



**International Rescue Committee**

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## **UN Security Council Must Urgently Enforce Access for Humanitarian Relief to Yemen.**

The blockade of international airports, seaports and land crossings in Yemen by the Saudi-led Coalition (SLC) is a continuing violation of the most fundamental safeguards of humanitarian relief to victims of conflict under International Humanitarian Law (IHL) and the SLC must end it without delay. Further, the UN Security Council should urgently redress the existing restrictions on delivery of humanitarian aid and commercial supplies through United Nations Verification and Inspection Mechanism for Yemen (UNVIM), as mandated by UNSC Resolution 2216. As currently interpreted and implemented, UNSC resolution 2216 provides the SLC with means to justify IHL violations inherent in the current blockade. And it has served as justification for the pre-existing bureaucratic impediments/delays that have exacerbated the humanitarian crisis for over two years.

On 6 November 2017, SLC declared a “temporary” closure of Yemen’s international ports, promising to take into consideration the continuation of the entry and exit of humanitarian supplies and crews.<sup>1</sup> Alarming, SLC maintained a total blockade for no less than seven days, thereafter, only ports under SLC control reopened on 13 November 2017. A complete blockade by the SLC of ports under Houthi control remains in force to date, including the port of Hodeida, where 80% of humanitarian and commercial goods enter the country.<sup>2</sup> The U.N. has warned that the blockade may precipitate a famine the likes of which the world has not seen for many decades.<sup>3</sup>

The SLC action is inconsistent with the legal obligation to allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in Yemen.<sup>4</sup> It is trite law that parties to conflict must at all times maintain distinction between combatants and civilians, and accord humane treatment to non-combatants. With humanitarian assistance impeded to more than 20 million civilians, the blockade, which has intensified in response to a ballistic missile attack by Houthi combatants on the territory of Saudi Arabia on 5 November 2017 is a violation of international humanitarian law.

The partial lifting of the blockade in areas controlled by the Hadi government does not alleviate the problem. , and is both arbitrary and discriminatory. While SLC has the legal prerogative to issue consent and to impose conditions on how humanitarian aid may be delivered, international law stipulates that these shall not be arbitrary.<sup>5</sup> Further, that humanitarian aid shall not be denied to populations facing starvation of which there are 9.8 million in Yemen. <sup>6</sup> <sup>7</sup> The UNSC has recently affirmed this principle in the case of Yemen.<sup>8</sup>

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<sup>1</sup> Saudi Press Agency, <http://www.spa.gov.sa/viewfullstory.php?lang=en&newsid=1684682>

<sup>2</sup> UNOCHA, <https://reliefweb.int/report/yemen/yemen-key-messages-continued-closure-yemen-s-ports-13-november-2017>

<sup>3</sup> UNOCHA, <http://www.un.org/apps/news/story.asp?NewsID=58116#.WhEsVVWWa00>

<sup>4</sup> ICRC, International Customary Law Rule 55 [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule55](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule55)

<sup>5</sup> Protocol II Additional to the Geneva Convention of 1949, Article 18

<sup>6</sup> Protocol II Additional to the Geneva Convention of 1949, Article 14

<sup>7</sup> UNOCHA <http://www.unocha.org/yemen/about-ocha-yemen>

<sup>8</sup> UNSC Resolution 2216, Preamble



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The SLC cannot abrogate the duty to protect the entire civilian population in Yemen, regardless of whether or not they are in State-controlled territory. Humanitarian relief must be allowed free passage through ports under Houthi control in order reach majority of the population who live in this territory, and which is disproportionately impacted by the war-induced humanitarian catastrophe. The ongoing blockade of ports is therefore unconscionable, unjustifiable and in need of urgent redress.

However, a return to the pre-blockade status quo is insufficient. Since 2015, the SLC has enforced sanctions against Yemen, including restrictions on delivery of humanitarian aid and commercial supplies through United Nations UNVIM, as mandated by UNSC Resolution 2216. The enforcement of these sanctions has been fraught with dysfunction and is directly responsible for the current humanitarian catastrophe. Civilians have been deprived of basic commercial and humanitarian goods and services, through unwarranted restrictions that involve a variety of regulatory, and mostly arbitrary, restrictions – including an unreasonable delay and/or denial of entry to vessels in Yemeni ports. These actions amount to unlawful unilateral coercive measure (UCM) under international law.<sup>9</sup>

This latest episode of blockade intensification, in Yemen in response to the missile strike on Saudi Arabia, even in the face of humanitarian catastrophe, exemplifies the dysfunction in the current sanctions regime including the vulnerability of the sanctions regime to be an instrument of reprisal. As such, the need for the UNSC to introduce an objective framework for enforcement and accountability. Sanctions must not be an instrument against the civilian population in Yemen, otherwise it may amount to collective punishment which is expressly prohibited in international law.<sup>10</sup>

UNSC has a responsibility to mitigate the impact of Resolution 2216 on the civilian population, particularly by ensuring a definitive facilitation of unimpeded access for humanitarian relief in accordance with International law. Such a framework should prevent all logistical and financial obstacles affecting the import and distribution of food and medical supplies to civilians in need; obligate the all parties to ensure the full and effective functioning of all major international entry points; guarantee the security of all international air and sea ports so that urgently needed medicine and commodities can be flown in and Yemenis in need of medical treatment can be flown out; and, establish independent enforcement and accountability mechanisms to ensure that the implementation of sanctions has a nominal impact on the civilian population. The time has come for the UNSC to pass a humanitarian resolution on Yemen, a decision that it has deferred for too long.

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<sup>9</sup> United Nations Office of the High Commissioner for Human Rights OHCHR, Special Rapporteur on the negative impact of Unilateral Coercive Measures <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21496&LangID=E>

<sup>10</sup> Protocol II Additional to the Geneva Convention of 1949, Article 4 (2)b