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Written statement* submitted by Institut International pour les Droits et le Développement, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[02 June 2019]

* Issued as received, in the language(s) of submission only.



UN Member States should cease sale of arms to be used for commission of mass atrocities in Yemen

The armed conflict in Yemen is the worst human-made catastrophe of these days continues with unprecedented human cost. The indirect involvement of UN members in combat makes them complicit in commission of international crimes. Despicable hypocrisy is masked by generous humanitarian contributions on one side, financial and military support to Saudi-led coalition the other side thus further fuelling hostilities, which lead to the death and starvation of millions. For example, “the United States has struck at least \$68.2bn worth of deals for firearms, bombs, weapons systems, and military training with Saudi Arabia and the United Arab Emirates since the start of their war in Yemen – billions more than previously reported – according to data collected by an American think tank.”¹ At the same time, these governments make generous contributions to humanitarian assistance. During the high-level pledging event for the humanitarian crisis in Yemen held in February this year, UK pledged US\$ 261 million, US – around 24 million and France -10 million.

Moreover, Spain decided to continue selling arms to Saudi Arabia despite knowledge of widespread international crimes committed by Riyadh. Last September, Spanish defence ministry announced the cancellation of 9.2 million euro deal to sell Saudi Arabia 400 laser-guided bombs due to earlier diplomatic crisis between Madrid and Riyadh.² However, we have confirmed the delivery of the controversial arms shipment to Saudi Arabia that constitutes violation of UN resolutions and international law provisions. Furthermore, the Spanish government concluded 1.8 billion euros worthy deal through General Shipyards Company (Navantia) to sell Saudi Arabia five battleships. It should be stressed that the economic considerations of Spain and other states is not an acceptable excuse for being partner in crime by participating directly or indirectly in the atrocity crimes committed in Yemen.

Hereby, we express our disappointment with the recent developments in arms trade policies implemented by Switzerland. Last November, the Council welcomed the decision of the Swiss Federal Council to stop arms exports to Saudi Arabia. In 2017, Switzerland sold war materials to Saudi Arabia worth 4.8 million Swiss francs, making Riyadh the best customer for the Swiss arms industry.³ The trade between Switzerland and Saudi Arabia was estimated at 2.250 billion USD per year. However, it is considered that the Swiss Senate’s rejection of two proposals calling for a stricter framework for the export of arms and war materiel, including to those involved in the war against Yemen, as a step backward. We regret that Switzerland prioritised economic interests over legal and moral obligations to prevent use of Swiss weapons by the perpetrators of mass atrocities.

Grave Breaches of International Law

Yemen has legal obligation to respect, protect and fulfil human rights of all persons within its jurisdiction in compliance with minimum human rights standards and ensure compliance of its armed forces with the provisions of Geneva conventions. All parties to the conflict in Yemen, including members of the coalition forces, are obliged to respect the applicable rules of international humanitarian law, including the principles of precaution, distinction and proportionality. International customary law obliges non-State actors governing territory with de facto control to respect human rights of the individuals under their control.

¹ “*Revealed: The full extent of US arms deals with Saudi Arabia and UAE*”, Franck Andrews, 4 April 2019 at <https://www.middleeasteye.net/news/revealed-full-extent-us-arms-deals-saudi-arabia-and-uae>.

² “GCRL Deplores Spain’s Decision Selling Arms To Saudi Arabia Despite Crimes In Yemen”, GCRL, date <http://genevacouncil.com/en/2018/09/13/gchrj-deplores-spains-decision-selling-arms-to-saudi-arabia-despite-crimes-in-yemen/>.

³ “*GCRL Welcomes Switzerland-Saudi Arabia Arms Halt Calling Same EU Countries Act*”, GCRL, 2 November 2018 at <http://genevacouncil.com/en/2018/11/02/gchrj-welcomes-switzerland-saudi-arabia-arms-halt-calling-same-eu-countries-act/>.

However, grave violations of the provisions of 1948 Geneva Conventions by armed groups, Houthis and the Saud-led armed forces fulfil the elements of crimes against humanity and war crimes as defined by the Rome Statute of the International Criminal Court. All parties to the conflict in Yemen are well-aware of widespread and systematic attack. We receive credible reports of indiscriminate killings, attacks on civilians and civilian objects, starvation as warfare method, use of child soldiers and banned weapons, including landmines and cluster munitions, sieges and blockades, arbitrary deprivation of liberty, torture and enforced disappearance, sexual and gender-based violence, forced displacement and eviction, blocking and impeding humanitarian access, attacks on objects benefiting from special protection.

We strongly condemn targeted attacks on civilians, their livelihoods and other civilian objects. In September 2018, the Council reported on eighteen fishermen killed in the Red sea as a result of bombing by Saudi-coalition allied warship in the coastal Yemeni province of Hodeidah.⁴ This incident constitutes war crime and violates core prohibition of international law. Saudi-coalition undertakes extensive military operations aimed at taking control of Hodeida of Ansar Allah (Houthis) by supporting Yemeni forces to move towards the city without any concern for high human cost.

On its fifth year with no end on sight, the war in Yemen disproportionately affects women and children, especially given hampered humanitarian assistance and restricted access to health care. Women and girls face deep-rooted discrimination and abuses, including forced and early marriage, domestic and sexual violence. In April, during raids and massacre committed by the Saudi-led Coalition forces near a primary school in the Yemeni capital Sanaa estimated 13 civilians were killed and 100 persons wounded. Furthermore, we received reports on coalition air strikes launched on a bus carrying children in Saada governorate in northern Yemen, killing 51 people, including 40 children.⁵ Moreover, widespread displacement, poverty, indiscriminate violence and collapsed criminal justice makes the numbers of victims of all forms of sexual violence, including increased risk of re-victimisation. Women, children and men in Yemen are left without any chance for protection and remedy.

Credible reports refer to systematic deprivation of liberty, torture and enforced disappearance taking place everywhere in Yemen. In January, we called on Saudi Arabia to stop systematic and widespread torture against Yemeni detainees in the prison run by Riyadh in the Yemeni city of Hadramout. We have received testimonies and statements that the detainees are subjected to dreadful physical and psychological torture, cruel and humiliating treatment in so called “the mud prison”.⁶ In most cases detainees have not been informed neither why nor for what there are being held in custody. They face prolonged isolated detention without being brought before the court, denied fair treatment, access to lawyers and to their families. Moreover, it is confirmed that some of the detainees have disappeared.

The warring parties blinded by their short-term war aims ignore that the Yemeni population faces dangerous levels of famine in addition to the largest outbreak of cholera in recent history. The severe naval and air restrictions coupled with a total blockade on all the borders of Yemen imposed by the Coalition since March 2015 in violation of international humanitarian law is considered killing the population with starvation. The danger of famine is reaching millions of Yemenis. The Arab-led coalition has closed most of the ports in Yemen, allowing the crossing of supplies to “Hadedah” port only in coordination with the

⁴ “GCRL Condemns Killing 18 Yemeni Fishermen by Arab Coalition In Hodeidah”, GCRL, 19 September 2018 at <http://genevacouncil.com/en/2018/09/19/gchrcj-condemns-killing-18-yemeni-fishermen-by-arab-coalition-in-hodeidah/>.

⁵ “Yemen: Demand of international accountability for war crimes committed by the Saudi-UAE coalition against civilians”, GCRL, 19 April 2019 at <http://genevacouncil.com/en/2019/04/10/yemen-demand-of-international-accountability-for-war-crimes-committed-by-the-saudi-uae-coalition-against-civilians/>.

⁶ “Yemen: Saudi Arabia Must Stop Torturing Detainees”, GCRL, 16 January 2019 at <http://genevacouncil.com/en/2019/01/16/yemen-saudi-arabia-must-stop-torturing-detainees/>.

United Nations. The clashes near Hadidah port cut 600,000 Yemenis off lifeline of, half of them are children, whose life depends on the humanitarian aid coming through this harbour. Around 70% of food supplies in Yemen are brought in through this port, including most of the humanitarian aid and fuel. These days, around two-thirds of country's population of 27 million depends on humanitarian assistance and 8.4 million persons are already at risk of a famine. Al-Duraihmi district in the southern province of Hodeidah is a stark example of the consequences suffered by more than seven thousand civilians as result of siege imposed by the coalition. Families in this area live under the threat of death, spread of diseases and epidemics due to food shortages, lack of fuel and medication.⁷

Recommendations

- We call on UN states to follow the recommendations of the UN Panel of Eminent Experts on Yemen, which in its August 2018 report called on the international community to "refrain from providing weapons that could be used in the conflict in Yemen";
- All parties to conflict should conform with Stockholm accord, hold meaningful peaceful negotiations and take constructive measures to end hostilities;
- Parties to the conflict must allow and facilitate rapid and unimpeded passage of impartial humanitarian relief for civilians in need;
- Parties to conflict should ensure compliance with international humanitarian law, particularly on protection of civilian objects and civilians;
- HRC should urgently endorse an international independent investigation into alleged crimes against humanity and war crimes in Yemen; the situation should be referred to ICC;
- Yemen should ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the ICC Rome Statute, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention against Transnational Organized Crime and accept the jurisdiction of treaty-based mechanisms to consider individual complaints.

⁷ "Yemen: An international call for the rescue of civilians in al-Duraihmi district trapped under the siege by Saudi Arabia-led coalition", GCRL, 21 April, 2019 at <http://genevacouncil.com/en/2019/04/21/yemen-an-international-call-for-the-rescue-of-civilians-in-al-duraihmi-district-trapped-under-the-siege-by-saudi-arabia-led-coalition/>.