



# FUELING CONFLICT

Analyzing the human impact of the war in Yemen

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This report, and the research behind it, were conceived in response to the UK government's position in the judicial review brought by Campaign Against Arms Trade (CAAT), which questioned whether the licensing of the transfer of arms to Saudi Arabia for use in the war in Yemen is legal under UK and international law.

Oxfam's analysis of the data compiled in this report demonstrates that there are patterns of harm to civilians and that incidents of harm to civilians happen daily. Further, according to bodies such as the UN Group of Eminent Experts on Yemen, all parties to the conflict have committed many serious violations of IHL.

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For further information on the issues raised in this paper please email [advocacy@oxfaminternational.org](mailto:advocacy@oxfaminternational.org)

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Cover photo: Destroyed civilian houses, hit during airstrike raids in Sana'a in May 2019.

Credit: Bassam Al-Thulaya / Oxfam Yemen

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# EXECUTIVE SUMMARY

This report, and the research behind it, were conceived in response to the UK government's position in the judicial review brought by Campaign Against Arms Trade (CAAT), which questioned whether the licensing of the transfer of arms to Saudi Arabia for use in the war in Yemen is legal under UK and international law. Oxfam witnessed significant harm to civilians during its humanitarian work in Yemen, and therefore intervened in support of CAAT in its first judicial review on UK arms sales to Saudi Arabia and will do the same in the second case in 2023. The government has argued that arms exports for use in the war in Yemen are legal as only isolated incidents of serious violations of International Humanitarian Law (IHL) by the Saudi-Led Coalition (SLC) happen in Yemen. Oxfam's analysis of the data compiled in this report demonstrates that there are patterns of harm to civilians and that incidents of harm to civilians happen daily. Further, according to bodies such as the UN Group of Eminent Experts on Yemen, all parties to the conflict have committed many serious violations of IHL.

Oxfam has been operating in Yemen since 1983 and is currently present in eight governorates where vulnerable communities are located. We work alongside and through local partners in all areas of our response. Since July 2015, Oxfam has helped more than three million people in nine governorates of Yemen with clean water and sanitation, cash assistance and food vouchers. Oxfam produced this report because the war has made the situation of millions of Yemenis so much worse.<sup>1</sup>

In this report Oxfam demonstrates the significant harm caused by the war to Yemeni civilians from January 2021 to the end of February 2022. We have tabulated and then analysed the data provided in daily emails by the Civilian Impact Monitoring Project (CIMP), which was a service provided by the Yemen Protection Cluster.

We have included the total number of incidents and each category of incident, location of the incident, the type and number of weapons used, the categories of harm, the numbers of dead and injured and the protection implications of each incident. The types of weapons used have been cross referenced against its effects on the civilian population.

The war is viewed internationally as a proxy war between Saudi Arabia, backing the Internationally Recognized Government (IRG) and Iran, supporting Ansar Allah (Houthis). It has always been more complex than that. Involvement by Al-Qaeda in the Arabian Peninsula (AQAP) and the creation of the Southern Transitional Council (STC), a body advocating independence for southern Yemen, complicate things, as do other more local conflicts of long duration. The legacy of conflict resulting from Ottoman and British imperialism in Yemen continues to have a major impact.

The war would not be possible at the intensity it saw without outside arming and intervention. The USA and UK are Saudi Arabia's largest arms suppliers and have been for decades. UK sales alone since 2015 are likely to amount to



over £20bn. The collapse of the IRG at the beginning of the war in 2014 saw some \$500m in US arms lost to the Houthis and AQAP. The United Arab Emirates (UAE) has armed the STC and is in turn principally armed by the US and France. Iran has provided arms and technology to the Houthis, although these have been smuggled and the level of assistance is far lower than to the IRG and the SLC.

The war has had a sustained and major impact on Yemeni civilians. Four million are displaced internally, some multiple times. There have been a very large number of civilian casualties and widespread destruction of civilian infrastructure. The economy has largely collapsed.

Around 23.7 million Yemenis are in need of assistance, including almost 13 million children. Of those, 7.4 million – some 25% of the population – suffer from malnutrition, including 2 million children. Some of our major findings from the period under study are:

- There were 1,727 incidents causing civilian casualties or destruction of civilian infrastructure – an average of four each day.
- 25% of these attacks were SLC airstrikes, an average of one each day.
- There were 2,614 civilian casualties, of which 839 were deaths and the remainder injuries. Over 10% of these (87 civilian deaths) can be attributed to airstrikes, as can 136 injuries.
- 32% of attacks causing civilian harm came from artillery.
- Overall 85% of civilian harm is caused by explosive weapons (bombs and artillery shells, for example), 15% by small arms.
- 22% of attacks involved the displacement of civilians. This amounts to 760 incidents in 14 months, of which 39% were caused by SLC airstrikes alone, a total of 293 airstrikes which drove Yemenis from their homes or place of shelter.
- 45% of incidents involved psychosocial trauma as measured by the CIMP, involving injury to or death of civilians, a total of over 1,500 incidents.
- The CIMP recorded almost 700 attacks which led to restricted Freedom of Movement and Assembly. These are generally incidents of fighting in populated areas which meant that people were unable to go about their daily lives, go to work, shop at markets, pray at the mosque, go to school and so on.
- Places of food production, particularly farms, came under regular attack, with a total of 179 such attacks recorded. Five incidents were recorded where fishing boats were fired on with missiles or small arms. In 174 cases farms were attacked. 81 of these attacks, 47% of the total, were from SLC airstrikes. Many instances of unexploded ordnance (UXO) incidents have also been recorded on farms.
- There was a total of 19 attacks on hospitals and clinics, of which 13 were airstrikes.

The truce between the Houthis and the IRG came into force on 2 April 2022 and ended on 2 October 2022. It was stressed by the UN as temporary and less solid than a full ceasefire, but nevertheless brought hope to civilians. Since the truce, the average number of violent incidents leading to civilian

casualties or damage to infrastructure has reduced. There has also been a reduction in casualty figures.

Importantly, the impact on civilians has changed. The highest proportion of casualties since the truce started comes from explosive remnants of war including unexploded ordnance, landmines and improvised explosive devices (IEDs), increasing some 60% since 2021. Fighting is at far lower levels than before the truce and there have been no recorded airstrikes since the truce began.

Oxfam campaigns for an end to the conflict and an inclusive peace agreement that takes into account the needs and views of women, youth and civil society. We also work to ensure that civilians are well protected, and work with civil society organizations in both the south and the north to ensure that the voices of women and youth are heard when it comes to the peace process.

To begin to rectify the current situation, Oxfam believes that:

- Outside parties must stop fuelling the war. Arms and technology transfers to all combatant parties in Yemen must stop while there is a clear risk that those arms might be used to commit serious violations of IHL; State parties to the Arms Trade Treaty (ATT) must fully uphold the requirements of that Treaty; risk assessments on arms transfers must take into account the indirect impact of the use of arms.
- All combatant parties must adhere strictly to obligations under IHL when it comes to targeting populated areas, relocating military camps and warehouses outside populated areas and cities to prevent harm on civilians and infrastructure.
- Beyond the basic requirements of IHL, there must be an end to attacks on civilians and civilian infrastructure. Populated areas must be places of safety for all Yemenis.
- The UN must establish an effective, independent, widely accepted accountability mechanism that provides justice for the people of Yemen for the crimes that have been committed against them; reference to the GEE reports should be taken into account and hold parties held accountable for committed violations detailed in the group's reports.
- Governments should ensure that funds are made available to IHL mandated agencies/INGOs and Yemeni NGOs to ensure documentation of potential violations of IHL.
- Such investigations must be facilitated to measure the impact of restrictions imposed by all parties on civilians, including restricted movements by closure of roads. and ensuring concrete measures must be put in place to alleviate the suffering of civilians.
- UN Member States must fully fund the Yemen Humanitarian Response Plan, and combatant parties must ensure unimpeded access for aid delivery.
- There is a clear need for a full ceasefire, and for peace negotiations that include Yemeni women and leading to a long lasting and sustainable political agreement on Yemen's future.

# 1. INTRODUCTION

This report, and the research behind it, were conceived in response to the UK government's position in the judicial review brought by Campaign Against Arms Trade (CAAT), which questioned whether the licensing of the transfer of arms to Saudi Arabia for use in the war in Yemen is legal under UK and international law.

Oxfam particularly wanted to analyse the claim made by the government in Parliament as they resumed the licensing process following the court case, that:

*We indeed have assessed that there were a small number of incidents that have been treated, for the purposes of the analysis, as violations of IHL. However, these were isolated incidents that did not display any particular pattern, and our analysis shows that Saudi Arabia has a genuine intent and the capacity to comply with IHL in the specific commitments that it has made.<sup>2</sup>*

While even one serious violation of IHL could, in the right circumstances, give rise to a clear risk that such violations might be committed in the future, the future risk is far clearer if there are a high number of such violation. The risk is raised further by an extremely high level of attacks on civilians and civilian infrastructure where investigation is necessary before a serious violation of IHL can be determined. If the number of serious violations is high, and their commission a regular occurrence, as Oxfam sees in Yemen, then a state can be said to have knowledge that their arms will be used in violation of IHL and transfers should be refused. There is, in these circumstances, a case for cancelling or at least suspending extant licences if there is *any* prospect that the arms might be used in any way in this context. Below this threshold, the existing level of violations and other attacks on civilians should mean that, for each licence application, a very high bar must be set to permit arms exports to go ahead.

Since the UK is, after the USA, the largest supplier of arms to Saudi Arabia, this is a question of the greatest importance for the people of Yemen, who have lived through the current war for almost eight years.

It is also important to highlight the sheer volume of attacks on civilians and civilian infrastructure, and the multiple ways in which Yemenis have been affected by the fighting. Their resilience through the years of war is remarkable, and the scale of the suffering inflicted on them deserves to be understood.



## 2. METHODOLOGY

The purpose of this paper is to examine the significant harm caused by the war to Yemeni civilians from January 2021 to the end of February 2022. We have tabulated the data provided to the public in daily emails by the CIMP, a service provided by the Yemen Protection Cluster organized by the United Nations Office for the Coordination of Humanitarian Affairs in Yemen.<sup>3</sup> The CIMP was a monitoring tool that collects and disseminates real-time, open source data on the impact on civilians from armed violence in Yemen. The CIMP is not responsible for the compilation and analysis of their data done by Oxfam.<sup>4</sup>

We have included the total number of incidents and each category of incident, location of the incident, the type and number of weapons used, the categories of harm, the numbers of dead and injured and the protection implications of each incident. The types of weapons used have been cross referenced against their effects on the civilian population.

We have also examined the effects of the truce from April to October 2022 in somewhat reducing and altering the civilian impact of the conflict.

We have illustrated this data with examples from Oxfam's interviews with Yemenis.

## 3. WHO ARE THE WARRING PARTIES?

The current war in Yemen did not simply happen, there is a long historical background to it. In modern times this derives from the legacy of Turkish and British colonialism in Yemen, which is one of division and conflict, with national grievances across sectarian lines and thirty years of dictatorship that lasted until the Arab Spring. The interference of Saudi Arabia in Yemeni affairs also has a long history.

The war was initially a resurgence of the ongoing conflict between the internationally recognized government (IRG) now led by the Chairman of the Presidential Leadership Council Rashad al-Alimi, who replaced President Hadi in early 2022 and Ansah Allah, known colloquially as the Houthis or the Houthi Movement. From 2017, the STC which advocates independence for southern Yemen, was formed as a result of political differences within the IRG which began in the early 2000s, including some combatants and political figures changing sides, and is supported by the UAE.

AQAP has been active in Yemen for decades, notably carrying out the attack on the USS Cole in Aden in 2003. In the wake of the Arab Spring, they declared

an Emirate in Abyan which led to heavy fighting. Their positioning was, significantly, chosen to enable them to attempt to control oil and gas rich areas. They have also been known as the Sons of Hadramawt and have a significant presence there. AQAP has, during the most recent war, took control of large areas of Hadramawt including Al Mukalla, Yemen's fifth largest city, making millions in revenue from operations in the ports of Mukalla and Alshahir until they were pushed out.

External intervention is a major driver in the conflict, both political and military.

Saudi Arabia intervened at the head of the SLC in March 2015. Members of the SLC have included Bahrain, Egypt, Eritrea, Jordan, Kuwait, Morocco, Pakistan, Qatar, Sudan, and the UAE. The UAE has, however, fought the SLC and IRG forces in establishing the STC in southern Yemen.

Iran is not a combatant in the war, but has supplied arms, technology and advisors to the Houthis.

For much of the conflict, the USA and UK maintained an involvement through support for Saudi Arabian military activities. The US Air Force provided in-flight refuelling for Royal Saudi Air Force planes from 2015-2018. The US also continues a general defence relationship with Saudi Arabia but ended Yemen specific support in 2021. The UK has continued to give support to Saudi Arabia for any and all military activities in Yemen. While details are understandably scarce, UK special forces have operated against both AQAP and the Houthis during much of the war.<sup>5</sup>

## 4. WHO IS ARMING WHOM WITH WHAT?

Since the 1980s, the UK has been a major arms supplier to Saudi Arabia under the Al Yamamah I and II, and Al Salam deals, the largest in UK history. UK based arms companies and Ministry of Defence (MOD) military and civilian personnel support these contracts (funded by Saudi Arabia) by maintaining operational capability of UK equipment and arms in Saudi Arabia, and training Saudi personnel to maintain, repair and operate equipment supplied by the UK.<sup>6</sup> The UK government publishes only partial information on arms exports – that relate to standard export licences.

Total sales of combat aircraft, bombs, missiles, targeting, training and other equipment and services have been worth tens of billions to UK defence companies since the mid-1980s, and £12.73bn under standard licences since 2008 when figures began to be published online,<sup>7</sup> in which time over 1,000 standard export licences have been approved. In the same period, 269 'open' licences have been issued. The value and quantity of arms and equipment that can be sold under such licences is not recorded because it is unlimited. The government could keep records of deliveries under open

licences through customs data but chooses not to. Since the SLC began its intervention in Yemen to support the IRG, UK arms licensed to Saudi Arabia amount to almost £7.9bn in 547 licences. A further 127 open licences unlimited in value or quantity of arms have been approved. CAAT researchers estimate the true value of sales as over £23bn when the open licences are taken into account.<sup>8</sup>

Between 1950 and 2021, the US government sold over \$174bn in military equipment and services to Saudi Arabia, making Riyadh by far the largest recipient of foreign military sales (government-to-government sales) of the past seven decades. Saudi Arabia's security forces have relied on US equipment, training, and service support for decades, as a counterbalance to Iranian military influence in the region, and to help protect the Kingdom from extremist attacks.<sup>9</sup> Between 2015 and 2019, Saudi Arabia was the destination for some 24% of all US arms exports.<sup>10</sup>

In 2016, the Obama administration proposed a series of arms deals worth \$115bn, including warships, helicopters, and maintenance. However, some parts of this deal were blocked by the administration in December 2016 after Saudi Arabia's airstrikes and targeting procedures in neighbouring Yemen drew controversy. After Saudi warplanes targeted a funeral in Yemen's capital Sanaa, killing more than 140 people, the Obama administration announced its intention to review US military assistance to Saudi Arabia.

President Trump removed all restrictions once he entered office. The US government remains a key overall supplier and supporter of the Saudi Arabian military, even as the Biden administration has curtailed direct support to Saudi offensive operations in Yemen. The Biden administration has made sales of what is described as defensive equipment to Saudi Arabia. In August 2022 the State Department approved \$3bn sale of Patriot missiles to Saudi Arabia and \$2.2bn to the UAE.<sup>11</sup>

The Stockholm International Peace Research Institute lists the UAE as the world's eighth largest importer of weapons in the period from 2015 to 2019. Its main suppliers in that period were the USA (68%), France (11%) and Netherlands (3.4%).<sup>12</sup>

The Houthis took much US weaponry when they overran military bases in the north of Yemen in 2014/15, and as some units switched sides from the IRG to them.<sup>13</sup> As the war continued, Iran has set up a network of smuggling routes through Oman and the Arabian and Red Seas to transport arms and equipment to the Houthi rebels in Yemen. This has included anything from small arms to cruise missiles, loitering munitions and even ballistic missiles. The Quds Force and Lebanese Hezbollah have also provided training to Houthi fighters, including to improve their military tactics and to help in the assembly, use, and maintenance of missiles, Unmanned Aerial Vehicles (UAVs), and other weapons and systems. Iran has provided the Houthis with weapons and technology for anti-tank guided missiles; sea mines; UAVs, such as the Qasef family; 122-millimeter Katyusha rockets; Misagh-2 man-portable air defense systems (MANPADS); high explosives; ballistic and cruise missiles; and Unmanned Maritime Vehicles (UMVs).<sup>14</sup>

## 5. HUMANITARIAN HARMS CAUSED BY THE WAR

The humanitarian situation in Yemen was poor before the latest fighting started. This has been greatly exacerbated by the war. All combatant parties in Yemen have repeatedly harmed civilians in their military operations over the past eight years. These harms have been through direct attacks and indirect as a result of attacks which restrict movement, internal trade, food production and distribution, water distribution and more. The naval blockade by the SLC has restricted access to fuel and food imports, leading to deepening crises in the country. This has led to the introduction of a parallel war economy. An Oxfam legal opinion on the blockade on Yemen stated that:

*The evidence, including of the longstanding pattern and history of Coalition-imposed restrictions on access to humanitarian relief, food, water, medicine and other essential items, including fuel, predating November 2017, gives rise to a clear and overriding risk of future such crimes and violations of IHL and IHRL.<sup>15</sup>*

The war has caused tens of thousands of civilian casualties and displaced over four million people, making it one of the world's worst humanitarian crises. The country's economy has been shattered. Countless homes, warehouses, farms and other civilian infrastructure have been damaged and destroyed. Ninety percent of food supplies were imported before 2015, and imports been devastated by the warring parties. Prices continue to rise, while many have lost their incomes.<sup>16</sup>



In Abyan governorate, Aryam lives with her eight family members. Aryam was forced to flee from her village to protect her family after she was divorced. In Abyan governorate, there are more than 60,000 internally displaced persons and most are living in harsh conditions while lacking essential needs because they have no income. Aryam cannot afford to educate her children and needs her cash grant from Oxfam to feed herself and her children. Aryam's story is an example of the consequences of the conflict. Aryam's name has been changed to protect her identity. Credit: Ayman Fuad / Oxfam

Around 23.7 million Yemenis, 77% women and children, are in need of assistance, including almost 13 million children. Of those, 7.4 million – some 25% of the population – suffer from malnutrition, including 2 million children.

The widespread conflict has caused a severe economic decline, exacerbated food insecurity and the collapse of essential services which continue to take an enormous toll on the population. The effects of climate change aggravate the crisis, with torrential downpours and recurrent flooding causing deaths, injuries and displacements as well as inducing widespread damage to essential infrastructure, affecting hundreds of thousands.<sup>17</sup> The World Bank has estimated that around half the 233,000 deaths in Yemen since 2015 are attributable to the indirect impact of the war. They come from lack of food, healthcare and infrastructure.<sup>18</sup> Actions of the SLC including the naval blockade of Yemen, the deliberate bombing of aerial bombardment of populated areas, communications, food sources, health facilities and transport routes has contributed massively to these deaths.

The sheer scale of the violence inflicted on Yemeni civilians is also breath taking. The data shows that between the beginning of January 2021 and the end of February 2022, there were no less than 1,727 attacks that caused civilian harm, which averages to more than 120 attacks per month or some 4 per day.<sup>19</sup>

## 5.1 TYPES OF ATTACK IN 2021/22

The combatant parties have used many types of arms in attacks that impact civilians. These include airstrikes, artillery, missiles, drone attacks, landmines, IEDs, small arms and light weapons. Airstrikes and artillery use have included the use of cluster munitions – weapons banned by international convention and customary law. Civilians have also been affected by UXO and ERW, where bombs, missiles, shells and other explosive weapons have failed to detonate as intended.

Figure 1: Types of weapons used

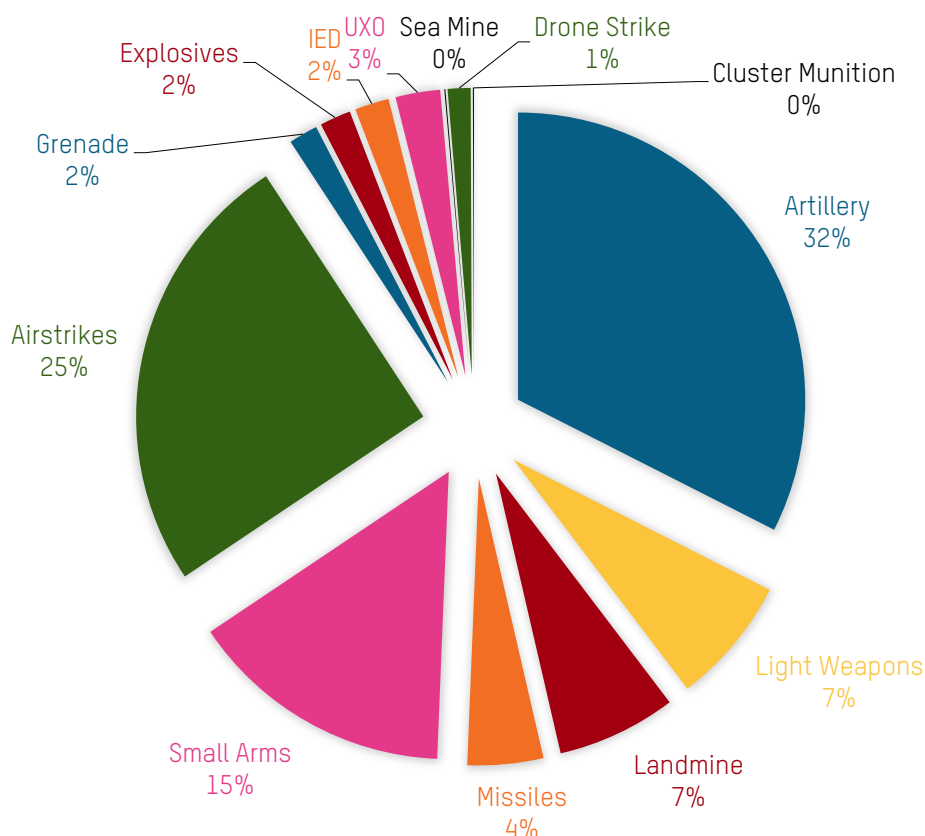


Chart by author from collated CIMP data

## 5.2 INCIDENTS INVOLVING SMALL ARMS

There were 256 attacks involving small arms (pistols, rifles, machine guns and other weapons that are used by a single operator) that impacted civilians, an average of 18 attacks per month. While this is only 15% of attacks overall, small arms attacks caused 245 deaths and 271 injuries amongst civilians. Most incidents were generally within populated areas and the harm caused is not necessarily deliberate but occurs, for example, when civilians are caught in the crossfire during military operations. However, there are also examples of deliberate harm to civilians – including 48 attacks where snipers shot men, women and children, 14 attacks on houses containing civilians, 19 attacks on markets, 3 attacks on buses and 2 attacks on mosques. There have also been nine incidents where civilians were shot deliberately as part of the dispersal of demonstrations.

Civilians have also fallen victim to the war as so-called collateral damage, for example, 15 incidents where armed groups nominally on the same side began feuding or fighting over control of territory or landmarks and civilians were caught in the crossfire. This is a direct consequence of the outside intervention of foreign parties to the conflict, as outside powers have set up client armed groups in Yemen who have spread the conflict. In addition, the conflict has witnessed assassinations of academics, journalists, activists and members of different political parties, in suppression of civil society and pursuit of political goals.



## 5.3 EXPLOSIVE WEAPONS

The vast majority of arms-related civilian casualties came from explosive weapons. Almost 85% of incidents with harm to civilians and civilian infrastructure involved the use of explosive weapons, almost 1,500 attacks in total, more than 100 per month directly impacting civilians. These attacks caused almost 600 civilian deaths and over 1,500 civilian injuries during the period in the study.

More than half of all attacks against civilians and infrastructure were made with artillery, missiles and airstrikes. In addition, these incidents recorded in Yemen all involved the use of multiple bombs, shells or rockets, not single weapons, making the physical and psychological damage much worse and increasing casualties.

### 5.3.1 THE EFFECTS OF EXPLOSIVE WEAPONS

The war in Yemen has been marked by the use of explosive weapons in populated areas.<sup>20</sup> The SLC has used airstrikes on a massive scale across much of the country. Houthi forces have routinely shelled urban areas, both in Yemen and across the border in Saudi Arabia, and the Saudis shell back into northern Yemen. The Yemeni army and its allies have also shelled and rocketed populated areas. The conflict has also seen the common use of artillery rockets, mortars, rocket-propelled grenades, landmines and IEDs.

Explosive weapons project blast waves, heat and fragmentation, killing and injuring people in the area around the point of detonation as well as damaging objects, buildings and infrastructure. When used in populated areas they tend to cause high levels of harm to individuals and communities. Larger explosive weapons have wide area effects, the blast wave and other damage they cause can radiate up to hundreds of yards from the point of detonation, depending on the size of the explosive used. They cause damage far beyond the immediate target.

Primary effects of explosive weapons are defined as those 'caused directly by the destructive effects that radiate from a point of initiation and include blast overpressure, fragmentation, heat and light'.<sup>21</sup> The term 'blast' refers to a high-pressure blast wave moving at supersonic speed, referred to as the shockwave, which is followed by blast winds. Primary fragmentation comprises fragments that originate directly from the explosive munition. The third damage mechanism is the thermal energy released during the detonation of the explosive.

Secondary effects of explosive weapons derive from the environment in which the munition detonates. The most significant secondary effects include secondary fragmentation, firebrands, ground shock and cratering. Secondary fragmentation originates from objects that have been affected by the detonation and can include objects such as pieces of masonry or glass from buildings, or bone fragments from human or animal targets. Secondary fragments are generally larger than primary fragments and tend not to travel as fast, or as far.



Destruction of civilian houses that were hit during airstrike raids in Sanaa . Credit: Bassam Al-Thulaya / Oxfam Yemen

Tertiary effects can be classified as damage to health, social and economic infrastructure and services that occur over a longer time scale, e.g. the lack of clean water caused by damage to water mains and sewers, or the loss of electrical and gas services. Added to these long-term effects are the dangers posed by unexploded ordnance, which can kill or injure people many years after the conflict has ended and prevent use of or access to the areas they contaminate, often depriving populations of valuable farming land.

These longer-term effects are increasingly being researched and documented but are not yet well understood. Additional long-term effects on casualties will become apparent as, with better understanding of blast injuries and swifter treatment, some survivors will live longer and with profound effects that will be lifelong.

## 6. TYPES OF HARM TO CIVILIANS

The widespread use of explosive weapons with wide area effects in populated areas of Yemen, even when targeted against military objectives, has contributed to high levels of civilian death and injury, and damage to civilian infrastructure. Civilians are killed and injured, subjected to forced displacement and obstruction in flight, loss of livelihood, psychosocial trauma, as well as restricted freedom of movement or assembly and restricted access to infrastructure and services. The principal types of damage in Yemen have been destruction of homes, water, medical facilities, educational facilities, electricity infrastructure, cell towers, roads, bridges,

airports, farmland and schools. These incidents contribute to a pattern of harm (multiple incidents closely related in time) that has seen the conflict become the world's worst humanitarian disaster.

Airstrikes, conducted only by the SLC supporting the IRG and mostly by Saudi Arabia, have a particularly strong impact, both physically and psychologically. Unlike artillery use which is largely confined to known front lines, airstrikes can be conducted anywhere in the country without warning. They have been used to deliberately destroy transport infrastructure, making movement much harder and more expensive for civilians, reducing distribution of food, water and other aid and restricting access to medical facilities. Airstrikes are responsible for the widespread destruction of infrastructure that is vital to the civilian population, including water and sanitation, housing, schools and hospitals. This results in a pattern of wider, reverberating harm and long-term suffering including prolonged displacement and loss of livelihood.



Picture: Salem and his son Omar had been displaced four times before moving to Alswidan Camp in Marib. Each time they would leave behind everything and walk for days to reach their next safe location. At first, they lived in caves drinking pond water before moving on to Alkhaniq Camp, then Algadaan, then finally Alswidan Camp where they now live with five other members of the family in a tiny tent. Omar was born in 2015, the year the war in Yemen started – war is all he has ever known. Credit: Kaff Media / Oxfam

Survivors of explosive weapons effects can face long-term challenges including disability, psychological harm, and social and economic exclusion. Of particular concern in this regard are explosive weapons with wide area effects, such as bombs dropped from aircraft or artillery shells and rockets. These cause death, injury and destruction of infrastructure at a great distance from the point of impact, even if aimed precisely at a legitimate military target and, in an urban setting, have indiscriminate effects.<sup>22</sup>

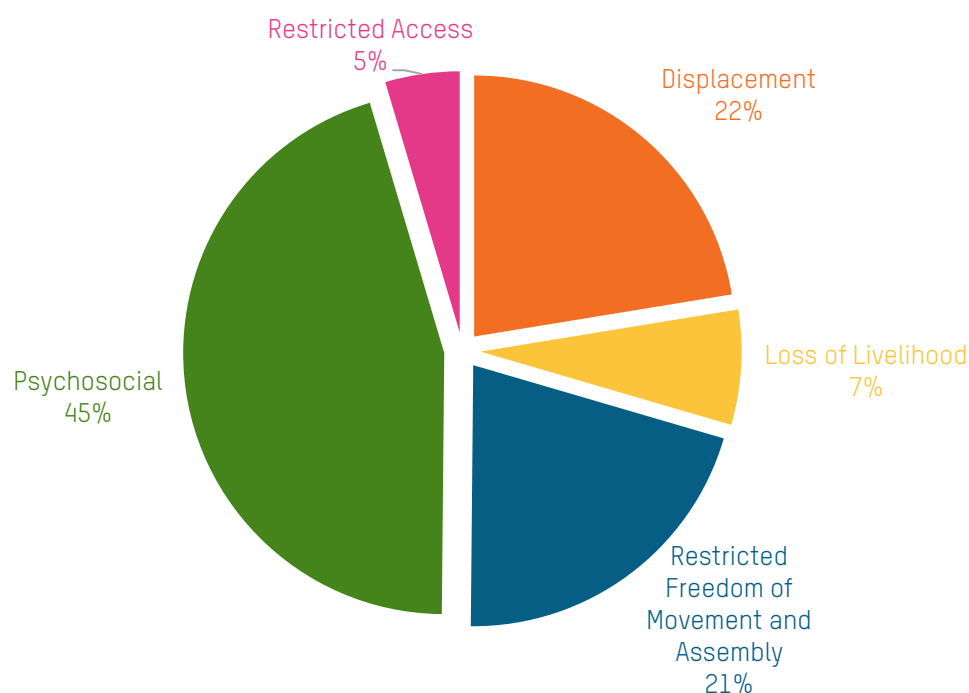
The CIMP measured types of harm according to several categories. Individual attacks can result in more than one type of harm. In addition, the situation can be more complex than reducing harm from incidents down into particular categories.

For example, displacement is recorded as one kind of harm separate from loss of livelihood, but in many cases, being forced to flee from one's home is likely to mean that employment is no longer available to an individual or family, so the harm as measured can be compounded in multiple ways.

This data does not measure whether people are displaced more than once, something that leads to increased vulnerability. We know, for example, that many people fled to Marib before the period covered in this study as it was a relatively peaceful area. However, in the period in question there was significant fighting in the Marib area and many displaced people were forced to flee for a second time. There is also some reflection in the data of harm to migrants from Africa, many flee through Yemen from Somalia in transit to Gulf States.<sup>23</sup>

In this data, psychosocial trauma is recorded when civilians are killed or injured. However, fighting in a populated area traumatises civilians whether they and their loved ones are directly hurt or not. The destruction of a house or school can lead to trauma, particularly for children. For example, the author's mother lived through bombing in London in World War II, her school was bombed as was her street. Almost 80 years later she still wakes at night, scared, when there is thunder. She also still suffers from a form of separation anxiety. The scars of war run deep.

**Figure 2: Types of harm to civilians**



**Chart by author from collated CIMP data**

The fighting caused some 839 civilian deaths and 1775 injuries in the period of the report. Of these, 87 deaths – more than 10% – were directly attributable to airstrikes. There were also 136 civilians injured in airstrikes. These casualties are devastating for those involved and their families but do not tell the whole picture.

CIMP data shows that 22% of attacks involved the displacement of civilians. This amounts to 760 incidents in 14 months. Of these attacks, 293, or 39%, were airstrikes by the SLC. 68% of the airstrikes conducted by the SLC (and all airstrikes in Yemen are by the SLC) caused displacement of civilians. Some of these incidents are truly massive. For example, on 3 September 2021 in Rahabah, Marib, fighting led to the displacement of 261 families in a single day.

45% of incidents involved psychosocial trauma as measured by the CIMP, involving injury to or death of civilians, a total of over 1,500 incidents involving harm to a very large number of civilians across several regions of Yemen including notably Sanaa, Marib, Shabwah, Hodeidah, Taizz, Aden, Hajjah, Al Jawf and Amanat Al Asimah. As discussed above, incidents which did not involve death or injury and are thus not counted in these statistics will also have traumatized civilians affected.

The CIMP recorded almost 700 attacks which led to restricted freedom of movement and assembly. These are generally incidents of fighting in populated areas which meant that people were unable to go about their daily lives, go to work, shop at markets, pray at the mosque, go to school and so on, but which did not result in the destruction of civilian infrastructure. These happened across broad swathes of Yemen meaning the fighting affected millions of civilians in more indirect ways than in other recorded categories. However, these incidents still lead to trauma, hunger, loss of income and education, family separation and other effects which have deeply damaging long-term effects for Yemenis.

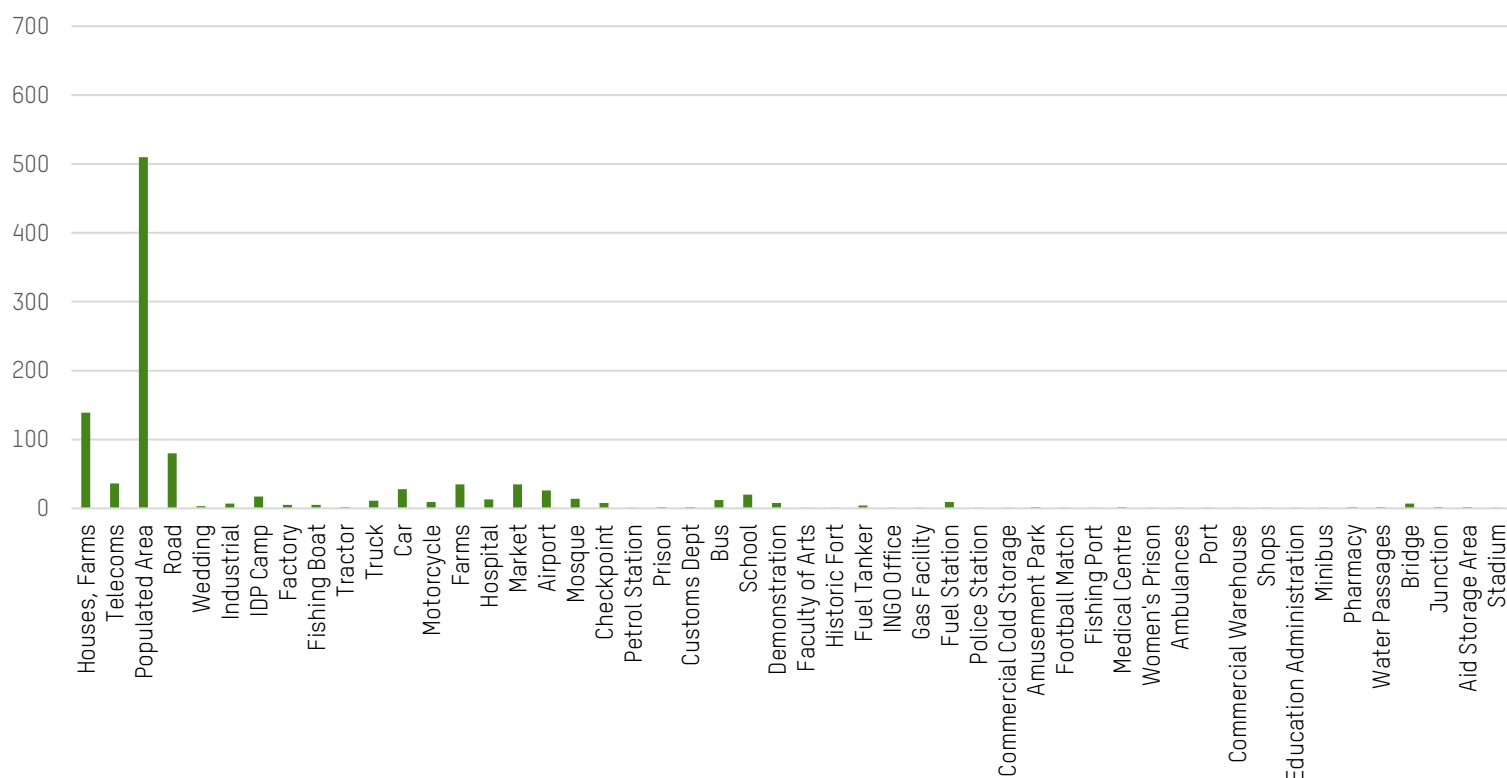
The final category in civilian harm, with the least events, is restricted access to infrastructure. However, despite the low number of events, these incidents have a disproportionate effect on the civilian population and can lead to immense disruption across the country.

These data are analysed more closely below.

## **6.1 DAMAGE TO INFRASTRUCTURE**

The use of explosive weapons in populated areas causes a huge proportion of the damage to infrastructure and services such as transport, power, water distribution, education and food supply, as well as causing the majority of displacements of Yemeni people. Health facilities are also targeted. In February 2020, for example, 2 hospitals were targeted and damaged, affecting access for 15,000 people – the majority of whom were Internally Displaced Persons (IDPs).<sup>24</sup> These were just the latest of 19 attacks on health facilities recorded in the study. A hospital was attacked on average once a month.

**Figure 3: Types of destruction of civilian infrastructure**



**Chart by author from collated CIMP data; category names are taken from CIMP data**

The largest number of attacks on civilian infrastructure came in populated areas where general fighting or specific attacks on homes happened on a huge scale. Some 1,200 attacks were made on populated areas of which more than 600 directly targeted homes. The destruction of multiple homes occurred at least twice per day throughout the 14 months in the study. Most of these attacks were made using multiple explosive weapons, meaning they entirely destroyed houses or at least damaged them beyond use. Of the total attacks on houses of all kinds, almost half were airstrikes, 298 airstrikes in all. All of these attacks were with multiple bombs and caused the destruction of multiple houses. Attacks with small arms cause reparable damage and are therefore less likely to lead to displacement.

Food production, particularly that on farms, came under regular attack, with a total of 179 such attacks recorded. Five incidents were recorded where fishing boats were fired on with missiles or small arms. In 174 cases farms were attacked, as was associated housing. 47% of the attacks on farms were by SLC airstrike, 81 airstrikes in all. Many UXO incidents have also been recorded on farms, including the use of cluster munitions which put agricultural land beyond use, as do landmines. UXO and landmines are a big factor in deaths and injuries of farmers and their families, as well as killing livestock and in destroying tractors. Such incidents reduce current food production and prevent planting for future crops. This reduces access to food for Yemenis, especially serious when vital food imports are restricted by the SLC and by other factors.



Displacement of civilians and disruption of food production is also caused by attacks on water facilities such as reservoir tanks and pumping stations. Oxfam has witnessed many such attacks in the past eight years, including on facilities it has installed.



Al-Dhale was one of the worst affected governorates when the conflict first escalated in 2015. Fierce fighting resulted in destruction of basic public infrastructures, including the public water supply network. Tawakkul is leading the rehabilitation of the Al Dhale,Ãs water project. The Al Dhale,Ãe area has not had access to clean water for nine years. Oxfam is working to support the rehabilitation of the project and has managed to get the water flowing again to over 5,000 families. Credit: VFX Aden / Oxfam

Attacks on infrastructure supporting displaced people also came under regular attack. They were recorded by CIMP more than once a month with 17 attacks on IDPs camps in total. Such attacks have been a feature of the war in Yemen since early in the Saudi intervention; we recorded the first air attack on such a camp in May 2015. Such attacks should not be happening and are a major factor in double or triple displacement.

There were 36 bombing attacks on telecoms towers and network infrastructure from SLC airstrikes. This reduces or even eliminates the abilities of civilians to communicate with each other by phone, increasing fear of harm to family, making seeking safety harder and diminishing economic output, among other consequences. This is an example of the pre-planned attacks that were most common in the early years of the war. Attacks on populated areas, especially on roads and vehicles, or on infrastructure close to military sites, are examples of dynamic targeting where pilots circle Yemen looking for objects to bomb. This kind of targeting is much less rigorously prepared than pre-planned operations and leads to far more civilian casualties and damage due to the error rate in selecting military objects to attack. All kinds of government facilities have been subjected to such air attacks, from military facilities to police stations and court buildings and local government offices. Even the homes of government officials, taken over by Houthi officials, have been bombed in this way.

Medical facilities were attacked on a regular basis during the period covered by the report. There was a total of 19 attacks on hospitals and clinics. 13 of these attacks, including one on a maternity hospital, were by SLC airstrike. This devastating disruption of an already overwhelmed medical system has led to much additional death and suffering as many Yemenis are made unable to access medical care, even where they can afford it.

Education facilities came under attack with regularity. The destruction of schools means children lose access to education, something that can impact their entire lives. There were 20 such attacks in the data for this study. This form of harm is enduring as, in the midst of war schools are not rebuilt.

Civilian transport infrastructure came under regular attack, with around 100 attacks on cars, trucks, buses, airports, roads, bridges and other civilian means of mobility. These direct attacks, together with attacks on populated areas in general, have a major effect on civilian life and the ability of civilians to flee fighting, access food and water as well as shelter. Many of the direct attacks lead to death and injury, with male breadwinners being particularly at risk, making women and children physically and economically vulnerable.

Despite their continued arms exports to Saudi Arabia, it is clear that the UK government recognises that harm of this kind is extremely serious. In a 2022 report on Syria, the UK Home Office agreed with US authorities that:

*These airstrikes destroyed hospitals, shelters, markets, homes, and other integral civilian facilities, damaging medical supplies and equipment and shutting down vital health-care networks, and followed a well-documented pattern of attacks with serious and deleterious humanitarian and civilian impact.*<sup>25</sup>

## 7. THE IMPACT OF THE WAR ON WOMEN

The impact of the conflict in Yemen on women has been particularly marked and goes far beyond the immediate casualty consequences of death and injury.<sup>26</sup>

The use of arms has a gendered impact in many different ways. States transferring arms to other States involved in combat in populated areas – a striking feature of modern warfare – must take these gendered impacts into account as part of gender-based violence (GBV) risk assessment, required under the Arms Trade Treaty. For example, research by United Nations Mine Action Service (UNMAS) has shown that female survivors of landmine explosions tend to suffer greater stigma than men as a result of injury, disfigurement or disability. Lack of access to medical care (common in Yemen) exacerbates threats to women's health in pregnancy and childbirth. Lack of access to clean water (common where explosive weapons have

destroyed energy and water infrastructure) can lead to the spread of disease, which is especially dangerous to babies or young children, or to new mothers with suppressed immune systems due to fatigue. Lack of access to safe drinking water can also interrupt lactation.<sup>27</sup>

Wider societal effects also result from the effects of combat. The space for women in political processes has shrunk, where at least before the war women were becoming more visible in negotiations and on political platforms. Women's involvement in political parties has decreased as men have taken their places, and female activists and journalists have become targets for all political factions.

In Afghanistan, Iraq and Syria, increased domestic violence has been shown to result when men are unable to provide for their family. In these societies, it is much harder for women to access work, and it is therefore much more difficult for women to fulfil the role of single household provider if their partner is killed in conflict. This is also the case in Yemen.

The use of explosive weapons in populated areas is a huge driver of displacement in conflict. Displaced women have a higher risk of exposure and exploitation than men, particularly of being subject to GBV. Research shows that during conflict and militarization of societies there is often an increase in sexism and violence towards women, and therefore also an increase in the risk of sexual violence, which usually goes unpunished.<sup>28</sup> Women who are displaced or separated from their families and communities are therefore at greater risk of harassment, domestic violence, rape, trafficking, forced prostitution and other crimes that are disproportionately targeted towards women. According to the UNHCR 79% of displaced people in Yemen are women and children, with a quarter of displaced families headed by a woman.<sup>29</sup>

Women and children account for some 33% of direct casualties in the CIMP data. This is a high figure given that they are generally not combatants and demonstrates the serious effects of the use of explosive weapons and combat in populated areas. One way in which arms have a direct gendered impact is that pregnant women who are close to explosive weapons blast can miscarry or may be unable to care for children due to their injuries.<sup>30</sup> There are also proven long-term mental health impacts of conflict on women as a result of their experiences.<sup>31</sup>

Difficulties in food supply caused by conflict, and challenges facing displaced women and children in accessing aid because of combat and other reasons, contribute to the ongoing crisis. Early in 2022, the World Food Programme stated that 1.3 million pregnant or lactating women in Yemen were suffering from Moderate Acute Malnutrition (MAM).<sup>32</sup> This has a serious effect on child disease and mortality, particularly infant mortality, as lactation becomes impossible for malnourished women and accessing food for infants can also be impossible.<sup>33</sup>

According to the US Agency for International Development (USAID), only 51% of health facilities in Yemen are functioning and these face severe shortages of medicines, equipment and staff. These gaps especially affect critical services for the most vulnerable women and children.<sup>34</sup>

The effects of the war have reinforced pre-existing barriers for women. Social norms across Yemen are conservative, with women traditionally the primary caregivers at household level, responsible for crop cultivation and livestock farming, as well as cooking, cleaning, collecting water and firewood, and caring for children and elderly people – those who are sick, and people with disabilities. Despite this traditional view of a woman's role, according to UN Women:

*Yemeni women are now having to step into roles that were traditionally filled by men because so many men have been killed or injured, forcibly disappeared or have lost their jobs. But now they have the double burden of being the family's main provider while also performing their expected role of primary caregivers in the family.*<sup>35</sup>

Women have also been forced by both main conflict parties into tasks including managing women's prisons and participating in raids on private houses.

From the beginning of the war onwards, there was evidence that this situation had led to increased domestic violence against women. There is also evidence of a rise in polygamy, and increased sale of daughters for marriage dowry because of poverty.<sup>36</sup>

Reinforcing this trend, the war has also reversed gains made in the previous decade in education for girls. Only 53% of Yemeni women were literate in 2013, and as early as 2015 there was a 66% increase in girls dropping out of education because of the conflict.<sup>37</sup> By 2021 in Taizz 50% of girls had left education.<sup>38</sup> Women have faced growing restrictions on movement as more conservative religious views become prevalent. Oxfam staff and other agencies report a growing issue with the need for a *mahram*, a male guardian, to accompany a woman when she travels abroad or through the northern governorates of Yemen, becoming more widespread.

## 8. A REDUCTION IN HARM DURING THE TRUCE

The truce between the Houthis and the IRG which came into force on 2 April 2022 and ended on 2 October 2022 was a highly significant moment in the conflict. For civilians it offered hope that the war might come to an end, even though both sides, and the UN, were keen to stress that the truce was an informal and temporary cessation of hostilities, not as strong as a ceasefire. This notwithstanding, the reduction of the impact on civilians has been significant since 2 April 2022.

The average number of violent incidents leading to civilian casualties or damage to infrastructure has reduced from an average 123 per month to 98, some 21% less than in the year leading up to the truce.

There has also been a reduction in casualty figures, with average deaths dropping from some 60 in the period before the truce to 46 since it came into force, approximately 25% fewer. Similarly, civilian injuries have fallen from an average of 127 per month to 106, a reduction of some 18%.

The reduction would be greater but for a few incidents accounting for a very large proportion of the casualties. For example, in May 2022 a single IED attack on a market in the Ash Shaikh Outhman of Aden accounted for 50 casualties. Another example came in July, when an explosion at a weapons warehouse beside a market in Lawdar City, Abyan, caused 43 civilian casualties.

There has been a significant change in the causes of civilian harm since the truce came into force. There has been a major reduction in fighting, and this has brought relief for civilians with far less recorded displacement and easier access to vital services and to food.

The highest proportion of casualties since the truce started comes from explosive remnants of war including unexploded ordnance, landmines and IEDs. Numbers in this category are higher than at any time since the CIMP began recording figures. This is due to increased civilian mobility both travelling on roads and working farms as the fighting has decreased. This exposes civilians to ERW in far greater numbers than before. Children are particularly at risk, as in all conflicts, being more inquisitive and lacking the awareness of dangers that adults possess. ERW civilian casualties are some 60% higher in 2022 than they were in 2021.

In July, it was reported that flash flooding caused an increase in ERW casualties as previously buried UXO and landmines were exposed by soil erosion from flooding, and also washed into areas previously considered safe. Flooding also displaced civilians into unfamiliar areas, putting them at greater risk of harm from ERW.

Other significant causes of civilian casualties have been drone strikes, a relatively new feature of the conflict, as well as small arms and artillery fire in some areas. However, these are at far lower levels than before the truce and there have been no recorded airstrikes since the truce began.

The fact that there has been no resumption of airstrikes and fighting remains limited since the end of the truce has contributed to there being no increase in civilian casualties during October 2022. While Yemenis remain fearful, there is hope that civilian harm can continue to reduce if the truce can be re-established – and the continued military restraint has to be a good sign – or even better if an enduring ceasefire can be put in place.

## 9. HUMANITARIAN DELIVERY IMPACT

Maysaa Shuja al-Deen, Fellow at Sana'a Center for Strategic Studies, told the UN Security Council in October 2021 that since 2015, it has become normal to describe the situation as 'the largest humanitarian crisis in the world,' stressing that it is also 'the worst international response' to a humanitarian crisis. She explained significant issues in humanitarian aid delivery, including the seizure of aid by Houthi authorities and weak government institutions and bureaucratic obstructions impeding the travel and movement of relief workers. One of her key points was that the supply of weapons to combatant parties must stop. 'At the end of the day, the best relief for Yemenis is ending the war,' she declared.<sup>39</sup>



Saeed is an Oxfam Community Health Volunteer and lives in Ammar bin Yasser camp with his wife and five children. Saeed received training from Oxfam and now helps to educate and raise awareness of good hygiene practices within the community. Credit: VFX Aden / Oxfam

Funding of aid is a major issue, with the UN estimating in the spring of 2022 that some \$4.3 bn was required this year to reach 17.2 million people.<sup>40</sup> UN Office for the Coordination of Humanitarian Affairs (OCHA) reports that by the end of September, the 2022 Humanitarian Response Plan (HRP), requiring \$4.27 bn to assist 17.9 million people, was only 47.5% funded, forcing aid organizations to reduce or close critical assistance programmes.<sup>41</sup> This shortfall has been common in recent years.

Before the truce, the roughly 10 attacks a month on transport infrastructure were a major factor in impeding aid delivery, along with control of transport routes through checkpoints. The closure of roads, for example around Taizz, increases cost, resource use and time taken for aid delivery. In 2021, Oxfam colleague Fathi Mahmoud Ali Salem Al-Zurigi died after a checkpoint shooting. Even where these attacks are not targeted, they are a significant



impediment to travel and thus to aid delivery.<sup>42</sup> There have also been incidents of the kidnapping of aid workers.<sup>43</sup>

Multiple attacks during the year on tankers and fuel stations, and rising fuel costs, make aid delivery more expensive thus cutting the amount that can be supplied.

This is exacerbated by direct attacks on aid organizations which have been a feature of the war since the early days. Oxfam had two facilities bombed in 2015, incidents which as far as is known have never been investigated. There were at least four attacks on aid offices and storage depots in the period covered by the report.

Women aid workers have found working in some areas of Yemen increasingly difficult as authorities insist that they are accompanied by a male guardian, a *mahram*, in order to travel and work. There have also been campaigns against the employment of women by humanitarian organizations, who have been accused of trying to impose new societal norms. This has impacted Oxfam's aid work directly, as well as that of other organizations and is one example of the way that the war has led to a restriction of women's rights in Yemen.

Probably the main issue undermining the delivery of aid in Yemen is the failure of policy among major aid donors. 'The UK government's approach to Yemen is completely incoherent – on the one hand offering lifesaving aid to people devastated by the conflict, and on the other, helping to fuel that conflict by arming those involved,' said Danny Sriskandarajah, Oxfam's chief executive in 2020.<sup>44</sup>

## 10. IHL IMPLICATIONS

All sides to the conflict in Yemen are accused of serious breaches of international law by the United Nations (UN), Non-government organizations (NGOs) and other international organizations. These bodies have documented evidence that all combatant parties have committed serious violations of the laws of war and of fundamental human rights resulting in significant numbers of civilian casualties and extensive destruction of civilian property. Such violations may give rise to a dual responsibility under international law: of the combatant parties, under the rules of international responsibility of States, and of the individual offenders, under the rules of international criminal law.

These crimes are covered by IHL.<sup>45</sup> The International Committee of the Red Cross and Red Crescent Societies (ICRC) defines IHL thus:

*International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflict. International humanitarian law is part of international law, which is the body of rules governing relations between States. International law is contained in agreements between States –*

*treaties or conventions – , in customary rules, which consist of State practise considered by them as legally binding, and in general principles. International humanitarian law applies to armed conflicts. It does not regulate whether a State may actually use force; this is governed by an important, but distinct, part of international law set out in the United Nations Charter.*<sup>46</sup>

## 10.1 ARE WE WITNESSING WAR CRIMES?

Oxfam does not decide which attacks as described in this report are or are not war crimes. However, there are many incidents which raise concerns and warrant serious investigation and accountability. There are distinct types of attacks that might amount to serious violations of IHL:

- Attacks directed against the civilian population and/or civilian objects, including buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives.
- Indiscriminate attacks that fail to distinguish between military forces and objectives and civilians and civilian objects, that employ a method or means of combat which cannot be directed at a specific military objective or that have effects which cannot be limited, as required by IHL.
- Disproportionate attacks launched in the knowledge that they will cause incidental harm to civilians or civilian objects that is excessive in relation to the anticipated concrete and direct military advantage.
- Attacks launched without feasible precautions having been taken to avoid and/or minimize incidental loss of civilian life, injury to civilians and/or damage civilian objects.

Oxfam does consider that there are clear patterns of ongoing civilian harm in Yemen. All combatant parties contribute to this harm in which, on multiple occasions daily, civilians are harmed or killed, and civilian infrastructure and property is damaged or destroyed. The most widespread pattern is the destruction of civilian infrastructure in airstrikes by the SLC. A quarter of all attacks fall into this category.

Oxfam also considers that there are many incidents and attacks featured in this report which should be properly investigated by multiple agencies as they may constitute serious violations of IHL as described above. Other investigations have reached similar conclusions.<sup>47</sup> This is necessary for accountability to the people of Yemen for the attacks they have unjustly endured. It is also necessary for those States which have armed the parties in the conflict, particularly those who are States party to the Arms Trade Treaty (ATT) and have a legal obligation to ensure their arms are not supplied where there is an 'overriding risk' that they will be used to commit serious violations of IHL.

European Union (EU) Member States have an obligation under the Common Position on Arms Exports not to export where a 'clear risk' exists that weapons 'might be used' in serious violations of IHL.<sup>48</sup> States party to the four

Geneva Conventions and their Additional Protocols, also have a legal duty to uphold IHL and to ensure that it is upheld by others.

The sheer number of attacks in populated areas and directly on homes indicates that combatants are at best reckless as to the impact of their military actions and may well be conducting operations in an indiscriminate manner. That over 1,700 attacks have significantly impacted civilians in the 423 days covered by this report, more than 4 attacks every day, is at least a strong indication that parties to the conflict are not seriously upholding their obligations under IHL and that a clear risk exists that such attacks will occur in the future. The fact that a quarter of those attacks were SLC airstrikes indicates that the UK should consider whether it has knowledge, in the sense of ATT Article 6, that fighters, missiles and bombs it sells will be used in this way.

Some attacks have occurred against protected sites. It is absolutely forbidden to attack medical facilities and the 19 attacks in our data on hospitals, clinic and ambulances may all constitute serious violations of IHL. This impedes access to health care for civilians and increases the already massive strain on the Yemeni health system.

Targeting humanitarian aid is also a serious violation of IHL, and we note attacks on an International NGO (INGO) office and three aid warehouses and storage areas are evidence of such crimes. This is part of a pattern of attacks on aid facilities and workers going back to the start of the conflict when an Oxfam water warehouse and a solar panel pumping facility were bombed.

There were 35 attacks on markets reported in the period concerned. Targeting sites where civilians access food, thus restricting their access to it, is also a serious violation of IHL. This would apply also to the many attacks on farms.

All of this runs directly counter to the principle of the Protection of Civilians in conflict, elaborated in UN Security Council resolutions and ICRC commentaries, which goes beyond not committing war crimes or other violations of IHL and International Human Rights Law, to require positive action to ensure that all feasible precautions are taken to avoid and minimize civilian harm in the conduct of military operations. In Yemen generally this principle is not adhered to. Oxfam believes that effective accountability mechanisms are needed to protect the rights of Yemeni civilians in this conflict.

## **11. A LACK OF ACCOUNTABILITY**

There are a number of accountability mechanisms available to control the actions of combatant parties and those supplying them with arms. The most effective one, the UN Group of Eminent Experts was shut down after lobbying by Saudi Arabia and allies. The UK has not seriously applied its own arms control mechanisms and has, as a result, been taken to court twice. The CIMP,

on whose data this report is based, closed at the end of November 2022 due to non-renewal of contracts. This makes accountability by civil society for combatants' actions much harder.

## 11.1 UN HUMAN RIGHTS COUNCIL GROUP OF EMINENT EXPERTS ON YEMEN

In its resolution 36/31 (2017), the Human Rights Council (HRC) requested the UN High Commissioner for Human Rights to establish a group of eminent international and regional experts on Yemen to monitor and report on the situation of human rights in the country. The Group of Eminent Experts (GEE) had a mandate to undertake comprehensive examinations of all alleged violations and abuses of international human rights and humanitarian law, and other relevant international law carried out since 2014. This mandate included investigation of possible gender dimensions in such violations.

They also provided recommendations on improving the situation for Yemeni civilians. They investigated potential serious violations of IHL in detail and identified which of the combatant parties was responsible. The mandate of the GEE was renewed in 2018, 2019 and 2020.

In its four reports, the GEE has documented violations of international law, some amounting to war crimes, committed by all parties to the conflict in Yemen. The GEE has stressed the urgency of achieving sustainable and inclusive peace, ensuring accountability for perpetrators of violations, and realizing victims' rights to reparations.

The work of the GEE has been instrumental in monitoring and addressing human rights violations by all parties to the conflict in Yemen. It plays a vital role in gathering information, publicly reporting recent patterns of violations and abuses, and providing timely recommendations to the international community concerning the situation in Yemen. In this year's report to the HRC entitled 'A nation abandoned: A call to end Yemen's suffering' the GEE exposed again violations by all parties to the conflict and the lack of political will to put an end to the 'pandemic of impunity' in Yemen.

Saudi Arabia and other SLC partners fighting in Yemen put intense pressure on HRC members to end the GEE's mandate in the autumn of 2021, using a combination of threats and incentives.<sup>49</sup> The UK, while nominally supporting retaining the GEE did little to push back to avoid offending Saudi Arabia. The HRC decided to terminate the mandate of the GEE due to Saudi efforts.

For Yemeni civilians, the impact was immediate. Violence peaked dramatically after the GEE's mandate was ended, with air raids by the Royal Saudi Air Force rising from around 100 per month across the summer of 2021 to over 400 in January 2022. Fighting also intensified around Marib and Hodeidah during this period.

The GEE provided impartial investigations into possible violations of IHL. Following the vote, the GEE themselves stated that the termination of their mandate was 'a major setback for all victims who have suffered serious

violations during the armed conflict that has been raging for over six years in Yemen'. Their work was the only universally accepted way to establish which combatant parties had carried out which attacks against civilians and civilian infrastructure.

## **11.2 THE UNSERIOUS JOINT INCIDENTS ASSESSMENT TEAM (JIAT)**

The JIAT is an investigative mechanism set up by the SLC in response to concerns about continuing potential serious violations of IHL in Yemen.

JIAT originally consisted of 14 individuals from the main SLC members. It has a mandate to investigate the facts, collect evidence, and produce reports and recommendations on 'claims and accidents' during SLC operations in Yemen. The JIAT cannot be said to be independent as it has been headed by retired Saudi military personnel.

The limited information available to the public shows a general failing by JIAT to provide credible, impartial, and transparent investigations into alleged SLC violations.

The information publicly available on the JIAT's work gives rise to serious concerns as to the procedure adopted by the JIAT, including in respect of the collection and consideration of evidence; the extent to which the JIAT's published analysis presents unclear or inconsistent factual findings; misinterprets or misapplies relevant rules of IHL; and fails to provide an adequate analysis of actual or potential IHL violations. Concerns also arise as to the manner in which the Saudi and UK governments have presented and reacted to the JIAT's findings to date. The UK has used findings by the JIAT as a reason to continue arms sales, despite the manifest flaws in JIAT as an accountability mechanism, and despite the fact that even the UK government lacks access to all JIAT work.

JIAT have been very slow to report their findings, and in multiple cases their findings have been contradicted by the UNCHR GEE, and by human rights groups. The JIAT has also failed to investigate the large majority of potential serious violations of IHL identified by outside groups. Indeed, there is no evidence that the JIAT has ever investigated all, or even a significant proportion, of the thousands of incidents involving civilian harm that have occurred since 2015. Oxfam has seen no evidence that many or most of the incidents contained in this report have been investigated. The JIAT also has no access to northern Yemen, so cannot investigate most violations or potential violations.

Other failings of the JIAT include their refusal to reveal who is interviewed in investigations. The JIAT's own statements about its work indicate that it does not interview victims, nor does it make on the ground inspections of damage caused. There appears to be evidence in rare JIAT statements that they change evidence or use it in an inconsistent fashion. An attack on one Médecins Sans Frontières (MSF) clinic was described as causing no civilian harm and as unintentional at the same time.<sup>50</sup> Also, the issues of unlawful

arms sales to combatants are beyond the scope of the JIAT's work.

The JIAT is not a serious accountability mechanism for Yemenis.

## 11.3 UK JUDICIAL REVIEW

As described above, the UK has been a major arms supplier to Saudi Arabia for decades and has supplied many billions of pounds worth of arms to Saudi Arabia since their intervention in Yemen began in 2015.

Under the ATT, the UK and other State parties are obliged to establish and maintain an effective transfer control system for conventional arms. Under Article 6, where States have knowledge the arms will be used to commit war crimes, the transfer is prohibited. If not prohibited, then under Article 7, States must carry out a risk assessment to determine whether there is an overriding risk that serious violations of IHL will occur, in which case the transfer must not go ahead. A similar principle is embedded in the EU Common Position on Arms Exports which applied to the UK at the time, and also in UK law. At the time the Consolidated Criteria required a risk assessment, and in both EU and UK law there was deemed to be a 'clear risk' of serious violations of IHL.

In 2015 Oxfam, with Amnesty UK and Saferworld, obtained legal advice which suggested that, under international, EU and national law, UK arms exports to Saudi Arabia were unlawful as there was a 'clear risk' that the arms 'might' be used to commit serious violations of IHL. As a consequence, Oxfam supported CAAT in their judicial review of the lawfulness of UK arms sales to Saudi Arabia. Oxfam was an intervener in the case, providing a witness statement on the humanitarian impact of UK arms used in Yemen by Saudi Arabia, and a legal memo on IHL and arms sales, based on the previous legal opinion.

The case came to the High Court in 2017, which ruled against CAAT. The case was appealed and in June 2019 the Appeal Court ruled in CAAT's favour, issuing a judgment that the process used to licence UK arms sales to Saudi Arabia was unlawful. The judgment required the UK government to follow a lawful decision-making process, including consideration of whether Saudi Arabia has breached IHL in Yemen, before making a fresh decision on whether to suspend existing licences and whether to grant any further licences.

The reason the court found the decision unlawful is because of government failures in assessing whether there was a 'clear risk' that arms sold to Saudi Arabia might be used in the commission of serious violations of IHL (in which case, by law, the licence for the sales could not be granted). Specifically, the government had made no attempt to answer the question as to whether there was an historic pattern of breaches of IHL on the part of the SLC in Yemen – the court ruled that the government could and should have done this and must do so in future. The government subsequently said it would not issue new licences for exports to any members of the SLC but was not required to halt deliveries under existing licences as CAAT had not requested this. UK weapons continued to fuel the fighting in Yemen.

On 7 July 2020, the then Secretary of State for International Trade Liz Truss



announced that she had determined that only isolated serious violations of IHL had been committed by Saudi Arabia, and no pattern was discerned in those breaches. Subsequently, an answer in Parliament revealed that the MOD tracker for incidents in Saudi contained 516 incidents at that time.<sup>51</sup> The government has refused to issue any detailed analysis of these figures, which amount to one potential violation of IHL every 3.75 days from 2015 to July 2020. This is clearly a vast underestimate of potential violations, as this report and the CIMP data shows several attacks on civilians per day to be the norm.

Nevertheless, the UK resumed issuing new licences for arms sales transfers to Saudi Arabia, on the grounds they were applying a new process which complied with the requirements of the court. The government also stated it had been used to review all extant licences and determine they were legally issued. Processing of new licences resumed immediately.<sup>52</sup>

The government and CAAT had both appealed to the Supreme Court over different aspects of the Appeal Court ruling. In the autumn of 2020 they dropped their appeals: the government because they claimed to have complied with the judgment of the Appeal Court<sup>53</sup>, and CAAT as an appeal on the 2017 facts had little chance of success.

CAAT subsequently launched a new judicial review, claiming that the Secretary of State had:

- Failed to identify all of the cases where there has been a serious breach of IHL.
- Wrongly concluded that there is no pattern to the breaches.
- Failed to properly take into account the failure of the Kingdom of Saudi Arabia (KSA) investigate, prevent or punish serious breaches of IHL itself.
- Misdirected herself as to the nature of a serious breach of IHL.

The UK position on civilian harm and violations of IHL in Yemen by the SLC and continued licensing of arms exports to Saudi Arabia is inconsistent with its position on the same situation in Ukraine. The government has recognized that civilian deaths and destruction of civilian infrastructure by Russia in Ukraine are in many cases in serious violation of IHL. It has, accordingly, sanctioned Russian officials and military personnel, as well as Iranian arms companies supplying missiles to Russia.<sup>54</sup> Yet, it continues to defend arms sales to Saudi Arabia for use in the war in Yemen, in a clear demonstration of double standards and politicisation of the law for reasons of national interest. This impunity for violations undermines any further UK efforts to uphold internal norms in other contexts.

Oxfam has again supported the court case as an intervener, providing evidence of the pattern of harm caused in Yemen by UK arms, as described in this report. The case will come to court in early of 2023, using facts not in evidence at the first judicial review.

## 12. CONCLUSION AND RECOMMENDATIONS

This report, and the research behind it, were conceived in response to the UK government's position in the judicial review brought by Campaign Against Arms Trade (CAAT), which questioned whether the licensing of the transfer of arms to Saudi Arabia for use in the war in Yemen is legal under UK and international law. The purpose of this paper is to examine the significant harm caused by the war to Yemeni civilians from January 2021 to the end of February 2022.

The data examined by Oxfam in this report clearly lays out the human harm of the war in Yemen, its multiple impacts on civilians and the destruction of civilian infrastructure. There is a clear pattern of harm to civilians through military actions, amounting to hundreds of incidents every month. Much of that harm is done by the SLC through airstrikes across the country. It is further clear that a large number of these incidents are likely to rise to the level of serious violations of IHL and that there is an absence of accountability for these actions, and since the termination of the GEE not even any formal investigation. The absolute impunity for UK and Saudi actions undermines UK efforts to uphold international law norms in other contexts. Those supplying arms to combatant parties have ignored this reality, and in some cases broken national and international laws in the supply of weapons, putting profit of arms companies ahead of their legal obligations.

To begin to rectify the current situation, Oxfam believes that:

- Outside parties must stop fuelling the war. Arms and technology transfers to all combatant parties in Yemen must stop while there is a clear risk that those arms might be used to commit serious violations of IHL; State parties to the ATT must fully uphold the requirements of that Treaty; risk assessments on arms transfers must take into account the indirect impact of the use of arms.
- All combatant parties must adhere strictly to obligations under IHL when it comes to targeting populated areas, relocating military camps and warehouses outside populated areas and cities to prevent harm on civilians and infrastructure.
- Beyond the basic requirements of IHL, there must be an end to attacks on civilians and civilian infrastructure. Populated areas must be places of safety for all Yemenis.
- The UN must establish an effective, independent, widely accepted accountability mechanism that provides justice for the people of Yemen for the crimes that have been committed against them; reference to the GEE reports should be taken into account and hold parties held accountable for committed violations detailed in the group's reports.
- Governments should ensure that funds are made available to IHL mandated agencies/INGOs and Yemeni NGOs to ensure documentation of potential violations of IHL.

- Such investigations must be facilitated to measure the impact of restrictions imposed by all parties on civilians, including restricted movements by closure of roads. and ensuring concrete measures must be put in place to alleviate the suffering of civilians.
- UN Member States must fully fund the Yemen Humanitarian Response Plan, and combatant parties must ensure unimpeded access for aid delivery.
- There is a clear need for a full ceasefire, and for peace negotiations that include Yemeni women and leading to a long lasting and sustainable political agreement on Yemen's future.

# GLOSSARY OF ACRONYMS

APII	Additional Protocol Two to the Geneva Conventions of 12 August 1949
AQAP	Al Qaeda in the Arabian Peninsula
ATT	Arms Trade Treaty
CAAT	Campaign Against Arms Trade
CIMP	Civilian Impact Monitoring Project
ERW	Explosive remnants of war
GBV	Gender-based violence
GEE	Group of Eminent Experts on Yemen
HRC	Human Rights Council
HRP	Humanitarian Response Plan
IAC	International Armed Conflict
ICRC	International Committee of the Red Cross and Red Crescent
IDP	Internally displaced persons
IED	Improvised explosive device
IHL	International Humanitarian Law
INGO	International Non-Governmental Organization
IRG	Internationally Recognized Government
JIAT	Joint Incidents Assessment Team
KSA	Kingdom of Saudi Arabia
MAM	Moderate Acute Malnutrition
MANPADS	Man Portable Air Defence System
MOD	Ministry of Defence
MSF	Médecins Sans Frontières
NIAC	Non-International Armed Conflict
NGO	Non-Governmental Organization
SLC	Saudi-led Coalition

STC	Southern Transitional Council
UNMAS	United Nations Mines Action Service
USAID	United States Agency for International Development UX0
UAV	Unmanned Aerial Vehicle
UMV	Unmanned Marine Vehicle

# NOTES

<sup>1</sup> Oxfam has been operating in Yemen since 1983 and is currently present in eight governorates where poor communities are located. We work alongside and through local partners in all areas of our response. Since July 2015, Oxfam has helped more than three million people in total in nine governorates of Yemen with assistance including clean water and sanitation, cash assistance and food vouchers.

Oxfam's clean water and sanitation provision has been delivered to more than one million people, including in hard-to-reach areas of the country, through delivering water by truck, repairing water systems, delivering filters and jerry cans, as well as building latrines and organizing cleaning campaigns.

Oxfam is striving to provide constructed and rehabilitated water systems using solar panels to power water pumps. In addition, Oxfam refocused its work to respond to the covid COVID-19 pandemic. Oxfam is distributing hygiene kits for the most vulnerable households and providing people with safe drinking water and training community health volunteers to spread the word about coronavirus and the importance of hygiene and hand washing. Oxfam is working with public health centers in Taiz, helping them deliver vaccines, and has also built and rehabilitated a number of health units there for use as isolation centers to treat Covid patients and for vaccination.

Oxfam has given cash for food to families affected by flooding and the rising cost of food and assist Yemenis to build livelihoods by providing cash grants to small businesses and farmers, as well as providing cash for work projects that allow people to be paid for rehabilitating essential infrastructure such as roads and water systems. Oxfam reaches around 280,000 people each year with these kinds of projects, across nine governorates in both the south and the north of the country.

Oxfam helps women step into leadership roles, speak out against harmful laws and policies and stand up for their rights. When all women get fair living wages, decent working conditions, and their voices heard, everyone benefits. Oxfam works with civil society organizations across the country to ensure that the voices of Yemeni women and youth are raised and their aspirations for the peace process are heard by powerholders. Oxfam campaigns for an end to the conflict and an inclusive peace agreement that takes into account the needs and views of women, youth and civil society. And it works to ensure that civilians are well protected, and work with civil society organizations in both the south and the north to ensure that the voices of women and youth are heard when it comes to the peace process.

<sup>2</sup> UK Parliament. (2020). *Saudi Arabia: Arms Sales. Lords Private Notice Question*. Retrieved from <https://hansard.parliament.uk/lords/2020-07-10/debates/D4005E25-ACF5-43A1-B4E1-9C25062B4F87/SaudiArabiaArmsSales>

<sup>3</sup> The UN Office for the Coordination of Humanitarian Affairs (UNOCHA) describes the protection cluster as 'The National Protection Cluster is a coordination mechanism of organizations implementing protection activities that aims to safeguard the respect for and protection of the rights of individuals affected by the current crisis in Yemen, with a particular emphasis on persons with specific needs.

The National Protection Cluster assumes the responsibility of promoting the centrality of protection in the overall humanitarian response, which is essentially about placing the achievement of protection outcomes at the heart of our collective humanitarian engagement.' Retrieved from [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/yemen\\_protection\\_cluster\\_tor\\_august\\_2015\\_final.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/yemen_protection_cluster_tor_august_2015_final.pdf) on December 21, 2022

<sup>4</sup> The Civilian Impact Monitoring Project (CIMP) was a monitoring mechanism for real-time collection, analysis and dissemination of open source data on the civilian impact from armed violence in Yemen, with the purpose of informing and complementing protection programming. CIMP was a service under the United Nations Protection Cluster for Yemen and, since going live on 01 August 2018, has reported in real-time on the impact of incidents of armed violence on civilians at the national level, divided into 5 hubs: Al-Hodeidah, Sa'ada, Sana'a, Aden and Ibb. The dataset shows the number of incidents to have impacted upon civilian houses, farms, vehicles, businesses and markets and the number of incidents to have impacted upon civilian infrastructure sites since December 2017. The CIMP was suspended at the end of November 2022 due to lack of funds and non-renewal of contracts.

<sup>5</sup> Action for Armed Violence. (2022). *UK Special Forces Operations: Yemen (incl. Djibouti)*. Retrieved from <https://aoav.org.uk/2022/yemen-incl-djibouti/>

<sup>6</sup> BAE has responsibility to ensure 5,000 flying hours from the Saudi Typhoon fleet and is paid on the basis of each hour flown. See BAE Systems website

<http://www.baesystems.com/en/our-company/our-businesses/bae-systems-saudi-arabia/about-us/segments>

See also this brief description of the UK MOD role, retrieved from <https://caat.org.uk/homepage/stop-arming-saudi-arabia/uk-arms-to-saudi-arabia/>.

- <sup>7</sup> This figure is arrived at by adding the amounts of licensed arms sales to Saudi Arabia as published in UK government quarterly reports since 2008. These can be found online at <https://www.gov.uk/government/collections/strategic-export-controls-licensing-data#history>
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The existence of an armed conflict triggers the application of IHL, a body of law which imposes obligations and limits on how parties may conduct hostilities, and which protects all persons affected by the conflict. In a NIAC, these obligations arise through Common Article 3 to the Four Geneva Conventions, Additional Protocol II to the 1949 Geneva Conventions ('APII'), and customary international law. In an IAC, the regime of the Four Geneva Conventions and of Additional Protocol I to the 1949 Geneva Conventions, which are broadly accepted to reflect customary international law, applies instead of Common Article 3 and APII. Special rules also apply in armed conflicts to certain civilian persons and objects, including hospitals and humanitarian objects, and situations of military blockade.

Under customary international law set out in the 2001 International Law Commission's Draft Articles on Responsibility of States for Internationally Wrongful Acts, a State is responsible for violations of the rules of IHL committed by its armed forces and/or by persons or groups acting on its instructions or under its direction or control. Such violations may also give rise to individual criminal responsibility on the part of those involved, if deliberate.

The situation in Yemen was complicated from the beginning and has become more so as clients of different, nominally allied States have attacked each other, and as military support has increased over the past eight years. It is clear that the conflict in Yemen meets – at the very least – the criteria for classification as a NIAC. The Houthis, the IRG, the STC and AQAP are sufficiently organized and fighting is of a sufficient intensity to make that definition, and because all combatant parties have the capacity to adhere to IHL.

The question of whether the conflict should instead properly be classed as an IAC, that is – a conflict resulting from a "difference arising between two States" – is less clear. However, the UK believed the conflict included an IAC, a conflict between States, as early as November 2015. The fighting between the IRG and the STC also has elements of an IAC.

The precise categorisation of the conflict is a matter for the courts when commissions of serious violations of IHL are brought before them. Judges will, at that time, need to determine precisely which forms of IHL apply.

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<sup>49</sup> See, for example: "UN Human Rights Council Member States' abject failure to renew Yemen investigation is a wake-up call", Press Release, Mwatana for Human Rights, 13 October 2021. Retrieved from <https://mwatana.org/en/a-wake-up-call/>.

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<sup>52</sup> Secretary of State for International Trade Liz Truss, Trade Update, Statement made on 7 July 2020, Statement UIN HCWS339. Retrieved from <https://questions-statements.parliament.uk/written-statements/detail/2020-07-07/HCWS339>.

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# OXFAM

Oxfam is an international confederation of 21 organizations, working with its partners and allies, reaching out to millions of people around the world. Together, we tackle inequalities to end poverty and injustice, now and in the long term – for an equal future. Please write to any of the agencies for further information or visit [www.oxfam.org](http://www.oxfam.org).

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