GENDER-BASED VIOLENCE AND THE YEMEN CIVIL WAR
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The Yemen Accountability Project (“YAP”) is a student led-initiative based at Case Western Reserve University School of Law and affiliated with the Global Accountability Network (“GAN”). The opinions, conclusions, and recommendations contained in this report do not necessarily reflect the views of Case Western Reserve University or its School of Law.

GAN is a collective of international criminal prosecutors and practitioners who supervise and work with law students on specific atrocity projects for Syria, Yemen, Venezuela, Ukraine, and the Pacific Rim region. YAP’s student researchers and analysts gather open-source evidence of potential war crimes and crimes against humanity committed during the Yemen Civil War to assist with future prosecutions under the relevant international legal standards.
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EXECUTIVE SUMMARY: Summarizing the White Paper’s findings and recommendations.

This white paper examines the various means by which the Yemen Civil War has implicated gender-based violence (“GBV”) and the legal provisions under both international human rights law (“IHRL”) and international humanitarian law (“IHL”) the parties to the conflict have potentially violated as a result of perpetrating or failing to prevent such violence. GBV is the most egregious form of gender-based discrimination and is impermissible under international law. States have an obligation to prevent, punish, and refrain from engaging in gender-based violence.

Based on the evidence presented in this white paper, YAP concludes that the Saudi-led Coalition, Houthis, and Yemeni Government have violated their obligations regarding gender-based violence. The perpetrators of these violations must face justice, mitigate their violations’ adverse effects and provide relief to those affected by GBV. The purpose of this white
paper is to provide evidence of IHRL and IHL violations concerning gender-based violence and offer avenues for accountability.

I. INTRODUCTION

A. Overview

This white paper assesses the various ways in which the Yemen Civil War has implicated issues regarding GBV, from exacerbating the pre-existing prevalence of GBV to the utilization of GBV by the parties as a weapon of war. This paper identifies both the perpetrators of GBV and the entities that have failed to prevent it and identifies legal provisions through which interested parties can hold these perpetrators accountable.

Part I summarizes the Yemen Civil War, the circumstances that led to its inception, and the main parties involved in the conflict. Part II considers the definition of GBV in the context of international law and explores the international legal landscape concerning that topic. Part III analyzes yearly and thematic trends regarding GBV in Yemen. Part IV identifies legal provisions in both IHRL and IHL that create liability for perpetrators of GBV, including those that fail to prevent it, and examines the evidence of GBV presented in Part III under those provisions. Part V assesses challenges with existing accountability mechanisms and makes recommendations for potentially viable avenues for accountability. Finally, Part VI recommends how stakeholders may address the Yemen Civil War’s connection to GBV and aid future prosecutions or lawsuits.

B. The Yemen Civil War

The Yemen Civil War stems from long-standing tensions between the Houthis, a Zaydi Shia group from northern Yemen,1 and Yemen’s former dictatorial president, Ali Abdulla Saleh.2 After the 2011 Arab Spring protests, Saleh transferred power to his vice president at the time, Abd Rabbo Mansour Hadi, but widespread political instability persisted.3 This instability escalated in September 2014, when the Houthi rebels captured Yemen’s capital city of Sana’a in September 20144 and effectively ousted President Hadi in January 2015.5 Despite this, President Hadi’s government remains the internationally recognized de jure government of Yemen.6

The Yemen Civil War officially began in March 2015, when a Coalition of States led by Saudi Arabia and acting on behalf of President Hadi’s government (“Saudi-led Coalition”)

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2 Id.
initiated an airstrike campaign on the Houthis to restore the Hadi government’s authority in the country. Accordingly, the ongoing conflict has primarily involved the Iranian-supported Houthis and the Saudi-led Coalition. The Islamic State (“ISIS”) and Al-Qaeda of the Arabian Peninsula (“AQAP”) have also participated in the conflict to a lesser degree. Since 2015, these parties have caused serious civilian casualties and harmed the civilian population through strategies, including the de facto blockade on Yemen’s seaports and closure of Sana’a International Airport.

The conflict, particularly on the part of the Houthis, has intensified in recent months. Beginning in November 2023, Houthi militants have engaged in dozens of attacks on international shipping vessels in the Red Sea, claiming to be in response to the alleged Israeli genocide of the Palestinian people. As the Houthis continue to engage in military action in the Red Sea against commercial shipping and US and UK warships, the US, the UK, and Operation Prosperity Guardian, a US-led multinational military coalition formed in response to Houthi actions in the Red Sea, have responded in what those entities describe as “self-defense” to protect their security interests in the region and to mitigate and deter future Houthi action, as well as to address the imminent threat to targeted military personnel and property. Following US and UK air strikes on Houthi positions, the Houthis targeted and continue to target ships owned and operated by UK or US owners. For further discussion, we would direct attention to the Yemen Accountability Project’s upcoming white paper, *The Legal Defensibility of US, UK, and Operation Prosperity Guardian’s Military Response to Houthi Attacks in the Red Sea*.

Altogether, these military activities have created what is arguably one of the worst humanitarian crises in the world, with a death toll of at least 19,200 people, including over 2,300 children, and the displacement of a further 4 million, as of February 2024. In addition to Yemen’s general civilian population, as this white paper will demonstrate, the war’s toll has significantly impacted women in Yemen, who have been, and continue to be subjected to GBV both as an act of war and as a result of the war’s exacerbation of preexisting GBV in Yemen. LGBTQIA+ individuals have been similarly adversely impacted by the ongoing conflict.

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9 Id.
12 Id.
To situate the Yemen Civil War within the proper legal framework, the Group of Eminiment International and Regional Experts on Yemen (“Group of Experts”) have designated the war as a non-international armed conflict (“NIAC”). NIACs involve conflicts between a State and a non-State armed group. Although multiple States have participated in the conflict, those States each support Hadi’s government to combat a non-State actor, the Houthis rebels, and thus, the conflict is properly designated a NIAC. In NIACs, legal obligations arise under both customary international law and treaty law. All parties to the conflict, including Hadi’s Yemeni government, the Saudi–led Coalition, and non-state actors, including the Houthis rebels, are bound by customary international law. This includes the customary IHL principles of distinction, necessity, and proportionality. Even in areas where Hadi’s government has lost control, it still retains positive obligations under customary international law. Additionally, Yemen is a party to and, therefore, bound by the Geneva Conventions of 1949 and Additional Protocol II. The Saudi-led Coalition is also bound by the Geneva Conventions because they reflect customary international law. Similarly, The Group of Experts has also considered ISIS and AQAP to be bound by IHL because each group has engaged in parallel NIACs with Yemen’s government forces. For these reasons, each of these parties may be held accountable for their violations of IHL. They may also be liable for IHRL violations, if jurisdictionally applicable.

For more information about the Yemen Conflict and its designation as an NIAC, please see the YAP’s previous publications.

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22 Id. at ¶ 15.
23 Id. at ¶ 13.
25 Id. at ¶ 31.
26 Id. at ¶ 34.
II. GENDER-BASED VIOLENCE IN INTERNATIONAL LAW

The term gender-based violence (“GBV”) broadly encompasses harmful acts directed against an individual or group of individuals based on their gender. The term additionally covers harmful acts committed against individuals targeted because of their sexual orientation. GBV includes “physical, sexual, and psychological violence occurring in the family or within the general community, and perpetrated or condoned by the State.” The following acts constitute GBV: sexual violence, such as rape and sexual assault; domestic or intimate partner violence; femicide or honor killings; female genital mutilation; and forced marriage, among other acts. In addition to these physical forms of violence, GBV includes instances of psychological and other forms of non-physical violence, such as sexual harassment.

As stated by the International Criminal Court (“ICC”)’s Office of the Prosecutor, perpetrators of GBV crimes often intend to punish individuals they perceive to have transgressed socially, culturally, or otherwise entrenched forms of gender expression. Accordingly, GBV proliferates as a result of systemic inequality between genders. Systemic inequality results in a number of negative consequences, all of which are exacerbated by conflict. For example, because women and girls have less representation in decision-making, military operations are not proportionately influenced by women and girls’ gender perspectives. This is one of the

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30 Id.


36 Id.

37 Id.
reasons why women and girls are disproportionately harmed by such operations.\textsuperscript{38} That harm is exacerbated by women and girls’ restricted access to healthcare and other essential services, such as education.

While transgender and nonbinary persons are also disproportionately targeted as a result of their gender, international law—including international bodies, treaties, and States—generally considers GBV from a binary perspective.\textsuperscript{39} The result is a wide gap in the GBV human rights framework.\textsuperscript{40} Additionally, while cisgender women, girls, and trans and nonbinary individuals are most often the targets of GBV, cisgender men, particularly gay men, and boys are also victims of GBV.\textsuperscript{41} This white paper recognizes that the term GBV is applicable to acts committed against each of these populations when they are targeted as a result of their gender, even if certain sources exclude these populations from GBV discussions. The themes presented in this white paper consider the ways in which GBV impacts each of these populations.

GBV invokes the responsibility of both State and non-State actors under international law. IHL prohibits discriminatory treatment based on sex or “any other distinction founded on similar criteria.”\textsuperscript{42} This encompasses sexual orientation and gender identity.\textsuperscript{43} The Rome Statute’s prohibition on persecution against identifiable groups covers gender, sexual orientation, and gender identity.\textsuperscript{44} Moreover, customary IHL strictly prohibits sexual violence as an act of war.\textsuperscript{45} Also under custom, women are not only afforded the same protection as their male counterparts,\textsuperscript{46} but also specific protections for their health and assistance needs.\textsuperscript{47} Common Article 3 of the Geneva Conventions and Additional Protocol II, both of which apply to NIACs, additionally secure aspects of the general customary rule which requires parties to respect specific women’s needs.\textsuperscript{48} Those instruments particularly prohibit violence to life, as well as

\textsuperscript{38} Id.
\textsuperscript{40} Id. at 761-62.
\textsuperscript{42} \textit{United Nations Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity, From Wars Against Diversity to an Inclusive Peace: Conflict-Related Violence Based on Sexual Orientation & Gender Identity} (2022) (hereinafter, “\textit{From Wars Against Diversity to an Inclusive Peace}”).
\textsuperscript{43} Id. at 2.
\textsuperscript{44} Id.; Rome Statute of the International Criminal Court, art. 7(h), July 1, 2002, 2187 U.N.T.S. 90 (“Rome Statute”).
\textsuperscript{47} Id.
\textsuperscript{48} Id.
health and physical and mental well-being, and outrages upon personal dignity, including humiliating and degrading treatment, rape, and any form of indecent assault.  

Under IHRL, States have an obligation to prevent, punish, and provide remedies for acts of GBV, when those acts are committed by either State or non-State actors and include when those acts are committed against LGBTQIA+ individuals. Further, under IHRL, States must ensure that all GBV victims have effective access to legal remedies, as well as holistic health treatments which address both the mental and physical impact of surviving GBV.

There is “broad international consensus” that States must act with due diligence in order to fulfill their human rights obligations as it relates to GBV. States satisfy the due diligence standard when they adopt progressive measures to modify social and cultural patterns of conduct that eliminate prejudices and practices which reinforce attitudes of gender inferiority. Additionally, States must take measures to understand and identify the root causes of GBV in order to make such modifications.

As a final note, instances of GBV are heavily underreported, particularly as it relates to violence committed against LGBTQIA+ individuals. On average, international data suggests that one in two women who have experienced physical or sexual violence do not disclose that violence to anyone, and even fewer—roughly 16 percent—report that violence to official services. There are even greater gaps in available data as it relates to sexual orientation and gender identity. Without accurate data as it relates to the experience of GBV against LGBTQIA+ individuals, these populations are rendered invisible to policy makers, who are thus rendered incapable of meaningfully realizing key human rights protections. As consistently established by international bodies, a State’s failure to fulfill these obligations, incurs its legal responsibility.

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49 Id.
51 FROM WARS AGAINST DIVERSITY TO AN INCLUSIVE PEACE, supra note 24, at 4.
52 Id.
53 Lenahan, supra note 50, ¶ 122-24.
54 Id. at ¶¶ 121-26.
55 FROM WARS AGAINST DIVERSITY TO AN INCLUSIVE PEACE, supra note 24.
59 FROM WARS AGAINST DIVERSITY TO AN INCLUSIVE PEACE, supra note 24.
60 Id.
61 Lenahan, supra note 50, ¶ 126.
III. EVIDENCE OF GENDER-BASED VIOLENCE THROUGHOUT THE CONFLICT

A. General Trends

When the Yemen Civil War broke out in 2015, Yemen witnessed attacks on journalists, women, migrants, and prisoners.\(^{62}\) Motorcyclists assassinated a leading journalist and Houthi activist in a drive-by shooting.\(^{63}\) Al-Qaeda arbitrarily detained students at a co-educational university for either being female students or associating with female students.\(^{64}\) Airstrikes killed migrants by purposefully targeting Internally Displaced Persons (“IDP”) camps.\(^{65}\) Coalition militias placed prisoners on a boat and then blew it up, killing those on board.\(^{66}\)

Journalists and women suffered similar attacks in 2016. Houthis fired on journalists reporting on the frontlines of the war, killing one and injuring four.\(^{67}\) Another journalist was killed by a Houthi sniper while covering clashes in Bayhan.\(^{68}\) Additionally, ISIS stormed a hospital and forcibly separated medical staff by gender and maltreated those who refused to comply with the order.\(^{69}\) Gender-based violence extended into property destruction when a woman was labeled as “deviant” and had her home blown up as a result.\(^{70}\)

As the Yemen Civil War extended into 2017, threats to journalists and women continued. Houthis kidnapped and arbitrarily detained over 300 civilians—mostly women and children—in revenge for the deaths of Houthi commanders.\(^{71}\) A Coalition attack on a refugee boat left 42 people dead.\(^{72}\) Of the 42 refugees, most were women and children, and most had UN Refugee Agency papers.\(^{73}\) Yemeni Security Forces assaulted, beat, questioned, and detained women protesting the disappearances of their family members.\(^{74}\) Houthi forces arbitrarily imprisoned journalist and activist Hisham al-Omeisy.\(^{75}\) Further, the United Nations criticized the Coalition for restricting journalists’ ability to report on the war after a Coalition bombing.\(^{76}\)

In 2018, violence against journalists and women continued. Armed attacks broke into an Aden media foundation—home of the daily Akhbar al-youm news and the weekly al-Shomou

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62 See, e.g., YAP 2015 Matrix #YSN15030501, #YTZ15032402, #YAD15040804, #YSN15072501, and #YAD15082401.
63 See, e.g., YAP 2015 Matrix #YSN15031801.
64 See, e.g., YAP 2015 Matrix #YHA15080801.
65 See, e.g., YAP 2015 Matrix #YSN15072501.
66 See, e.g., YAP 2015 Matrix #YAD15082301.
67 See, e.g., YAP 2016 Matrix #YTZ16032101.
68 See, e.g., YAP 2016 Matrix #YSH16052901.
69 See, e.g., YAP 2016 Matrix #YTZ16072402.
70 See, e.g., YAP 2016 Matrix #YLA16012501.
71 See, e.g., YAP 2017 Matrix #YIB17021501.
72 See, e.g., YAP 2017 Matrix #YHU17031601.
73 See, e.g., YAP 2017 Matrix #YHU17031601.
74 See, e.g., YAP 2017 Matrix #YAD17071201.
75 See, e.g., YAP 2017 Matrix #YSN170811401.
76 See, e.g., YAP 2017 Matrix #YTZ17071901.
news—and abducted at least seven people. Additionally, a Houthi strike left one journalist dead. In November of 2018, both Coalition and Houthi attacks resulted in the deaths of women.

2019 witnessed violent and brazen attacks. On 11 separate occasions, women were gunned down by Houthi forces, Hadi forces, and anti-Houthi National Resistance Forces. Further, a female student was kidnapped and held hostage by Houthi supervisor Abduh al-Tawam for at least two months. An unknown number of girls working in a sewing shop were kidnapped by Houthi forces, then drugged, sent to a brothel, and then imprisoned in Sana’a. Houthi forces physically assaulted three female INGO staff after they refused one woman assistance due to documentation issues. There were also multiple incidents of prisoner torture. Methods included electric shocks, belt whippings, and sexual assault abuse; many of the incidents resulted in deaths of prisoners.

Violence against women and journalists continued through 2020. Houthi forces tortured and sexually assaulted female inmates at the Sana’a Central Prison. A 38-year-old woman inmate was paralyzed as a result of the torture and many young girls were sexually assaulted. Prison guards and the Warden himself tortured and assaulted three women. Hadi forces in the Taizz district open-fired on two school girls, injuring them. A member of the Taizz axis—also affiliated with the Islah party—attempted to rape a girl belonging to the Muhammashen ethnic group. An activist and his family were beaten for speaking up about the attempted rape of the Muhammashen girl. Several female principals were abducted from their homes by Houthi forces. Additionally, Houthi forces abducted, kidnapped, and tortured female dissenters; they also forced the women to admit to prostitution charges on camera. A National Resistance Fighter reportedly raped a 7-year-old girl in the Hays district of Al-Hudaydah.

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77 See, e.g., YAP 2018 Matrix #YAD18032301.
78 See, e.g., YAP 2018 Matrix #YBA18041301.
79 See, e.g., YAP 2018 Matrix #YSD18110901.
80 See, e.g., YAP 2019 Matrix #YDH19072201, #YHU19072601, #YDH19073101, #YAH19081301, #YTZ19081601, #YTZ19081701, #YJA19081901, #YAH19082301, #YAH19082601, #YHU19111601, and #YAD19120802.
81 See, e.g., YAP 2019 Matrix #YHJ19110601.
82 See, e.g., YAP 2019 Matrix #YMA19120101.
83 See, e.g., YAP 2019 Matrix #YHJ19111001.
84 See, e.g., YAP 2019 Matrix #YSN1911501, #YSH19122303, #YMH19080104, #YNA19091201, #YMR19101903, #YSH19110901, and #YAB19111001.
85 See, e.g., YAP 2019 Matrix #YSN1911501, #YSH19122303, #YMH19080104, #YNA19091201, #YMR19101903, #YSH19110901, and #YAB19111001.
86 See, e.g., YAP 2020 Matrix #YSN20011001.
87 See, e.g., YAP 2020 Matrix #YSN20011001.
88 Id.
89 See, e.g., YAP 2020 Matrix #YTZ20012801.
90 See, e.g., YAP 2020 Matrix #YTZ20020101.
91 See, e.g., YAP 2020 Matrix #YTZ20102701.
92 See, e.g., YAP 2020 Matrix #YSN20031601.
93 See, e.g., YAP 2020 Matrix #YSN20042906.
94 See, e.g., YAP 2020 Matrix #YHU20072101.
reports include assaults against an 8-year-old boy, a 12-year-old boy, and another 7-year-old girl. The pro-STC Reinforcement and Security Brigade abducted and tortured a journalist after he had received threats for his media reporting. Houthi forces arrested, tortured, and killed journalists who were reporting on the conflict. Journalist-Activist Ayal Hadaf was abducted by pro-Islah forces for organizing an anti-Islah protest.

In 2021, Houthi forces assaulted and arrested a model and her two friends because the model’s work allegedly violated Islamic dress codes since she did not wear a hijab. Houthi supervisor, Abu Khalid, sexually assaulted and killed a 12-year-old girl in the Ash Shuur village. Houthi forces placed four journalists on death row for spreading “false information”; journalists have been executed by Houthis in the past for the same offense. Yemeni National Resistance forces assaulted three journalists reporting on the arrival of the Giants Brigade.

Kidnappings of girls and women continued in 2022. Houthi Leader, Salim al Jamai, abducted a 13-year-old girl and forced the girl’s family to allow him to wed her. By the end of July 2022, Houthi forces had reportedly abducted at least 100 girls on false prostitution charges. After refusing to work with the Houthis, model Entisar al-Hammadi was abducted and charged on false prostitution and drug abuse charges. She was sentenced to five years, brutally assaulted, and subjected to “virginity testing”. Houthi Zainabiyat – women units – assaulted dozens of female prisoners. The assaults came as the Houthi Zainabiyat denounced that the deteriorating mental health of female prisoners led to the suicide of one of the women.

### B. Thematic Areas Concerning Gender-Based Violence

The aforementioned events have impacted various aspects of the lives of women & LGBTQIA+ individuals. Discussed in Part 1, sexual violence and physical violence have been used as acts of war in Yemen. Part 1 also addresses the increase in non-conflict related instances of sexual and physical violence. Part 2 concerns GBV as psychological violence in Yemen. Such violence has had an adverse impact on the physical, mental, and reproductive health of affected individuals as well as on their ability to meaningfully access an education, as discussed in Parts 3 and 4 respectively.

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95 See, e.g., YAP 2020 Matrix #YLA20030401.  
96 See, e.g., YAP 2020 Matrix #YTZ20082704.  
97 See, e.g., YAP 2020 Matrix #YLA20050101, and #YLA20051502.  
98 See, e.g., YAP 2020 Matrix #YSN20052701.  
99 See, e.g., YAP 2020 Matrix #YSO20041501.  
100 See, e.g., YAP 2021 Matrix #YSN21022001.  
101 See, e.g., YAP 2021 Matrix #YIB21042801.  
102 See, e.g., YAP 2021 Matrix #YSN21120101.  
103 See, e.g., YAP 2021 Matrix #YSN21122801.  
104 See, e.g., YAP 2022 Matrix #YDM22060101.  
105 See, e.g., YAP 2022 Matrix #YSH22060101.  
106 See, e.g., YAP 2022 Matrix #YLA22072606.  
107 See, e.g., YAP 2022 Matrix #YSN22072707.  
108 See, e.g., YAP 2022 Matrix #YSN22072707.  
109 See, e.g., YAP 2022 Matrix #YSN22111201.
Part 5 discusses the practice of arbitrary imprisonment throughout the Yemen Civil War and its disproportionate use against women. Honor killings, as discussed in Part 6, similarly disproportionately affect women. Parts 7 and 8 discuss the practices of female genital mutilation and forced marriage in Yemen. Parts 9 and 10 next outline tightening restrictions on women’s ability to move freely and to express themselves. Finally, Parts 11 and 12 consider the particular targeting of LGBTQIA+ individuals and migrant women in Yemen.

1. Sexual and Physical Violence

Throughout the Yemen Civil War, Yemeni women and girls have faced increasing rates of sexual and physical violence.110 While prior to the war such violence was a common occurrence111—Yemen has consistently ranked last or second to last in the World Economic Forum’s Global Gender Gap Index112—following the war’s onset, instances of assaults and abuse targeting women have increased by at least 63 percent.113 Accordingly, demands for services for women victims of violence have also risen drastically.114 Yemeni-based NGOs estimate that roughly 800,000 women and girls between ages 15-49 across Sana’a, Aden, Hajjah are at risk of sexual violence and rape.115

The vast majority of the sexual and physical violence perpetrated against Yemeni women occurs in the home.116 Yemeni cultural norms contribute to this phenomenon.117 Seventy-one percent of respondents in a 2020 Oxfam study, conducted in four of Yemen’s major cities, said a husband’s punishment of his wife was justified if she disrespected certain social norms.118 Yet

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112 ACAPS, supra note 110.
115 WOMEN SOLIDARITY NETWORK, supra note 111.
116 ACAPS, supra note 110, at 5.
117 Id.
another study revealed that domestic violence was tolerated to such a degree that victims struggled to find a sense of safety in the home.119

Apart from the increased rates of sexual and physical violence that have followed the onset of the war in Yemen generally, both of the major parties to the conflict have engaged in such violence as a direct component of that conflict.

The Houthis have routinely engaged in sexual and physical violence against women. Much of this violence stems from the groups’ ideology, which demonizes women,120 envisions them as homemakers and mothers, and excludes them from public life.121 Amid the dissemination of this limiting ideology, violence against women has proliferated. From December 2017 to October 2022, Houthi forces accounted for more than 1,800 reports of kidnapping, torture, and rape of women and girls.122

In addition to Houthi actions, Yemeni armed forces have routinely engaged in the kidnapping and rape of displaced people and minorities as a means of subjugating those communities.123

Members of the Saudi-led Coalition and associated forces have also committed acts of sexual violence, particularly against children.124 For example, in March, 2019, an investigation by Amnesty International documented two attacks on children—one a rape and the other an attempted assault—allegedly committed by Coalition-backed militamen in Taizz.125 According to that investigation and others, meaningful accountability from the Yemeni judicial system or other institutions remains largely elusive.126

2. Psychological Violence

Psychological abuse occurs when mental or emotional harm is inflicted upon an individual.127 Such harm constitutes GBV when threats of violence, humiliation, harassment, stalking, intimidation, or other similar acts are directed against an individual on the basis of their gender.128 According to a 2019 United Nations Report, almost a quarter of reported GBV

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119 Id.
121 Id.
122 Id.
123 A GENDERED CRISIS, supra note 113, at 60.
126 Id.; A GENDERED CRISIS, supra note 113, at 66-67.
127 ACAPS, supra note 110, at 6.
128 Id.
incidents in Yemen involve psychological abuse. That same report recounted testimony by Yemeni girls who have adopted a policy of traveling in groups and traveling further distances to collect water to avoid sexual harassment, as well as the threat of physical or sexual violence. Women in multiple Yemeni cities report experiencing verbal abuse and threats while in public and indicated that the conflict has exacerbated such instances. Such actions are almost always committed with impunity.

3. Physical, Mental, and Reproductive Health

GBV has an adverse impact on victims’ physical, mental, and reproductive health. Despite this, access to resources designed to alleviate this impact are significantly restricted in Yemen.

a) Physical health

GBV often results in physical harm to victims for which they need access to healthcare. Yemeni women suffer from a lack of access to such healthcare generally. Yet even where they do have some access, women report forgoing treatment for serious ailments for numerous reasons. First, medical centers are often located far away from their homes. Second, undertaking the journey to a functioning medical center exposes women to the risk of experiencing GBV along the way. Finally, men are assigned the predominant authority for determining medical care and expenditures. Thus, women’s ability to receive meaningful care is restricted, even when they do manage to reach a medical facility.

b) Mental health

GBV negatively impacts survivors’ mental health. Despite this, GBV survivors in Yemen have little to no access to mental health resources. The need for mental health services is all the more necessary given that a recent study showed an increase in mental health issues such as

129 A GENDERED CRISIS, supra note 113, at 57.
130 Id. at 60.
131 Id. at 66-67.
132 Id.
135 Id.
136 Id.
137 ACAPS, supra note 110.
anxiety, depression, post-traumatic stress disorder, and sleep disorders, particularly in women and children.\textsuperscript{139} In fact, a support clinic north of Taizz reported that roughly 80 percent of women have suffered trauma in recent years, at least in part, due to the ongoing conflict.\textsuperscript{140} This mental health crisis was exacerbated by the COVID-19 pandemic.\textsuperscript{141} In addition to the accompanying stigma GBV survivors face, mental illnesses are also highly stigmatized in Yemen; consequently, survivors struggle to access help from the few psychiatrists in the country.\textsuperscript{142}

c) Reproductive health

Access to reproductive healthcare is limited in Yemen. Prior to the civil war, Yemeni maternal death rates in 2013 already hovered around 5 maternal deaths a day; by 2018, such death rates had risen to approximately 12 maternal deaths per day.\textsuperscript{143} A 2023 publication suggests that the high maternal mortality rate continues to grow.\textsuperscript{144} This same publication suggests that most of these maternal deaths are \textit{completely preventable} with proper medical care.\textsuperscript{145} Less than half of the childbirths in Yemen are attended by medical specialists, and difficulties accessing healthcare—including distance, military activity, cost barriers, and the fact that only one in five healthcare facilities provide maternal and child healthcare—leave expectant and new mothers without vital healthcare.\textsuperscript{146} Furthermore, about 1.5 million pregnant and breastfeeding women suffer from acute malnourishment.\textsuperscript{147}

Contraception, including contraceptive pills, condoms, and contraceptive injections, have been heavily restricted by Houthi-led rebels, with intrauterine devices ("IUDs") fully banned in the Sa'ada governorate as of late 2020.\textsuperscript{148} Accessing issues for contraceptives increase the risk of an unwanted or unhealthy pregnancy, which may in turn result in higher maternal mortality.

\textsuperscript{140} Niarchos, \textit{supra} note 114.
\textsuperscript{141} Zaid, \textit{supra} note 139.
\textsuperscript{145} Id.
\textsuperscript{147} Id.
numbers.\textsuperscript{149} Additionally, Yemeni law prohibits abortion unless a specialist doctor finds that an abortion is necessary to preserve the life of the mother.\textsuperscript{150} There is no exception in cases of rape.\textsuperscript{151} Based on the above listed barriers to maternal healthcare, access to legal abortion is extremely limited, and such restrictions can increase maternal mortality rates.\textsuperscript{152}

### 4. Gender-Based Violence and the Right to an Education

Exposure to GBV meaningfully thwarts an individual’s ability to access an education. Moreover, the cultural norms which give rise to GBV simultaneously make it more challenging for women and girls, in particular, to access an education. Accordingly, in Yemen, access to education for girls and women is greatly limited both by conservative cultural norms as well as functional issues such as displacement.\textsuperscript{153}

Yemeni women struggle to access schooling. Cultural phenomena have proliferated the conflict, such as the high rate of child marriage\textsuperscript{154} and beliefs that women and girls do not have a right to education,\textsuperscript{155} and existed even prior to the escalation of the war. One Yemeni woman reported an inability to help her children with their schooling since she was forced to drop out of school to marry at a young age.\textsuperscript{156} The lack of access to education, and its corresponding impact on literacy rates, is problematic through most women’s day-to-day life. For example, one woman reported an inability to read expiration dates on milk cartons and other such issues.\textsuperscript{157}

Approximately one in four educational facilities have been destroyed in the conflict and some students living in more contested regions, such as Taizz, run the risk of being caught in the

\textsuperscript{149} Michael Boah et al., \textit{Prevalence and Factors Associated with the Utilisation of Modern Contraceptive Methods Among Married Women of Childbearing Age in Yemen: A Secondary Analysis of National Survey Data}, 13 BMJ OPEN (2023).

\textsuperscript{150} \textit{Yemen: Gender Justice & The Law}, UNITED NATIONS DEVELOPMENT PROGRAMME (2018).

\textsuperscript{151} Id.

\textsuperscript{152} Anna Kheyfets et al., \textit{The Impact of Hostile abortion Legislation on the United States Maternal Mortality Crisis: A Call for Increased Abortion Education}, 11 FRONTIERS IN PUBLIC HEALTH 1 (2023).


crossfire on their way to or from school. The distance to educational facilities for any rural students can be immense, and the low rate of female school teachers contributes to lower rates of female enrollment and retention in schools as many families are unwilling to have their female family members taught by men. The population of IDPs is impacted by access to education, with displacement sites largely dependent on volunteer teachers. Additionally, due to the functional issues and other impacts of war, families may only be able to afford to send one child to school, in which case they are likely to choose to send a son over a daughter based on safety concerns and cultural practices.

In addition to the aforementioned implications of limited education access, lack of education places women and girls at higher risk of other issues. Girls who drop out of school prematurely are at higher risk of forced marriage. Furthermore, girls who drop out of school are at higher risk of exploitation, abuse, and sexual violence. General research regarding girls' education suggests that lack of access to education increases the risk of intimate partner violence victimization.

5. **Arbitrary Imprisonment**

All of the major parties to the conflict have arbitrarily and illegally imprisoned women. One of the more blatant examples is the customary practice of refusing to release women who have completed their jail sentences without the accompaniment of a male guardian. This practice is against Yemeni law and has no legal basis. Women also face injustice through accusations of adultery being treated as a criminal offense.

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162 *Id.*

163 *Id.*

164 *Id.*


167 *Id.*

168 *Id.*
Between 2014 and 2020, the U.N. found at least 30 verified cases of individuals “arbitrarily arrested and detained in violation of Yemeni and/or international law.”\textsuperscript{169} Persons have been found to have been detained without charges for prolonged periods.\textsuperscript{170} These detentions were for reasons such as “voicing opinions contrary to the interests of the ruling party,”\textsuperscript{171} and “discrimination of various forms, including discrimination on the basis of religious beliefs, race and/or gender.”\textsuperscript{172}

In addition to arbitrary imprisonment, women are discriminated against throughout the duration of their imprisonment and subject to disproportionate treatment. There have been numerous documented cases of women being physically and mentally tortured, raped, isolated, and forced to confess on camera to myriad criminal charges while in Houthi prisons.\textsuperscript{173} The Human Rights Council has found that rape was “a widespread practice in the secret detention facilities where women and girls were kept.”\textsuperscript{174} Fatima Al-Arouli, a human rights activist, was arrested and sentenced to death under charges of espionage and impersonating a woman.\textsuperscript{175} She was isolated and deprived of her rights to meet her family and lawyer and her lawyers were denied from attending trial sessions.\textsuperscript{176} Several U.N. organizations have called on the Houthi authorities detaining her to release her, stating that the “enforced disappearance and detention of human rights defender Fatima Saleh Al-Arouli is a clear retaliation against her efforts to promote and protect human rights.”\textsuperscript{177}

6. Honor Killings

The term “honor killings” or “honor crimes” generally refers to the practice of men killing female family members under the pretext, accusation, or suspicion that the female family member engaged in a sexual relationship outside of marriage.\textsuperscript{178} It is estimated that more than 5,000 individuals are killed each year due to honor killings worldwide.\textsuperscript{179} Yemeni law, exercised in areas controlled by the official government and the Houthi militias, fails to effectively outlaw “honor” crimes, and does not provide adequate legal recourse for victims. Article 59 of the


\textsuperscript{170} Id.

\textsuperscript{171} Id. at ¶ 156.

\textsuperscript{172} Id. at ¶ 157.

\textsuperscript{173} The Coalition of Women for Peace in Yemen Confirmed that It Monitored the Abduction of 504 Women in the Central Prison in Sana’a, and 204 Minor Girls Between the Ages of 12 and 18, AL-SHARQ AL-AWSAT (Dec. 8, 2022), https://nabd.com/s/112418824-ac2a8b1b

\textsuperscript{174} Id.

\textsuperscript{175} The Coalition of Women for Peace in Yemen Confirmed that It Monitored the Abduction of 504 Women in the Central Prison in Sana’a, and 204 Minor Girls Between the Ages of 12 and 18, AL-SHARQ AL-AWSAT (Dec. 8, 2022), https://nabd.com/s/112418824-ac2a8b1b

\textsuperscript{176} Id.

\textsuperscript{177} Id.


Yemeni Penal Code permits fathers, uncles, and brothers to murder women and girls, facing only a moderate fine in punishment.\textsuperscript{180} Article 42 of the Yemeni Penal Code indicates that such fines are half of that as would be required for a man’s death.\textsuperscript{181} Further, Article 232 of the Yemeni Penal Code indicates that if a man kills his wife, one of his daughters or granddaughters, or sisters after being caught in the crime of adultery, his punishment will not be greater than one year of imprisonment or a fine.\textsuperscript{182} These laws collectively encourage a culture where the killing of women is permissive, even for suspicion of extramarital sex.

Several honor killings have received media attention, including that of a 12-year-old girl called Ma’ab, who was killed in a Yemeni government-controlled area.\textsuperscript{183} After her father accused her of having extramarital sex and subsequently tortured her into confessing to such, he shot and killed her.\textsuperscript{184} Yemeni authorities confirmed that “the child was ‘brutally tortured.’\textsuperscript{185}” While Ma’ab’s father was arrested at the time, according to one Yemeni newspaper “it is unclear whether he was charged with killing her or had been released later.”\textsuperscript{186}

Similarly, in 2020, 16-year-old Isbah Yahya Mahdi was killed by her brothers, who poisoned and tortured her at their father’s behest in Houthi-controlled territory.\textsuperscript{187} The following, in 2021, Shorouk Ahmed Mana, a 23-year-old woman, was strangled and killed in the Houthi-controlled Sanaa by her three brothers under the incitement of her uncle who suspected she had committed adultery.\textsuperscript{188} Shorouk’s murder was denounced by several activists on social media, who called for an end to all “honor” crimes.\textsuperscript{189} Despite societal pressure, media reports note that the Houthi authorities did not prosecute her killers.\textsuperscript{190}

7. Female Genital Mutilation

A 2013 Yemen Demographic and Health Survey revealed that approximately 19 percent of women and girls in Yemen had undergone female genital mutilation.\textsuperscript{191} These statistics have declined slightly in recent years but remain particularly prevalent in the

\begin{footnotesize}
\begin{enumerate}
\item A Horrific Crime Among the Brothers of Sana’a, Al Arabiya (Sept. 27, 2021), https://www.alarabiya.net/arab-and-world/yemen/2021/09/27/.
\item Id.
\item Id.
\item Id.
\item Id.
\item Id.
\item ENDING FGM IN YEMEN: DISTANCING FGM FROM RELIGIOUS DISCOURSE AND TERMINOLOGY, UNICEF 3, https://www.unicef.org/mena/media/20686/file/Ending%20FGM%20in%20Yemen.pdf, (last visited Apr. 16, 2024); Female Genital Mutilation Dashboard (FGM) - Yemen, UNITED NATIONS POPULATION FUND, https://www.unfpa.org/data/fgm/YE, (last visited Apr. 16, 2024); ACAPS, supra note 110, at 5.
\end{enumerate}
\end{footnotesize}
Yemeni-government-controlled coastal regions, where between 60 and 80 percent of women have experience female genital mutilation.\textsuperscript{192} Most of these women were targeted as infants.\textsuperscript{193}

8. **Forced Marriage**

The Yemen conflict has heightened the frequency of child marriage for female children. Although child marriage for female children was common in Yemen before the conflict, it has since become more prevalent.\textsuperscript{194} For more information on the practice of child marriage and its particular impact on girls, review the YAP’s previous white paper on the effect of the conflict on children.\textsuperscript{195}

9. **Restrictions on Movement**

All parties to the conflict in Yemen have engaged in the systematic restriction of women’s freedom of movement.\textsuperscript{196} These restrictions have impaired women’s ability to access work, education, and healthcare.\textsuperscript{197} Beginning in 2014, authorities in Yemen’s capital of Sanaa have required women to travel with a *mahram*, a male guardian such as a husband, or with written permission from this person.\textsuperscript{198}

Houthis’ Land Transport Regulatory Authority expanded the restrictions on women’s movement in August 2022, “requiring that women no longer be permitted to travel anywhere within Houthis-controlled areas, to areas controlled by the Yemeni government, or outside the country without a *mahram*.”\textsuperscript{199} This is especially an issue for women who do not have many men in their families.\textsuperscript{200} This particularly affects women who work; many have lost their jobs as a consequence of not being able to travel without a *mahram*.\textsuperscript{201} Moreover, women are threatened with insults if they are seen traveling outside of Sanaa without a male guardian.\textsuperscript{202} They are also threatened with imprisonment, which comes with severe consequences for women.\textsuperscript{203}

\textsuperscript{192} Mansour Adbu Al-Taj & Motahar Hassan Al-Hadari, *Prevalence and Drivers of Female Genital Mutilation/Cutting in Three Coastal Governments in Yemen*, 23 BMC Public Health 1 (2023).

\textsuperscript{193} Female Genital Mutilation Dashboard (FGM) - Yemen, UNITED NATIONS POPULATION FUND, https://www.unfpa.org/data/fgm/YE, (last visited Apr. 16, 2024).

\textsuperscript{194} ACAPS, *supra* note 110, at 5.


\textsuperscript{197} *Id.*

\textsuperscript{198} *Id.*

\textsuperscript{199} *Id.*


\textsuperscript{201} *Id.*


\textsuperscript{203} *Id.*
Additionally, under Yemen’s Personal Status Law (1992), married women are required to obey their husbands in order to maintain their *nafaqa*, the Islamic term for financial support a husband provides to his wife.\(^{204}\) A wife cannot leave her marital home without her husband’s permission or unless she has a “legitimate excuse” and she cannot refuse to travel with her husband.\(^{205}\) A “legitimate excuse” could include taking care of frail parents, managing finances, or going to a mutually-agreed upon job.\(^{206}\) In practice, what this means is that women can be, and are, detained, imprisoned, and/or punished for leaving the home alone.\(^{207}\)

In their seventh and eighth periodic reports of Yemen, the Committee on the Elimination of Discrimination Against Women raised concerns about the restrictions on the freedom of movement arising under the Personal Status Law.\(^{208}\) The report highlights the impact of the restriction on movement for married women. Married women are unable to move or leave conflict areas because they are unable to travel without their husband’s permission.\(^{209}\) Additionally, under the Personal Status Law, fathers are the legal guardians of children.\(^{210}\) A mother cannot travel with her children as she needs consent of the children’s father or guardian.\(^{211}\) This proves extremely problematic if the husband is missing or has been killed in the civil war.\(^{212}\)

Yemeni government forces and the Southern Transitional Council have also restricted women’s movement, particularly in the south of Yemen.\(^{213}\) For example, in Southern Transitional Council-controlled territory, women have been barred from hotels unless they show proof of *mahram*.\(^{214}\) In March, 2024, Human Rights Watch reported that all parties to the conflict were escalading restrictions on women’s movement.\(^{215}\)

10. Restrictions on Freedom of Expression

Yemeni women and girls have their freedom of expression restricted in two major ways: a) through the targeting of women activists and journalists; and b) by the restrictions to their clothing by official state and Houthi regulators.

\(^{204}\) *Rothina Begum, Trapped: How Male Guardianship Policies Restrict Women’s Travel and Mobility in the Middle East and North Africa*, Human Rights Watch 113 (2023) [hereinafter, “Trapped”].

\(^{205}\) Id.

\(^{206}\) Id.

\(^{207}\) Id.

\(^{208}\) *Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Yemen*, CEDAW, UN Doc. CEDAW/C/YEM/CO/7-8 at 5 (Nov. 24, 2021).

\(^{209}\) *Trapped*, supra note 204, at 113.

\(^{210}\) Id. at 116.

\(^{211}\) *Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Yemen*, CEDAW, UN Doc. CEDAW/C/YEM/CO/7-8 at 15 (Nov. 24, 2021).

\(^{212}\) Id.


\(^{214}\) *Trapped*, supra note 204, at 115.

a) Targeting of Women Activists and Journalists

Yemeni women working in journalism and activism face substantial challenges that their male counterparts do not. Gender-based discrimination is pervasive and is expressed through various forms of harassment, threats to personal safety, and even arbitrary detention. In 2021, Reporters Without Borders recorded a 20% surge in arbitrary arrests, totalling 488 journalists, including 60 women, marking a historic high for women detainees. Women working in journalism and activism also receive harassment online via social media, which leads to blackmailing and the issuance of death threats, further emphasizing risks to personal safety. Importantly, while numerically there are less women journalists in Yemen, due to many of the restrictions outlined later in this section, the rate at which they are arrested, prosecuted, and targeted is substantial.

Censorship further restricts women’s capacity to report independently and access essential information. Yemeni journalists are often targeted by the parties to the conflict in an attempt to prevent journalists from reporting on events that could skew public opinion against them. This overarching threat to journalists leads to them practicing self-censorship in order to avoid harassment, assault, arbitrary detention, forced disappearances, prosecution in sham trials resulting in imprisonment and possibly the death penalty, and monetary fines. Euro-Med Human Rights Monitor reports that all Yemeni journalists have been subjected to at least one form of human rights violation. Notably, Yemen is ranked third in the world for most journalists killed in the last decade with a rate of more than five killed per year.

Women face unique obstacles if they can obtain employment as a journalist or activist. Most women journalists additionally face societal pressures, threats, limited occupational opportunities, and family rejection of their journalism. Women also face challenges when it comes to practical aspects of journalism, namely difficulty in conducting interviews and obtaining statements. Women journalists are not always recognized as journalists even if they are engaging in journalistic activities, further subjecting them to discrimination, pay cuts, expulsion from events, and limited access to journalist protections under IHL.

Women journalists and activists are also required to have mahram accompany them when they leave the home, constraining their autonomy and their ability to conduct their work effectively. Consequently, the vast majority of media outlets in Yemen have refrained from

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219 Not Your Profession, supra note 217.

220 Id.

221 Id.

222 Id.

223 Id.

224 Id.

engaging or collaborating with female journalists. This restriction on the freedom of movement and its relationship to the violations of women’s right to freedom of expression will be explored more in another section, but it is important to note that the requirement to dress a certain way and only travel with a male escort limits the ability of women journalists and activists to obtain employment and continue working.

Yemeni journalist Wedad al-Badawi has stated the restrictions on women journalists not only negatively affect women, it affects journalism as a whole. He highlights the example of conservative Yemeni women only being comfortable speaking and giving testimony to women journalists. Further, journalism as a whole benefits from the diversification of stories, perspectives, interviewers, and writers within the field. Journalism is inherently more accurate and representative when women are included throughout the reporting process and within the media industry generally.

Women journalists and other women professionals are particularly targeted by parties to the Yemen conflict via policies restricting women’s movement. The UN Humanitarian Coordinator has previously briefed the UN Security Council on issues concerning UN women employees and how these policies have negatively impacted their ability to work, stating that the mahram policies have adversely affected and completely halted many of their female staff’s work. Human Rights Watch also reports that checkpoint officials target women working with humanitarian agencies and nongovernmental organizations, usually preventing these women from traveling into Houthi-controlled territory. A Yemeni women’s rights activist reported to Human Rights Watch that when trying to pass through a government-controlled checkpoint without a male family member, she was detained for five hours and when a relative finally came to accompany her the checkpoint officer said, “But she’s working with NGOs and women who work with NGOs are [a derogatory expletive].” Another women’s rights activist notes, “psychologically we’ve been broken down…to speak about women’s empowerment feels ridiculous when we can’t even move around.”

Human Rights Watch notes this restriction on women’s movement contradicts guarantees in the Yemeni constitution and that Yemen is in direct violation of its obligations under the International Covenant on Civil and Political Rights, the UN Convention on the Elimination of All Forms of Discrimination Against Women, and the Arab Charter on Human Rights.

b) Restrictions on Clothing

The Houthis strict dress code requires women to wear only loose-fitting abayas—black robe-like garments that usually cover the entire body except for the wearer's hands, feet, and portions of their face—or burqas—black robe-like coverings that only allow for a narrow slit to show the eyes of the wearer. The Houthis have convened with women’s clothing shops and

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226 Not Your Profession, supra note 217.
227 Id.
230 Id.
231 Id.
mandated they sell only these specific items, requiring them to stop manufacturing any colorful, shortened, or highwaisted versions of abayas and burqas.233

Placing these restrictions on women is a tactic used by Yemeni authorities to visibly separate conformists from non-conformists, making it easier to identify and punish those in opposition of their policies. This tactic is also one used to exert control over women, creating a regressive society, limiting their options to leave or make positive political change in Yemen.234 These policies also aim to isolate Yemen, and Yemeni women, from the outside world; an attempt at reinvention of Yemeni society through the introduction of new traditional and cultural norms.235 This tactic is not strictly found in Yemen, the world has seen strict dress code enforcement as a mechanism to control women by the Taliban in Afghanistan and Daesh in Syria and Iraq as well.236

Yemeni model Entesar Al-Hammadi was arbitrarily arrested by Houthis and charged with ‘indecency” because she wore colorful clothing in photos shared to her social media.237 Her arrest and subsequent charging were accompanied by harassment and false accusations of prostitution. She was sentenced to five years in prison at the conclusion of a Houthi sham trial.238 This is one example to highlight the alarming trend of utilizing social media to further police and control women’s freedom of expression concerning clothing choice.

The above restrictive measures are oppressive, intrusive, and impact women’s freedom of expression. It is important to emphasize that these garments themselves are not oppressive. If women choose, on their own volition, to dress modestly; that is an empowerment of their freedom of expression. However, when their choice to dress how they want is taken away and mandated by men in positions of authority, their fundamental right to choose how to express themselves has been violated. Also it is important to note, these regulatory practices, while they discriminate against Yemeni women, they also reinforce injustices and stereotypes that limit their autonomy concerning independent decisions of marriage, employment, and education on the global stage.239

11. Targeting of LGBTQIA+ Individuals

Discrimination against LGBTQIA+ individuals is codified in Yemeni legislation and enabled by groups of public and private citizens. Articles 264 and 268 of the Yemeni Penal Code criminalize homosexuality;240 while those provisions contain no express references to trans or genderqueer people, they have been discriminatingly applied against those populations.241 The Yemeni Penal Code punishes women in same-sex relationships with a maximum three-year sentence and punishes sodomy, when conducted by an unmarried person, with a maximum of

233 Abo Alasrar, supra note 228.
234 Id.
235 Id.
236 Id.
237 Id.
238 Id.
239 Id.
100 lashes or up to one year in prison. A homosexual individual is married, the maximum sentence is death by stoning. Yemen is one of only seven countries in the world to impose the death penalty for homosexuality.

Actors in the Yemen Civil War have routinely targeted the LGBTQIA+ community. In 2020, Yemeni forces arrested a transgender woman for sodomy and indecent practices. She was imprisoned for eight months where she was abused, tortured and subjected to a forced anal exam. In 2022, Southern Transitional Council and Houthi forces arrested at least five people for their non-conforming gender presentation or for their LGBTQIA+ rights activism on social media. Security Belt forces accused a third-gender person for sodomy and arrested, beat and raped them.

In 2013, people suspected of being Al-Qaeda members (who were government actors, at the time) killed eight men in the street whom they suspected of being gay; in 2023, the State allegedly charged 118 members of the Houthi military for homosexuality; and in 2024, the State sentenced 13 people to death for homosexuality and charged 40 people with crimes related to homosexuality (including nine that the court sentenced to death—seven by stoning and two by crucifixion).

Though Yemen neglects to report on discrimination against LGBTQIA+ individuals (based on the government’s belief that “violence or discrimination against LGBTI persons is [irrelevant] for official reporting”), those who are openly a part of the LGBTQIA+ community do face discrimination. There are reports of severe violence towards LGBTQIA+ individuals, such as arbitrary detention, ill-treatment, torture, abuse, and sexual violence. For example, Houthi and Security Belt forces arbitrarily detained and tortured nine individuals they accused of “supporting the enemy” by spreading “prostitution and homosexuality” between 2016 and 2020, and law enforcement officers arbitrarily detailed, tortured, and sexually abused a trans woman during her eight-month prison sentence for charges of sodomy and “indecent practices.”

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243 Id.
245 Events of 2021, supra note 241.
246 Id.
248 Id.
252 Events of 2021, supra note 241.
In January and February of 2024, Houthi-led courts sentenced over 40 individuals due to sexual orientation or gender identity. In the northern court in Dhamar, nine individuals were sentenced to death and 23 were given prison sentences varying from six months to 10 years. These recent sentences suggest Houthi authorities are escalating their enforcement of laws criminalizing trans and genderqueer individuals. These executions, if carried out, will be the first reported executions of LGBTQIA+ individuals in more than a decade.

Yahyia al-Zandani, a transgender man, detailed his experience with Yemeni authorities as well as being abused and threatened by family members and strangers, who specifically threatened to subject him to an “honor killing.” Al-Zandani was involuntarily admitted to a psychiatric hospital, after Yemeni authorities mislabelled his gender identity as homosexuality, deemed him mentally ill, and forcibly medicated him, the latter of which resulted in a long-term negative impact. In reflecting on his experience, Al-Zandani said, “I have only been in this world for 23 years, yet it seems like a million lifetimes of torture.” Al-Zindani has been unable to continue his education, and despite eventually fleeing the country, he is still not permitted to travel freely, still cannot receive help from Arab NGOs, and still fears for his life from his family and the Houthi military, who his family reported him to.

12. Targeting of Migrant Women

The Yemen Conflict has interfered with migrant women's passing through Yemen en route to neighboring states such as Saudi Arabia. This can be accredited to escalation in nearby conflicts in Ethiopia and Eritrea causing desperate civilians to flee. Although migrants in Yemen were common before the conflict, the number of migrants has increased—about 77,000 migrants having crossed into Yemen in just the first half of 2023.

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254 Id.
255 Id.
260 Id.
261 Id.
263 Human Rights Violations Against Migrants in Yemen Increase Amid Soaring Arrivals: IOM Warns, INT’L ORG. MIGRATION (May 31, 2022),
Reports indicate that migrant smugglers, the Yemeni government, Houthi forces, and Saudi Security Forces have all perpetrated gender-based violence against migrants. Due to Yemen’s difficult terrain, many migrants rely on smugglers or traffickers to escort them through mountains such as the Sarawat Mountains. These smugglers, some collaborating with the Yemen Immigration, Passport, and Nationality Authority (IPNA), routinely extort, rape, and threaten migrants. Migrants in an IPNA camp have been subjected to sexual exploitation, forced labor, and other forms of abuse.264 Migrants who resist exploitation are detained.265 In interviews done by Human Rights Watch, three of the ten women and girls interviewed were raped by smugglers or other migrants.266 For instance, a 14-year-old Ethiopian girl named Hamdiya told Human Rights Watch that smugglers threatened to rape her when she was unable to pay them more money than they’d initially agreed.267 Other instances include a 20-year-old woman becoming pregnant from rape by a smuggler.268

Houthi forces use gender-based violence to extort money from migrants and their families back home in Ethiopia.269 Houthi forces also subject women attempting to cross into Saudi Arabia to sexual slavery where soldiers routinely rape and sexually harass these women.270 Once migrants reach the Saudi border, Saudi security forces are responsible for GBV against women and girls as young as 13 years old. Reports include women being raped by Saudi security forces and pushed back across the border into Yemen without their clothes.271 Human Rights Watch also reports that migrant men have been executed for refusing to rape fellow migrants at the instruction of Saudi security forces.272


265 Id.


267 Id.

268 Id.


270 Id.


IV. LEGAL ANALYSIS

A. Applicability of IHL and IHRL and Lex Specialis in Times of Armed Conflict

Both IHL and IHRL apply during situations of armed conflict. However, under the maxim of lex specialis, when the lex generalis, or a general body of law, and the lex specialis, or more specialized law, conflict, the specialized law takes precedence. In the context of armed conflict, IHRL is the lex generalis, while IHL is the lex specialis that takes precedence.

The International Court of Justice (“ICJ”) has applied this maxim in several cases. For instance, in the Nuclear Weapons Advisory Opinion, the ICJ expressed that when determining whether a deprivation of life during armed conflict is “arbitrary” in violation of Article 6(1) of the International Covenant on Civil and Political Rights, the Court must apply the more specialized IHL standard that recognizes certain circumstances during which a deprivation of life is permissible. However, where even the more specialized IHL standard has been violated, the ICJ has indicated that the more general IHRL provision can be violated simultaneously.

Accordingly, while both IHL and IHRL apply to armed activities committed during the Yemen Civil War, where the two bodies of law conflict, IHL takes precedence. However, when a military activity violates IHL, there may also be a simultaneous IHRL violation.

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276 See, e.g., Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. 139, ¶ 106 (July 9).

277 Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226 (July 8) [hereinafter “Nuclear Weapons Advisory Opinion”].


279 Nuclear Weapons Advisory Opinion, supra note 105, ¶ 25.


281 Id.
B. Analysis of the Conflict’s Thematic Areas Concerning Gender-Based Violence

1. Sexual and Physical Violence

Rape and other forms of sexual violence are prohibited under IHL.\(^{282}\) This prohibition is supported by state practice, and, while Common Article 3 of the Geneva Conventions does not explicitly mention rape or sexual violence, its prohibition on “violence to life and persons” including cruel treatment and torture, as well as “outrages on personal dignity,” encompasses rape and sexual violence.\(^{283}\) Moreover, Article 4 of Additional Protocol II lists the prohibition against rape as one of many fundamental guarantees to all persons who do not take a direct part or who have ceased to take a direct part in hostilities.\(^{284}\) By extension, rape and any form of sexual or “indecent” assault are both war crimes\(^{285}\) and crimes against humanity.\(^{286}\)

Sexual violence is additionally prohibited under IHRL, predominantly as a form of torture,\(^{287}\) the prohibition of which is a peremptory norm of international law.\(^{288}\) It can alternatively be considered a form of cruel, inhuman or degrading treatment.\(^{289}\) Moreover, because rape and other forms of sexual violence are perhaps the most egregious manifestation of discrimination against women and LGBTQIA+ individuals,\(^{290}\) such conduct additionally violates IHRL prohibitions on discrimination.\(^{291}\)

Additionally, under the Convention on the Elimination of Discrimination Against Women (CEDAW), which Yemen has ratified,\(^{292}\) requires state parties to take all appropriate measures to

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\(^{282}\) ICRC Rule 93, supra note 45.


\(^{285}\) Rome Statute, supra note 44, at art. 8(2)(b)(xxii), (e)(vi); Statute of the International Criminal Tribunal for Rwanda, art. 4(e) (Nov. 8, 1994) [hereinafter, “ICTR Statute”]; Statute of the Special Court for Sierra Leone, art. 3(e) (Jan. 16, 2002) [hereinafter, “SCSL Statute”].

\(^{286}\) Rome Statute, supra note 44, at art. 7(1)(g); Statute of the International Criminal Tribunal for Yugoslavia, art. 5(g) (May 25, 1993); ICTR Statute, supra note 285, art. 3(g).

\(^{287}\) ICRC Rule 93, supra note 45.


modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and other practices which are based on the inferior or superiority of either of the sexes. Where States fail to effectively protect women and girls from physical and sexual abuse within their families and elsewhere, as well as where they fail to prevent, investigate, and punish such actions, they have violated their human rights obligations. Here, Yemeni authorities have failed to protect women and girls from widespread abuse, which proliferates under a culturally permissive attitude toward such violence. Those authorities have additionally failed to prevent, investigate, and punish violent actions, which are thus, routinely committed with impunity.

Accordingly, the proliferation of sexual violence in Yemen, and the parties’ to the conflicts’ engagement in that practice or failure to due diligently prevent and punish it, constitutes a violation of both IHRL and IHL.

2. Psychological Violence

The Committee on the Elimination of All Forms of Discrimination Against Women lists psychological violence among the forms of gender-based violence which are prohibited under CEDAW. Accordingly, states parties have an obligation to— with due diligence— prevent, investigate, and punish instances of psychological violence, as well as to address cultural patterns which give rise to such conduct. The impunity with which such violence is committed in Yemen, as well as the high rate of prevalence of such violence, constitutes violations of Yemen’s human rights obligations.

3. Physical, Mental, and Reproductive Health

a) Physical and reproductive health

Attacks on medical facilities and interference with civilians’ access to medical care violates both IHRL and IHL protections for physical health services and civilians seeking them. Numerous IHRL agreements address the protection of and access to healthcare during wartime. CEDAW calls on State Parties to eliminate gender discrimination in health care in order to ensure, “on a basis of equality of men and women, access to health care services, including

293 CEDAW, supra note 291, at art. 5.
296 CEDAW, supra note 291, at arts. 2, 5.
those related to family planning;”297 and that rural women “have access to adequate health care facilities, including information, counseling and services in family planning.”298

Additionally, Yemen has ratified the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), which acknowledges the right of all individuals to the highest attainable standard of mental and physical health.299 Although these standards may be largely aspirationally in nature, efforts by the party with jurisdiction or control over the civilian population to intentionally or recklessly prevent civilians, women included, from accessing physical health providers, like hospitals, medical centers, clinics, and humanitarian aid sources, may violate these IHRL provisions, provided that there is no countervailing IHL justification for such operations.

However, the parties’ destruction of health and medical resources and interference with civilian’s access to healthcare likely violates IHL. During NIACs, Common Article 3 to the Geneva Conventions requires that parties to a conflict allow all wounded and sick people to be collected and treated.300 This provision has also been recognized as CIL.301 The Rome Statute also forbids attacking medical buildings and vehicles and characterizes this prohibition as CIL, signifying that parties to the Yemen conflict may be held accountable for violating this prohibition regardless of their treaty membership.302 Accordingly, both parties and non-parties to the Geneva Conventions and the Rome Statute may not interfere with the access of sick and wounded civilians’ access to or attack medical facilities and treatment centers. Airstrikes on medical centers and hospitals in the early years of the Yemen Civil War,303 denial of civilians’ access to hospitals,304 use of medical centers as shields,305 prevention of the delivery of medical supplies,306 and targeting humanitarian aid organizations attempting to deliver aid to civilians307 could constitute violations of Common Article 3 to the Geneva Conventions and the Rome Statute’s customary protections for civilians in need of medical aid and medical facilities and providers.308 For more information on the protection of medical facilities and providers, please see Yemen Accountability Project, Starvation: Building the Case for Prosecuting Starvation Crimes in Yemen (2021).309

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297 Id. at art. 12(1).
298 Id. at art. 14(2)(b).
300 Fourth Geneva Convention, supra note 283, at art. 3.
301 Id.
302 Rome Statute, supra note 44, at art. 8.
303 See, e.g., YAP 2015 Matrix #YSN150401, #YHJ15072701, and #YTZ15110801; YAP 2019 Matrix #YHU19031401, #YTZ19110602, and #YSD1903271.
304 See, e.g., YAP 2015 Matrix #YTZ15103001, and #YAD15040704; YAP 2016 Matrix #YTZ16112101; YAP 2017 Matrix #YSD17070501.
305 See, e.g., YAP 2016 Matrix #YTZ16112102.
306 See, e.g., YAP 2015 Matrix #YTZ151202; YAP 2020 Matrix #YNA20022501 and #YTZ20111703.
308 Fourth Geneva Convention, supra note 283, at art. 3.
b) Mental health

Provided that no rules of IHL justify each relevant operation, efforts by parties to the conflict attacking medical facilities and providers and interfering with civilians’ access to health services may also violate IHRL. IHRL appears to be the most relevant body of law concerning mental healthcare, as Common Article 3 to the Geneva Conventions does not refer specifically to mental healthcare services.\(^{310}\) Only a later article in the Fourth Geneva Convention, inapplicable to NIACs, refers to the need for isolation areas for prisoners with mental diseases.\(^{311}\) Although this may suggest that mental illness is viewed as falling under the umbrella of medical care, the commentary to the Convention does not appear to further contemplate mental healthcare beyond this. Accordingly, although interference with mental healthcare appears to violate IHRL, it does not appear to implicate specific provisions of IHL.

Within the relevant body of IHRL, the ICESCR acknowledges the right of all individuals to the highest attainable standard of physical and mental health.\(^{312}\) This demonstrates that mental health is recognized as a human right and is enforceable in Yemen, a state party to the Convention. CEDAW also incorporates this right—though the Convention itself doesn’t specifically address mental health, its Committee has, on multiple occasions, advocated for mental health supports for women such as addressing high suicide rates and substance abuse in girls\(^{313}\) and increasing access to mental health facilities.\(^{314}\) This suggests that CEDAW considers mental health under the umbrella of overall health. Accordingly, injury to not only physical health, but also mental health could give rise to accountability for perpetrators of attacks on medical facilities and interference with medical services.

4. Gender-Based Violence and the Right to an Education

ICESCR enshrines a right to education, including free and compulsory primary school and equally accessible secondary and higher education.\(^{315}\) The Convention on the Rights of the Child (“CRC”) lists the same obligations as the ICESCR.\(^{316}\) Furthermore, under CEDAW, State Parties are obligated to ensure equal educational opportunities to women as are afforded to men as well as the elimination of gender stereotyping in the education system.\(^{317}\)

\(^{310}\) Fourth Geneva Convention, supra note 283, at art. 3.
\(^{311}\) Id. at art. 91.
\(^{312}\) ICESCR, supra note 299, at art. 12.
\(^{315}\) ICESCR, supra note 299, at art. 10.
\(^{317}\) CEDAW, supra note 291, at art. 10.
5. **Arbitrary Imprisonment**

Article 9 of the 1948 Universal Declaration of Human Rights specifies that “No one shall be subjected to arbitrary arrest, detention or exile.”\(^ {318} \) The International Covenant on Civil and Political Rights (ICCPR) expounded on this in its Article 9 with statements that “No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law,” along with provisions mandating informing an arrestee of the charges against them and entitling one who is arrested to a trial within a reasonable time.\(^ {319} \) In addition, the Rome Statute, to which Yemen is a signatory but not a ratifying party, recognizes that “imprisonment or other severe deprivation of liberty in violation of fundamental rules of international law” can constitute a crime against humanity if “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”\(^ {320} \)

The UN Working Group on Arbitrary Detention (WGAD) refers to several legal categories of cases when assessing if deprivations of liberty are arbitrary. The WGAD is a group of experts who are mandated by the Human Rights Council to “formulate deliberations on issues of a general nature in order to assist States to prevent and guard against the practice of arbitrary deprivation of liberty.”\(^ {321} \) They have also drafted basic principles of arbitrary detention which was adopted in 2015. We can use their highly persuasive work to better interpret the treaty and customary obligations Yemen is bound to follow.

The legal categories the WGAD uses include “When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty,” when the deprivation of liberty results from the exercise of certain guaranteed rights or freedoms under international law, when a trial’s “nonobservance of the international norms relating to the right to a fair trial” is severe enough, and when deprivation of liberty “constitutes a violation of international law on the grounds of discrimination” of certain protected statuses.\(^ {322} \)

In addition, during times of armed conflict, people who are detained “enjoy the more specific protection of international humanitarian law [IHL]”\(^ {323} \) in order to prevent instances of arbitrary detention. The most relevant in this case are the Fourth Geneva Conventions of 1949 and the 1977 Additional Protocols I. Article 43 of the Fourth Geneva Conventions states that any person who has been detained “shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose.”\(^ {324} \) Article 78 further specifies that the decisions regarding detainment have to be done according to a regular procedure, which must include “the right to appeal.”\(^ {325} \) Importantly, these provisions originally only applied to ‘protected persons’ who included people in a conflict who were in the hands of a party to which they were not a national. However, the 1977 Additional Protocol added guarantees and protections to all persons in the hands of a party to


\(^{319}\) ICCPR, supra note 278.

\(^{320}\) Rome Statute, supra note 44, at arts. 7(1)(e), (1)(i).


\(^{324}\) Fourth Geneva Convention, supra note 283.

\(^{325}\) Id.
conflict in Article 75; some of these guarantees were prohibitions against torture, degrading treatment, mutilation, and “outrages against personal dignity.”

In Yemen, multiple WGAD legal categories of arbitrary imprisonment are met, and numerous violations of the Geneva Conventions and its Protocol are documented. The ‘guardianship requirement’ customarily adopted by both sides of the conflict is under no legal basis which justifies keeping the women imprisoned. There is evidence of women, including Fatima Al-Arouli, detained for exercising rights of expression and protesting against the ruling party. Furthermore, there is evidence of gender-based violence and discrimination amongst women who have been imprisoned and who experience torture, rape, and deprivation from liberties guaranteed by law including the right to talk with lawyers and family members. Incidences of degrading treatment for women have been numerous. There has also been no attempt to have detainment actions reconsidered by a court of law nor has the right to appeal been enforced. All of these instances violate the category of deprivation of liberty arising from the exercise of guaranteed rights of expression. The practice of holding detainees without charges violates Article 9 of the ICCPR, as well.

From the evidence, the activities of all parties in the Yemen conflict relating to arbitrary imprisonment violate IHL and IHRL, and could even be shown to be a crime against humanity.

6. Honor Killings

Honor killings, and the failure to prevent, investigate, and punish the perpetrators of them, constitute a violation of international law because honor killings are a violation of the right to life. When they are committed in a discriminatory fashion, they are additionally violative of IHRL prohibitions on discrimination. States have a due diligence obligation to prevent honor killings and Yemen has failed to fulfill this obligation.

Honor killings may additionally constitute a form a torture or cruel and inhuman treatment. Both the Committees on Torture and on the Elimination of Discrimination Against Women has indicated that the purpose and intent requirements for such acts are met when acts or omissions are gender-specific or perpetrated against a person on the basis of sex. These Committees have acknowledged the uniquely severe impact of violence on a victim when they

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327 Id.
328 ICCPR, supra note 278, at art. 6; see also UDHR, supra note 318, at art. 3; CRC, supra note 316, at art. 6; UN Declaration on the Elimination of all Forms of Violence Against Women, G.A. Res. 48/104, UN Doc. A/48/49 (Dec. 20, 1993) [hereinafter, “Declaration on the Elimination of Violence Against Women”].
329 ICCPR, supra note 278, at art. 26; CEDAW, supra note 291, at art. 2; UDHR, supra note 318, at arts. 2, 7.
331 Luopajärvi, supra note 178, at 8.
are targeted because of their gender. Accordingly, where Yemeni authorities have failed to prevent instances which might amount to torture, investigate instances which may amount to torture, and assure proper redress for victims, they have violated their obligations under the Convention against Torture.

7. Female Genital Mutilation

The practice of female genital mutilation is illegal under international law, particularly of IHRL. The UN General Assembly Declaration on the Elimination of Violence against Women includes female genital mutilation as a type of GBV which is prohibited under international law. The UN General Assembly has additionally unanimously condemned female genital mutilation and has called on states to implement and enforce legislation banning the practice.

Female genital mutilation is violative of a number of human rights instruments, particularly the Convention on the Rights of the Child (CRC). This is the case because most women, as is the case in Yemen, are targeted during infancy. CRC Article 16 protects the right to privacy, a protection that is violated by the practice of female genital mutilation. As is CRC Article 24, which requires States to take all effective and appropriate measures with a view to abolishing traditional practices which are prejudicial to the health of children. The Committee on the Rights of the Child has consistently identified female genital mutilation as a harmful traditional practice, violative of Article 24, and has called for its elimination. Female genital mutilation additionally violates prohibitions on discrimination under various human rights treaties, as well as the right to health. Female genital mutilation may additionally be

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334 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, art.12-14,16,1465 U.N.T.S. 85 [hereinafter, “CAT”].
335 Declaration on the Elimination of Violence against Women, supra note 328, at art. 2.
338 Female Genital Mutilation Dashboard (FGM) - Yemen, UNITED NATIONS POPULATION FUND, https://www.unfpa.org/data/fgm/YE (last visited April 16, 2024).
339 CRC, supra note 316, at art. 16.
340 Id. at art. 24(3).
342 ICCPR, supra note 278, at art. 26; ICESCR, supra note 299, at art. 3.
343 ICESCR, supra note 299, at art. 12.
considered a form of torture or cruel, inhuman or degrading treatment, and is thus additionally violative of the Torture Convention.  

Accordingly, the parties failure to effectively prohibit and prevent female genital mutilation is a violation of IHRL.

8. Forced Marriage

The practice of forced marriage, particularly of girls, violates IHRL and implicitly violates IHL. For further discussion of those violations, please refer to the YAP’s previous white paper concerning the effect of the conflict on children (2023).

9. Restrictions on Movement

Restrictions on free movement are illegal under IHRL, specifically under the ICCPR Article 12 and particularly when such restrictions are discriminatory in nature. Every person has the right to move freely throughout the whole territory of a state. States, thus, fail to comply with their international human rights obligations when a woman’s ability to move freely is made subject, by either law or practice, to the decision of another person, including a relative. Accordingly, the mahram system in Yemen is violative of IHRL.

ICCPR article 12 permits states to derogate from their obligation to protect the right to freedom of movement in exceptional circumstances. In invoking a derogation from the right to freedom of movement, restrictions must be necessary to serve permissible purposes—which as enumerated under ICCPR Article 12, include, protecting national security, public order, public health or morals, or the rights and freedoms of others—and the purposes of the derogation must be proportionate to the states’ purpose. The targeting of women, rather than the population as a whole, undermines any contention that such restrictions are intended to serve the purposes enumerated under ICCPR article 12 as legitimate bases for derogation. Moreover, the inordinate impact the mahram system has on women’s ability to work, travel, and engage in other activities indicates that even where the system served a permissible purpose, its impact would not be proportionate to such purpose. In any event, derogations from ICCPR article 12 must be non-discriminatory. Here, mahram systems, as adopted by various entities across Yemen, is, by design, discriminatory and is thus, impermissible.

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344 CAT, supra note 334; see also ICCPR, supra note 278, at art. 27.
346 ICCPR, supra note 278, at art. 12; see also UDHR, supra note 318, at art. 13.
347 ICCPR General Comment No. 27: Art. 12 (Freedom of Movement), UN Doc. CCPR/C/21/Rev.1/Add.9, at ¶ 6 (Nov. 2, 1997) [hereinafter, “CCPR General Comment No. 27”].
348 Id. at ¶¶ 4-5.
349 Id. at ¶ 6.
350 ICCPR, supra note 278, at Art. 12(3); CCPR General Comment No. 27, supra note 347, at ¶ 11.
351 ICCPR, supra note 278, at Art. 12(3); CCPR General Comment No. 27, supra note 347, at ¶ 11.
352 CCPR General Comment No. 27, supra note 347, at ¶ 11.
10. Restrictions on Freedom of Expression

Both of the principal parties to the Yemen Civil War have engaged in impermissible restrictions on freedom of expression, particularly as it relates to the targeting of women activists and journalists, as well as restrictions on dress.

a) Targeting of Women Activists and Journalists

Women in Yemen suffer violations of their right to freedom of expression guaranteed by article 19 of the UN’s Universal Declaration of Human Rights. Article 19 states, “[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”353 While this right affects all women in Yemen, it has a particularly negative effect on women journalists and activists attempting to report on and criticize actions of the Yemeni government and the Houthis.

Several organizations have spoken out against the treatment of women journalists and activists in Yemen. The United Nations has outlined human rights abuses that have occurred against those in these fields, with a note from the High Commissioner that underscored that journalists are also protected under international humanitarian law as civilians and that attacks against them “may amount to war crimes” and that, “[j]ournalists are under attack from all quarters…They are killed, beaten and disappeared; they are harassed and threatened; and they are jailed and sentenced to death for merely trying to shine a light on the brutality of this crisis.”354

Amnesty International has called for the internationally recognized government of Yemen to cease the prosecution and harassment of journalists within its territory after judicial authorities had prosecuted journalists for criticizing public institutions and Yemeni officials.355 Amnesty International’s Acting Deputy Director for the Middle East and North Africa stated, “[t]argeting journalists and activists for exercising their right to freedom of expression has a chilling effect on society. Its real aim is to silence dissent and deter critical voices.”356

Human Rights Watch has also noted the negative Houthi influence since their 2014 takeover of Sanaa stating that the group’s “systemic violations of women’s and girls’ rights,” which includes their freedom of expression have increased and effectively made life more difficult for them in Yemen.357 Human Rights Watch has also pointed out that Yemen has failed to implement recommendations from the Universal Periodic Review that urged it to investigate and prosecute all abuse committed against Yemeni journalists and human rights activists.358

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353 UDHR, supra note 318, at art. 19.
356 Id.
357 Jafarnia, supra note 148.
This condemnation of the treatment of women journalists and activists in Yemen by various international organizations signifies a growing global awareness of the dire situation they face, which stands to have a resurgence given the recent attention Houthis have garnered in the Red Sea in the last six months. The global community, through these organizations, has called upon Yemen's internationally recognized government to fulfill its responsibility in upholding its human rights obligations and dropping all charges against journalists. The support and solidarity shown by these organizations contribute significantly to the collective effort to protect the rights and well-being of women journalists and activists in Yemen and highlight the imperative need for immediate action to address these egregious violations.

b) Restrictions on Clothing

The freedom of expression encompasses the right to choose what—and what not—to wear.\textsuperscript{359} Governments have an obligation to respect, protect, and ensure every individual’s right to expression free from coercion.\textsuperscript{360} Interpretations of religion, culture, or tradition are not permissible excuses from failing to fulfill this obligation.\textsuperscript{361} Both forced dress codes and blanket bans on the wearing of religious dress constitute violations of the right to freedom of expression,\textsuperscript{362} the right to privacy,\textsuperscript{363} and, as is true of Yemen, the right to be free from discrimination.\textsuperscript{364}

11. Victimization of LGBTQIA+ Individuals

Victimization and violence against LGBTQIA+ individuals is a violation of IHL and IHRL. The Rome Statute prohibits persecution against any identifiable group or collectively on many bases including gender.\textsuperscript{365} The Rome Statute defines “gender” as male and female sexes, a definition which the International Criminal Court’s Office of the Prosecutor has clarified to encompass “characteristics and social constructs and criteria used to define maleness and femaleness, including roles, behaviours, activities and attributes.”\textsuperscript{366} Persecution is thus not limited in its application to men and women alone, but is also applicable to transgender and nonbinary individuals.\textsuperscript{367}

Under IHRL, the Torture Convention obligates all states party, which includes Yemen, to especially protect the rights of individuals against torture and ill-treatment of marginalized

\textsuperscript{360} \textit{Id}.
\textsuperscript{361} \textit{Id}.
\textsuperscript{362} ICCPR, \textit{supra} note 278, at Art. 19.
\textsuperscript{363} \textit{Id}., at art. 17.
\textsuperscript{364} \textit{Id.}, at art. 26; CEDAW, \textit{supra} note 291, at art. 2; see also \textit{Questions and Answers on Restrictions on Religious Dress and Symbols in Europe}, \textsc{Human Rts. Watch} (Dec. 21, 2010), https://www.hrw.org/news/2010/12/21/questions-and-answers-restrictions-religious-dress-and-symbols-europe.
\textsuperscript{365} Rome Statute, \textit{supra} note 44, art. 7(1)(h).
\textsuperscript{366} \textsc{International Criminal Court Office of the Prosecutor, Policy on the Crime of Gender Persecution} (2022).
\textsuperscript{367} \textit{Id}.
groups regardless of “gender, sexual orientation, transgender identity.” In 2015, 12 United Nations entities released a joint statement asserting that “failure to uphold the human rights of LGBTQIA+ people and protect them against abuses, such as violence and discriminatory laws and practices, constitute serious violations of IHRL.”

Despite the fact that human rights treaties do not explicitly reference sexual orientation or gender identity, they have continually extended provisions to protect LGBTQIA+ persons, especially from “arbitrary deprivation of life and liberty, freedom from torture, cruel, inhumane, or degrading punishment, and to secure freedom of association, assembly, expression, and to health, education, housing, and other economic, social, and cultural rights.” For example, human rights treaty bodies have considered the criminalization of homosexuality and same-sex intimate relationships as violations of the protection from arbitrary deprivation of liberty where law enforcement effectuate arrests on the basis of sexual orientation or gender identity. Significantly, those bodies have also found that the imposition of the death penalty based solely on the basis of sexual orientation constitutes arbitrary deprivation of the right to life. The authoritative bodies to the ICCPR, ICESCR, and CEDAW have all found that criminalization of same-sex relationships go against the fundamental rights within the treaties.

The Yogyakarta Principles are perhaps the leading international framework for combating human rights violations based on sexual orientation and gender identity. The Yogyakarta Principles (and their successor, the Yogyakarta Principles Plus 10) are a guide of state obligations based on existing human rights laws, that consist of 29 principles of state obligations in terms


370 See Alon Margalit, Still a Blind Spot: The Protection of LGBT Persons During Armed Conflict and Other Situations of Violence, 100 International Review of the Red Cross 237 (2018); CAT General Comment No. 2, supra note 368, at ¶¶ 21-22.


374 Margalit, supra note 370.


of the rights and protections of LGBTQIA+ individuals. They create an obligation for states to ensure that there are systems in place to enable victims to be heard by a competent court or other adjudicator to be able to seek redress. Together, the documents use existing, binding international standards to protect the LGBTQIA+ community. For example, Principle 4 mirrors the language in article 6 of the ICCPR by stating that “everyone has a right to life…the death penalty shall not be imposed on any person on the basis of…sexual orientation or gender identity.”

The Yogyakarta Principles are widely accepted and states have used them to create legislation that protects sexual orientation and gender identity (“SOGI”) rights. However, the principles serve an advisory role rather than as a source of legal enforcement.

In its criminalization of LGBTQIA+ individuals on the basis of sexual orientation—and enabling state and private parties to enforce that criminalization—Yemen is likely liable for IHRL violations against LGBTQIA+ individuals. Yemen is party to the ICCPR, ICESCR, and CEDAW, all of which have found that criminalization of same-sex relationships goes against the fundamental rights within the treaties. Additionally, Yemen is party to the Committee Against Torture, which protects LGBTQIA+ individuals from arbitrary deprivation of life and liberty, torture, and cruel or inhumane treatment.

In maintaining a Penal Code that punishes individuals for homosexuality, and charging and sentencing individuals on the basis of homosexuality (sentencing some individuals to death), Yemen criminalizes identity in violation of human rights treaties, even without overwhelming evidence of recent enforcement. Furthermore, Yemen’s arbitrary detention of Al-Zindani, trans women, and nine individuals on the basis of sexual identity violates their obligations under the Committee Against Torture.

Additionally, during times of armed conflict, the Geneva Conventions Common Article 3 binds both states and non-state groups to extend minimum protections to all non-combatants without discrimination during times of armed conflict. The international community generally

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378 The Yogyakarta Principles, supra note 375.
379 Andrew Park, Yogyakarta Plus 10: A Demand for Recognition of SOGIESC, 44 N.C.J. Int'l. L. 223 (2019); see, e.g., The Yogyakarta Principles, supra note 375, at 4, compared with ICCPR, supra note 278, at art. 6 (The Principles pull from treaties such as the International Covenant on Civil Political Rights (ICCPR)).
380 ICCPR, supra note 278, at art. 6.
381 The Yogyakarta Principles, supra note 375.
382 Id.
385 Margalit, supra note 370; Fourth Geneva Convention, supra note 283, at art. 3.
accepts the requirement against adverse distinction as CIL, and could likely extend it to prevent and respond to discriminatory treatment and abuse of individuals based on their gender or sexual orientation, an extension that is generally accepted as customary law.

IHL protects all detainees, including LGBT detainees, from inhumane treatment and from torture and humiliating or degrading punishments, including sexual violence, extraneous medical procedures, and “inhuman, brutal, or dangerous” penalties. In inflicting penalties, actors must account for the detainee’s sex and, by extension, their sexual orientation.

In cases where LGBT persons have been, or may have been, treated in breach of IHL, states must investigate the incident and punish those responsible for serious violations. For the state to find harms against an LGBTQIA+ person violate IHL, “there must be a causal link between their abuse and real or presumed sexual orientation,” and there must be a “sufficient nexus to the armed conflict.” Thus, “the existence of the armed conflict needs to be material to the perpetrator’s ability to commit the harmful act, to his decision to commit it, or to the manner or purpose it was committed.”

The State’s responsibility to investigate and respond to incidents of potential IHL violations against LGBTQIA+ persons necessarily involves “a due diligence obligation to use reasonable means to prevent and repress IHL violations by private persons whom the state has control over.” As such, “the State is not only responsible for its own IHL violations against LGBT persons by its armed forces and other persons acting under its direction or control, but may also be liable for its failure to take appropriate measures to prevent, investigate, or prosecute those violations.”

The Geneva Convention Common Article 3 require parties to avoid and prevent inhumanely torturing (through sexual violence, extraneous medical procedures, or other such acts) or humiliating any detainees, including LGBTQIA+ individuals, and to investigate and remediate instances of inhumane treatment when they do. As such, Yemen’s torture of a trans woman during her eight-month prison sentence, including through the use of a forced anal exam, violates Yemen’s obligations under Common Article 3. Yemen’s institutionalization and forced medicalization of Yahyia Al-Zindani does so as well. Yemen’s lack of response to such instances,

387 Margalit, supra note 370.
388 Henckaerts, supra note 386.
389 Margalit, supra note 370.
390 Id.
391 Id. at 252.
393 Margalit, supra note 370; cf. Prosecutor v. Tadić, Case No. IT-94-1-T, Judgment (Trial Chamber), ¶¶ 572-3 (ICTY May 7, 1997) (“The only question, to be determined in the circumstances of each individual case, is whether the offences were closely related to the armed conflict as a whole”); Prosecutor v. Kunarac, Case No. IT-96-23 & 23/1 (Appeals Chamber), ¶ 58 (ICTY June 12, 2002); but see Prosecutor v. Kayishema, Case No. ICTR-95-1-T, Judgment (Trial Chamber), ¶¶ 599-604, 623 (ICTR May 21, 1999) (noting that the fact that the alleged crimes were committed during armed conflict is insufficient, and requiring a direct link between these crimes and the armed conflict).
and lack of reporting on any of them, also likely violates their obligations under IHL to investigate and respond to instances of IHL violations.

12. Targeting of Migrant Women.

The victimization of migrants during the Yemen Civil War violates both IHL and IHRL as migrants are a protected class of peoples. As an initial matter, “migrant” has no formal international legal definition. However, IHRL, including the UN, UN DESA, and the UNHCR, typically agree that an “international migrant is someone who changes his or her country of usual residence, irrespective of the reason, for migration or legal status.” For purposes of this paper, this definition captures the mostly East African people who migrate through Saudi Arabia through Yemen as migrants.

Under IHRL, the Universal Declaration for Human Rights (a customary UN document that is widely recognized as having inspired, and paved the way for, the adoption of over seventy human rights treaties and is applied on a permanent basis at global levels), article 14 states that “everyone has the right to seek and enjoy asylum from persecution in other countries." Provisions of the ICCPR are implicated within the Universal Declaration for Human Rights as both focus on issues such as right to life, the proclamation of such rights for all people, and the forbidding of discrimination. People must enter another country to exercise this right articulated in article 14. Once a migrant has entered another country, everyone in that country, both citizens and migrants, are entitled to the same international human rights.

Respecting human rights refers to refraining from human rights violations including rape, detention, or torture. Protecting human rights requires states to prevent human rights violations which would see states protecting migrants from smugglers and sanctioning abusive powers. Fulfilling human rights requires taking measures to ensure the realization of human rights by providing social services. Further, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which Yemen is a party to, says each state shall adopt legislative measures necessary to establish criminal offenses for smuggling and trafficking. Lastly, paragraph 23 of the New York Declaration for Refugees and Migrants, states that member states recognized and would address, following their obligations under international law, the special needs of all people in vulnerable situations who were traveling within large movements of migrants. The New York Declaration “reaffirms the importance of the international refugee regime and contains a wide range of commitments by Member States to strengthen and enhance

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395 UDHR, supra note 318, at art. 14.
397 UDHR, supra note 318, at art. 14.
399 Id.
400 G.A. Res. 55/25 (Nov. 15, 2000).
mechanisms to protect people on the move." Although non-binding, Yemen is a party to the New York Declaration for Refugees and Migrants, and political and concrete action of members should be made to improve responses to displacement of people signed to provide orderly and regular migration along with commitments and understandings regarding all aspects of international migration.403

The Yemeni government is in violation of the customary Universal Declaration for Human Rights article 14 because its agency, the Yemen Immigration, Passport, and Nationality Authority (IPNA) has been involved in the extortion, rape, harassment, detainment, and deportation of migrants within Yemen. Accordingly, the Yemeni government has failed to provide OHCHR humanitarian obligations of respecting and protecting human rights in these migrant camps by not addressing or attempting to rid of the corruption its government is involved in with smuggling migrants. Additionally, the Yemeni government’s lack of action violates the New York Declaration and the United Nations Convention against Transnational Organized Crime which both require positive action taken to address migrant human rights violations.

Migrants are protected under IHL because, even though IHL does not contain specific rules about migration or protection of migrants as a category of persons, they are not left outside the scope of its rules.404 The Geneva Convention (IV) article 27 Treatment I states that “women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault.”405 Further, Additional Protocol I article 77 provides for the protection of children requiring aid and care, and Additional Protocol II Article 4(2) provides for the humane treatment of civilians.406 The Rome Statute Article 7(1)(g) prohibits crimes against humanity when committed as part of a widespread attack directed against any civilian population including rape, sexual slavery, enforced prostitution, or any other form of sexual violence.407 Further, the Rome Statute Article 7(1)(e) prohibits the imprisonment or other severe deprivation of civil liberty.408

Rape, forced rape, and forced labor are all explicitly prohibited by the Geneva Convention and the Rome Statute.409 The Yemeni government is likely in violation of article 27, along with Additional Protocol I article 77 and Additional Protocol II article 4(2), due to the IPNA and Yemeni military personnel for not protecting women against attacks of rape or enforced prostitution. Instead, they are doing the opposite by subjecting and forcing women into rape. The Rome Statute article 7(1)(e) is also violated due to migrants being forced into labor against their will via threats. Yemen is a sovereign nation with the prerogative to regulate the presence of foreigners in its country, and the government is failing to do so. Similarly, the Saudi

406 Additional Protocol I, supra note 326.
407 Rome Statute, supra note 44, at art. 7(1)(g).
408 Id.
government is most likely in violation of article 27 and 7(1)(g) of the Rome Statute for not protecting women and committing rape.

V. ACCOUNTABILITY MECHANISMS

A. IHL Mechanisms

As pursuing accountability for IHL violations involving crimes against children present many of the same concerns as articulated in YAP’s previous white papers, we refer those interested in such accountability mechanisms to YAP’s previous publications.410

B. IHRL Mechanisms

1. International Courts

The path to addressing IHRL violations in Yemen faces many of the same challenges as addressing IHL violations. The issue of jurisdiction, paired with a lack of political will from the international community, creates significant barriers to those seeking justice for these violations. Further, parties to the conflict have not fully engaged with IHRL treaties, leaving more gaps in accountability.

As with IHL violations, accountability recommendations typically focus on the efforts to grant the ICC jurisdiction over the situation. In their report, the Group of Eminent Experts called upon the UNSC to refer the case to the ICC to investigate the human rights violations occurring in Yemen.411 The report also endorsed the creation of an international–Yemeni hybrid tribunal or a UN-created International, Impartial, and Investigative Mechanism, similar to ones created in response to the conflicts in Syria and Myanmar.412 However, previous investigative mechanisms have been limited to evidence collection, analysis, and preservation, and do not create a basis for prosecution.413 Due to political deadlocks, the UNSC has been unwilling to effectively address the conflict in Yemen.414 Further, in 2021, the UN Human Rights Council rejected the resolution to renew the mandate of the Group of Eminent Experts on Yemen, creating another major setback to seeking accountability for HR violations.415

412 Id.
Within the international judicial system, one possible avenue for accountability may be through the International Court of Justice (“ICJ”). As Yemen and Saudi Arabia have not accepted the ICJ’s compulsory jurisdiction and are unlikely to consent to the ICJ’s jurisdiction on an ad hoc basis, the pathway to jurisdiction would need to stem from a treaty’s compulsory clause.416 Yemen is a party to a number of IHRL treaties, including the Convention on the Prevention and Punishment of the Crime of Genocide; Convention on the Elimination of All Forms of Racial Discrimination; Covenant on Civil and Political Rights; Covenant on Economic, Social, and Cultural Rights; Convention on the Elimination of All Forms of Discrimination Against Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child, as well as its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography; and Convention on the Rights of Persons with Disabilities and its Optional Protocol.417

The ICJ’s erga omnes partes jurisprudence may present a blueprint for states that are not injured by actions committed throughout the Yemen Civil War to contest violations of international law which arise under those conventions to which Yemen is a state party and which secure a common interest.418 In the Obligation to Prosecute case, the ICJ held that Belgium had erga omnes partes standing to bring claims against Senegal because the common interest secured by the Torture Convention outweighed the interest of any individual state party to that convention.419 At least theoretically, this holding means that any state party to the Torture Convention could contest Torture Convention violations in Yemen on an erga omnes partes basis. While Yemen has submitted reservations to many IHRL treaties, rejecting those treaties creation of ICJ jurisdiction, it has not done the same as it relates to the Torture Convention.420 The ICJ’s jurisprudence on the erga omnes partes question has thus far not expanded beyond application to the Genocide and Torture Conventions,421 though it is possible that states may have erga omnes partes standing to contest violations of other treaties of a similar character.422

As it relates to the other parties to the conflict, ICJ jurisdiction is more elusive, not only in light of Yemen’s reservations, but also considering the IHRL treaties that Coalition members are party to and their respective reservations. For instance, Saudi Arabia and the United Arab

416 Declarations Recognizing the Jurisdiction of the Court as Compulsory, ICJ, https://www.icj-cij.org/declarations (last visited Apr. 16, 2024).
419 Obligation to Prosecute, ¶¶ 68-70.
420 CAT, supra note 334, arts.12-14, 16.
Emirates (“UAE”) are not parties to the ICCPR nor the ICESCR. While Yemen, Saudi Arabia, and the UAE are parties to the Torture Convention, both Saudi Arabia and the UAE have submitted reservations rejecting ICJ jurisdiction under Article 30. All three are also parties to the Convention on the Rights of the Child, but there is no enforcement provision within that treaty giving the ICJ jurisdiction to adjudicate disputes concerning violations.

The ICJ as an accountability mechanism for Yemen is also problematic because it would not provide a basis for individual criminal responsibility, as the ICJ adjudicates disputes between States. Accordingly, an additional mechanism would need to be pursued to bridge this accountability gap.

Aside from the ICJ, certain IHRL treaties provide for an individual complaints procedure. Yemen has accepted the individual complaint provision for the Torture Convention, giving the UN Committee on Torture the ability to inquire into credible reports of systemic torture. While the Convention on the Rights of the Child also contains individual complaint procedures, Yemen has failed to accept this provision, so that option would not be available.

Regional human rights mechanisms provide another potential avenue to pursue accountability for IHRL violations. For instance, the Arab Human Rights Committee oversees the implementation of the Arab Charter on Human Rights, which Yemen, Saudi Arabia, and UAE are parties to. The Charter prohibits, among other things, the arbitrary deprivation of life, torture, the exploitation of children in armed conflict, and requires parties to “take all necessary legislative, administrative and judicial measures to guarantee the protection, survival, development and well-being of the child in an atmosphere of freedom and dignity.” While this Charter does provide a basis for identifying HR violations in Yemen, it does not provide for enforcement or adjudication mechanisms to address violations or disputes. The Charter only obligates parties to submit reports to the Committee and allows the Committee to discuss and offer recommendations. While other regional human rights Courts exist, their jurisdiction is limited to alleged violations committed by state parties.

2. Yemeni Domestic Courts

When considering accountability mechanisms in responses to the conflict in Yemen, it should be noted that international law is based upon the principle of complementarity and should be
utilized when domestic courts are unwilling or unable to pursue justice. 

Yemen’s governmental structures and judicial system have been substantially destabilized during the years of civil war. In response to international pressure and UN Resolutions, the Yemeni National Commission to Investigate Alleged Violations to Human Rights was created in 2016 to monitor and investigate human rights violations in Yemen. As of March 2023, the Commission has documented more than 23,000 human rights violations, referring over 2,000 cases to Yemen’s Public Prosecutor. However, there has yet to be a single verdict for any of these cases. Further, the Group of Eminent Experts noted in their 2020 report that the Yemeni judicial system was incapable of prosecuting crimes consistent with international human rights law prior to the conflict and years of war have exacerbated “issues with respect to, inter alia, corruption, inadequate protection of fair trial rights, discrimination against women and attacks and serious threats to judicial actors.” As there has been little showing of progress with this respect in the country, it is likely that the Yemeni domestic courts will be unable to adequately address alleged HR violations.

3. Foreign Domestic Courts

Another potential option for prosecuting IHRL violations could be through foreign domestic courts. It is unlikely that Coalition members will prosecute violations related to Yemen and, even if they did, it is not likely that they would do so in accordance with international legal standards.

Another avenue may be pursued through universal jurisdiction, as many countries have enacted legislation that allows them to prosecute certain international crimes within their domestic courts. This method of accountability has been utilized by German courts who found a former Syrian government official guilty of crimes against humanity committed in Syria. However, under similar facts, the highest court in France annulled an indictment against a former

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433 INFORMAL EXPERT PAPER: THE PRINCIPLE OF COMPLEMENTARITY IN PRACTICE, INT’L CRIM. CT. (2009), https://www.icc-cpi.int/sites/default/files/RelatedRecords/CR2009_02250.PDF (“The principle of complementarity governs the exercise of the Court’s jurisdiction […] The Statute recognizes that States have the first responsibility and right to prosecute international crimes. The ICC may only exercise jurisdiction where national legal systems fail to do so, including where they purport to act but in reality are unwilling or unable to genuinely carry out proceedings.”).

434 About Us, NATIONAL COMMISSION TO INVESTIGATE ALLEGED VIOLATIONS TO HUMAN RIGHTS, https://www.nciye.org/en/?page_id=105 (last visited Apr. 16, 2024).


436 Id.


438 Vadapalli, supra note 427, at 829.


Syrian official based on the “dual criminality rule” as Syria does not explicitly criminalize crimes against humanity.\(^{441}\)

While universal jurisdiction may be created by domestic legislation in foreign courts, the perpetrator generally must be present in the State, as trials in absentia create due process concerns.\(^{442}\) This means that the responsible parties must be present in a State that has a basis for jurisdiction over HR violations. These domestic statutes often prescribe the most serious crimes under international law, such as genocide, torture, and war crimes, based on an underlying treaty.\(^{443}\) As noted above, Yemen and Coalition members have not fully assented to many HR treaties and their provisions, so finding a treaty basis for universal jurisdiction over IHRL violations in Yemen may also face jurisdictional barriers.

To address these barriers, there has been an effort to bring cases against states that support the Coalition through arms sales.\(^{444}\) NGOs have called on domestic governments to prohibit the sale of weapons to the Coalition and limit the licensing to manufacturing companies whose weapons support the conflict.\(^{445}\) Similar efforts to hold Italian government officials and corporate actors criminally responsible for arms exports to Yemen were recently denied, with the Italian court dismissing the complaint.\(^{446}\) As the main suppliers of arms to the Coalition are the US, the UK, France, and Italy, it is unlikely that accountability for their roles will overcome their political influence.\(^{447}\)

4. Alternative Mechanisms

At this time, formal mechanisms of accountability for HR violations in Yemen are not likely to materialize and the failure of the HRC to renew the mandate of the Group of Eminent Experts represents a harrowing indication of the political will to pursue accountability in Yemen. However, it is imperative that States continue to call attention to and condemn IHRL violations in Yemen. While the UNSC, UNHRC, and UN Secretary-General have released multiple resolutions regarding the situation in Yemen since the conflict began, the scope of these resolutions has been limited to general condemnations and largely failed to name responsible actors.\(^{448}\) Increased naming and shaming from international organizations and powerful States would reaffirm the international community’s commitment to seeking peace and accountability in the region.


\(^{443}\) See Universal Jurisdiction, INT’L JUST. RES. CTR., https://ijrcenter.org/cases-before-national-courts/domestic-exercise-of-universal-jurisdiction/ (last visited Apr. 15, 2024); see also R v. Evans and Another and the Commissioner of Police for the Metropolis and Others, ex parte Pinochet, UKHL (Mar. 24, 1999) (rejecting the argument that jus cogens violations allow for universal jurisdiction without an underlying treaty obligation).

\(^{444}\) Vadapalli, supra note 427, at 829.

\(^{445}\) Id.


\(^{447}\) Vadapalli, supra note 427, at 815.

\(^{448}\) Ashley, supra note 427, at 395.
Though sanctions can be an effective tool for holding international States and actors accountable, due to the extreme humanitarian crisis in Yemen, sanctions should be carefully applied so as to not worsen conditions for the civilian population. Though individual criminal responsibility for State and corporate actors supplying arms is unlikely to succeed, targeted sanctions against these individuals could undermine the supply of weapons and establish accountability for those who indirectly contribute to IHRL violations.

Finally, international organizations and states should support civil society actors and NGOs documenting HR violations in Yemen. This support should be paired with pressure on the Yemeni government to provide a legitimate and effective mechanism for these claims to be brought forth. States should also pass domestic legislation which would expand the ability to prosecute HR violations under universal jurisdiction.

VI. RECOMMENDATIONS

The Yemen Accountability Project recommends the following actions for bringing accountability to perpetrators of IHRL and IHL violations which involve gender-based violence in Yemen:

A. Ceasefire

– All parties to the conflict should renew the ceasefire agreement immediately and allow a UN peacekeeping force entry to Yemen.

B. Investigations

– Criminal investigators and groups, like Yemen Data Project and ACLED, should continue to document and investigate evidence of attacks on and operations involving gender-based violence and make their open-source databases widely available to relevant stakeholders.
– These groups should continue to present their collected evidence and databases to stakeholders at the ICC, UN Security Council, UN Human Rights Council, US Department of State War Crimes Office, and others.
– Groups documenting evidence of war crimes, crimes against humanity, and human rights violations should share their investigative strategies and best practices with each other and develop working partnerships to build capacity for larger and more thorough investigations in Yemen.

C. Accountability Mechanisms

– Diplomats at the UN should engage in advocacy with members of the Security Council to support an IHL accountability mechanism and build consensus among permanent members to prevent them from blocking an accountability measure through veto. They should also advocate to the UN Security Council to create an ad hoc tribunal
for Yemen, similar to the SCSL’s model, which had a statute that was limited in scope, to prosecute those who bore the greatest responsibility.\textsuperscript{449} 

– Alternatively, stakeholders should file cases in the domestic courts of third-party States with applicable universal jurisdiction statutes. Stakeholders should also consider pursuing legal accountability for human rights violations in these forums or support the creation of a designated human rights court for violations committed during the Yemen conflict.

– If action in the Security Council is blocked by veto, then the General Assembly should establish an accountability mechanism, like the IIIM and IIMM, to collect and archive evidence before it is lost and to share it with States pursuing national prosecutions using universal jurisdiction.

– The international community, along with civil society and the Yemeni government should engage in judicial capacity building to sustain a national justice system post-conflict to interrupt any potential atrocity cycle that would allow Yemen to slip back into violence.

D. \textbf{Review Targeted Sanctions Regime}

– Targeted sanctions are problematic because effectiveness is low, and they can worsen a humanitarian crisis. Therefore, the UN and countries should reexamine their targeted sanctions programs to ensure that measures are placing pressure on the Saudi and Iranian governments and not straining or worsening the humanitarian crisis in Yemen.

E. \textbf{Naming and Shaming}

– More naming and shaming from powerful States and regional and international bodies would help build support for an end to the Yemen Civil War and an accountability mechanism or mechanism for investigating atrocities.

F. \textbf{Supporting and Engaging Civil Society Actors}

– States and international groups need to assist in developing capacities for Yemen’s local civil society to collect evidence of and document crimes involving gender-based violence.

– Global civil society, including the International Committee of the Red Cross and other NGOs should assist in collecting evidence of and documenting gender-based violence. Humanitarian aid organizations should also continue providing humanitarian aid to Yemen’s children and other civilians in need of such assistance.

– Grassroots efforts aiming to complement more formal, top-down forms of accountability, like gacaca courts seen in Rwanda, should be considered in the big picture of accountability. The people of Yemen should be consulted concerning these sorts of gap-filling accountability mechanisms to ensure the people get the justice they want.

\footnote{SCSL Statute, \textit{supra} note 285, at art. 1(1).}
G. Transitional Justice

An essential part of transitioning from periods of systemic violence and atrocity crimes to peace requires a robust implementation of transitional justice mechanisms. While international criminal prosecutions play a major role in victims’ access to justice and form the centerpiece of legal criminal accountability, other practices can be transformational in reshaping society, building trust, promoting forgiveness, preventing future violence, and respecting and honoring the victims, survivors, and their families. Transitional justice in Yemen faces several hurdles that must be taken into account when designing a path forward: a fractured economy, new and likely fragile government structures, the culturally taboo nature of discussing sexual-based and GB crimes, a traumatized and impoverished civilian population where essentially every person has been victimized during the conflict, and combatants who will need reintegrated into society to name a few.

One of the most common mechanisms of transitional justice is the adoption of truth and reconciliation commissions (TRC). TRCs are fact finding bodies that work to investigate and report on the root causes of conflict and the facts of the atrocities that took place, and are empowered to make nonlegal, nonbinding recommendations to promote peace in the post-conflict society.

Reparations are another popular mechanism of transitional justice. These help address the needs of victims and survivors by directly providing support to those who were severely, oftentimes irreparably, harmed, physically, mentally, and financially. Reparations are a core piece of transitional justice and should be victim-centered. They may provide direct, tangible assistance to victims, such as financial support, access to land, granting of civil and political rights, or access to education. Reparations may also take symbolic forms, also called memorialization, which can include public memorials, commemorative or remembrance days, and official apologies.

One approach to such reparations is the implementation of a comprehensive education system that starts in elementary school. Children should be educated about atrocity crimes that affected their parents, grandparents, and nation, as early as appropriate to promote atrocity awareness in younger generations. Steps should also be taken to educate the community at large, who may be past the age of a school education. Community outreach and reeducation should draw from other successful post-atrocity efforts, like the work of the R/SCSL, to inspire a Yemen-specific framework. This educational reform should be accompanied by physical commemorative sites, including museums, monuments, plaques, and even art installations.\footnote{Physical commemorative sites are also effective in promoting awareness and accountability, and though should be implemented in historically significant places, can take many forms, such as: death camps, concentration camps, and transit camps related to the Holocaust throughout Europe, mass graves and sites of mass killings, such as Choeng Ek in Cambodia and the Nyarubuye Genocide Memorial in Rwanda, or decentralized memorials that you can run into without seeking out, like the Stolpersteine (Stumbling Stones) that sit embedded in the sidewalk of the last inhabited location of Jewish, Roma, and other persecuted groups during the Holocaust, by listing their names, date of deportation, and date and place of their murder.}

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Transitional justice in Yemen is a long-term goal. After the conflict ends, it will take time to rebuild, and the resources that are allocated to transitional justice must be utilized strategically and purposefully. In addition to recommendations made in prior sections of this paper, transitional justice efforts to memorialize the victims of GBV must be implemented post-conflict. Below is a list of YAP’s transitional justice recommendations specific to GBV in Yemen in no particular order.

*Civil society and survivors must be engaged, consulted, and included in all aspects of transitional justice. Their ownership in the processes laid out below will be a determinative factor in Yemen’s future success.*

– **A truth and reconciliation commission that is mandated to encompass GBV crimes** must be a priority post-conflict, to ensure victims of sexual and gender based violence have a space to share their experience, to contribute to fact finding, and to repair the community. This will likely require a cultural shift and societal reeducation to allow victims, most commonly women and girls, to tell their stories without fear of retribution or other negative consequences. Survivors must be consulted on how they want to tell their truth and what measures must be taken to minimize risks of retraumatization.

– **Tangible reparations, in the form of financial support, reestablishment of civil and political rights, and physical and mental health support for victims of GBV** provided by the major perpetrators of the conflict, including the Houthi forces (and their financial supporters), the de jure Yemeni government, and the Saudi-led Coalition.

– **Official apologies from perpetrators for gender based crimes, national days of remembrance for GBV victims and survivors, implementation of national policies against GBV, and memorials to commemorate those lost to and affected by GBV.** Survivors and victims of sexual violence receive little attention in the symbolic reparation/memorial space. This may be, in part, due to the sensitive nature of sexual violence crimes, which may be further perpetuated by an absence of public, outward-facing memorialization of GBV.

– **A reeducation and outreach program to teach Yemeni people of all ages about GBV and their rights concerning protection from such crimes.** This will likely require a cultural shift that empowers victims to tell their stories. We recommend looking at the success of the R/SCSL’s outreach programs for guidance and ideas for implementation.

– **Museums and physical commemorative sites** could not only serve as a place to honor victims and survivors, but also raise the social standing of women in general, by challenging social norms of gender persecution. Creating physical sites for GBV memorialization promotes a narrative that sexual crimes are wrong and will not go unnoticed, especially since a large portion of the viewers will likely be men. These physical institutions of memory and education will likely come later on after general stability returns to Yemen, but should still be a consideration when having conversations about accountability.
– **Restorative justice (RJ) processes**, like the use of trauma healing, community building, reintegration, and decision-making circles, should be considered when developing a plan for accountability in Yemen. RJ is a victim-centered, harm-reduction focused practice that looks to repair relationships and hold those who have caused harm accountable. This could be a tool utilized within a TRC or community outreach program.

**VII. CONCLUSION**

The high prevalence of GBV since and before the onset of the Yemen Civil War demands that the parties involved face accountability, both for their perpetration of such violence and for their failure to prevent, investigate, and punish such violence. GBV varyingly violates IHL and IHRL, and while the the ICC lacks jurisdiction over the situation in Yemen, and pursuing accountability through Yemeni domestic courts risks biased and unjust proceedings, stakeholders could and should pursue accountability for IHL or IHRL violations following the creation of an ad hoc tribunal, similar to the SCSL’s model, or by filing cases in the domestic courts of third-party States with applicable universal jurisdiction statutes. In the meantime, the UN should create an Independent Investigative Mechanism to gather evidence of crimes committed in Yemen to assist with future prosecutions, NGOs should continue to make their open-source findings available to stakeholders interested in pursuing accountability, and humanitarian aid organizations should continue their efforts to provide aid to the victims of gender-based violence in Yemen.

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