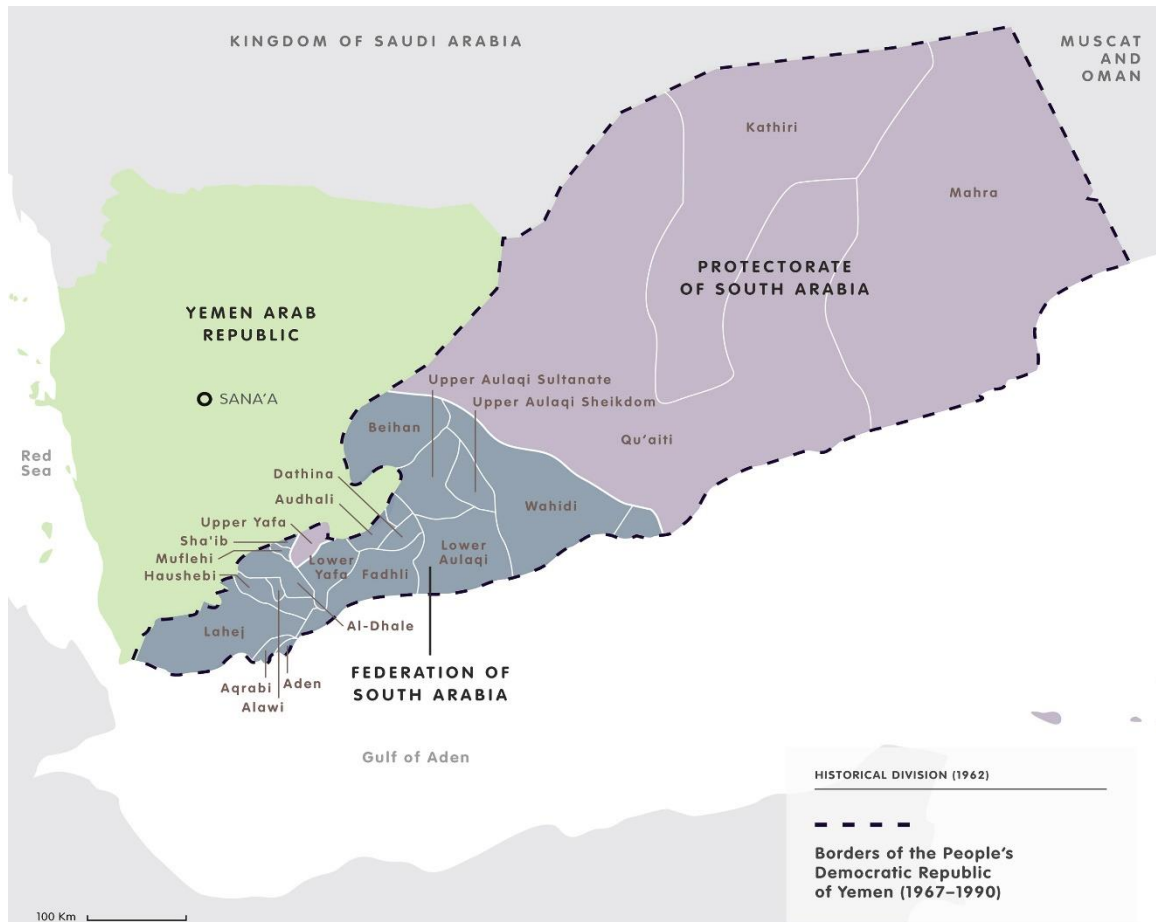
to achieve the collective self-defense objectives despite the sizeable military capabilities of the Coalition.

Therefore, to answer the research question of the thesis, the Saudi-led military intervention in Yemen is legal, because its compliance with the criteria for a valid IBI renders Art.2(4) inapplicable in this case. However, the applicability of Art.51 is questionable at best, given the misapplication of Coalition efforts and the subsequent excessive civilian suffering. Even if this fact does not invalidate the intervention as such, there is clearly ample ground for further scrutiny under international humanitarian law. A just cause does not equal a just war.

The outlook for Yemen remains grim. Already the failed National Dialogue Conference clearly showed the complexity of the conflict between the GoY and the local factions, whereby not all sides were interested in a peaceful solution and terrorist groups could flourish. The Saudi-led intervention added regional geopolitical interests to the mix, transforming Yemen into a battleground for yet another Saudi-Iranian standoff and further escalating the hostilities. While Aden has been partially retaken by GoY-loyal forces (*See Annex V*), the Houthis are now firing missiles even at the Saudi capital in retaliation for the intervention. The UN-supported peace initiatives do not seem to adequately address these complexities, and the conflict is given little attention by the international community and the media. Therefore, if anything is to stabilize in Yemen, it would need to begin with efforts from all parties, within Yemen and beyond, to find a solution that meets the interests of those involved better than a complete disintegration would. Unfortunately, however, there is next to nothing to suggest such developments in the foreseeable future.

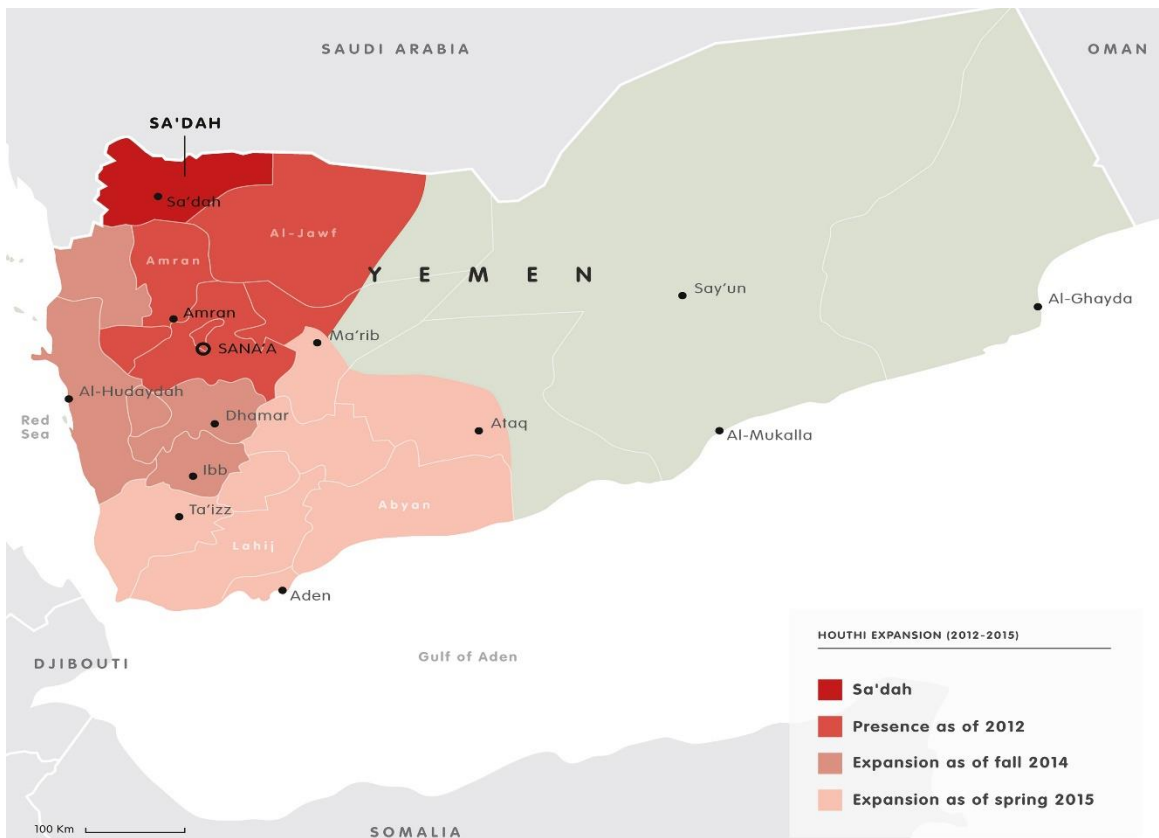
ANNEXES

Annex I – Historical division of Yemen



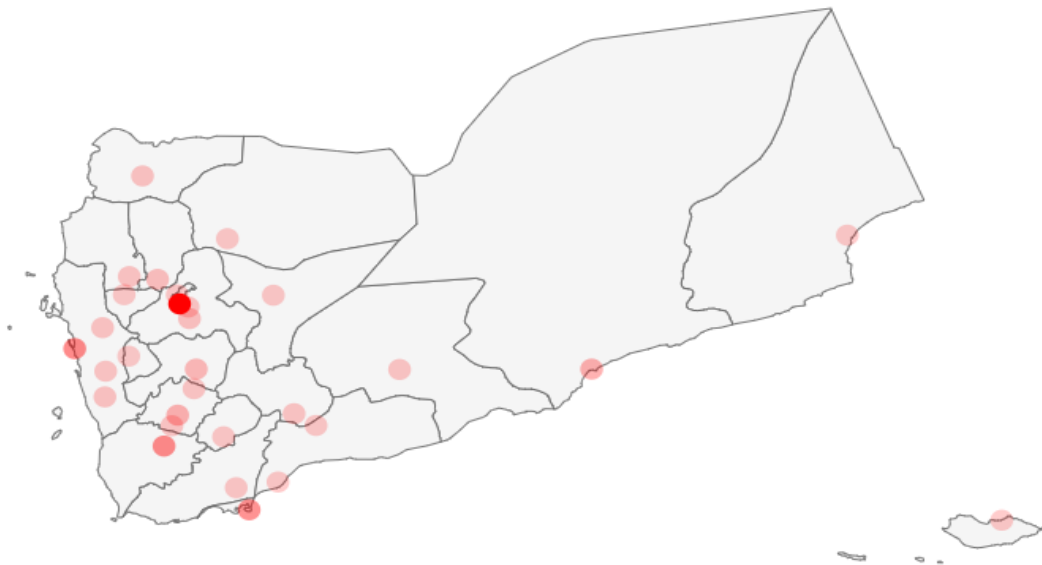
Source: *European Council on Foreign Relations*, “Mapping the Yemen Conflict”. Available on: <http://www.ecfr.eu/mena/yemen>, Accessed March 1, 2018.

Annex II – Expansion of Houthi control (2012-2015)



Source: *European Council on Foreign Relations*, “Mapping the Yemen Conflict”. Available on: <http://www.ecfr.eu/mena/yemen>, Accessed March 1, 2018.

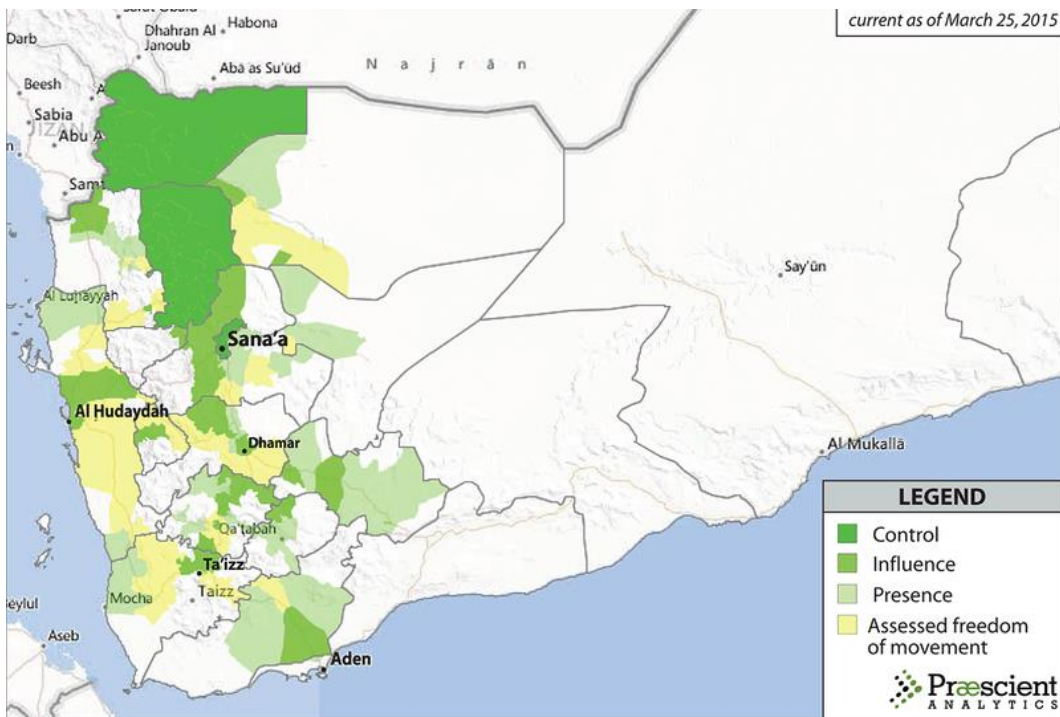
Annex III – Population density of Yemen



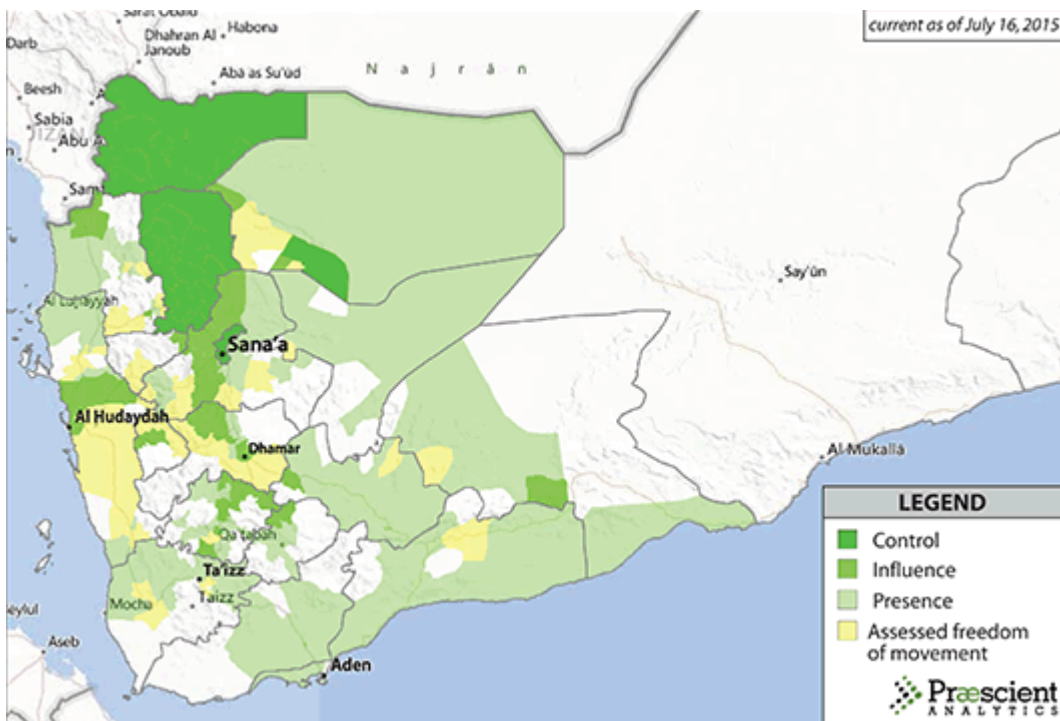
Source: *World Population Review*, “Yemen Population 2018”. Available on: <http://worldpopulationreview.com/countries/yemen-population/>, Accessed on: May 10, 2018.

Annex IV – Houthi expansion in 2015

March 25, 2015:

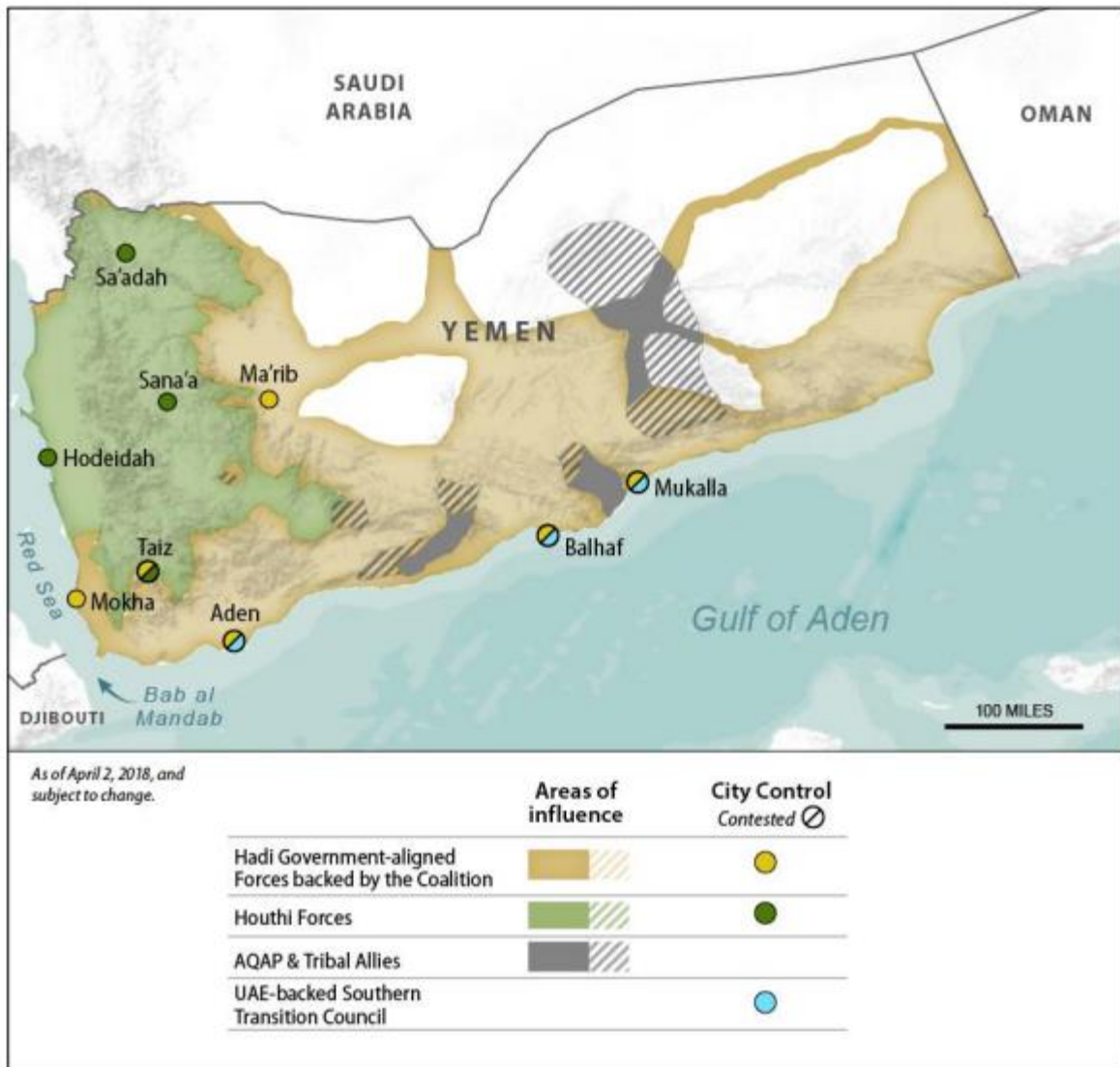


July 16, 2015:



Source: *Critical Threats*, “al Houthi Areas of Influence”, July 16, 2015, Available on: <https://www.criticalthreats.org/analysis/al-houthi-areas-of-influence>

Annex V – Zones of control in Yemen, as of April 2, 2018



Source: Jeremy M. Sharp, "Yemen: Civil War and Regional Intervention" (Congressional Research Service report). Accessed on April 25, 2018. Available on: <https://fas.org/sgp/crs/mideast/R43960.pdf>

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