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THERE IS A RESPONSIBILITY TO PROTECT IN YEMEN:

Qualitative Content Analysis of the United Nations Security Council's approach to the situation in Yemen

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Abstract

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The purpose of this master's thesis is to recognize and analyse the approach of the United Nations Security Council (UNSC) to the ongoing crisis in Yemen during the time period of 2011-2018 with the theoretical framework of human security, which prioritizes the safety of an individual over a state. This thesis seeks to identify measures authorized by the UNSC that belong under the responsibility to protect (R2P) doctrine through qualitative content analysis. Yemen does not receive a lot of media attention, as there are other troubled states in the region that often steal the spotlight in the Western media, due to potential refugee flows, for example. R2P is often erroneously equated to mean the use of military force, and thus there have been those, who argue that the international community has forgotten and ignored the crisis in Yemen. This thesis presents that this is not true: even though the human security situation is catastrophic in Yemen, it would be unfair and inaccurate to claim that the people of Yemen have been ignored by the UNSC. This thesis recognizes clear R2P measures that the UNSC has implemented in Yemen in hopes to resolve the conflict, or at least alleviate human suffering. Implementing the principles of R2P are necessary in the case of Yemen, as there is reasonable grounds to believe that all parties to the conflict have perpetrated mass atrocity crimes, including war crimes and crimes against humanity. The UNSC has applied pillars II and III of R2P, which include negotiated agreements during the transitional period (2011 – 2014), two different fact-finding missions, sanctions and mediation efforts. These measures prove that the international community has acted in accordance with the R2P doctrine. However, it needs also to be acknowledged that due to the complexity of the crisis, its multifaceted nature and the composition of the UNSC, the crisis in Yemen is a very difficult one to resolve. This is true with any crisis that threatens international peace and security. They require an immense amount of political will locally, regionally and internationally.

Keywords: Responsibility to Protect/ Human security/ International community/ United Nations Security Council/ Yemen/ Human rights

Tiivistelmä

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Tämän pro gradu -työn tavoitteena on tunnistaa ja analysoida Yhdistyneiden Kansakuntien turvallisuusneuvoston (UNSC) suojeluvastuun periaatteen (R2P) mukaiset toimet, joita se on käyttänyt Jemenin kriisin ratkaisemiseen ajanjaksolla 2011 – 2018, inhimillisen turvallisuuden viitekehyksen avulla, joka priorisoi yksilöä valtion sijasta. Metodina käytetään laadullista sisällönanalyysiä, ja datan koostuu YK:n turvallisuusneuvoston dokumenteista ja julkilausumista, joista suojeluvastuun periaatteen mukaisia toimia etsitään. R2P rinnastetaan usein virheellisesti sotilaallisen voiman käyttöön, ja tästä johtuen on esitetty väitteitä, että kansainvälinen yhteisö on sivuuttanut Jemenin kriisin. Kaiken lisäksi Jemenin kriisin käsittely mediassa on huomattavasti vähäisempää kuin alueen muiden kriisien käsittely. Vaikka inhimillinen turvallisuus on Jemenissä täysin puutteellinen, olisi harhaanjohtavaa ja epäoikeudenmukaista väittää, että kansainvälinen yhteisö olisi jättänyt Jemenin huomiotta. Tämä pro gradu -työ pyrkii osoittamaan, että kansainvälinen yhteisö on toiminut Jemenissä suojeluvastuun periaatteen mukaisesti. Suojeluvastuun periaatteen toteuttaminen on Jemenissä myös aiheellista, sillä on syytä epäillä, että kaikki konfliktin osapuolet ovat syyllistyneet törkeisiin ihmisoikeusrikkomuksiin, mukaan lukien mahdollisiin sotarikoksiin ja rikoksiin ihmisyyttä vastaan. YK:n turvallisuusneuvosto on toteuttanut Jemenin tapauksen käsittelyssä suojeluvastuun periaatteen pilareita II ja III, jotka vaativat turvallisuusneuvoston valtuutuksen. Näihin toimiin lukeutuvat useat siirtymäkauden aikana (2011 – 2014) neuvotellut sopimukset, kaksi eri selvitysvaltuuskuntaa, sanktioita ja rauhanneuvotteluyrityksiä. Nämä toimet jo osoittavat, että kansainvälinen yhteisö on toiminut edistääkseen Jemenin konfliktin ratkaisemista. Vaikka kriisiä ei ole saatu ratkaistua, se ei silti tarkoita sitä, etteikö tätä olisi yritetty. On kuitenkin huomattava, että Jemenin konflikti on vaikea ratkaistava sen vaikeaselkoisuuden, monitahoisuuden ja osaltaan myös YK:n turvallisuusneuvoston kokoonpanon vuoksi. Jemenin kriisin, kuten minkä tahansa muunkin konfliktin ratkaisu, joka uhkaa kansainvälistä rauhaa ja turvallisuutta, vaatii suunnattomasti poliittista tahtoa paikallisesti, alueellisesti ja kansainvälisesti.

Avainsanat: suojeluvastuun periaate, inhimillinen turvallisuus, kansainvälinen yhteisö, Yhdistyneiden kansakuntien turvallisuusneuvosto, Jemen, ihmisoikeudet

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List of Abbreviations

AQAP	Al-Qaida in the Arabian Peninsula
ASEAN	Association of Southeast Asian Nations
ATT	Arms Trade Treaty
AU	African Union
CHS	Commission on Human Security
EU	European Union
GCC	Gulf Cooperation Council
GCR2P	Global Centre for Responsibility to Protect
GCIV	Fourth Geneva Convention
GPC	General People's Congress
HDR	Human Development Report
HRW	Human Rights Watch
ICC	International Criminal Court
ICJ	International Court of Justice
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic and Social Rights
ICISS	International Commission on Intervention and State Sovereignty
IHL	International humanitarian law
IHRL	International human rights law
ISIL	Islamic State in Iraq and the Levant
JMP	Joint Meetings Parties
MSF	Médecins Sans Frontières
NDC	National Dialogue Conference
NGO	Non-governmental organization
OCHA	Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organization for Security and Co-operation in Europe
P3	Permanent Three of the Security Council: the UK, the US and France
P5	Permanent Five of the Security Council
PDRY	Southern People's Democratic Republic of Yemen
POC	Protection of Civilians
PoE	Panel of Experts
POW	Prisoner of War

PNPA	Peace and National Partnership Agreement
RN2V	Responsibility Not to Veto
R2P	Responsibility to Protect
SDGs	Sustainable Development Goals
SPC	Supreme Political Council
SCR	Security Council Report
STC	Southern Transitional Council
UAE	United Arab Emirates
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme
UNDPPA	United Nations Department of Political and Peacebuilding Affairs
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UNSC	United Nations Security Council
UNSG	United Nations Secretary-General
WHO	World Health Organization
YAR	Northern Yemen Arab Republic

1. Introduction

> The international community has a responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, and must intensify its efforts to fulfil this responsibility. (…) We must, collectively, make the protection of the civilian populations of Yemen our primary consideration if we are to avoid a catastrophe in this region. (Dieng & Welsh, 2015, para. 5)

The point of this introductory chapter is to give as precise description as possible of the situation in Yemen during the timeframe of this study, beginning from 2011 ending to 2018. Naturally, as the conflict is particularly complex, it would be an impossible task to review these eight years of heated conflict in a very thorough manner. Thus, for the sake of understandability, the following chapter gives the necessary information in order to understand the focal points of the conflict.

Yemen has had a tumultuous history: the people have suffered through destructive civil wars and local skirmishes for decades. The roots of the current conflict can be seen to extend all the way to the 1960s: however, for the sake of simplicity, this introductory chapter does not go that deep into the unfortunate history of the country. However, it needs to be acknowledged that Yemen used to be two separate countries: the Southern People's Democratic Republic of Yemen (PDRY) and the Northern Yemen Arab Republic (YAR). The somewhat artificial unification came in 1990 under the leadership of president Ali Abdullah Saleh, who had already ruled the Northern Yemen from 1978. The unification of Yemen was due to economic troubles in both countries came as a surprise to many Yemenis and international observers, as well. However, the country had a bloody civil war in 1994 and the victorious northern part of Yemen had the chance to mould the country according to its biddings, and this enraged the Southern part of the country. Moreover, the country suffered through six other wars between 2004 and 2010, which took place between the Yemeni government and the Houthi movement, who had allegedly been discriminated for years in economic, social and political matters. Moreover, as the Houthis belong to the Shia sect of Islam, whereas slight majority of Yemenis are Sunni Muslims, this has also caused some friction. Thus, it should be understood that the roots of mistrust, contentious relationships and societal injustice were sown deep and they only flamed up definitively in 2011 with the winds of the Arab Spring.

The Yemeni people wanted change to the authoritative means of ruling by president Saleh: human rights violations, oppression and corruption were widespread in Yemen, and this had continued for decades. The tensions started to mount in February 2011, when mass demonstrations were organized throughout the country, which were met with excessive violence by the government of Yemen, mandated by president Saleh and his forces. The UNSC activated relatively quickly, and they adopted Resolution 2014 in 2011, which highlighted the responsibility of the Yemeni government to protect its population. The regional organization in the Persian Gulf, the Gulf Cooperation Council (GCC), comprised of Arab states – Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (UAE) – had already started its efforts to resolve the crisis, which the UNSC also welcomed in the resolution.

The GCC initiative was initially met with hostility by president Saleh, as it demanded him to resign. However, in return, he and his closest associates would receive immunity, and they could not be tried for any crimes committed during Saleh's presidency of 33 years. The UNSC made it rather clear that they did not approve of the immunity clause included in the GCC initiative, but still urged Saleh to sign the initiative. In November, Saleh signed the initiative and stepped down in favour of his long-term vice president, Abdrabbuh Mansur Hadi, and the transition towards democracy began in Yemen. However, as the GCC initiative and its implementation mechanism had deep flaws, as will be later examined in more detail, the transition process was not off to a good start. The Houthis and the Southern Separatist Movement, which seeks to establish an independent South Yemen as it was prior to 1990, were particularly displeased with the GCC initiative and its implementation mechanism, and the demonstrations continued.

The new government of national unity was established in February 2012, and Hadi was officially inaugurated as president of Yemen. However, president Hadi was not able to gain the total control of the country either, as demonstrations and an increasing number of jihadist attacks by the Al-Qaeda in the Arabian Peninsula (AQAP) kept occurring. In June 2012, the UNSC adopted Resolution 2051, which expressed "readiness to consider further measures" if these efforts to undermine the work of the new government and the political transition. This was directed against not only the Houthis, but also against former president Saleh and his henchmen, who were trying to derail the transition. Even though Saleh gave up the presidency, he was still in charge of the biggest political party in Yemen, the General People's Congress (GPC).

One part of the GCC initiative's implementation mechanism was the National Dialogue Conference (NDC), where all factions of the Yemeni society would come together to discuss matters at hand. The NDC commenced in March 2013 and concluded in January 2014. The negotiations were long and difficult, as expected: the Houthis and the Southern Separatist Movement, alongside with the GPC and the Joint Meeting Parties (JMP), which is the main opposition party in Yemen. However, the representatives of the Houthis and the Southern Separatist Movement were deeply disappointed in the conclusion of the NDC and boycotted the final plenary session. The UNSC adopted Resolution 2140 in February 2014, in which they encouraged the Yemeni government to implement the decisions made in the NDC and it also established a sanctions regime, 2140 Yemen Sanctions Committee and the Panel of Experts (PoE), to support the political transition. However, the resolution stopped short of naming any individuals.

The situation escalated again in August 2014, when demonstrators inspired by the Houthi leadership were arguing that the government was not delivering those much-needed reforms quickly enough. The Houthis demanded the resignation of the government, as they believed it was not representative enough. The Houthis and their supporters were able to establish camps around the Sana'a governorate, where the capitol of Yemen is located, and thus pressuring the government. After a wave of deadly fighting, president Hadi met with the representatives of the Houthis and they signed the Peace and Partnership Agreement (PNPA) in September. However, the Houthis did not respect their part of the deal, as they were supposed to disarm and withdraw. The 2140 Yemen Sanctions Committee imposed targeted sanctions on two Houthi leaders due to their deviation from the PNPA and former president Saleh as he was seen as a clear spoiler to the political transition. It had become increasingly evident, that these two factions were in cahoots. This was very much an alliance of convenience, as they were only united in what they oppose.

The next year began in a tumultuous manner: in January 2015 the Houthi-Saleh forces technically attempted a coup and were able to capture president Hadi and other members of his cabinet. The UNSC adopted Resolution 2201 in February, which "strongly deplores actions taken by the Houthis to dissolve parliament and actions taken by the Houthis to dissolve parliament and take over Yemen's government institutions, including acts of violence" (para. 1). President Hadi, after he was released, demanded military help from the GCC and other Arab countries, which formed a Saudi Arabia-led coalition (other

members of the coalition were the UAE, Sudan, Bahrain, Kuwait, Qatar, Egypt, Jordan and Morocco, while the US and the UK were giving logistical support – the involvement of Western powers will be addressed later in this thesis), and the coalition began its Operation 'Decisive Storm' in late March. The UNSC adopted Resolution 2216 in April, which imposed more sanctions on the Houthi leadership and also included former president Saleh's son. However, as will be seen later in this thesis, precisely this resolution would end up hindering the efforts of the UNSC. First round of peace negotiations between the government of Yemen and the Houthi-Saleh alliance representatives were held in Geneva, Switzerland in June, which ended inconclusively. Another set of negotiations were again organized in Switzerland in an undisclosed location in December, which did not produce a breakthrough, either.

Another set of peace talks took place in Kuwait in April and they continued until the beginning of August. Even though the negotiations produced a roadmap for soling the crisis, the parties could not agree on the sequencing of the steps. Moreover, the atmosphere of the negotiations quickly changed, as the Houthi-Saleh alliance decided to establish a political body to run the government in July, the Supreme Political Council (SPC). Again, this was a direct violation of UNSC's relevant resolutions and also against the GCC initiative and its implementation mechanism, the outcomes of the NDC and the PNPA.

In 2017, the conflict saw some differences mainly concerning alliances. In March, the coalition began to discuss about attacking the Hudaydah port, which was under the Houthi control. The port is an important lifeline for the humanitarian assistance, and this possibility of naturally worried the UNSC. The Southern Transitional Council (STC), the political offshoot of the Southern Separatist was established in May, with a goal to establish an independent South Yemen. The STC is backed by the UAE, putting the country on a collision course with the rest of the coalition, as the STC clearly works to undermine the efforts of the government of Yemen, which the rest of the coalition supports. The first fissures in the relationship between the Houthis and former president Saleh started to appear in August, as the Houthis were implying that the forces loyal to Saleh were not doing their part of the war effort. The relationship between the two rather unlikely allies ended in December, after Saleh made a televised statement, in which he gave his personal and also his party's support to the Saudi-led coalition and signalled that he was willing to cooperate with the coalition. After a couple of days transpired, Saleh

was killed by the Houthis, alongside with some high-ranking GPC officials. In December, the Group of Eminent International Regional Expert on Yemen was appointed, mandated to map out human rights violations and abuses that have occurred since 2015.

In January 2018, the STC threatened to overthrow the government, which resided in Aden, as the Houthis have control over Sana'a, the official capitol of Yemen. However, this did not lead anywhere, but it is clear that the Southern Separatist Movement is more organized with the establishment of the STC, and it is a faction that should be taken into consideration in the conflict. The Hudaydah offensive by the Saudi-led coalition began in June, which further complicated the situation in Yemen, as this technically meant that the port of Hudaydah closed down. The UNSC tried to organize peace talks earlier in 2018: in September, there was discussion of holding negotiations in Geneva, Switzerland, but the Houthi delegation did not arrive. Finally, negotiations were organized in Stockholm, Sweden, which produced for the first time a written document, called the Stockholm Agreement.

The situation in Yemen has been insufferable for the past years, and the current internationalized conflict has not understandably made the circumstances any easier for the Yemeni people, who are paying the price of the conflict with their lives. Even before the civil war broke out in 2014, the country was having severe issues to fulfil basic human needs. For example, the World Health Organization (WHO) reported in 2013 about the intolerable conditions: extreme poverty was widespread, unstable food prices and lack of clean water were causing health problems, such as severe malnutrition. Moreover, the healthcare system was already lacking needed resources and the country was experiencing epidemics of measles, dengue fever, and polio. After the civil war began, the already dire situation has deteriorated gravely to the point, where it is not even reasonable to discuss whether human security is attained in Yemen, as there are various indications that the state is unable (and in some cases, unwilling) to provide fundamental security for its people. In 2012, 10 million people needed humanitarian assistance in Yemen (S/PV.6878, p. 11). However, in 2018, 22 million people were dependent on it, which is over 75 per cent of the population (S/PV.8424, p. 12). However, it is very likely that the actual number is much higher. As this introductory chapter shows, the conflict in Yemen is extremely complex, multifaceted and lethal. It is quite clear that the state, or what is left of it, is not able or willing to protect its population from war crimes and crimes against humanity that are being committed by all sides to the conflict.

1.1 Importance and justification of the topic

According to Maxwell (2008, p. 219), it is convenient to distinguish three different goals when conducting a study: personal, practical and intellectual goals. This study fulfils those goals. Personally, I am interested in conflict-resolution, human rights and the UN system and I hope that by doing my master's thesis on these topics, it will advance my professional career after graduation. This study also fulfils the practical and intellectual goals, which are morphed into one in the context of this study: simply understanding the situation better in Yemen and the UN's role in it. This is strictly connected to the existing research gap and the research question that is covered in the next subsection in more detail.

As said, there is a clear research gap: Yemen does not receive a lot of media attention, and it has been described as a "forgotten war" (BBC, 2015). If Yemen has received any media coverage, it has usually been because of the Al-Qaeda in the Arabian Peninsula (AQAP). For example, in January 2015, Yemen was in the media spotlight, but not because of the conflict: AQAP claimed responsibility for the deadly attack on Paris satirical newspaper Charlie Hebdo (the Guardian, 2015). In most of these reports detailing the attack, Yemen was described as a fertile ground for extremism and radicalization. However, the civil war itself has not received a lot of attention. It is probable that other conflicts in the region, such as Syria and Libya are attracting more interest, especially in the West due to certain Western countries explicit intervention in the conflicts and potential refugee flows that follow. However, as a result of Yemen's somewhat unfortunate geographical location, the country mainly functions as a transit country for refugees from the Horn of Africa. When it comes to Western countries' presence in the conflict in Yemen, it is less obvious. Moreover, if the war in Yemen itself is portrayed in the media, it is usually depicted as a binary conflict between only two factions: the Houthis and the government. However, as the introduction already made clear, the conflict is more complex and multifaceted, with a multitude of different actors with sifting loyalties. This study aims at highlighting the efforts of the UN, which often go unnoticed, or are portrayed in a somewhat negative light, e.g. how peace talks concluded again without an agreement (Washington Post, 2015). This is explained in further detail in the following subchapter.

The timeframe for this study was chosen to begin from 2011 and to end in 2018. The rationale for this 8-year period is simple: the conflict flamed up as a civil war in 2011,

and the UNSC adopted Resolution 2014, in which it reminded the government of Yemen of its protection responsibilities, which was a clear R2P measure. The peace negotiations in Sweden took place in December 2018, and these negotiations produced the Stockholm Agreement, which is first of its kind in the context of Yemen, thus marking a somewhat natural endpoint to the study, even though the conflict still rages on after 10 years.

1.1.1. Research Question and Aims

The research question of this study is the following:

> *What elements of Responsibility to Protect has the United Nations Security Council employed in the case of Yemen?*

At first glance, the research question as such seems rather straightforward and even simple. However, as this study will demonstrate, this seemingly uncomplicated research question has many aspects that need to be considered and addressed carefully. First of all, the R2P doctrine is a very delicate matter. There are many sides to the principle, and they need to be carefully assessed in order to understand its multifaceted nature. In the context of this study, R2P clearly means the obligation of the state and the international community to protect people against mass atrocity crimes: genocide, war crimes, crimes against humanity and ethnic cleansing. Human security, and more precisely its narrower strain, Freedom from Fear, which forms the theoretical framework for this study helps to contextualize why R2P is necessary in the context of Yemen, as there is evidence that some of these atrocity crimes are being perpetrated against the Yemeni population. Lastly, as the UNSC is the implementor of pillars II and III in R2P, it is sensible to examine how it has operated in the context of Yemen.

The aim of this study is not to argue that the international community or the UNSC has failed Yemen. However, it needs to be understood, what could have been done differently, as there are many occasions during these 8 years of the conflict, where the UNSC could have acted differently and it could have produced a different outcome. However, it is necessary to recognize that even though the UNSC is an exceptionally powerful organ, its decisions, the more substantive they get, the harder they are to negotiate, as Council members often seem to respect their bilateral relationships – and in the case of Yemen, precisely this has sometimes prevented the UNSC from acting. Moreover, R2P is often erroneously equated with military force without the consent of the host state. If this does not occur, the discussion concerning R2P is often hijacked by those, who claim that R2P

is enforced selectively (e.g. see Cape Times, 2015). However, as this study will show, this argument will not hold in the context of Yemen. Even though the UNSC has not authorized the use of force, there are other R2P measures that have been employed. Moreover, it is also reasonable to ask, whether military force would even help solve the conflict.

It cannot be stressed enough that even though the UNSC has all the means available to get the necessary information about anything that has the potential to threaten international peace and security, it still cannot foresee the future, which is sometimes unfairly expected from it. The Council is often overworked and sometimes, like in the case of Yemen, the events progress with such a pace that the UNSC is simply unable to react to all the changes that occur.

The R2P measures that I will examine closer are the following:

- The Gulf Cooperation Council Initiative and the Implementation Mechanism
- The National Dialogue Conference
- The Peace and National Partnership Agreement
- Fact-finding missions: the Panel of Experts and the Group of Independent Eminent International and Regional Experts on Yemen
- Sanctions: asset freezes, travel bans and arms embargo
- Mediation efforts: Switzerland 2015, Kuwait 2016 and Sweden 2018

These issues will be evaluated closer in Chapter 5, as they are R2P measures that have been employed in the case of Yemen.

The data for this study is derived from different sources, such as the following:

- UNSC Resolutions on Yemen
- Selected UNSC meeting records
- Selected UNSC presidential statements
- Selected UNSC press statements
- Selected UN General Assembly (UNGA) documents
- Selected UN Human Rights Council documents
- Selected 2140 Yemen Sanctions Committee documents
- Security Council Reports: Monthly Forecasts and What's in Blue (2011-2018)

1.2 The structure of the thesis and limitations

This thesis has three main parts. First, the theoretical framework is introduced. Human security, and its narrower form Freedom from Fear, was chosen to form the theoretical approach. Human security and R2P are highly compatible, as the main goal of human security is to prioritize the security of the individuals instead of the security of the state. If a state is unable or clearly unwilling to provide this security to its population, R2P is a very applicable tool to address this issue. Moreover, as R2P redefines the sovereignty of the state, as it is no longer to be seen as a privilege but a responsibility to protect the population against mass atrocities, R2P thus prioritizes individual rights instead of state rights, like human security. As the theoretical chapter describes, there is reasonable grounds to believe that all parties to the conflict have perpetrated at least war crimes and crimes against humanity in Yemen. In the simplest terms, there is a responsibility to protect in Yemen.

R2P forms the conceptual framework and is the second main part of this thesis. R2P in its simplicity, is an international political commitment to prevent four of the gravest human rights crimes: genocide, war crimes, ethnic cleansing and crimes against humanity. R2P rests in three equal pillars: the responsibility of states to protect their populations from mass atrocity crimes (pillar I), the responsibility of the international community to support states in meeting their pillar I obligations (pillar II) and the responsibility of the international community to protect to take collective action, in a timely and decisive manner, when a state is manifestly failing to fulfil its pillar I obligations (pillar III).

The third main part of this thesis is formed by the qualitative content analysis on the UNSC's approach to the situation in Yemen. As described above, the main goal of this study is to recognize what R2P measures the UNSC has authorized in the context of Yemen, and this section delves deeper into this. The UNSC has used various measures from the R2P toolbox and they are analysed in the chapter. Other parts of the thesis are concluding remarks, which aim at drawing up together some final thoughts. After this, future research possibilities are considered, followed by the references used in this research, listed in alphabetical order.

When conducting any study, limitations and possible challenges are necessary to take into account. There is one obvious one connected to this research: as this is a case study, only examining Yemen, it does not provide a lot of applicable information that could be

generalized into wider frameworks. Moreover, R2P can never be applied in exactly same manner in a different context, but decisions need to be made always case by case. Moreover, as the UNSC occasionally holds closed meetings, information is not always available. Even the Council usually produces some kind of content even on those events, it does not always disclose everything. Nevertheless, a challenge connected to this is that the UNSC produces a lot of information – going through UNSC documents and other relevant materials was rather time-consuming and relatively hard task, also emotionally. Reading through documents detailing human suffering in various forms is never an easy task.

2. Theoretical Framework

> The world is entering a new era in which the very concept of security will change – and change dramatically. Security will be interpreted as: security of people, not just territory. Security of individuals, not just nations. Security through development, not through arms. Security of all the people everywhere - in their homes, in their jobs, in their streets, in their communities, in their environment. (Ul Haq, 1995, p. 115)

This section will cover the theoretical framework used in this study, namely, human security. There are a number of reasons why human security was chosen to form the theorical framework for the study at hand. First, as a number of sources (e.g. Hanlon & Christie, 2016; UNDP, 1994; Buzan & Hansen, 2009) stress, human security doctrine is a people-centred security approach, which is an important aspect for the study. Second, human security is considered to be a more modern approach than traditional security understanding, which is a realist construct of security, also known as "national security", which stresses the importance of the security of the state, state institutions, the territory of the state and the core values of the state, as Hanlon and Christie (2016) point out. Human security, on the other hand, is largely defined by international human rights norms, as Šehović (2018) and Tanaka (2019) argue – this is the third reason, why human security makes a suitable doctrine for the study. Indeed, as the study navigates carefully between the disciplines of international relations and international law, human rights are at the centre of this study. Lastly, human security is well-suited for the purpose of this study, as the focus is the principle of Responsibility to Protect (R2P) in the empirical case of Yemen. As the report published by the International Commission on Intervention and State Sovereignty (ICISS) in 2001, R2P is very closely related to the protection of human rights, as R2P essentially argues that if a country is not able to protect its population against gross human rights violations, the international community has the responsibility to step in, thus human security strongly supports the principle of R2P.

It is also worth mentioning that security as such is an essentially contested concept, as Thakur (2006) reminds. During the 20th century this contestation only increased, as new issues were brought to security agenda. The importance of the state has not disappeared from the security arena – the state still remains the principal guarantor of security. However, as new issues have appeared, the discussion of security has expanded both horizontally and vertically. Horizontally, so that other issues beyond military has been taken into account, such as the environment and health. Vertically, which means that the

focus has shifted from the state in terms of it being the only referent object; that is, something that is being threatened and needs to be protected.

The structure of this chapter is the following: first, the origins of human security are explained. This is an important step, not only because even though there is even a somewhat surprising amount of consensus among researchers on its origins, it also helps to understand the following sections of the chapter and acquire a more holistic view of the doctrine. Moreover, this section clarifies the long historical spectrum of how human security has gained increasingly more ground within security studies. Connected to this thought, it is important to note that human security is a concept that has also evolved throughout time. The first systematic articulation of the doctrine was in the 1994 Human Development Report (HDR) published by the United Nations Development Programme (UNDP). As such, it is important to examine the document with care and get acquainted with the basic tenets of human security. Moreover, as human security can be divided into sub-categories, namely, *Freedom from Fear* and *Freedom from Want*, it is crucial to explore their differences and similarities, which will be done in the second section of this chapter. A sub-section is dedicated to *Freedom from Fear*, as it this strain of human security doctrine will be employed in specific in this study. Third section consists of criticism levelled against human security and maybe more importantly, overcoming that critique. Fourth chapter will take into account the compatibility of human security with the principle of R2P. Fifth section will address human security in the context of the case country of this study, which is Yemen. Lastly, there is a concluding section at the end, followed by an alphabetized list of references.

2.1. Origins of Human Security

Generally speaking, an overwhelming majority of scholars see the HDR 1994 as the document that made human security a common currency in international relations. Nevertheless, even though there is a remarkable amount of consensus in the academia about the origins of human security, as already mentioned above, there can still be found small differences what different researchers stress.

Several researchers (Hanlon & Christie, 2016; St. Marie, Stanton, & Naghshpour, 2008; Šehović, 2018; Buzan & Hansen, 2009; Sen, 2013; Fukuda-Parr & Messineo, 2012) argue that human security emerged in the post-Cold War era, in the mid-1990s. They base the argument mainly on the fact that the structure of the international system changed dramatically: from bipolarity to unipolarity, which allowed other security matters

infiltrate into the security agenda of countries. Moreover, it is argued, destructive civil wars and mass atrocities of the post-Cold War era, such as those of Rwanda and Srebrenica forced states to look at security from another perspective. During the Cold War, the dominating view was that the state was the referent object.

However, there is also a number of scholars (Shinoda, 2004; Tadjbakhsh, 2007) who argue that tenets of human security emerged earlier than after the Cold War. They highlight the importance of US President Franklin Roosevelt's 1941 State of the Union address. In the address, also known as the Four Freedoms speech, President Roosevelt laid down four fundamental freedoms. Among those freedoms are both Freedom from Fear and Freedom from Want – the two ingredients of human security. Moreover, it is extremely important to examine the sentence, where President Roosevelt describes the content of Freedom from Want: "The third is freedom from want, which, translated into world terms, means economic understandings which will secure to every nation a healthy peace time life for its *inhabitants* [emphasis added]." (Armbrecht, 2015). This resonates very well with the main message of human security – people-centrism. As such, it seems justifiable to argue that the idea of human security has been around longer than just from the end of the Cold War, and it really became more mainstream, as critical peace research emerged after the bipolar world collapsed after the Cold War.

MacFarlane and Foong Khong (2006) make possibly the most thorough and persuasive argument for the origins of human security. They look at the historical context of security within international relations with a larger timeframe than abovementioned scholars. Their main argument is similar to that of Shinoda and Tadjbakhsh's – that human security did not just pop up after the Cold War, but it has long historical roots. However, MacFarlane and Foong Khong argue that these roots go even deeper than to President Roosevelt's 1941 State of the Union address. Instead, they show that the seeds for human security were planted centuries earlier, beginning from the Classical and Medieval Eras, but in a bit different form than human security is nowadays understood.

Especially after the Second World War, many milestones concerning human security were reached. MacFarlane and Foong Khong (2006) argue that the Nuremberg Trials, which limited impunity for war crimes and crimes against humanity, the Universal Declaration of Human Rights (UDHR) and later its associated covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International

Covenant on Economic, Social and Cultural Rights (ICESCR) were paramount in the process of bringing the rights of the individual to the forefront in international relations.

However, it is the end of the 20th century and the end of the Cold War, when the position of the state as the sole referent object in the mainstream security discourse came to its end. MacFarlane and Foong Khong (2006) list various factors why the dominance of the state in security discourse eroded. First, simply the fact that the Cold War ended – it eliminated a lot of tensions within the international arena and thus facilitated the (re)emergence of different constructs of security. Second, even though military security and nuclear deterrence were the defining features of the Cold War, they were never considered as relevant matters in the developing world, but issues such as internal unrest and the legitimacy of statehood were more pressing issues. Moreover, especially after infamous events of Rwanda and Srebrenica took place seriously undermined the position of the state as the protector and guarantor of security. It became increasingly clear that state sovereignty is to be dependent on its ability to protect its citizens.

As a way of concluding, even though human security was uttered the first time only after the Cold War, it is possible to find bits and pieces of the discourse sprinkled across human history. This truly shows that human security as a tradition of thought that has evolved throughout the ages. The first appearance of the term as such was in a report written by UN Secretary-General (UNSG) at the time, Boutros Boutros-Ghali, in which he called for "an integrated approach to human security" to address root causes of conflict (UNSG 1992, para. 16). However, this was the only nod to human security in the report as such, thus it did not really clarify what the UN thought human security to include as such. This, however, changed in two years' time: even though scholars disagree on the ultimate origins of human security, they do agree that the HDR 1994 by the UNDP is the document that truly elaborated and initiated the discussion on human security.

2.2. Human Security from 1994 onwards

As briefly discussed above, the Human Development Report (HDR) 1994 is the milestone document that helped human security really penetrate security studies. The report was written for the World Summit for Social Development, which was held in Copenhagen, Denmark, in March 1995. The importance of the document is immense, as it was the first report to articulate the concept of human security in a comprehensive way. The following section examines the HDR 1994 thoroughly and sheds some light on the basic dogmas of human security.

The HDR 1994 points out the difficult task to define human security in strict terms due to its abstractive nature: “like other fundamental concepts, such as human freedom, human security is more easily identified through its absence than its presence, and most people instinctively understand what security means” (UNDP, 1994, p. 23). Despite this, the report delivers a very comprehensive definition. According to the HDR 1994, there are four basic tenets of human security, which are the following:

1. Human security is a universal concern. It is relevant to people everywhere, in rich nations and poor. There are many threats that are common to all people-such as unemployment, drugs, crime, pollution and human rights violations. Their intensity may differ from one part of the world to another, but all these threats to human security are real and growing.
2. The components of human security are interdependent. When the security of people is endangered anywhere in the world, all nations are likely to get involved. Famine, disease, pollution, drug trafficking, terrorism, ethnic disputes and social disintegration are no longer isolated events, confined within national borders. Their consequences travel the globe.
3. Human security is easier to ensure through early prevention than later intervention. It is less costly to meet these threats upstream than downstream. For example, the direct and indirect cost of HIV/AIDS (human immunodeficiency virus/acquired immune deficiency syndrome) was roughly $240 billion during the 1980s. Even a few billion dollars invested in primary health care and family planning education could have helped contain the spread of this deadly disease.
4. Human security is people-centred. It is concerned with how people live and breathe in a society, how freely they exercise their many choices, how much access they have to market and social opportunities and whether they live in conflict or in peace. (UNDP, 1994, p. 22-23)

The components of human security that are mentioned on the second point are Freedom from Want and Freedom from Fear. Freedom from Fear will be addressed later in detail, as that branch of human security is better suited to serve the purposes of this study. However, it is crucial to be understand both components of human security, in order to have as comprehensive picture of the doctrine as possible, as the two legs of human security are complementary and do not rule each other out.

It is evident that the HDR 1994 advocates for a more expansive view of security, Freedom from Want: “For too long, security has been equated with the threats to a country's borders. For most people today, a feeling of insecurity arises more from worries about daily life than from the dread of a cataclysmic world event” (UNDP, 1994, p. 3). The HDR 1994 lays down seven categories of security that are crucial components of Freedom from Want. These are economic security, food security, health security, environmental security, personal security, community security and political security. Together they create an integrative approach to security, and clearly putting the individual at the centre. Moreover, it is clear that these categories are partly overlapping and intertwined with each other: for example, health security and food security are inherently linked with each other. Poor nutrition, which can lead to an outbreak of famine, is one of the biggest obstacles various countries need to tackle. There are still more than 820 million people in the world, who suffer from hunger (FAO, IFAD, UNICEF, WFP & WHO, 2019).

Advocates of this more inclusive view argue that these issues rise to the level of security threats, as poverty, hunger, disease and environmental disasters typically claim more human lives than more traditional security threats, such as terrorism and wars. However, it is important to keep in mind that Freedom from Want and Freedom from Fear are not mutually exclusive: on the contrary, they are extremely compatible and complementary. It is highly implausible for an individual to enjoy the broader sense of security without the narrower one.

It is necessary to notice the strong relation between Freedom from Want and development. Muguruza (2017) points out that the approach Freedom from Want advocates for is clearly connected with development, even though their scopes are different. Freedom from Want enables development – the latter cannot happen without the former. Nevertheless, while Freedom from Want concentrates on possible risks and prioritizes protection, development focuses on possible choices and sees them as achievements. The close connection between Freedom from Want and development is one of the reasons why this leg of human security will not be employed further in this study, as it would necessarily deviate the focus to consider more developmental issues, which is not the goal of the study. Certainly, this is something that could be examined, as the case country of this study, Yemen, does not come to even close in fulfilling any of the categories of Freedom from Want. If developmental issues and the categories of Freedom from Want are roughly equated, which is not a far-fetched comparison, it is easy to see

that Yemen does not score high, as Moyer, Bohl, Hanna and Mapes (2019) detail in their report. They point out that the conflict has significantly obstructed the progress in development, which they measure by applying the Sustainable Development Goals (SDGs) – and according to their projections, it would have been extremely unlikely that Yemen would have achieved any of the SDGs by their deadline, year 2030, even without the conflict having taking place. However, as the conflict carries on, the SDGs become even more difficult to achieve in Yemen.

The Commission on Human Security (CHS) published a report in 2003 on human security, which did not list potential threats to human security like the HDR 1994 had done: instead, it referred to "elementary rights and freedoms people enjoy", which established "the vital core of life" – these are fundamental human rights that guarantee the right to survival, to livelihood and to basic dignity (CHS, 2003, p. 4). The report thus also attempted to bridge the gap between the two components of human security. Moreover, the report made an important contribution to human security as it specified that human security and state security are not mutually exclusive, but they are complementing each other and necessary to co-exist. Human security requires strong and stable state institutions, and state security needs human security to be a truly functional and responsible state. The CHS report also stresses the universal nature of human security, like the HDR 1994 did as well.

Within the UN system, human security has gradually received more attention and acceptance. In 2005, The World Summit Outcome Document (the same resolution that laid down the very basics of R2P) acknowledged the importance of human security and included a pledge to its further development:

> We stress the right of people to live in freedom and dignity, free from poverty and despair. We recognize that all individuals, in particular vulnerable people, are entitled to freedom from fear and freedom from want, with an equal opportunity to enjoy all their rights and fully develop their human potential. To this end, we commit ourselves to discussing and defining the notion of human security in the General Assembly. (UNGA, 2005, para. 143)

Fast-forwarding to 2012, when the United Nations General Assembly (UNGA) adopted Resolution 66/290 on human security. In it, the UN member states agreed "that human security is an approach to assist Member States in identifying and addressing widespread and cross-cutting challenges to the survival, livelihood and dignity of their people"

(UNGA, 2012, para. 3). The resolution was a significant breakthrough for human security: for the first time there was a common understanding on human security, and it was globally accepted. Moreover, if there had previously been suspicions about the position of human security within security discourse, this was the final stamp of approval and human security was here to stay.

However, the UN is not the only entity that has embraced human security – this acceptance by the UN has filtered state systems, as well. According to Muguruza (2017) Canada, Japan and Norway have decided to take human security into account in their foreign policy and institutionalized the rather abstract concept. Moreover, various international and regional organizations have shown interest towards human security: the European Union (EU) has already adopted human security focus in its foreign and security policy, but organizations such as the Organization for Security and Co-operation in Europe (OSCE), the African Union (AU), the Association of Southeast Asian Nations (ASEAN) and the World Bank have been increasingly interested in human security approach.

To conclude and to put it simply, the difference between Freedom from Fear and Freedom from Want is in their scope. While Freedom from Fear stresses the individual's need for physical and personal safety (i.e. making the individual the referent object of security), Freedom from Want vastly expands the concept to include issues such as food, health and environment (Hanlon & Christie 2016). Thus, Freedom from Fear is considered to be the narrower view of human security, while Freedom from Want stretches the limits of what is understood as a security threat.

To be more precise about the contents of Freedom from Fear, a closer examination of the HDR 1994 and other documents is necessary.

2.2.1. Freedom from Fear

Human rights and human security share similar characteristics. Human rights are universal, inalienable and interrelated. As it has already been discussed, in human security threats are interconnected and security is indivisible, and it is of universal concern. They are mutually reinforcing, as policies that are human security oriented will effectively promote the realization of human rights, while human rights violations will erode human security. As such, it is apt to form the theoretical framework of this study, as this study will examine R2P – and what is R2P if not the ultimate guarantee that obligates states to

protect their populations from the worst human rights violations: genocide, war crimes, ethnic cleansing and crimes against humanity. The compatibility of human security and R2P will be addressed in a separate section later.

The HDR 1994 does not devote much attention to the Freedom from Fear approach – as the report puts it: "there have always been two major components of human security: freedom from fear and freedom from want. This was recognized right from the beginning of the United Nations. But later the concept was tilted in favour of the first component rather than the second" (UNDP, 1994, p. 24). Given this quote, it is possible to understand the report's interest in examining the other component of human security, Freedom from Want. Moreover, as it was already discussed earlier, the HDR 1994 embraces the holistic school of thought of human security. Nevertheless, the HDR 1994 touches the content of Freedom from Fear by offering the following description of human security: "Human security is not a concern with weapons – it is a concern with human life and dignity" (UNDP, 1994, p. 22). Furthermore, the HDR 1994 stresses the importance of human rights, as it claims that "one of the most important aspects of human security is that people should be able to live in a society that honours their basic human rights" (UNDP, 1994, p. 32). Thus, the connection between human security and human rights is evidently strong and clear.

The concept of Freedom from Fear, as the first quote from the HDR 1994 demonstrates, can be found from various human rights treaties created within the UN system, dating back to the UN Charter. In Article 1.3 of the founding 1945 Charter, the UN commits to "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". This sentiment was three years later enshrined in the UDHR, which was the first official document in world politics that effectively put human rights on the map. Both strands of human security, Freedom from Fear and Freedom from Want are mentioned directly in the preamble of the Declaration, as "the highest aspiration of the common people" (UNGA, 1948a). However, this subtle nod is not the only one that the UDHR makes to Freedom from Fear. The articles 3 to 5 of the UDHR lay down not only the most basic human rights, but also the fundamental tenets of Freedom from Fear:

> Article 3. Everyone has the right to life, liberty and security of person.

> Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.
>
> Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

However, the UDHR is not a legally binding document – it only has strong moral power, as it is widely accepted to have established part of customary international law and has inspired various other legally binding human rights treaties. As Tadjbakhsh and Chenoy (2007) put it, "the strength of human rights lies in their morality and ethical position and values" (p. 126). To tackle this loophole, the UN Human Rights Commission needed to come up with mechanisms that would have the needed legal teeth to enforce and implement human rights in member states. In 1966, two additional covenants were created to complement the UDHR: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). They entered into force a decade later, in 1976 and they are legally binding on states that have ratified them. Together, these three documents create something that is also known as the International Bill of Human Rights.

The ICCPR is more influential in terms of Freedom from Fear and deals with so called "first generation human rights", as the Covenant includes various civil and political rights. The ICESCR, on the other hand, is of greater importance for the Freedom from Want approach and can be seen to back up "second generation human rights" as it deals with issues such as right to food, health and shelter. The articles 6 to 9 of the ICCPR are fundamental for the narrower view of human security, as they guarantee the right to life, liberty and security of person, and prohibit torture and slavery. As such, it does not add anything to the UDHR, but the ICCPR has the legally binding nature, which makes it more powerful in that regard. Of course, it is necessary for member countries to have signed and ratified the ICCPR: according to the Office of the United Nations High Commissioner for Human Rights (OHCHR) that follows the status of ratification of various human rights treaties, the Covenant has currently 173 parties, six signatories that have not yet ratified the treaty, and 18 countries that have neither signed nor ratified the Covenant.

Human rights are at the core of human security as Oberleitner (2002) explains. Both are people-centred, instead of prioritizing the state. Furthermore, both intend to protect and support human well-being. Tanaka (2019) chimes in: according to him, human rights

create a suitable platform for human security to be addressed, since "human rights provide a normative base for the empirical and analytical discussion of human security" (p. 22). Additionally, as Tadjbakhsh and Chenoy (2007) remind, human rights treaties that were created after the horrors of World War II were the first official documents that granted individuals a role in international law – traditionally, states were considered to be the only actors in the international arena, which subsequently made them the primary subjects of international law. Before human rights treaties, individuals were only objects of international law, without any legal rights or duties. This consecutively has an effect on human security, as individuals have a stronger status in international law due to their legal personality.

The reasons why this study decides to take the Freedom from Fear approach instead of Freedom from Want are rather simple. These reasons have a lot to do with the criticism that human security has received over the years, dealing mainly with a conceptual overstretch caused by the Freedom from Want approach. Moreover, as illustrated above, the fact that Freedom from Fear is so intertwined with both legally binding human rights documents and customary human rights law makes it a perfect fit for this study. In order to understand this reasoning better, it is necessary to examine the criticism that human security has faced. As Hanlon and Christie (2016) argue, the narrower view of human security does not have this conceptual overkill and thus has a better chance to make it to the mainstream security discourse.

2.3. Criticism against Human Security

As it can be expected, human security has attracted a fair share of criticism. This section will address the critique levelled against human security. This section takes a look at five different strains of argument that point out certain possible pitfalls of human security. Furthermore, and more importantly, this section will also aim at debunking these claims effectively. The criticisms raised against human security that will be addressed in this section are the following:

1. Its normative and subjective approach,
2. Its definitional problems,
3. Its conceptual overstretch, which in turn can lead to
    3.1. Creating confusion in causal relations,
    3.2. Creating false priorities and hopes, and

3.3. Adopting militarized "solutions"

4. Its potential of undermining human rights, and
5. Its potential of reinforcing global division between the Global South and North.

The first problem listed with human security rises from its normative and subjective approach, according to a number of academic scholars (Chandler, 2008; Hanlon and Christie, 2016; Newman, 2010; Gasper, 2005). It looks at the world from the standpoint in which it is clear what kind of actions and policies are desirable and what are not. Moreover, another problem connected to the thought is that the feeling of security/insecurity is essentially a very subjective experience. These scholars are arguing that human security should be neutral, and it should not impose moral and ethical demands.

One very effective way to tackle these claims about the normative nature of human security is to point out that essentially all social sciences are normative by their very nature, as Tadjbakhsh and Chenoy (2007) remind. They argue that ethics and social sciences are deeply intertwined, and this is nothing novel. Moreover, they are quick to note that even traditional security can be normative, when it means the protection of state from threats of military nature. Concerning the subjectiveness of human security, the HDR 1994 argues that "most people instinctively understand what security means" (UNDP, 1994, p. 3).

The second issue on the list is a claim that various academics (St. Marie, Stanton, & Naghshpour, 2008; Paris, 2001; Gasper, 2005) are very keen to point out – the multiple definitions of human security make it difficult to grasp, as different scholars and organizations have their own definitions on human security and what they include as security threats. The definitional issue is certainly a problem, which needs to be resolved – terminology needs to be clear in order to be employed effectively. For the purposes of this study, human security is defined within the framework of Freedom from Fear, which stresses physical and personal safety from violent conflicts. As discussed above, the Freedom from Fear approach allows the study to examine the situation in the case country, Yemen, in better detail – it limits the scope of the research effectively. It should also be mentioned that this view to limit human security only to discuss issues covered by the Freedom from Fear approach is supported by a number of academics (MacFarlane and Foong Khong, 2006; Krause, 2004; Thomas and Tow, 2002; Newman, 2010; Howard-Hassmann, 2012). However, when discussing the utility of a seemingly vague concept,

Tadjbakhsh and Chenoy (2007) argue that just the lack of settled definition does not necessarily make less practical. They point out that 'development' as a concept faced a lot of criticism due to its vagueness, but nowadays the term has been transformed into rather concrete and tangible policy goals, such as the Sustainable Development Goals (SDGs) advocated by the UN. Moreover, they argue that in today's world, security threats are increasingly interconnected to each other.

The third argument listed is tightly connected to the second one: a group of researchers (MacFarlane and Foong Khong, 2006; Paris, 2001; Owen, 2004; Krause, 2004; Foong Khong, 2001) accuse human security of broadening the concept of security too much – to the extent that human security just becomes a "shopping list (…) for bad things that can happen" (Krause, 2004, p. 367). These researchers claim that essentially, when everything is prioritized, nothing is. As MacFarlane and Foong Khong (2006) explain, this conceptual overkill, mainly due to the Freedom from Want approach, has potential to lead to three additional issues. First of these is causal confusion. According to MacFarlane and Foong Khong (2006) and various other researchers (Paris, 2001; Krause 2004; Newman, 2010), who support this argument, the vagueness of human security complicates the process of finding out what actually causes insecurity – because everything, from environment to economy, can cause insecurity according to the broad human security approach. The second problem caused by the all-encompassing human security view, is the potential of creating false hopes and priorities. MacFarlane and Foong Khong (2006) explain that as human security attempts to include every possible security threat and protect individuals from them, it unavoidably creates false hopes for the population, as policy makers are not able to prioritize everything – there are limits concerning the capacity. This either leads to failure to prioritize, or alternatively it results in creating false priorities and more prominent security issues might get ignored at a horrible expense. The third problem created by this conceptual overstretch according to MacFarlane and Foong Khong (2006) is the issue with possible military responses to security issues. Even though human security does not advocate for a forceful reaction to security issues, it still often rings true that security threats are met with military force. As the expansive understanding of human security includes a very broad set of potential threats, this might lead to unnecessary military engagement, which could potentially have a deteriorating effect on the situation. An example of this can be seen in the War on drugs by the U.S. government, a campaign that is largely deemed as unsuccessful.

These arguments, which are based on the claim that the vagueness of human security makes it conceptually too broad to be of any use are easily debunked in the context of this study. They are mainly criticizing the Freedom from Want approach, while acknowledging the applicability of the Freedom from Fear approach, due to its narrower scope. As Freedom from Fear is very clear on what kind of threats are included, it makes it easier to tackle them, and the number of threats and their nature are very limited. Thus, this research sides with the academics, who support the narrow view of human security, as it is more applicable for this study as it effectively limits the scope.

The fourth argument is brought forward by Howard-Hassmann (2012), who argues that the broad understanding of human security could potentially undermine most crucial human rights. She points out that the Freedom from Want approach is too broad, thus it can "undermine the primacy of civil and political rights as a strategic tool for citizens to fight for their rights against their own states" (p. 88). However, she is a strong supporter of the Freedom from Fear approach, which she sees more beneficial in the context of human rights, as it "adds to human rights law and provides a framework of analysis that should help states and international organizations to take new actions in the face of new threats" (p. 112).

The last argument listed argues that human security might potentially rise issues between the countries in Global South and North. Duffield (2007) argues that human security is a biased concept that favours the Global North. Again, human security is tightly connected to development, which Duffield sees as a "liberal imperial urge" (p. 241). He argues that the countries in the Global North advocate for human security and development because it increases their security. By eradicating economic and social underdevelopment that are prominent in many parts of the Global South, the Global North prevents these from spilling over to more developed world. However, Tadjbakhsh and Chenoy (2007) remind that it is definitely true that the Global South has a different set of security threats than the Global North – and this was partly the reason why human security was developed. They do realize that these issues that cause insecurity in the Global South have their roots in the Global North – for example, unfair trade deals and sanctions.

2.4. Human Security and Responsibility to Protect

This chapter addresses the close relationship between Responsibility to Protect (R2P) and human security. The aim of this section is to highlight the similar goals of the two concepts: human security provides the theoretical approach to R2P. First, it is important

to give a brief over of R2P, due to the complex nature of R2P, it is necessary for the purposes of this chapter. R2P is addressed in greater detail in the next chapter.

An ad hoc commission called the International Commission on Intervention and State Sovereignty (ICISS) produced the first report on R2P in 2001, which laid down the basic principles, foundations and elements of R2P. It came to the conclusion that if a state does not comply with its responsibility to protect its population, the international community has the right to intervene in the internal matters of that state. This was accepted unanimously at the 2005 World Summit. The paragraphs 138–139 of the UNGA resolution laid down the very basics of R2P:

> 138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.
>
> 139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against

> humanity and to assisting those which are under stress before crises and conflicts break out. (UNGA, 2005, p. 30)

It is worth stressing the importance of paragraph 138: it is the responsibility of each state to protect its populations, whether nationals or not, from four different major crimes - genocide, ethnic cleansing, war crimes and crimes against humanity. Indeed, they are *crimes* and not just "regular" human rights violations, such as if someone is denied of education. Genocide, ethnic cleansing, war crimes and crimes against humanity are listed in the Rome Statute that established the International Criminal Court (ICC). As the Rome Statute (1998) clearly states, the ICC can only investigate and prosecute when states are either unwilling or unable to carry out the procedure on their own: the ICC is thus a complementary mechanism to domestic courts. As a consequence, it is the obligation of every individual state that if they want to enjoy their sovereignty, that is to say the idea that states have the absolute and exclusive control of their territory and everything it contains, they need to abstain from committing these four crimes – alternatively, as paragraph 139 states, the international community has the responsibility to step in, one way or the other. Thus, state sovereignty can be understood as a responsibility: states have obligations to their populations, which, in this case, is the obligation to fulfil the fundamental protection of their population.

Since 2009, the UNSG has released a yearly report concerning R2P. All of these reports will be addressed later in this study, but for the purposes of this chapter, some discussion is needed. The first report, published by Secretary-General (SG) Ban Ki-moon in 2009, "Implementing the responsibility to protect", lays out the three-pillar structure of R2P. The first pillar stresses the importance of the responsibility of each individual state to protect its population from the four abovementioned crimes. The second pillar concerns international assistance that certain states might require in order to meet that obligation. The third and final pillar, concerns the responsibility of the member states of the UN to act in "a timely and decisive manner" (p. 9) when a state is either unable or unwilling to provide security with its population. Together these pillars create an operational entity that should protect people from these four atrocity crimes, at least in theory.

Therefore, it is of crucial importance to notice that R2P does not only mean military intervention as these three pillars make it clear: there are other kinds of responsibilities that the international community and individual states have. As Muguruza (2017) highlights, R2P is not a formula that allows military interventions, but it is the last option,

if everything else (i.e. peaceful and diplomatic means) has failed. However, it cannot be emphasized enough that this option is rarely used and the existence of R2P has not led to more military interventions. As ICISS report (2001) reminds, "military intervention for human protection purposes is an exceptional and extraordinary measure" and it is to be used only in extreme cases and there is a set of precautionary principles that need to be fulfilled before military intervention can even be discussed as an option (p. XII). These, and R2P in general, will be discussed later in this study, in the section that addresses R2P in a greater length. In a nutshell it can be said that R2P is emphasising the prevention of the four man-made atrocity crimes from happening. Hanlon and Christie (2016) chime in: R2P is usually seen as the last resort to protect human security, and military intervention is ought to be used only after everything else has been deemed unsatisfactory to resolve the situation. It should be remembered that R2P has not been used a pretext for military interventions and indeed, does not advocate for one. R2P will be examined in more detail in the next chapter.

All this is very much in line with human security, as it has been earlier discussed in this paper. The whole point of human security is to prioritize the security of the individual instead of the security of the state. If a state is unable or unwilling to provide this security to its population, R2P is a viable tool to address the issue. Moreover, the close relationship between human security and the state can be seen here clearly: the state is still very much the sole guarantor of safety, even though in today's modern society there are other actors, who contribute to this, such as regional organizations, NGOs and civil society. R2P redefines the sovereignty of the state as it links it tightly to this responsibility to guarantee physical safety – sovereignty is no longer a privilege but a responsibility, and the state has the obligation to protect its citizens and thus the principle of R2P recognizes and prioritizes individual rights instead of state rights. However, it is also important to reiterate that state security and human security are not mutually exclusive. They can and they must exist simultaneously, as they are enforcing and enabling each other, since without the former, there cannot be the latter. As Okolo (2008) points out, state security tends to assess threats with a different scope – it has the perspective of the state and thus sees threats being mainly external to its borders, whereas human security realizes that threats can be also internal.

2.5. Human Security in Yemen

As the introductory chapter of this study made very clear, Yemen is a man-made catastrophe. The purpose of this subsection is to carefully assess the situation in Yemen and examine the conditions on the ground that clearly demonstrate the absence of human security. Moreover, this subsection also aims at identifying possible war crimes and crimes against humanity with the aid of relevant applicable international law. As pointed out in the previous subsection, these are crimes that should not happen in the first place: the state has the responsibility to protect. However, as it is in the case of Yemen, the state is unable, and in some cases arguably unwilling to carry out its protection responsibilities. Thus, R2P measures (which will be detailed in the next chapter) are in order in Yemen.

To reiterate, this study will concentrate on the more exclusive strain of human security, Freedom from Fear due to abovementioned reasons. Therefore, this section will not address issues such as natural disasters, hunger, or disease in great length, because these are categorically concerns of the Freedom from Want agenda. Nevertheless, these issues will be acknowledged, since Freedom from Fear and Freedom from Want are mutually enforcing concepts and many topics that fall under the category of Freedom from Want contribute to issues that Freedom from Fear addresses.

First and foremost, as already pointed out earlier in this chapter, security is a human right, guaranteed by the UDHR and the ICCPR. Moreover, all parties to the conflict are required to respect international humanitarian law (IHL) and international human rights law (IHRL). Unfortunately, as the United Nations Human Rights Council (UNHRC) reports, no side of the conflict complies with these rules. This negligence and disregard of the rules that are meant to protect and save human lives result in unnecessary civilian casualties and destruction of civilian infrastructure, such as schools, hospitals, places of worship and commercial areas. Thus, in the end, it is the civilian population paying the price for this conflict at the expense of their lives or livelihoods.

The situation of human rights was far from ideal even before the conflict escalated. In 2011, a report by the United Nations High Commissioner for Human Rights (A/HRC/18/21) notes that there were serious issues in the implementation of the core international human rights treaties that Yemen is a state party to. The report acknowledged that human rights violations were widespread and systematic, mainly from the government's side. The security forces of the Yemeni government, which was then headed by president Saleh, were using excessive force against protesters, who were

mainly peaceful. Moreover, civilians were subjected to extrajudicial killings, arbitrary arrests and forced disappearances and torture. Understandably, all of these are violations of IHL and IHRL and they threaten the existence of human security in Yemen.

According to the annual report by the High Commissioner in 2012 (A/HRC/21/37), the overall human rights situation had improved slightly with the change in leadership in Yemen as president Saleh stepped down and his vice-president, Abdarabbuh Mansur Hadi, was elected as the president of Yemen in February. However, the report recognizes a new problem that damaged the human rights record of Yemen: namely, the issue concerning accountability. The GCC initiative infamously granted Saleh and his closest associates absolute immunity from persecution for any crimes committed during his entire presidency, in return for his resignation. As the 2012 report by the High Commissioner states: "the immunity law effectively denies accountability and has therefore met with much resentment, if not outright rejection from victims' associations and representatives, human rights groups and activists, and various groups of protesters across the country" (para. 22). Moreover, the report clearly reminds that "the law … violates the State's international obligations" (para. 60) and calls for its repeal (para. 67). This request is present in the annual reports by the High Commissioner in 2012, 2013 and 2014. Thus, the UNHRC clearly indicated its displeasure regarding the immunity law, as there is reasonable grounds to believe that Saleh and his henchmen were guilty of serious human rights violations, some of them amounting to war crimes and crimes against humanity. This issue of impunity, as such, is not a concern for human security (whereas it is a direct violation of R2P principles), but it indirectly contributed to the worsening human rights situation, as different factions, mainly the Houthis and the Southern Separatist Movement did not approve of this conduct and they took their dissatisfaction to the streets and organized protests.

Regarding human security, the intervention by the Saudi-led coalition on request of president Hadi deteriorated the situation rapidly, and the country was trapped in the middle of a full-blown war – and the end is still not in sight. As one can imagine, life during war-time is anything but safe. This is why both the respect and implementation of the rules of IHL and IHRL are of utmost importance in armed conflict, as they are designed to alleviate human suffering. There is reasonable grounds to believe that the main belligerents, the Yemeni government, supported by the Saudi-led coalition and the Houthi-Saleh forces have both committed widespread violations of IHL and IHRL. Even

though the Houthi movement is not a recognized government internationally, it either controls or has considerable influence over large areas in the west and northwest parts of the country (e.g. large and populous governorates of Hajjah, Sana'a, Al-Hudaydah and Tai'zz. For reference, see Figure 1 in Appendix) and exercises government-like functions. The same goes with the Southern Separatist Movement: they control areas in the south of the country and are the de facto authorities in those territories. Thus, both of them are obliged to respect and implement IHL and IHRL, just like their state opponents.

In Resolution 36/31 (2017), the UNHRC requested the High Commissioner for Human Rights to establish a group of human rights law experts, called the Group of Independent Eminent International and Regional Experts on Yemen (hereafter "the Group of Experts) was established with the mandate "to monitor and report on the situation of human rights, to carry out a comprehensive examination of all alleged violations and abuses of international human rights and other appropriate and applicable fields of international law committed by all parties to the conflict since September 2014" (para. 12). The group submitted their first report in 2018 (A/HRC/39/43), which found serious violations and abuses of human rights. The following chapters will examine the contents of the report thoroughly in the context of the main belligerents.

According to the report published in 2018 by the Group of Experts (A/HRC/39/43), there is reasonable grounds to believe that no side to the conflict is compliant with IHL and IHRL, which directly deteriorate human security on the ground. The Yemeni government, aided by the Saudi-led coalition, is the only party in the conflict that has the ability to carry out airstrikes. Airstrikes are somewhat problematic weapons of war, as they do not necessarily differentiate, at least very effectively, between combatants and civilians. The principle of discrimination is very well-established in IHL and is of utmost importance, when engaging in combat. Another principle of IHL that airstrikes do not automatically respect is the principle of proportionality – attacks that do not discriminate between civilian objects and use force excessively regarding the completion of military objective. However, it would seem that the coalition has not really paid any attention to these rules of IHL. The coalition has used this method of war extensively during the war, and according to the report by the Group of Experts (A/HRC/39/43), airstrikes by the coalition have been the deadliest method in the war, when counting civilian casualties, since "airstrikes have hit residential areas, markets, funerals, weddings, detention facilities, civilian boats and even medical facilities" (para. 28). These are all clear civilian objects.

However, the conduct of the Houthi movement is not problematic, either. The report by the Group of Experts (A/HRC/39/43) states that the Houthi-Saleh forces are also responsible for civilian deaths due their methods of war that include shelling and sniper attacks. The use of shelling in an urban environment, as the report points out, does not comply with the principle of discrimination (para. 45).

These types of activities are strictly prohibited under IHL: the Geneva Conventions and their Additional Protocols, which constitute the foundation of IHL give relatively straightforward instructions, when it comes to conduct in armed conflict. Certainly, the implementation of these rules might occasionally be problematic, but not impossible. The first three Geneva Conventions address the treatment of combatants, whether they are on land, at sea or held captive as prisoners of war (POWs). The Fourth Geneva Convention (GCIV), officially known as the Geneva Convention relative to the Protection of Civilian Persons in Time of War, covers the humanitarian protection of civilians and civilian objects in a war zone. All those targets mentioned above are civilian objects and they should be protected under IHL. Moreover, some of civilian objects even have special protection under IHL, one of these civilian objects being medical facilities. For example, in the context of hospitals, Article 18 of the GCIV (1949) states that "civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may under no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict". However, this has not been respected. The report by the Group of Experts (A/HRC/39/43) states that hospitals or health centres supported by Médecins Sans Frontières (MSF, Doctors Without Borders) have been destroyed in multiple airstrikes by the Saudi-led coalition in 2015, 2016 and 2018. These kinds of attacks are clear violations of IHL as they target civilians or people who are *hors de combat* (outside of combat). According to the Rome Statute of the ICC (1998), these types of activities that are "intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities" and "intentionally directing attacks against civilian objects, that is, objects which are not military objectives" are classified as war crimes (Art. 8). Moreover, attacks against civilian population can also be regarded as a crime against humanity (Art. 7).

In the context of airstrikes by the Saudi-led coalition, the report by the Group of Experts (A/HRC/39/43) remarks that "in the absence of any apparent military objective in the vicinity, the objects struck raise serious concerns about the respect of the principle of

distinction and how military targets were defined and selected", "the number of civilian casualties raises serious concerns as to the nature and effectiveness of any proportionality assessments conducted" and "the timing of some attacks and the choice of weapons raise serious concerns as to the nature and effectiveness of any precautionary measures adopted" (para. 38). These are all noteworthy observations, since they seem to indicate that the Saudi-led coalition is not seriously trying to discriminate between civilians and combatants. The report also recognizes that some of these attacks may amount to war crimes (para. 39). Concerning the conduct of the Houthi-Saleh forces, the report states that some victims "were not near active hostilities or near military forces or objects when they were hit" (para. 44), also indicating the same above-stated conclusion: the conduct of the Houthi-Saleh military forces does not comply with relevant international law, either.

However, airstrikes by the coalition and shelling by the Houthi-Saleh forces are not the only issues that cause excessive human suffering and contribute to the lack of human security in Yemen. The Group of Experts details in their report (A/HRC/39/43) that there is evidence to believe that the Yemeni government, with the aid of the coalition, have committed other serious human rights violations, possibly amounting to war crimes. Arbitrary detention and enforced disappearance are widespread throughout the country, perpetrated by the pro-government forces. Moreover, there is reasonable grounds to believe that the government's security forces and the coalition's troops have subjected detainees to ill-treatment, amounting to degrading and cruel treatment, sexual violence and torture.

Regarding the conduct of the Houthi-Saleh forces, the report by the Group of Experts (A/HRC/39/43) states that there is evidence of degrading and cruel treatment of detainees (para. 80). Moreover, the report by the Human Rights Watch (HRW, 2019) reveals that the Houthis are also taking hostages and inflicting serious harm to them, including torture and sexual abuse. Moreover, the Houthis, like the pro-government forces have arbitrarily detained people and held them in poor conditions.

The Group of Experts report (A/HRC/39/43) includes the Southern Separatist Movement's elite military wing, called the Security Belt Forces in the list of actors, who have perpetrated sexual violence upon civilians. The report details that the Security Belt Forces have raped and sexually assaulted migrants, asylum seekers and refugees, who

had been detained by the Security Belt Forces (para. 87-90). Moreover, the report by Amnesty International (2018) details how the Security Belt Forces have arbitrarily detained civilians in the southern parts of Yemen and have subjected them to ill-treatment that amounts to torture and degrading treatment.

Again, these are all clear violations of both IHL and IHRL. Article 75 of Additional Protocol I to the Geneva Conventions (1977) prohibits "outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault". This prohibition applies to both military agents and civilians. Once again, both the Houthis and the pro-government forces show a total lack of compliance with applicable international law, resulting in the deteriorated human security situation. According to the Rome Statute's (1998) Articles 7 and 8, torture, any form of sexual violence and humiliating and degrading treatment are classified as crimes against humanity or war crimes, respectively.

Another issue that seriously violates applicable rules of both IHL and IHRL is the fact that children are being recruited by the armed forces. The Group of Experts (A/HRC/39/43) states all sides to the conflict have recruited and used children actively in combat: "the Group of Experts received substantial information indicating that the Government, the coalition-backed forces and the Houthi forces have all conscripted or enlisted children into armed forces or groups and used them to participate actively in hostilities. In most cases, the children were between 11 and 17 years old, but there have been consistent reports of the recruitment or use of children as young as 8 years old" (para. 96). This type of activity is strictly prohibited under international law. Article 77 of Additional Protocol I to the Geneva Conventions (1977) states that "the Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities, in particular, they shall refrain from recruiting then into their armed forces". The Convention on the Rights of the Child (1989) also prohibits the use of child soldiers in its Article 38. Article 8 of the Rome Statute (1998) classifies the conduct of "conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities" as a war crime.

The last relevant violation of international law in the context of human security that the Group of Experts (A/HRC/39/43) lists in their report is restricting humanitarian aid. The

pro-government forces have effectively established blockades since 2015 that severely obstruct the access of humanitarian aid to civilians. Naval restrictions on Red Sea ports (including the ports of Hudaydah and Ras Isa, both located in the governorate of Al-Hudaydah. For reference, see Figure 1 in Appendix) and air restrictions caused by closing down Sana'a International Airport have had devastating results. As the report by the Group of Experts reminds, Yemen was entirely dependent on imports even before the conflict started: 90 per cent of food, medical supplies and fuel was imported. Taking this information into consideration, the report argues that "the harm to the civilian population caused by severely restricting on naval imports was foreseeable" (para. 52).

Again, there is reasonable grounds to believe that the Houthi movement has also restricted the access of humanitarian aid to civilians. The city of Tai'zz, (the capitol of Tai'zz governorate) is one of the crucial battlegrounds between the Houthi and pro-government forces. Tai'zz was effectively under a siege in 2015, as the Houthi forces controlled the entry points to the city with snipers. The report by the Group of Experts (A/HRC/39/43) details that "civilians could only enter the city on foot and much of their food and medicine was confiscated or looted at checkpoints. Trucks carrying humanitarian supplies were subject to substantial delays and other interference" (para. 61).

The Group of Expert (A/HRC/43/39) argues that these de facto blockades are violations of IHL and IHRL. As there is no clear military impact achieved through these restrictions, and taking into consideration how severely they have affected the civilian population, the report argues that they violate the proportionality rule of IHL (para. 58). Moreover, Rule 55 of customary IHL states that "the parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need". If this requirement is not met, the Rome Statute (1998) classifies this as a war crime as "intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies" (Art. 8).

The nature of the conflict in Yemen is a civil war that has internationalized. There are multiple factions inside Yemen that are looking after their own interests, but there are also other actors outside the country, most importantly the Saudi-led coalition, which is quite clearly guilty of war crimes and crimes again humanity, which are R2P crimes. However, there are also other players in the conflict. Certain Western states, such as the UK and the US are involved in the conflict as well, due to their arms sales to the members

of the coalition, in particular, to Saudi Arabia. As Wezeman (2018) points out, over 60 per cent of Saudi Arabia's arms imports came from the US and over 20 per cent from the UK between years of 2013 and 2017, while other European states also imported arms to the country, but in lower volume. Moreover, these two countries have also provided logistical and intelligence support for the coalition. These arms deals are one reason, why certain members of the UNSC have strategic and financial ties to Saudi Arabia, making them unwilling to confront the coalition. This effectively hindered the ability of the UNSC to act, even though civilian suffering was clear and human rights violations were rampant. For instance, it was reported that the Saudi-led coalition dropped a US-manufactured bomb on a school bus, killing 40 children (the Guardian, 2018).

What makes these arms deals problematic is the fact that there is evidence, as implicated above, that the Saudi-led coalition is guilty of atrocity crimes. The Arms Trade Treaty (ATT) is an international treaty negotiated the auspices of the UN, which regulates the international trade of conventional weapons. The fundamental purpose of the ATT is to cut down human suffering and advance international and regional peace, as the treaty stipulates that "a State Party shall not authorize any transfer of conventional arms (…), if it has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva aches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party" (art. 6).

The Group of Experts notes this in their report (A/HRC/42/CRP.1). It argues that "on various legal bases, the legality of arms transfers by France, the United Kingdom, the United States and other States to parties to the Yemeni conflict remains questionable" (para. 919). More importantly, it hints that these states might be complicit in the atrocity crimes committed by the coalition, as they are providing arms with which these crimes are committed, thus they are "aiding and abetting war crimes" (para. 918). The report also argues that "with the number of public reports alleging and often establishing serious violations of international humanitarian law, no State can claim not to be aware of such violations being perpetrated in Yemen" (para. 916). It recognizes that some of these states, such as the US, are not parties to the ATT, but this does not absolve them from complying with international law, such as the Geneva Conventions (para. 918).

As SG Antonio Guterres (2019) points out, Yemen is the worst man-made humanitarian crisis in the world: the conflict has been going on for years and more than 24 million people, roughly 80 % of the population, are in the need of humanitarian aid and protection. According to a report published by the Office for the Coordination of Humanitarian Affairs (OCHA) in 2018, people in Yemen are lacking basic survival needs, such as food, safe water and adequate health care, and the situation is made worse due to the blockades imposed by different sides to the conflict. A clear majority of the crises described in the report, from the collapsing economy to the cholera outbreak, are due to the ongoing war and methods of warfare that do not comply with IHL and IHRL. This goes to show that even Freedom from Fear and Freedom from Want are not mutually exclusive, but they work together and goals from categories need to be realized in order for people to live satisfying lives.

To reiterate and remind, these abovementioned actions are violations of IHL and IHRL. It is clear that in war, human security is lacking – especially when belligerent parties do not clearly respect IHL and IHRL, which both aim at minimizing human suffering. When thinking about the narrower strain of human security, Freedom from Fear and these abovementioned developments, it is clear that the situation in Yemen is extremely alarming. Yemen is a collapsed state at this point, and this reiteratively means that human security is completely lacking, as already described above. As Tanaka (2019) reminds, the state is ultimately the guarantor of human security, but due to certain circumstances, there can be obstacles and restrictions that limit the capacity of the state to provide that security – moreover, as also pointed out, the state itself is also a factor that negatively contributes to the lack of human security in Yemen by targeting civilians and non-military objects and locations. The Group of Experts also emphasizes in their report (A/HRC/39/43) in 2018 that those entities, such as the Houthi Movement and the Southern Separatist Movement, who control effectively large territories within the country and practice de facto authority with similar powers to the government, are also obliged to respect and obey IHL and IHRL (para. 14). However, as described above, neither the internationally recognized Yemeni government, nor these entities fulfil their protection responsibilities. Moreover, as already previously stated, some of these issues that are occurring in Yemen due to the conflict are not merely human rights violations that threaten human security. They can be characterized as crimes against humanity and war crimes – some authors, like Bachman (2019) go even further and argue that the Saudi-

led coalition, with the help of Western countries, are waging a genocide against the Yemeni people: "the Coalition is conducting an ongoing campaign of genocide by a 'synchronized attack' on all aspects of life in Yemen, one that is only possible with the complicity of the United States and United Kingdom" (p. 298). More importantly in the context of this study, they are crimes that should trigger wider R2P measures, since the state itself is both unwilling and unable to protect its population.

A conflict-ridden country, like Yemen, is too fragile to be able to secure even the basic elements of human security. Yemen suffers from both external and internal threats that make the day to day life of the Yemeni people intolerable – making it the perfect example how state security and human security should cooperate with each other to guarantee humane living conditions.

2.6. Concluding remarks concerning human security

This section has reviewed human security - its origins, the two strains of human security, Freedom from Want and Freedom from Fear, criticism levelled against it and the compatibility between human security and Responsibility to Protect. In a nutshell, human security became a more mainstream security understanding after the Cold War, as the world realized that a new security doctrine is needed in the new era, where the only threats are not only created by nuclear weapons and other states. Human security prioritizes the individual and makes it the referent object instead of the state. Human security has strong conceptual ties with human rights, and this can be seen in the other leg of human security, Freedom from Fear, which is employed in this study. Moreover, due to its close linkage to human rights, it has a tight relationship with R2P – as said earlier, what is R2P if not the ultimate guarantee that obligates states to protect their populations from the worst human rights violations: genocide, war crimes, ethnic cleansing and crimes against humanity. As a concluding remark, it can be noted that human security is interested in causality – it is concerned with the possible connections between causes and effects that could potentially lead to actual policy proposals. As it was pointed out in this chapter, there are already certain countries or other entities that have embraced human security as their security or foreign policy doctrine. Furthermore, human security provides us with a different lens to assess threats to human life, as humans are at the heart of the doctrine.

3. Conceptual Framework

> Millions of human beings remain at the mercy of civil wars, insurgencies, state repression and state collapse. This is a stark and undeniable reality, and it is at the heart of all the issues with which this Commission has been wrestling. What is at stake here is not making the world safe for big powers, or trampling over the sovereign rights of small ones, but delivering practical protection for ordinary people, at risk of their lives, because their states are unwilling or unable to protect them. (International Commission on Intervention and State Sovereignty, 2001, p. 11)

This section will address the Responsibility to Protect (R2P, also known as RtoP) principle. The principle was briefly introduced in the previous chapter that formulated the theoretical framework for this study, but due to the complex and multifaceted nature of R2P, it is crucial to address it thoroughly. R2P, much like human security, is a contested topic – it has its outspoken proponents and vocal opponents. However, the reason why R2P is chosen to be examined in this study is straightforward: there is a Responsibility to Protect in Yemen. As the Global Centre for Responsibility to Protect (GCR2P) points out, hostilities in Yemen continue putting the population at risk of war crimes. Violations of international humanitarian law (IHL) and international human rights law (IHRL) are widespread, as detailed in Chapter 2.5. of this study. Over 10,000 civilians have reportedly died since March 2015, when the hostilities between Hadi-led government and the Houthi movement began, albeit the actual number of civilian casualties is thought to exceed the official number considerably. Moreover, crimes against humanity are also being committed – the use of child soldiers, torture, arbitrary detention and sexual violence are commonplace. Indeed, as the GCR2P (2020) bluntly, yet accurately puts it: "all parties to the conflict appear manifestly unable or unwilling to uphold their responsibility to protect."

The content of this chapter is the following: first, the origins of R2P are discussed. This is a crucial step, because as Luck (2012) points out, the origins of R2P are in human experience – the atrocities committed throughout history (the Holocaust, the genocide of Rwanda, ethnic cleansing in Bosnia, just to mention a few) are vicious real-life examples of what humans are able to inflict upon each other. This is one of the defining features of R2P and it shows the development of the doctrine, from the International Commission on Intervention and State Sovereignty (ICISS) report to the 2005 World Summit. The second section addresses the content of R2P in detail and delves into the pillared structure of R2P

that was presented by former SG Ban Ki-moon in 2009. Ever since, the incumbent UNSG has produced a report on R2P once per year, which elucidates the three-pillar structure even further. The section highlights the structural formation of R2P in which the three pillars are of equal importance as they are mutually reinforcing each other. This is a crucial step, as R2P is often misunderstood as a synonym for military intervention – however, as this literature review will illustrate, the power of R2P lies within the three pillars equally and does not advocate an intervention by utilising force. The importance of the International Criminal Court (ICC) in relation to R2P is thoroughly examined and evaluated, as well: as Contarino, Negrón-Gonzales and Mason (2012) point out, R2P and the ICC share a common focus, but the standpoint is different. Whereas R2P tries to prevent and stop mass atrocities from taking place, the focus of the ICC is on punishing those, who perpetrate these crimes. Connected to this thought, specific attention is also given to the close relationship between human rights and R2P, international human right standards being the foundation of R2P. Third section will elaborate the standpoint of the UN regarding R2P and the efforts of the UNGA, the UNSG and the UNHRC are briefly examined. It is also important to take into account the criticism that has been levelled against R2P. These concerns are discussed in the fourth section of this chapter followed by counterarguments that aim to debunk some of the critique. Lastly, there is a concluding chapter that draws some closing remarks and highlights the most important elements of the global political commitment that is R2P.

3.1. The Origins of R2P

Arguably, former SG Kofi Annan was one of the strongest proponents of R2P. As Loiselle (2013), Madokoro (2015) and Thakur and Weiss (2009) remind, Annan was instrumental in initiating the R2P birthing process by posing a very thought-provoking question. Annan challenged the seeming incomparableness of sovereignty and human rights in his 2000 Millennium Report: "…if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica—to gross and systematic violations of human rights that offend every precept of our common humanity?" (Annan, 2000, p. 48). As already mentioned in the introduction, the roots of R2P are in human suffering – the international community was unable to prevent the genocides of Rwanda and Srebrenica in 1994 and 1995 respectively. Against the backdrop of these events, Annan decided to confront the Westphalian definition of state sovereignty - the notion that territorial sovereignty was synonymous with non-interference in the affairs of other states, and vice versa. To be sovereign symbolizes the

ability to make authoritative decisions concerning everything that falls under its territory, meaning for example people and resources. This formulation of state sovereignty had been the mainstream understanding of the matter since 1648, even though other alternative definitions, such as human security, had surfaced and started to fracture certain notions concerning how sovereignty is to be perceived – it is not only about rights, but also about duties and responsibilities.

The International Commission on Intervention and State Sovereignty (ICISS) was formed in September 2000 by the Government of Canada to address the question posed by Annan. The Commission produced a report in 2001, named Responsibility to Protect, in which they lay down the tentative framework of the principle. As it will later be discussed, the variation of R2P proposed by the ICISS is somewhat different from the 2005 World Summit accepted R2P. However, the most basic defining features of the principle were left unchanged. The following chapters will elaborate the development of R2P, starting with the ICISS report.

The cornerstone of the ICISS report (2001) is the reformulation of state sovereignty. The report recognizes the importance of sovereignty, not only as a practical principle of international relations – certainly, the international system is more stable, and the cooperation among states is more secure and predictable if the states operating in it are not fragile or on the brink of collapse, but there can also be a deeper level of meaning for different states for proclaiming their sovereignty. As the report puts it: "for many states and peoples, it [sovereignty] is also a recognition of their equal worth and dignity, a protection of their unique identities and their national freedom, and an affirmation of their right to shape and determine their own destiny" (p.8). The report also takes notice of the UN Charter (1945) concerning the matter, citing Article 2.1 of the Charter, which states that "the Organization [the UN] is based on the principle of the sovereign equality of all its Members". This is a noteworthy observation, and it further reaffirms the importance of sovereignty – international law operates within the framework and under the assumption that all sovereign states are equal, with the same rights and responsibilities.

The responsibility of a state to protect its population from mass atrocities, as Bellamy and Reike (2010) remind, is a well-established principle in customary international law – there are legal obligations under specific international covenants and treaties that have later been codified into national law, e.g. the Convention on the Prevention and Punishment of the Crime of Genocide. However, if a state is either unwilling or unable

to carry these responsibilities, the international community has the responsibility to step in. The ICISS report (2001) lays down various ways how this responsibility can manifest itself, and the most controversial of these is the possibility of a military response for human protection purposes. However, as the report reminds, the use of military force should always be carefully considered and authorized by the UNSC – this aspect of R2P will later be discussed in detail.

The ICISS report (2001) has a threefold understanding of R2P: namely, the responsibility to prevent, the responsibility to react and the responsibility to rebuild. Under the responsibility to prevent, the report highlights the responsibility of sovereign states to prevent mass atrocities and other man-made catastrophes from occurring – it is first and foremost the responsibility of the state. The report also reminds that sometimes, in order to ensure that prevention is successful, the international community needs to chip in by supporting these efforts, for example by providing development assistance, supporting local grassroot organizations that are concerned with human rights, the rule of law and practices of good governance. The report prioritizes this preventive strain of R2P over others, stating that if a state fails to prevent atrocities from happening, this in turn can destabilize the region and cause international consequences that are not only costly, but also apt to create discord among other nations. The report creates a close connection between the sovereignty of a state and its responsibility to protect its people – if the state is not able to protect its citizens (i.e. prevent mass atrocities from happening), the state no longer has the right to enjoy its sovereign rights and the international community has the responsibility to step in one way or the other.

Connected to this thought, the ICISS report (2001) also visions more interventionary measures under the responsibility to react if prevention fails and mass atrocities are committed. The report showcases measures of political and diplomatic nature, economic sanctions and restrictions, and as a last resort, military intervention. Means within the political and diplomatic field consist of both symbolic and also more concrete measures. For example, those measures falling under the symbolic gestures contain restrictions concerning the diplomatic representation – a country may recall their diplomats, or a country may expel diplomats. More concrete measures, in turn, may include suspension or complete expulsion from regional or international organizations. Not only has national reputation taken a hit, when these measures are employed, but also the possible benefits that a country receives from such organizations are at stake. Moreover, travelling

restrictions against specific people, e.g. leading elite and their family members, are also a widely used political tool. Freezing of assets, restrictions on income generating activities (e.g. oil, drugs and diamonds) and aviation bans are some of the most used measures in the economic area against a country.

It is important to carefully examine the most controversial of these tools, which is the possibility of military intervention. As it has been pointed out earlier in this chapter, the UN Charter operates under the premise that all its member states are sovereign, and this principle protects states from outside interference. In a way, the principle of sovereignty and the principle of non-intervention are two sides of the same coin - they have a close relationship, as the latter derives from the former. Like sovereignty, also the principle of non-intervention is codified in the UN Charter. Article 2.4, which concerns individual states, states that "all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations" while Article 2.7, which addresses the international system as a whole, reminds that "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII." (UN Charter, 1945). However, if this principle is violated, states can defend their "territorial integrity and political independence", within the limits of the UN Charter Article 51, which states that "nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations", thus allowing a state to protect itself from outside intervention.

What is extremely crucial in terms of R2P is that according to the UN Charter, the UNSC has the "primary responsibility for the maintenance of international peace and security" (Art. 24). Furthermore, equally importantly, the UNSC has the responsibility to "determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security" (Art. 39). In Article 41, the UNSC has a range of diplomatic and economic tools at its disposal, many of them very similar with the ICISS report's suggestions. Article 42, on the other hand, enables the UNSC to use force in order to uphold or restore

international peace and security if measures under Article 41 are or have been proven insufficient.

The ICISS report (2001) builds on these notions, when it comes to the criteria concerning military intervention. As it has already been discussed, the report acknowledges the importance of sovereignty and holds the norm of non-intervention as an important part in order to guarantee the functioning of the international system. However, the report also reminds that military intervention for human protection purposes should be a viable option, when other means have failed. Thus, the threshold for military action is very high and it is to be reserved only for extreme and exceptional cases.

The ICISS report (2001) argues that there are two different circumstances when it can be considered that military intervention is justified. These are either "large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation" or "large scale "ethnic cleansing," actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape." (p.32). The report exemplifies these by listing out some possible, rather vague scenarios, when either or both of these sets could take place. What is interesting about these examples is that the ICISS originally included the aftermath of natural disasters on their list of examples – provided, of course, that the state in question is "either unwilling or unable to cope" and "significant loss of life is occurring or threatened" (p. 33). As it will later be discussed in detail, R2P has gone through quite an evolution, as this instance would not trigger R2P measures by itself, according to the formulation of R2P that was accepted unanimously by UN member states in 2005 at the World Summit.

Concerning other precautionary principles, the ICISS report (2001) lists right intention, last resort, proportional means and reasonable prospects to be considered before military intervention is further planned. For military intervention to have the right intention, it should only be done for human protection purposes, since the aim is either to completely prevent or end human suffering. Last resort as a condition is rather self-explanatory: other means, be them diplomatic, economic or social have to be exhausted. As the ICISS report (2001) highlights, for the responsibility to react take place, those measures under the responsibility to prevent need be explored fully. Proportional means, on the other hand, is a familiar term from IHL. This essentially means that only the absolute minimum force that is able to secure the abovementioned humanitarian goal, should be employed –

excessive use of force is not allowed. The last of these four criteria, reasonable prospects, is probably the most controversial one. According to this principle, for military intervention to be justified, it needs to have reasonable prospects of succeeding. However, what this essentially means, is that military intervention against a major power is not available, as it would be very unlikely to be a successful one.

The last condition of the criteria set forward by the ICISS report (2001), is the question concerning who has the authority to call for military intervention. Here, the report bases its argumentation strictly on the UN Charter. As it has already been discussed in this chapter, according to the Article 24 of the Charter, the Security Council is the organ that is primarily responsible for international peace and security. This is also what the ICISS report (2001) advocates for, when the question of authority is brought up: "there is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes" (p.XII).Whatever action is needed with regard to R2P, the Security Council should be in the central role, due its importance within the UN system concerning matters of international peace and security.

The next significant development concerning R2P was in 2005 – six months before the World Summit, where R2P would be unanimously accepted by all the UN member states. Then-SG Annan had produced a report, which was given to the UNGA for closer examination. The report, called In Larger Freedom: towards development, security and human rights for all, suggested a number of discussion points that should be addressed at the Summit. One of those points was the responsibility to protect. In the report, SG Annan encourages the UN member states to adopt the responsibility to protect principles, and shows his support to the ICISS report outcome by arguing exactly the same points as the 2001 report: the primary responsibility lies within the state to protect its population. However, if this responsibility is not fulfilled for one reason or the other, then the responsibility to protect is transferred to the international community, which should aid the country in question with diplomatic, humanitarian and other means. When these efforts are not sufficient to guarantee the human rights and well-being of the civilian population, the Security Council has the prerogative to act, within the limits of the UN Charter, which also includes more forceful means.

The last of the responsibilities the ICISS report (2001) lists is the responsibility to rebuild. If the option of military intervention is employed under the responsibility to react, it should be followed by efforts that aim at reconstructing, reconciling and recovering the

state, where the intervention took place. By rebuilding a secure, just and sustainable society with the local authorities, the aim is to prevent any humanitarian crises in the future – thus, in a way, the responsibility to rebuild is tightly connected to the responsibility to prevent.

It is clear that the influence of the ICISS report concerning the development of R2P is massive. As Loiselle (2013) and Serrano remind (2011), the ICISS report was the first formal re-articulation of state sovereignty. The report essentially reformulated the concept of sovereignty and made it dependent upon the realization of human rights – it created the concept of sovereignty as responsibility. Moreover, according to Thakur and Weiss (2009), the ICISS report created a developing consensus on the question of intervention for human protection purposes. Evans (2016), who was co-chairing the Commission, agrees that the report had remarkable contributions, which he sees are fourfold. First of all, it changed the language of discussion conceptually from "the right to intervene" to "the responsibility to protect". With this, it puts the focus on the people, who need protection, instead of those, who are carrying out the intervention. Second, the whole international community is involved in this pursuit, and not only those actors who are either willing or able to apply military pressure. Third, the ICISS report presents a wide range of non-aggressive methods how to address a situation that needs triggers R2P measures – compared to humanitarian intervention, which is usually one-dimensional, focusing on military action. Lastly, in order to guarantee that R2P is not only an abstract principle without teeth, it can, only in the most exceptional cases, after other methods have been exhausted, resort to military action.

3.2. Structural Architecture of R2P

Even though the previous chapter, concerning the theoretical framework of this study, already briefly addressed the content of the 2005 World Summit Outcome Document, it is necessary to carefully examine the Document's paragraphs 138 and 139, as they define the R2P doctrine. Bellamy and Reike (2010) and Serrano (2011) highlight the importance of the document in question: as said, it was unanimously adopted by more than 150 Heads of State and Government, thus exemplifying the collective will of members of the international community to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. As such, the document is in a position of monumental political influence. This is not to diminish the importance of the earlier ICISS report, but as it was pointed out earlier, the language of report was in some respects

rather vague. The World Summit Outcome Document was instrumental in the R2P doctrine solidification.

The definitions of the four crimes are necessary to clarify here. The definition for the crime of genocide, as Bellamy and Reike (2010) and Hubert and Blätter (2012) note, is one of the most straightforward ones. The definition derives from the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, which has 152 state parties and is generally understood as a part of customary international law, as jus cogens. Article 1 of the Convention criminalizes the act of genocide under all circumstances and obligates state parties to prevent the crime and also punish the perpetrators. Article 2 defines the crime of genocide as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group" (UNGA, 1948b).

When looking at the definition for war crimes, the four separate treaties of the 1949 Geneva Conventions provide a strong legal foundation. As such, they are generally regarded also to have jus cogens status. While Bellamy and Reike (2010) and Hubert and Blätter (2012) agree that while there is no all-encompassing list for what qualifies as a war crime, the Rome Statute of the ICC, which reflects customary international law, can be of assistance. Article 8 of the Rome Statute (1998) argues that "war crimes means (a) grave breaches of the 1949 Geneva Conventions [and their subsequent Protocols] such as wilful killing, torture, causing of great suffering or extensive destruction not justified by military necessity and (b) other serious violations of the laws and customs applicable in armed conflict, such as attacks on civilians, humanitarians and peacekeepers, ethnic cleansing, the use of rape as a weapon of war, forced starvation, and the use of weapons that cause unnecessary suffering". Moreover, it is important to notice that these rules apply both in international and intra-state conflict. As a general argument, it can be said that the definition of war crimes is rather broad, and there is no exhaustive list.

Regarding the definition of ethnic cleansing, Hubert and Blätter (2012) argue it to be the most problematic one of the four and they go as far as stating that "the inclusion of ethnic cleansing in the list of crimes is redundant" (p. 54). Bellamy and Reike (2010) chime in by suggesting that those acts that might be considered to belong under the umbrella of ethnic cleansing, which can be vaguely defined as e.g. forced displacement of civilians, are already prohibited by as either war crimes, crimes against humanity or genocide. Ethnic cleansing, as such, does not have any definitive legal definition and it has not been

recognized as a crime in its own right. Nevertheless, as Gierycz (2010) reminds, ethnic cleansing has its roots both in IHL and IHLR.

The last of the four crimes, crimes against humanity, has a somewhat similar fate as ethnic cleansing regarding the definitional aspect. Bellamy and Reike (2010) point out that the exact essence of crimes against humanity is an unresolved issue. The Rome Statute of the ICC has an unexhaustive list regarding these crimes. According to Article 7 of the Rome Statute (1998), "crime against humanity means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health". As it is with war crimes, also crimes against humanity cover a broad range of various crimes. Crimes against humanity, like the other three crimes listed, are also peremptory and have the status of jus cogens. To briefly generalize these four crimes, it is clear from their description and nature that they are indeed serious and extensive violations of both IHL and IHRL. Moreover, it is also equally clear that these crimes are involving situations, where human security is threatened or non-existent.

The three-pillar structure was also briefly mentioned in the previous chapter. This three-fold strategy was the brainchild of then-SG Ban Ki-moon, who introduced the first comprehensive report on the matter in 2009. UNSGs have ever since produced a report dealing with different aspects of R2P once per year. The reason why these documents will be discussed in parallel is because they are essentially interconnected – the first report on R2P by UNSG derives its mandate from the above-mentioned paragraphs of the World Summit Outcome Document and the following UNSG reports develop the pillar structure further, basing on the 2009 UNSG report. Thus, it is relevant and recommendable to take

the pillar architecture of R2P into consideration while addressing the World Summit Outcome Document due to their close relationship.

However, it should be kept in mind that these three pillars are not separate entities, but they work in close cooperation with each other: as Bellamy (2015) states, they are "conceptually intertwined" (p. 193). For example, it is not an impossible scenario that a practice technically belonging under the umbrella of the second pillar of R2P can influence the two other pillars one way or the other. The three-pillar structure should be understood as one entity creating R2P that is all-inclusive.

3.2.1. The First Pillar of R2P – The protection responsibilities of the state

The first lines of paragraph 138 of the World Summit Outcome Document (A/RES/60/1) lay down the first pillar of R2P as later described by the 2009 UNSG report, "Implementing the responsibility to protect".

> Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it.

State responsibility also had a prominent role in the ICISS formulation of R2P, as previously discussed. The World Summit Outcome Document agrees with the notion, while at the same time establishing four different categories when R2P measures will apply: genocide, war crimes, ethnic cleansing and crimes against humanity. The 2009 UNSG report (A/63/677) builds on this, emphasising that "the responsibility to protect, first and foremost, is a matter of State responsibility" (para. 14). The report also points out the close relationship between human rights and R2P: in order for a state to be a responsible sovereign state, it is a necessity that human rights are respected, which in turn makes these four crimes less likely to occur. As the 2009 UNSG report puts it:

> Genocide and other crimes relating to the responsibility to protect do not just happen. They are, more often than not, the result of a deliberate and calculated political choice, and of the decisions and actions of political leaders who are all too ready to take advantage of existing social divisions and institutional failures. (para. 21)

Thus, mere respect for human rights might not be enough, since states need to be able to uphold these human rights standards with appropriate institutions and other mechanisms that guarantee that these atrocity crimes do not take place in a society.

The 2013 UNSG report "Responsibility to protect: State responsibility and prevention" (A/67/929–S/2013/399), concentrates on the first pillar duties and highlights that while there is no "one-size-fits-all" to prevent atrocity crimes from happening, due to various different circumstances that states find themselves in, there is a vast array of possible approaches that states can take in order to improve their capacity concerning atrocity prevention. These measures can be summarized in four distinct categories: building national resilience (para. 35–48), promoting and protecting human rights (para. 49–55), adopting targeted measures to prevent atrocity crimes (para. 56–64) and building partnerships for prevention (para. 69–70). In a similar vein as the 2009 UNSG report, the 2013 UNSG report also carries the same message concerning the nature of atrocity crimes, stating that they "are processes and not single event that unfold overnight" (para. 30).

As already mentioned earlier in this chapter, pillar I is a well-established norm in customary international law (Bellamy & Reike, 2010). The 2013 UNSG report emphasizes this matter too, arguing that "states have a binding obligation under international customary law to criminalize genocide, war crimes and crimes against humanity and to investigate and prosecute perpetrators" (para. 40). The report singles out various international treaties and covenants that aim at preventing atrocity crimes. It is worth examining them a bit closer, in the context of Yemen.

The legal instruments the 2013 UNSG report lays down are the following: Convention on the Prevention and Punishment of the Crime of Genocide; International Covenant on Civil and Political Rights; International Covenant on Social, Economic and Cultural Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Elimination of All Forms of Discrimination against Women; Convention on the Elimination of All Forms of Racial Discrimination; Convention relating to the Status of Refugees; Convention on the Rights of the Child; Rome Statute of the International Criminal Court; Arms Trade Treaty. It is noteworthy that Yemen has exercised its sovereign right and traded part of their sovereignty away in order to be able to accomplish other national aspirations, as Eckhard (2011) describes the nature of international treaties. Yemen has signed and ratified a vast majority of

abovementioned legal instruments, the only exceptions being the Rome Statute and the Arms Trade Treaty (ATT). Thus, at least in theory, Yemen shows willingness to abide by internationally recognized human right standards. However, the reality is less rosy, and the factions in Yemen are not respecting their commitments to the human rights legal framework. As pointed out earlier, mere respect for human rights is not always enough – relevant institutions and mechanism need to be in place to guarantee that this respect also manifests itself in practice. Unfortunately for the Yemeni people, these kinds of mechanisms are lacking, and the effects of this shortcoming are grave, and in the worst-case scenario, deadly.

Simon (2012) and Murthy and Kurtz (2016) problematize the first pillar of R2P by arguing that the UNSG's formulation of the first pillar of R2P seems to operate on the premise that these atrocity crimes are mainly perpetrated by non-state actors, or even by foreign forces, and it is the responsibility of the state to crack down on these factions. If the state does not have the capacity to protect its people, it is the responsibility of the international community to step in and aid the state in question. One possible way for the international community to offer its help is by enhancing the capacity of the state by its institutions and political structures. However, the situation is rarely this simple. The responsibility of the international community concerning R2P is a matter of the second pillar, which will be addressed in the next section.

In the case of Yemen, the situation is extremely complex: there are non-state groups, such as the Houthi movement, the Southern Separatist Movement and al-Qaeda, and foreign forces of the Saudi-led coalition, but also the internationally recognized government of Yemen, who are all guilty of mass atrocity crimes, as detailed earlier in this study. The 2015 UNSG report "A vital and enduring commitment: implementing the responsibility to protect" (A/69/981–S/2015/500), aims at tackling some of these abovementioned problems, by acknowledging new challenges in the protection sphere. The 2015 UNSG report rightly points out that "atrocity crimes are now being committed in a wider range of situations, in the context of new conflict dynamics and by different types of perpetrators" (para. 45). This is true in many conflicts, including the one taking place in Yemen. The question remains, what should be done if a state is not able or willing to protect its population? The second pillar of R2P concerns the international community, which has the responsibility to help the state in meeting those protection obligations.

3.2.2. The Second Pillar of R2P – International assistance and capacity-building

The second pillar of R2P is found on the paragraphs 138 and 139 of the 2005 World Summit Outcome Document:

> how the international community should, as appropriate, encourage and help States to exercise this [responsibility to protect] responsibility (para. 138),

and

> we also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflict break out (para. 139).

In the 2009 UNSG report, this responsibility of the international community is defined in less abstract terms, and the report lays down four distinct categories of assistance the international community can offer. These are "encouraging States to meet their responsibilities under pillar one; helping them to exercise this responsibility; helping them to build their capacity to protect and assisting States 'under stress before crises and conflicts break out'" (para. 28). Thus, the first method of assistance suggests that the international community should use their persuasion skills in order for a state to meet its responsibility to protect its population. In turn, the remaining three forms, require active participation of the international community. This assistance can happen through various specialized UN offices, or with the help of regional and subregional organizations.

The 2011 UNSG report "The role of regional and subregional arrangements in implementing the responsibility to protect" (A/65/877–S/2011/393), focuses on the importance of regional and subregional mechanisms. As Aljaghoub et al. (2013) remind, regional and subregional organisations are not only beneficial but also necessary in the R2P implementation, because they generally understand better the elements and framework of the crises facing the region. The 2011 UNSG report chimes in by stating that "often, neighbours and subregional and regional organizations have the keenest sense of when trouble is brewing in the neighbourhood and of where and how the international community can be of greatest assistance" (para. 24). According to the 2011 UNSG report, while regional and subregional organizations are not the top actors when it comes to development assistance, they are indispensable in advancing and promoting norms,

standards and institutions that aim at creating a more inclusive, transparent and responsible society for all.

Both the 2009 and 2011 UNSG reports also argue that the preventive deployment of peacekeepers, with the consent of the host state, could be regarded as a pillar II measure. However, the key concept here is the consent of the host state – these protection activities that take place with the approval of the state in question do not undermine the sovereignty of the state, thus states are usually more cooperative with the use of force that belongs under the second pillar of R2P (compared to the non-consensual use of force that is possible under the third pillar of R2P). Moreover, as the 2009 UNSG report argues, peacekeeping units can be deployed to carry out a vast array of tasks that are largely non-coercive, e.g. for prevention, protection and disarmament purposes.

Connected to this thought of peacekeeping, it is appropriate to briefly discuss the difference between the protection of civilians (POC) and R2P, which is something that both Tardy (2012) and Popovski (2011) highlight. While both POC and R2P essentially strive for similar results, protection of civilians from man-made threats and thus can partly overlap, as they "share the same normative foundations" (GCR2P, 2011, p. 1), they also have their own characteristics. Tardy (2012) argues that POC basically has a larger operational scope than R2P, since as mentioned above, the agenda of R2P concentrates solely on four different crimes: genocide, ethnic cleansing, crimes against humanity and war crimes, whereas POC relates to a larger set of issues. Popovski (2011) agrees with this notion, but also points out that POC can be seen as the narrower one of the two, since POC only applies during an armed conflict: R2P applies both in time of war and peace. Hence, it is possible to have a situation, where both R2P and POC apply: mass atrocity crimes that are perpetrated against civilians during an armed conflict. However, it is also possible to have a situation, that only triggers one of the two. An armed conflict where no atrocity crimes are committed, is a situation that only concerns POC. When mass atrocities are committed or planned outside an armed conflict, it is a situation that should trigger R2P measures.

The 2014 UNSG report " Fulfilling our collective responsibility: international assistance and the responsibility to protect" (A/68/947–S/2014/449), is completely dedicated to the second pillar of R2P. The purpose of the report is to showcase "ways in which national, regional, and international actors can assist States in fulfilling their responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against

humanity" (p. 1). Thus, R2P is a matter that obligates many actors within the international community, and it is not solely a burden of the UNSC. However, as Gallagher (2015) notes, this hybrid approach does not come without issues, as too many cooks spoil the soup. It can be more difficult to find consensus since every actor might have their own interests and thus complicate the situation further.

The 2014 UNSG report lays down three different categories concerning possible assistance, basing these on the 2009 UNSG report: encouragement (para. 29–38), capacity-building (para. 39–58) and assistance to states to protect their populations (59–69). These categories are broken further down into more defined subcategories. The international actors can encourage the state in question in two different ways. First, they can directly encourage and remind the state of its R2P obligations. Second, international actors may use preventive diplomacy – the framework for this type of activity was already noted in 1992, in a report of UNSG titled "An Agenda for Peace: Preventive diplomacy, peacemaking and peace-keeping" (A/47/277 - S/24111). The report defines preventive diplomacy as "action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur" (para. 20). Concerning R2P, the 2014 UNSG report argues that preventive diplomacy can be used in "confidential or public dialogue to remind States under stress of the importance of meeting their responsibility to protect" (para. 36). Capacity-building, which is the second category, has two different subcategories, which international actors can pursue. The first subcategory, "inhibitors", concerns "particular capacities, institutions and actors that help prevent escalation from risk imminent crises" (para. 39), while the second subcategory, "watchdogs", refers to "concrete support and skills development" that helps to "hold authorities to account" (para. 40). The third form, assistance to states to protect their populations, showcases a broad range possible tools how this assistance can manifest: through dispute resolution expertise (para. 62), human rights fact-finding missions (para. 63), law enforcement and criminal investigation (para. 64), protection of refugees and the internally placed (para. 65) and protection of civilians in humanitarian emergencies (para. 66). Importantly, also the 2014 UNSG report argues that the use of force is possible under the second pillar of R2P by pointing out that "states may in some cases seek assistance from regional or international military forces to protect civilians subject to or at risk of atrocity crimes" (para. 67).

However, Gallagher (2015) reminds that situations where R2P measures by the international community are required, are quite often rather complex. It is a very possible scenario that there are many actors involved in internal conflicts, who are all perpetrating mass atrocity crimes, including the government of the state. And in such a case, where the government is also responsible for atrocity crimes, capacity-building and other pillar II measures might end up strengthening the government, undermining the original purpose of such assistance: protection of the people. The 2014 UNSG report also recognizes this problem but argues that even if it is the state that is perpetrating mass atrocity crimes, "international actors can continue to encourage the State to fulfil its protection responsibilities and offer assistance" (para. 76). We are faced with a moral dilemma: as said, there are often various factions involved in internal conflicts. Gallagher (2015) argues that there are three variables that complicate the situation even further. First, the state in question might perpetuate violence against civilians, but these actions do not meet the requirements of any of the four mass atrocity crimes. Thus, the measures the third pillar of R2P advocates for cannot necessarily be considered, since the state is not seen to "manifestly fail" to protect its population. Second, non-state armed groups can be perceived to pose a greater danger to the civilian population than the state itself. Third, it is often the state that has the best tools available to supress these non-state armed groups.

Nevertheless, Gallagher (2015) presents two different possibilities how this problem can be mitigated. Either by pursuing the policy of selectivity, which would only support the existing practices that have been proven to improve the situation or by giving assistance based on conditionality, which would require some evidence that the recipient will change its ways in the future. This question, who should be the recipient of help in such situations, when there is reason to believe that all sides are guilty of atrocity crimes, is extremely problematic. However, pillar III of R2P can be of assistance under these circumstances.

3.2.3. The Third Pillar of R2P – Timely and decisive response

The 2005 World Summit Outcome Document lays down third pillar of R2P in its paragraph 139:

> The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against

> humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

Chapter VI of the UN Charter (1945) addresses pacific settlements of disputes, including "negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their [parties to any dispute] own choice" (Art. 33). Chapter VIII, on the other hand, details the framework for regional organizations in the context of maintaining international peace and security. Thus, there are plenty of non-coercive measures under the third pillar of R2P. As the 2009 UNSG report reminds "the United Nations has a strong preference for dialogue and peaceful persuasion" (para. 51). However, the report also acknowledges the possibility of diplomacy being used as a delaying tactic and therefore proposes more coercive measures that can be employed under such circumstances, in accordance with Chapter VII of UN Charter, particularly Articles 41 or 42. As previously detailed, Article 41 specifies various diplomatic and economic sanctions that are within the reach of the UNSC and Article 42 authorizes the UNSC with the use of power if measures under Article 41 are not sufficient to restore international peace and security. As the section on the origins of R2P pointed out, the ICISS report (2001) already advocated for these measures in the implementation of R2P, though arguing that the threshold for using these methods should be set high.

The 2012 UNSG report "Responsibility to protect: timely and decisive response" (A/66/874–S/2012/578) focuses on the third pillar of R2P and strongly emphasizes the usefulness of non-coercive methods in implementing R2P. Concerning the non-coercive measures, the report goes back to Chapter VI of the UN Charter and highlights the importance of consensus by stating that "experience has shown that mediation and preventive diplomacy are most effective when different organizations work together, speak with one voice, and use their relative strengths in a complementary fashion" (para. 24). Regarding Chapter VIII measures, the 2012 UNSG report refers back to the UN Charter again, declaring that "Article 52 of the Charter confirms their [regional and subregional arrangements] importance for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action.

Article 53 of the Charter requires that no enforcement action be taken under regional arrangements without the authorization of the Security Council" (para. 42).

Concerning more coercive methods, whether it is imposing sanctions or using military force, the 2012 UNSG report makes it very clear that these options are not the primary measures how R2P should be implemented and they should be used cautiously after a careful assessment of their impacts. The report highlights that when imposing sanctions, they need to be consistent, carefully-structured and proportional in order for them to mainly target those responsible for mass atrocities. The report lists various possibilities how these targeted sanctions can manifest in its paragraph 31. Welsh (2015) argues that out of these options, four relevant categories emerge how these sanctions can be used in the context of atrocity crime prevention. These are "arms embargoes (which restrict the flow of weapons, munitions, and dual-use goods into the target country); financial sanctions (which take the form of suspension of loans or aid, restriction or denial of access to international financial markets and banks, bans on capital investment inflows, and asset freezes of particular governments or individuals); trade restrictions (which restrict the trade of specific goods and commodities, such as mineral resources—that provide power and revenue to perpetrators—or weapons, computer, and communications technology); and travel restrictions (which include not only travel bans for particular individuals and their families, but also bans on commercial passenger flights, air freight and cargo, and sea vessels)" (p. 113–114). The logic behind using these targeted sanctions, according to Welsh (2015), is twofold and intertwined. First, sanctions focus on restraining the actions of potential perpetrators of mass atrocities and second, sanctions also aim at altering their behaviour due to their restrictive nature. Sometimes only the threat of sanctions is enough to discipline possible perpetrators. Lopez (2013) adds to this by arguing that the purpose of implementing sanctions is to create a backdrop against which those, who impose the sanctions and the targets of sanctions can negotiate and work out a solution. Therefore, it is of utmost importance that the sanctions imposed are not disproportionate, since this only discourages the targets of sanctions in engaging in negotiations.

As Lopez (2013) reminds, UN sanctions are an extremely powerful tool: once sanctions are implemented, all members within the international community need to adhere to them. Moreover, in order for sanctions to work as planned, it they need to be part of a bigger picture: good diplomatic practices and sanctions need to work closely together. According to Fehl (2015), sanctions also send a clear message to the perpetrators: the international

community does not accept their actions and if they do not change their ways, the international community is willing to use other, even more coercive methods. However, some economic sanctions may have unintended collateral damage. For example, Christiansen and Powers (1993) point out that even if sanctions are originally aimed against the state authorities, it is done at the expense of the population (e.g. restricting access to petroleum). Weiss (1999) and Damrosch (1993) chime in: economic sanctions need to be carefully designed and monitored, or the result is catastrophic with more civilian suffering.

The most coercive method that is at the disposal of the UNSG, is the use of force. As the 2009 UNSG report reminds, only the UNSC can authorize measures under Chapter VII of the UN Charter. The 2012 UNSG report showcases the range of coercive measures that the UNSC can take as a last resort: "Coercive military force can be utilized (…) through the deployment of United Nations-sanctioned multinational forces for establishing security zones, the imposition of no-fly zones, the establishment of a military presence on land and at sea for protection or deterrence purposes, or any other means, as determined by the Security Council" (para. 32).

It is clear that this more coercive side of pillar III is the most controversial operational aspect of R2P. Compared to the use of force under pillar II, the use of force under pillar III is non-consensual, even though the objective remains the same, as it is for human protection purposes. Moreover, as Deng (2011) argues, one of the problems that the third pillar of R2P has to actively tackle is its mischaracterization. It seems that often in a public debate, the third pillar and even R2P as a whole are only seen as synonyms for military intervention. However, as it has been demonstrated in this section, there are numerous non-coercive methods in the R2P toolbox, even under the category of the third pillar. The use of force is also controversial due to its impacts: as Bose and Thakur (2016) and Deng (2010) point out, military interventions are expensive. Not only when it comes to equipment, but also, and more importantly in the context of this study, when it comes to human lives. Military force has a real potential to be destructive upon the state infrastructure, whether physical or institutional that is still standing. There is always some collateral damage. Thus, it cannot be stressed enough that coercive military force is to be avoided at any cost.

As problematic, undesirable and possibly counter-productive military intervention is, it is still a necessary measure in the R2P toolbox. It is a necessary last option that arguably

gives the R2P principle its teeth – even though as already the ICISS report (2001) argued, the threshold for using these teeth should be set high. Certainly, as Popovski (2011) states, any military action in the name of R2P needs to be in accordance with the UN Charter and it is required to comply with the Geneva Conventions that set the framework for IHL and thus guarantee humanitarian treatment. As Seybolt (2016) reminds "caution ought to remain a guiding principle, balanced against the knowledge that R2P without the use of force is meaningless in the situations where it is needed the most" (p. 561).

When should the international community resort to using pillar III methods? The key term here, as paragraph 139 of the 2005 World Summit Outcome Document declares, is that when states "manifestly fail" to protect their populations from the four atrocity crimes. However, what is the criteria for a state to manifestly fail? Rosenberg and Strauss (2012) argue that some criteria, mainly based on human rights violations could be established to determine if a state is "manifestly failing". Moreover, they also point out that "manifest failure occurs when relatively foreseeable consequences have not been addressed and the risk level prevails or increases" (p. 4). According to Gallagher (2014), it is both impossible and unsuitable to create an all-encompassing list, where every box needs to be ticked off in order to determine whether a state is "manifestly failing". The same problem is with the just war tradition. Nevertheless, these frameworks, as imperfect as they might be, still help in these problematic situations. Thus, Gallagher (2014) presents five pointers indicating that a state is manifestly failing. These are "government intentions; weapons used; death toll; number of people displaced; and the intentional targeting of civilians, especially women, children and the elderly" (p. 439).

As the last reminder, the 2012 UNSG report states "effective action under pillars one and two may make action under pillar three unnecessary" (para. 15). This also implies that the pillars are not separate entities, but strictly intertwined with each other, as they all work towards the same goal, with somewhat different methods. Ideally speaking, pillar III measures are not required as much as states receive assistance as stipulated by pillar II, which in turn increases their capacity to fulfil their pillar I obligations. Moreover, as the 2012 UNSG report continues, the implementation of pillar III measures can be very difficult, and "disagreements about the past must not stand in the way of our determination to protect populations in the present" (para. 58). Here the five permanent members of the UNSC (P5), the United Kingdom, The United States of America, the Russian Federation, France and the Republic of China, are at the spotlight. The 2009

UNSG report reminds them of their duties and privileges that are given to them in the form of the veto power and urges them "to refrain from employing or threatening to employ the veto in situations of manifest failure to meet obligations relating to the responsibility to protect" (para. 61). When giving the P5 the right to veto, it ensured that the UNSC would not suffer the same destiny as its less successful predecessor, the League of Nations. The right to veto can be seen as an incentive for the great powers to stay engaged in the UNSC, while reassuring them that their interests will not be overlooked.

This responsibility not to veto (RN2V), according to Blätter and Williams (2011) is one of the possible approaches how pillar III of R2P can be better implemented. Their argument is fourfold: first, the whole point of R2P is to prevent mass atrocities from happening, and this aspiration requires all the support conceivable. Second, the 2005 World Summit Outcome Document, with the UN Charter, authorize the UNSC with powers that are crucial in the implementation process of R2P. Third, the P5 have a dual responsibility of preventing or stopping mass atrocities, but they also need to take into account other potential actors that might contribute to their goal. And lastly, if the P5 decided to obey the R2NV rule, this duty of maintaining international peace and security could be performed in a more decisive manner.

3.2.4. The International Criminal Court and R2P

As already mentioned in the introductory chapter, R2P and the ICC share a common focus and moral commitment: they both aim at preventing and stopping mass atrocities. However, their methods are different. While R2P obligates states to protect their population and refrain from committing serious human rights crimes, the ICC obligates its member states to prosecute and hold those individuals accountable, who perpetrate such atrocity crimes such as genocide, crimes against humanity, war crimes and crimes of aggression (Contarino & Lucent, 2009). It is worth reminding that the ICC can only act when the state concerned is either genuinely unwilling or unable to prosecute individuals of mass atrocity crimes. It is a complementary court that is not meant to replace national criminal justice systems. Thus, as it is with the first pillar of R2P, the primary responsibility is assigned to states: they need to have the will and capacity to investigate and prosecute individuals, who commit gross human rights violations.

The Rome Statute established the ICC in 1998 and it has been functional since 2002, making it a rather young court in the international system. By comparison, the International Court of Justice (ICJ) that settles disputes between states, was established

in 1945. However, even if the ICC as an establishment is not that old, the ideological roots of the court go back decades: international criminal law was established by the Nuremberg trials, when individuals were held accountable for the first time in history for mass atrocity crimes (Contarino & Lucent, 2009). Rosenberg (2009) argues that by the 1990s, individual accountability was recognized as an important factor, as various ad hoc tribunals (e.g. the International Criminal Tribunals for Yugoslavia and Rwanda) were established, where perpetrators of mass atrocity crimes were persecuted. This trend of holding individuals to account for mass atrocity crimes, creating another layer of protection for victims and placing the primary responsibility on states, culminated in the creation of the Rome Statute of the ICC.

There are three sources how the Court's jurisdiction can be initiated. According to the Rome Statute (1998) Article 13, one of the possibilities is by a state party: a state can refer a situation to the Court if crimes belonging under its jurisdiction appear to be committed. Another pathway is that the UNSC refers a situation to the ICC: this happened for example with Libya in 2011. Even though the ICC is not a UN body and does not need a specific mandate from the UN, the two organizations do cooperate. This right that the UNSC can refer a situation to the Court is based on the role that the Council has under the UN Charter: it is the primary responsibility to maintain international peace and security. This option can be used even when a non-state party is in question. The third option is the initiation of an investigation by the ICC prosecutor *proprio motu* (on his own authority). This happened in summer 2020, when ICC prosecutor Fatou Bensouda decided to open an investigation whether US forces, the Taliban and the Afghan government committed war crimes in Afghanistan, dating back to the 2003 events. This was met with open hostility by the Trump Administration: President Trump imposed sanctions, which target ICC employees by freezing their assets and deny their entry into the country. Secretary of State Mike Pompeo characterized the ICC decision as an "illegitimate attempt to subject Americans to its jurisdiction" (BBC, 2020). However, it should be remembered that the Court has the authority to do this and there is nothing unusual, let alone illegal about this. If a citizen of a non-member country (in this case, the US) commits any of the crimes under the jurisdiction of the Court on a territory of an ICC member state (in this case, Afghanistan), the ICC has jurisdiction over such individuals.

There are currently 123 member countries to the ICC. However, it is true that the United States has not ratified the Rome Statute. Several other important countries, including

India, China, and Russia have not ratified the Statute either. This is problematic, since the United States, China and Russia are P5 members. Contarino, Negrón-Gonzales and Mason (2012) argue that this might jeopardize the future of the Court, especially with the resistance and hostility by certain states. However, it is also worth mentioning that despite this, the ICC has received support from the UNSC in many situations. For example, in 2005 when the UNSC decided to refer the situation in Darfur to the ICC prosecutor with Resolution 1593 (2005) no state voted against, while four (Algeria, Brazil, China and the United States) abstained from voting (UNSC, 2005). Similar thing happened regarding the referral of Libya to the ICC by the UNSC, when the UNSC adopted Resolution 1970 (2011) and no state voted against or abstained from voting. However, referrals to the ICC are always delicate matters, and there is always a real possibility that either China, Russia or the United States voices strong opposition. Thus, RN2V should play a crucial role here, too.

Weerdesteijn and Hola (2020) argue that the ICC can support every of the three pillars of R2P. The first pillar places the primary responsibility on states to protect their populations from mass atrocity crimes. As already discussed, there are multiple ways how this can be achieved, one of the possible pathways is to uphold human rights standards with appropriate institutions and other mechanisms that guarantee that these atrocity crimes do not take place in a society. The 2009 UNSG report recommends that "states should become parties to the relevant international instruments on human rights, international humanitarian law and refugee law, as well as to the Rome Statute of the International Criminal Court" (para. 17). The ratification of the Rome Statute is thus explicitly mentioned as one of the possible tools to implement R2P under the first pillar. Weerdesteijn and Hola (2020) suggest that the ratification of the Rome Statute not only strengthens the rule of law, but also gives more protection to the population against atrocity crimes, since evidence seems to support the argument that states that have ratified the Rome Statute are committing less human rights violations, compared to the states that have not ratified the Statute. Mennecke (2014) reminds that national legal institutions should investigate, prosecute and punish individuals guilty of mass atrocity crimes, making the ICC, like the third pillar of R2P, a last resort.

The second pillar of R2P engages the international community by obliging them to offer assistance to states so they can meet their pillar I responsibilities. Regarding the ICC, the 2014 UNSG report states that the ICC can offer its assistance by "sharing information,

training national prosecutors and investigators and combating the impunity that facilitates atrocity crimes" (para. 22). Weerdesteijn and Hola (2020) remind that due to the complementary principle the Court adheres to, this makes it an excellent tool to consolidate the second pillar. Mennecke (2014) joins in this opinion by arguing that both, the ICC and the second pillar of R2P are engaged in capacity-building which requires targeted international cooperation and assistance. However, if the state or other key actors within the state are not willing to accept offered assistance and they are not owning up to their protection responsibilities, the third pillar of R2P activated.

The third pillar of R2P concerns the responsibility of the international community to act in a timely and decisive manner if a state manifestly fails to protect their population. As the 2009 UNSG report argues that in a such a situation "the international community should remind the authorities of this obligation [responsibility to protect] and that such acts [genocide, war crimes, crimes against humanity and ethnic cleansing] could be referred to the International Criminal Court, under the Rome Statute" (para. 54). As Mennecke (2014) points out, the UNSC has referred two situations to the ICC, arguing that international peace and security was threatened, regarding Darfur and Libya. Thus, the ICC enforces pillar III of R2P, too. However, Weerdesteijn and Hola (2020) argue that the inconsistent referral practice of the UNSC puts the credibility of the ICC in danger – public debate seems to circulate around issues such as questioning why a certain situation was referred to the Court, while some other was not, and whether the ICC devotes a disproportionate amount of effort on the continent of Africa. Nevertheless, they also remind that in the cases of Darfur and Libya, the UNSC's referrals to the ICC had some positive effects on the ground in terms of human rights practices and establishment of ad hoc judicial institutions.

The ICC and R2P are important tools in the fight against mass atrocities. The ICC fights to end impunity and as the 2012 UNSG report argues, the Court can have a preventive purpose: only the threat of a possible referral to the ICC can work as a deterrent. As Ainley (2015) argues, both R2P and the ICC are complementary institutions to the state institutions, established to encourage states to meet their protection obligations. Saba and Akbarzadeh (2020) hold a similar view by stating "the ICC's and R2P's involvement is triggered in exceptional circumstances only when a sovereign state is 'unable or unwilling' (in the case of the ICC) or 'manifestly failing' (in the case of R2P) to fulfil its primary protection and prosecution responsibilities" (p. 4).

3.3. R2P in the UN system

Even though the UNSC arguably has the biggest responsibility when it comes to the implementation of the R2P agenda, other members in the immediate UN family have their own supporting acts to play. The role of the UNSC is not covered in this section, as it would only be repetitive of what has been argued above. The importance of the UNSC is immense regarding the implementation of R2P. There are over 80 UNSC resolutions referencing R2P, including state-specific resolutions and resolutions concerning issues that are on the agenda of R2P e.g. trade of small arms and light weapons. Nevertheless, as Bellamy (2016) reminds, even though the UNSC is the primary organ in regard to maintaining international peace and security, it is the only one. Thus, it is crucial to know that the of work the UNSG, the UNGA and the UNHRC is irreplaceable in the context of R2P. The purpose of this section is to showcase how these UN organs can be of assistance to the UNSC regarding R2P.

Madokoro (2015) argues that previous UNSGs, Kofi Annan and Ban Ki-moon played extremely important roles in the development of the R2P norm by solidifying its status within the UN system. The status that UNSGs hold is rather influential: they are constantly engaged with member states and other important actors within the international system. This position at the nucleus of the international system enables them to convince, encourage and persuade member states to legitimise new norms, such as R2P. Luck (2016) describes of the office of the UNSG as "the repository of international authority on the meaning and application of R2P" (p. 303). Serrano (2010) agrees with these notions and highlights that the first UNSG report published in 2009 was a substantial milestone in the normative evolution of the principle, as it proposed the three-pillar approach to R2P. Moreover, it boosted the conversation around the topic and after each yearly UNSG report, the UNGA has held either a debate or an informal or formal interactive dialogue on R2P.

The UNGA holds a significant importance regarding the development of R2P. After all, the doctrine was unanimously accepted by the UNGA in the 2005 World Summit. Unlike the role of the UNSG, the role of the UNGA is described in the 2005 World Summit Outcome Document, in paragraph 139:

> We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing

and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law.

Schmidt (2016) argues that the UNGA has played an important role in the normative development of R2P. This manifests e.g. through the UNGA's annual dialogues on R2P, which have taken place each year after the first UNSG report publication on R2P in 2009. Since the UNGA is the representative body of the UN, where all member states have equal representation, these debates and dialogues held on R2P provide the member states with an excellent platform to voice their opinions, disagreements, concerns or proposals for improvements regarding R2P.

Lastly, the role of the UNHRC needs to be briefly discussed. The UNHRC was established by the UNGA resolution A/RES/60/251 in 2006 to replace the UN Commission on Human Rights. The resolution lays down the functions of the UNHRC by stating that "the Council shall be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all" (para. 2) and that the UNHRC "should address situations of violations of human rights, including gross and systematic violations" (para. 3). As such, it is evident that the work of the UNHRC is crucial regarding R2P, which addresses the most heinous of human rights abuses. Bichet and Rutz (2016) point out that the work of the UNSC and the UNHRC is progressively intertwined, as the two UN bodies reference increasingly to each other in their own resolutions. According to Strauss (2016), the state-specific reports the UNHRC produces are helpful in providing detailed information regarding human rights situation on the ground.

Thus, the UNSG, the UNGA and the UNHRC all have their own roles to play in the development and implementation of R2P. They support the work of the UNSC by either solidifying the R2P agenda (UNSG), facilitating dialogue on issues connected to it (UNGA) and providing the UNSC with useful information on human rights (UNHRC). Even though the UNSC is the primary executive branch of R2P, it is important to understand that other UN primary organs support it, and it does not have to carry all the burden on its own.

3.4. Criticism against R2P

R2P is a relatively new doctrine that challenges the Westphalian understanding of state sovereignty, which has dominated the debate concerning state's responsibilities and rights

for age. With R2P, state sovereignty is redefined: it is no longer to be seen as sovereignty as control but as sovereignty as responsibility. Thus, as it happens, R2P has attracted quite a lot of criticism due to its novelty.

Most of the criticism relating to R2P, as it can be expected, concerns its third pillar and the possibility of military intervention. However, it is necessary to engage with the criticism levelled against the doctrine to provide an unbiased outlook to the topic. This being said, the argument that R2P is synonymous with military intervention is not going to be addressed in great length, due to the lengthy description of the doctrine above: R2P has many non-coercive and non-violent methods at its disposal and military intervention, as it has been declared plenty of times, is only the last resort and to be used with in extreme situation with utmost caution. The first and the second pillars have not been disapproved that vocally. As said, pillar I obligations are well-defined customary principles in international law. Pillar II, on the other hand, requires the consent of the state to operate. Thus, they are generally seen as problematic elements as the third pillar's more coercive measures, that take place without the consent of the state. This chapter will examine criticism raised against R2P and also provides the reader with counterarguments, too.

Kuperman (2008) argues that there is a moral hazard embedded in R2P. The existence of such a doctrine can potentially work as an incentive for sub-state groups to incite rebellions and commit human rights violations in the hope of attracting the eye of the international community and possible intervention, which could possibly aid in achieving their political goals. When a sub-state group commits atrocities, the state is obliged to react: after all, according to the first pillar of R2P, it is the responsibility of each state to protect its population. However, this clash between a sub-state group and the state might turn into a rather violent conflict – thus, even though the intention of R2P is rather noble, it can also be counterproductive. Thus, the argument here is that R2P causes serious human rights abuses that would not materialize otherwise. A spinoff of this argument is the claim that R2P prolongs the suffering of civilians as it supposedly encourages non-state groups to pursue the course of armed resistance while turning down feasible peace offers (Belloni, 2006). However, Bellamy and Williams (2011) counter both of these arguments effectively. They suggest that these claims do not take into consideration the multifaceted nature of internal conflicts but reduce them into one simple calculation. They point out that this moral hazard theory ignores the causal factors of genocidal violence (e.g. political, economic and social settings that allow insurgencies to develop and thrive)

and focuses too much on the possibility of the military intervention. Moreover, they also remind that there is no empirical evidence of governments and non-state rebel groups actually calculating their actions with a third-party intervention in mind.

Paris (2014) recognizes that there is more to the R2P doctrine than just its third pillar and the possibility of military intervention but argues that this feature of R2P suffers from structural problems. He recognizes five of these: the mixed motives problem; the counterfactual problem; the conspicuous harm problem; the end-state problem; and the inconsistency problem. The first one of these, the mixed motives problem argues that it is an unimaginable task to execute a military intervention that is only driven by humanitarian objectives: there is almost always other motivations at play, including self-interest of states. If self-interest of states hijacks the military operation in a way where humanitarian considerations are no longer at the heart of the operation, this poses serious legitimacy and credibility questions for the mission. Moreover, if a military intervention motivated allegedly by humanitarian aspirations turns out to be actually a self-interested invasion, it is likely to result in hostile, even armed resistance. However, Mutimer (2015) argues that this is merely a feature of international politics in general, and not necessarily a defining characteristic of military intervention. Thakur (2006) also acknowledges the presence of other motives but maintains that "the primary purpose of the intervention, whatever other motives intervening states may have, must be to halt or avert human suffering" (p. 258). Moreover, he argues that this can be best achieved with operations that are multilateral.

Secondly, the counterfactual problem points out the inherent problem with military interventions: it is very difficult to show that it has made any difference. As Paris (2014) puts it: "by definition, when such an operation works, something has not happened: a mass atrocity. The principal evidence of success, in other words, is a non-event" (p. 574). Thus, if interveners want to argue that the operation has been successful, they need to engage in a debate full of "what-ifs". This is a rather pointless discussion, because their arguments can never be shown to be correct – or incorrect. Then again, Pape (2015) reminds that "no future events in the real are ever 100 per cent certain" (p. 10). Mutimer argues that this, like the mixed motives problem above, is something that defines the nature of international security since the end of the Second World War. He points out that the rationale during the Cold War was built around the deterrence theory, which is deemed successful when something unwanted does not occur. Moreover, counter-terrorism efforts

also work on this premise: making sure terrorist attacks do not happen. When terrorist attacks do not occur, the strategy is working.

The third structural problem, the conspicuous harm problem, is rather straightforward: while there are no guarantees of a military intervention of being successful, its costs are apparent. There is always at least some collateral damage and civilian deaths, despite of rigorous planning and careful military conduct. Even though Paris (2014) acknowledges that this is a reality that all military interventions face, he points out that this is especially problematic for those operations whose legitimacy depends on the argument that everything is done for human protection purposes. Thakur (2013) acknowledges this problem by stating that R2P "is not a magical formula by means of which good intentions can guarantee good policy outcomes" (p. 334). However, Thakur (2015) also argues that this problem is always present whenever use of force is employed, and it is not R2P's making. He maintains that while the use of military force is never a preferred course of action, "it must be the option of last resort; it cannot be taken off the table" (p. 23).

Fourth, Paris (2014) points out the end-state problem: what should be done after the military operation has achieved its initial goal (securing a population from mass atrocities)? How to withdraw from such a situation that is still very delicate and fragile? If the withdrawal is done too quickly, the secured population could find itself in the same situation as before, thus undermining the purpose of the operation. He proposes three options, none of them very attractive. There is a possibility of prolonging the operation indefinitely. However, if this has not been embedded into the original mandate of the operation, this could be seen as expanding the mandate quite significantly. Furthermore, there is a possibility of locals forming armed resistance to the operation that has turned into an occupation in their minds. Second possibility is to get rid of the source of threat. However, military interventions that are deployed in the name of R2P are usually targeted against the government of the state (because pillar III military force is non-consensual), this would result in regime change. This again would raise suspicion about the original motives of those doing the intervention. The third option is somewhat connected to the first one: there is the possibility of negotiating a peace deal that would guarantee protection for the threatened population. However, this also requires an expanded mandate with a prolonged presence. Mutimer (2015) suggests that this problem is not created by R2P: it is an inherent problem with any military operation in the current international system. Thakur (2003) argues that "the goal of intervention for human

protection purposes is not to wage war on a state in order to destroy it and eliminate its statehood, but to protect victims of atrocities inside the state, to embed the protection in reconstituted institutions after the intervention, and then to withdraw all foreign troops" (p. 163). Additionally, he also provides a rather straightforward solution to the regime change problem: "if defeat of a non-compliant state or regime is the only way to achieve the human protection goals, then so be it. But the primary motivation behind intervention – the cause rather than the necessary condition – must not be defeating an enemy state" (p. 163).

Lastly, there is an inconsistency problem regarding military interventions authorized by pillar III of R2P. As Paris (2014) summarizes it: "inaction in the face of mass atrocities stands to weaken R2P by making it seem hollow, but conversely, employing coercive force in the name of R2P highlights the unavoidable inconsistency of the international response, which is just as likely to cast doubt on the doctrine. R2P is thus caught in a confounding logical trap of its own making" (p. 579). This problem concerning inconsistency was briefly addressed already above, though in terms of the ICC, in the section where the relationship between the Court and R2P was discussed. Thakur (2015) argues that this is only a problem, if the decision to intervene is based on "friends vs. foes" (p. 19). The rationale behind a military intervention in the name of R2P should never be to eliminate an enemy state.

There is also a large number of scholars (e.g. Kuperman, 2008; Mamdami, 2010; Moses, 2013; Paris, 2014), who use the terms of humanitarian intervention and R2P interchangeably. However, even though R2P and humanitarian intervention do share similar characteristics, they are not synonymous. R2P and humanitarian intervention differ in three major ways. First, while the definition of humanitarian intervention is somewhat contested, one possible definition is "humanitarian intervention is defined as coercive action by States involving the use of armed force in another State without the consent of its government, with or without authorisation from the United Nations Security Council, for the purpose of preventing or putting to a halt gross and massive violations of human rights or international humanitarian law" (Danish Institute of International Affairs, 1999, p.11). While humanitarian intervention clearly indicates that the use of force is present, R2P has a broad range of non-coercive tools at its disposal and the use of force is only the very last option on that list. Additionally, if the use of force is used under the third pillar of R2P, it needs to be authorized by the UNSC. Second, while humanitarian

intervention has been used in varying situations, R2P only focuses on four mass atrocity crimes: genocide, war crimes, crimes again humanity and ethnic cleansing. Furthermore, as Axworthy and Rock (2009) remind, R2P cannot be applied beyond those crimes, but this is a doctrine that is reserved only for cases of threatened or actual mass atrocity. Finally, while humanitarian intervention often talks about a right to intervene, R2P has changed that language into responsibility to protect. The ICISS report (2001) argues that this is change of terminology brings about a significant change: "the responsibility to protect implies an evaluation of the issues from the point of view of those seeking or needing support, rather than those who may be considering intervention. Our preferred terminology refocuses the international searchlight back where it should always be: on the duty to protect communities from mass killing, women from systematic rape and children from starvation" (p. 17).

All in all, it seems that most of the criticism R2P faces addresses the possibility of military intervention. It is necessary to take these comments into account, but it should be kept in mind that R2P does not advocate for military intervention and it is not the preferred option to be used for human protection purposes. As Seybolt (2016) reminds, "if R2P encouraged military intervention we would not expect to see the lowest combined, lowest major power, and lowest non-major power intervention rates in the R2P era" (p. 575).

3.5. Conclusive remarks regarding R2P

This chapter addresses the multifaceted nature of R2P. Genocide, war crimes, crimes against humanity and ethnic cleansing are all horrible crimes that shock the conscience of humanity. However, all of these have occurred and unfortunately still occur. R2P is a tool that aims at guaranteeing that these crimes do not go unnoticed. R2P is a tool that manifests the "Never Again" -spirit. As Evans (2008) points out, mass atrocities committed within a state are not solely matters of the state in question, but due to their heinous nature, they are matters of the whole international community: they threaten international peace and security. Political will is necessary at every step of R2P: individual states need to be committed in their protection responsibilities, the international community alongside with subregional and regional organizations must be ready to assist states under stress and the international community, with the UNSC acting as an executive arm, should be prepared to use more coercive methods, if the state in question manifestly fails to protect its population. As Thakur (2015) reminds, R2P is still

a contested topic in policy community: not necessarily as a principle, but there are different views regarding its implementation, as evidenced by this literary review.

The 2016 UNSG report on R2P, Mobilizing collective action: the next decade of the responsibility to protect (A/70/999–S/2016/620), recognizes that the situation in Yemen is unbearable: "in Yemen, warnings about the dangers confronting the civilian population have been voiced by officials of the United Nations at several stages, but have not been translated into decisive action to protect the vulnerable" (para. 28). The following chapters of this study examine the situation closer in Yemen and what tools from the R2P toolbox the UNSC has employed in order to restore human security in Yemen.

4. Methodology

The following chapters will elaborate the process of qualitative content analysis, which is chosen to be the research method in this study. The content of the chapter is the following: the first section addresses qualitative content analysis as a research method and concentrates on its benefits. The second section, in turn, focuses on the different categories that will be employed in the analysis of the data.

The logic behind the decision to pursue qualitative rather than quantitative research is rather straightforward. The research question of this study, which is rather descriptive and not interested in quantifying the degree or amount of R2P elements the UNSC has employed, it is sensible to conduct a qualitative research. Certainly, there is a possibility to further and deepen the research by conducting a quantitative research. However, as already pointed out, the purpose of this study is to find out what the UNSC has done regarding R2P implementation in Yemen, it is more of an explanatory question than a question concerning quantities. Furthermore, as the research data itself consists of textual documents, resolutions, letters, agreements, reports and other written material, it is more appropriate to conduct a qualitative research.

4.1. Qualitative content analysis as a research method

Qualitative content analysis can be employed on various materials, ranging from interview transcripts to cartoons. Importantly, it is not necessary for the material to be textual: qualitative content analysis can be used to analyse e.g. nonverbal behaviour (Hermann, 2008). Thus, as long as the data is something that needs to be interpreted to some extent, qualitative content analysis is a suitable method, since the main purpose of qualitative content analysis, if generalized, is to describe the meaning of the data in a systematic manner (Schreier, 2012). There are other crucial elements that characterize qualitative content analysis: it is systematic and flexible in nature, and it reduces data (Schreier, 2013). These characteristics will be demonstrated in the following sections.

Content analysis is a research method that can either be qualitative or quantitative by nature and it can analyse the data in an inductive or deductive manner. (Elo & Kyngäs, 2008). However, some scholars (e.g. Krippendorff, 2018) challenge the practicality and validity of making a distinction between quantitative and qualitative content analysis, because “ultimately, all reading of texts is qualitative, even when certain characteristics of a text are later converted into numbers” (p. 21). As already pointed out above, this study focuses on the qualitative side. The general difference between inductive and

deductive reasoning is that while the former moves from specific observations to general ones, the latter does vice versa. How these two approaches differ in terms of content analysis, as can be interpreted from above, inductive content analysis is employed in researches, when there are no previous studies on the matter and the purpose is to develop a theory. Deductive content analysis, on the other hand, is commonly used in research, which is structured around an existing theory, but the purpose is to test this theory in new settings (Kyngäs & Vanhanen, 1999).

As described above, qualitative content analysis has a certain set of benefits that make it suitable for this study. Even though the timeframe of this study itself, from January 2011 to December 2018, is not that extensive, the amount of material the UNSC has produced on the matter amounts to quite a lot of data. One of the benefits of qualitative content analysis is that it reduces data: when conducting a qualitative content analysis, not every piece of information provided by the data needs to be taken into account. Only those elements that are meaningful in terms of the research question are analysed. Thus, even though the data that the UNSC has produced on Yemen is quite rich and multifaceted, only those aspects of the data that concern R2P regarding Yemen are considered. Certainly, this also gives qualitative content analysis its another staple: it is a highly systematic method, since everything that is relevant regarding the research question is considered.

This study employs both deductive and inductive approaches in terms of qualitative content analysis, thus employing the so-called blended approach. As Schreier (2012) states, it is not uncommon to employ both approaches, when creating a coding frame and analysing the data. When following an inductive strategy, which is data-driven, means that the categories emerge from the data itself, whereas when pursuing a deductive approach, which is concept-driven, the categories are pre-determined. They are either based on a theory or previous research, and the purpose is to test how they work in a new context. In this study, the main categories are defined in advance, thus following the concept-driven (or deductive) approach. However, the subcategories are created based on the data, which aim at specifying and deepening the main categories. This is the data-driven (or inductive) part of the research method. This is the third of the abovementioned characteristic of qualitative content analysis: it is flexible. Inductive nature of qualitative content analysis allows the researcher to tailor appropriate key codes and categories

suitable for the purposes of the research, while going through the material. The following section addresses the categories more in detail.

4.2. Creating categories for the qualitative content analysis

The main categories for the qualitative content analysis are created with a deductive approach, meaning that they are predetermined. Linneberg and Korsgaard (2019) and Elo and Kyngäs (2008) argue that deductive approach is suitable, when those categories are known to relevant in the context of the data used in the research. Furthermore, since deductive approach has a somewhat narrower scope than inductive one, as the categories are pre-defined, it is an extremely helpful method when dealing with data that is rather extensive, which is the case regarding this research. The data that has been generated during eight years of intense and hectic events is no small feat to analyse.

The main categories reflect the three pillars established by the 2009 UNSG report on R2P: the first pillar (the protection responsibilities of the state), the second pillar (international assistance and capacity-building) and the third pillar (timely and decisive response). This decision to categorize the content of the data accordingly was chosen because it would answer to the research question most effectively. These categories reflect the conceptual and theoretical framework of the study. To recall the research question of this study:

> *What elements of Responsibility to Protect has the United Nations Security Council employed in the case of Yemen?*

Thus, the main categories are at the heart of the research question, as they seek to identify the measures the UNSC has taken in the context of Yemen. However, Schreier (2012) reminds that it is rather uncommon in qualitative content analysis to only use deductive approach. She argues that "a typical 'mix' would be come up with important topics based on what you already know and to turn these into main categories", this being the deductive part of the procedure and next "you … specify what is said about these topics by creating subcategories based on your material", this constituting the research's inductive approach (p. 89). As mentioned above, this study employs both deductive and inductive strategies, and the subcategories of the qualitative content analysis have been created inductively as they emerged from the data that this study employed. Linneberg and Korsgaard (2019) point out that by taking the inductive approach in this phase, the subcategories are close to the data and thus give a more specific and detailed description (p. 263).

5. Qualitative Content Analysis

This part of the study concentrates on the analysis of the work of the UNSC in the context of Yemen during the time frame of this study, starting from 2011 and ending to 2018. The introductory chapter to this study gave the background information to the conflict during these years, but this chapter is devoted to the tools that belong to the R2P repertoire and how the UNSC has employed them in order to help to solve the conflict and consequently aimed to protect the population of Yemen and alleviate their suffering. As it will be shown below, the UNSC has taken measures that belong to the R2P framework, even though it has never explicitly referred to them as R2P measures in the case of Yemen. This is understandable, taken into consideration that R2P is a delicate issue politically and diplomatically. It aims to prevent crimes that are the most horrendous and despicable acts that human beings can inflict upon each other, creating unnecessary suffering and death. Thus, it is natural that the UNSC does not advertise the measures under the umbrella of R2P. After all, the environment in which the UNSC needs to do its work is often strained with difficult relationships, the need for sensitive language and sometimes incompatible interests of the Council members that need to be accommodated. With no doubt, this is a very demanding setting and the pressures and expectation are often set too high. The maintenance of international peace and security is no easy task and it often involves difficult choices that may have unexpected consequences.

As listed in the introductory chapter, the following were recognized as R2P measures, and constitute the subcategories of the qualitative content analysis:

- The Gulf Cooperation Council Initiative and the Implementation Mechanism
- The National Dialogue Conference
- The Peace and National Partnership Agreement
- Fact-finding missions: the Panel of Experts and the Group of Independent Eminent International and Regional Experts on Yemen
- Sanctions
- Mediation efforts: Switzerland 2015, Kuwait 2016 and Sweden 2018

As it has been stated earlier in this study, the UNSC has the primary responsibility for the maintenance of international peace and security. Thus, the UNSC has a key role to play in the implementation of the R2P doctrine, especially when it comes to pillars II and III, and this can be seen in the chapters below. As described in Chapter 3.2.1., the first pillar

of R2P is rests on the responsibility of the state to protect its population. As such, there are not many pillar I measures the UNSC can take, and in the case of Yemen, there were none. As it has also been pointed out earlier, but it is necessary to reiterate here, the pillars of R2P are not separate entities, but they have a closely intertwined and interconnected relationship with each other and many tools that go under the pillars II and III affect positively the capabilities of the state to protect its population. However, as the scope of this research is to only study what the UNSC has done regarding Yemen in the context of R2P, it is not feasible to evaluate how the tools under pillars II and III have influenced the Yemeni state in respect to pillar I, as that would be another research topic. What is especially interesting, nevertheless, is that one can see the pillar structure of R2P very clearly in this research. Moreover, as previously mentioned, the pillars do not have a hierarchical or chronological order, and this can also be seen through this analysis: for example, the UNSC occasionally employs pillars II and III simultaneously. However, for the sake of simplicity, the analysis goes through the pillars one by one, starting from the second pillar.

5.1. International Encouragement, Assistance and Capacity-Building

As discussed in detail in Chapter 3.2.2., pillar II refers to international assistance and capacity-building. Especially the assistance by regional and subregional organisations is highlighted under the second pillar of R2P, but this international assistance can also mean the help provided by the UN and its special offices. Both of these strains of assistance are present: the GCC initiative and its implementation mechanism were the attempts of the GCC, a regional organisation consisting of the Arab nations (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates) on the Persian Gulf, while the National Dialogue Conference (NDC) was brokered by the UN and the GCC, and the last tool during the transitional period, the Peace and National Partnership Agreement (PNPA), was mediated by the UN.

Moreover, other tools that also belong under the umbrella of R2P's pillar II are fact-finding missions, and they have also been employed in Yemen. The Panel of Experts (PoE), created by Resolution 2140 (2014) has the mandate to "gather, examine and analyse information from States, relevant United Nations bodies, regional organisations and other interested parties" (para. 21). The Group of Eminent International and Regional Experts, on the other hand, was established through UNHRC Resolution 36/31 in 2017, with the mandate to "monitor and report on the situation of human rights, to carry out a

comprehensive examination of all alleged violations and abuses of international human rights and other appropriate and applicable fields of international law committed by all parties to the conflict since September 2014" (para. 12). Even though the Group of Experts is a creation of the UNHRC, it still is a R2P tool that has aided the work of the UNSC tremendously. As highlighted in Chapter 3.3., other organs of the UN can also play meaningful roles in the implementation of R2P doctrine, and the UNHRC is an extremely active player when it comes to R2P. Connected to this thought, Chapter 2.5., where human security (or the lack of it) was assessed with the help of the final report by the Group of Eminent International and Regional Experts (A/HRC/39/43), made perfectly clear that crimes against humanity and war crimes are taking place in Yemen. This is crucial and essential information for the UNSC, when they are deciding appropriate measures that need to be employed in order to better protect the population.

5.1.1. Transitional period tools brokered by the UN and regional organizations

This chapter addresses those tools that were devised during the transitional period of 2011 to 2014 to help Yemen have a peaceful transition from autocracy to an actual democracy, which was what the Yemeni people demanded in the first place in their protestations that were inspired by the general atmosphere of the Arab Spring in 2011. In hindsight, these measures, the GCC initiative and its implementation mechanism, the NDC and the PNPA, did not succeed in their aim as Yemen spiralled further into disarray and complete chaos. However, for the purpose of the study and to answer the research question in an all-encompassing manner, it is necessary to examine them thoroughly.

In response to the protests that started in Yemen in February 2011, the GCC mediation efforts began soon afterwards, in early 2011. However, the UNSC reacted to this rather underwhelmingly, as can be seen in a Security Council Report (SCR) from April 2011, which states: "Council members appear to share an understanding that the GCC should lead on this issue for now and at this stage Yemen should not become an ongoing item for the Council" (para. 4). Thus, it is rather obvious that the UNSC did not deem the political crisis in Yemen important or grave enough for its agenda but wished that the GCC would solve the issue. Moreover, the wording in Resolution 2014 (2011) seems to resonate with this attitude, as the UNSC is said to be "welcoming the engagement of the Gulf Cooperation Council, and reaffirming the support of the Security Council for the GCC's efforts to resolve the political crisis in Yemen" (para. 5). In other words, the

UNSC seemed to rely on the efforts of the GCC in the mediation process. This is rather interesting, since the UNSC did notice the problems within the scope of the initiative, as will be discussed in the forthcoming chapters, yet allowed it to proceed. The content of the initiative and its problematic nature will be addressed below.

The GCC initiative was signed on 23 November 2011, after then-President Saleh had rejected the deal on multiple occasions. The UNSC asserted additional pressure on Saleh through Resolution 2014 that had been adopted a month earlier, urging him to sign the initiative and its implementation mechanism and reminding the Yemeni government of its primary responsibility to protect its population. The negotiations leading to the signing of the initiative and its implementation mechanism were brokered by the GCC officials and Jamal Benomar, the Special Advisor to the Secretary-General on Yemen, had been appointed to the post over the summer by SG Ki-moon.

The GCC initiative created a political framework for a peaceful solution to the crisis in Yemen, while the implementation mechanism gave the procedural framework, diving the transition period to two different phases. According to the implementation mechanism, the first phase should be comprised of the formation of a government of national unity, which would serve as an interim government. The composition of the national unity government should be 50/50: 50% from the General People's Congress (GPC), which was led by President Saleh, and 50% from the opposition, which would include Joint Meeting Parties (JMP). This should be followed by a resignation of President Saleh, and in turn he and his associates would be granted legal and judicial immunity for crimes committed during his entire presidency. The newly formed government should accept this handover of power, and Saleh's vice-president, Abd Rabbu Mansour Hadi should become the legitimate President of Yemen for the time of the transitional period of two years. The first phase should also see the restructuring of the security and military forces. As soon as the initial transfer of power was achieved, the second phase of the transition could begin. This period was mainly dedicated to the National Dialogue Conference (NDC), where all Yemeni identities and political actors, including the Houthis, the Southern Separatist Movement, women and youth should convene to address and solve the country's major institutional issues (UNDPPA, 2011). The NDC will be discussed later in this chapter, but first the issues within the GCC initiative and its implementation mechanism need to be unpacked.

There is a vast number of problems that were included in the GCC initiative and its implementation mechanism. Some of them the UN did notice, while others went either under the radar or they were just ignored. The most problematic of these issues was probably the immunity clause that was included in the GCC initiative: Saleh was supposed to give up his political power as president and in exchange he and his henchmen got immunity for persecution for the entirety of Saleh's presidency. As it was mentioned in the introductory chapter and in the chapter that detailed the human security situation in Yemen, Saleh had been the president of Yemen for over 30 years, and he had ruled the country with an iron fist: his elite security forces and military troops had committed human rights abuses during the dictatorship of 33 years and he had suppressed peaceful protesters with excessive violence in early 2011 and had arbitrarily detained them. Thus, the immunity clause was extremely problematic as it seemed to do a trade-off between short-term peace and long-term justice, and local factions in Yemen, mainly the Houthis and the Southern Separatist Movement, voiced their dissatisfaction. Various UN organs did not seem to be pleased with this aspect of the GCC initiative, either: as pointed out in Chapter 2.5. that addressed the human security in Yemen, the UNHRC did not approve of this policy choice in its 2012 report (A/HRC/21/37) but called for its repeal, and asked the government to "comply with international human rights law prohibiting immunity for those responsible for serious human rights violations, including war crimes and crimes against humanity" (para. 67). In the 2017 report (A/HRC/36/33), the UNHRC argued that "the unwillingness of the parties in Yemen and the international community to pursue accountability for past crimes and human rights violations and abuses" have exacerbated the multifaceted crisis in Yemen (para. 78).

The members of the UNSC were also disappointed with the immunity law, as it was a direct violation of R2P principles and international law. The SCR from October 2011, when the Council was preparing to vote on Resolution 2014, seems to indicate that the members of the Council understood that they needed to be cautious when addressing the immunity issue, but coming to the conclusion that "the issue of immunity is between the [local] parties" (para. 3). However, Resolution 2014 can be seen to imply that the UNSC is not pleased with the immunity clause of the GCC initiative, as it "stresses that all those responsible for violence, human rights violations and abuses should be held accountable (para. 2). The Resolution does not name anyone explicitly, but it can be read between the lines that the Council is condemning the lack of impunity. It would seem that the Council thought that by urging Saleh to sign the GCC initiative and its implementation

mechanism, the situation in Yemen could slowly start simmering down and the society could start its healing process. The UNSC must have understood the possible negative effects of the immunity clause, but clearly opted for the compromise between peace and justice, at least initially. The train of thought of the UNSC seemed to go along the tracks of "peace first, justice later": the SCR from June 2012 argued that the second phase of the transition period, namely the NDC, should focus on "transitional justice and national reconciliation", among other things (p. 19). Moreover, as mentioned earlier, Resolution 2051 (2012) tried to amend the situation by presenting the same argument that transitional justice was something that the second phase should address (para. 3). The same sentiment was also present in the presidential statement (S/PRST/2012/8) that was first of its kind on the situation on Yemen, which states that transitional justice is something that the country needs to consider in the next phase of the transition. Thus, it can be argued that in late 2011, the UNSC seemed to prioritize the seemingly smooth transition of power, and it tried later to address the issue of transitional justice.

However, the issue concerning Saleh's immunity was not the only problem with the GCC initiative and its implementation mechanism. The fact that the initiative did not require Saleh to leave Yemeni political life, but implicitly allowed him to continue his political pursuits through his party, the GPC, was extremely problematic. Saleh was seemingly allowed to remain as the leader of the GPC, and thus occupy an important political office. As Sharqieh (2013) points out, this complicated the following reconciliation efforts in the NDC, and Yemenis felt cheated as they believed that Saleh would do everything in his power to undo the revolution (p. 5). Moreover, the fact that Saleh did not only continue to have significant influence in Yemeni politics, but he also remained in control of the elite security forces, created a lot of tensions between local factions (Lackner, 2016, p. 12).

Another major problem in the GCC initiative and its implementation mechanism was the fact that the first phase excluded major political players, most importantly the Houthis and the Southern Separatist Movement. Both of these factions were ignored when the government of national unity was formed and when the military was restructured. Thus, the first phase of the transition, which laid the foundation to the whole operation, was brokered between those, who already were in some positions of power: Saleh, the GPC, and the JMP, while ignoring those, who wanted to change the system. The GCC initiative and its implementation system thus created a political framework in which the old,

existing elite was guaranteed a role. Moreover, Lackner (2016) argues that the whole idea behind the government of national unity was problematic, since it included "individuals focusing on their personal or party interests rather than on the welfare of the country's population as a whole" (p. 13). Be that as it may, the fact is that the Houthis, the Southern Separatist Movement and altogether those, who protested in early 2011, were sidelined in the process, when the political future of Yemen was at stake. Moreover, as it will be addressed later, the influence of the GCC initiative and its implementation mechanism is far-reaching, and it would have been of utmost importance that it would have taken into account all major factions in Yemen, from the very beginning.

As laid down in the GCC initiative and its implementation mechanism, the second phase of the transition was the NDC, where "all forces and political actors, including youth, the Southern Movement, the Houthis, other political parties, civil society representatives and women" (UNDPPA, 2011, para. 20). Moreover, according to the initiative and its implementation mechanism, the Conference was supposed reach a conclusion after a period of six months (UNDPPA, 2011, para. 22). However, the timetable failed and the NDC started in mid-March 2013 and concluded in late January 2014. The UN was present in the NDC through Special Advisor Benomar and his team, and Benomar updated the UNSC on a regular basis about the progresses of the Conference. However, it needs to be remembered that the NDC was not supposed to solve every single issue in Yemen simultaneously, but it was rather one necessary piece in the puzzle of transition. As Special Advisor Benomar started at the UNSC meeting in September 2013, "the National Dialogue Conference was never designed to address all of Yemen's challenges at the same time. The Conference was meant to conclude with a broad consensus on a set of principles on nine core topics that would provide guidelines for the process of drafting a constitution, which is one more step in the transition" (S/PV/7037, p. 4). Moreover, Sharqieh (2013) argues that the role of the UN at the NDC was extremely influential due to its impartiality. Even the Houthis, who initially declined the invitation to participate in the Conference (due to their dissatisfaction with the GCC initiative and its implementation mechanism) were ready to attend the NDC as it happened under the auspices of the UN, characterizing it "a dialogue that is free from any foreign or domestic guardianship" (p. 21). The help of the UN was irreplaceable, as they facilitated multiple negotiation sessions and supported the process through diplomatic, technical and financial means.

As mentioned above and according to the Outcome Document of the NDC (2014), the Conference was divided into nine different working groups, based on their themes. The most problematic matters were discussed in the working groups that addressed the so-called "Southern question", Saa'da issue and the question of re-drawing the borders of federal regions. The Southern question refers to the political, economic and social claims and demands of the Southern Separatist Movement, whose goal is to re-establish the Southern Yemen as an independent state as it was before 1990. The central problem of the Saa'da issue was the northern governorate (for reference, see Figure 1 in Appendix), which had fallen under the control of the Houthis in early 2011. The borders of federal regions of Yemen were also under discussion, as the working group considered between two possible options: whether to divide the country into six regions or into two. The working groups that addressed these difficult issues, which were essential in terms of the future form of government, prolonged the negotiations at the NDC and were left as the last items on the agenda to be negotiated. It can be argued that due to the tight schedule and poor time-management, these issues were not solved in a satisfactory manner.

The negotiations at the NDC were long and difficult, as exemplified by the four extra months that the NDC took to conclude. This was hardly a surprise, taken into account the composition of the NDC, where multiple opposing factions were present, and a multitude of complex issues needed to be addressed. As the SCR from October 2013 points out, some representatives of the Houthis and the Southern Separatist Movement occasionally suspended their attendance due to various reasons, which made the completion of negotiations naturally less attainable. Also the representatives of the GPC were not always pleased with the proceedings at the NDC and withdrew their representatives from the working groups that were established to address transitional justice and good governance, due to "disagreements over immunity and political participation of officials of the former regime" (p. 14). Moreover, the report also details that the NDC representatives of the Houthis and the Southern Separatist Movement did not attend the final plenary session of the NDC due to their dissatisfaction with the results of the Conference, especially concerning the Southern question, the Saa'da issue and the federalization of the country. Yet, Special Advisor Benomar characterized the conclusion of the NDC as "a historic moment" for the country, adding: "after being on the brink of civil war, Yemenis negotiated an agreement for peaceful change, the only such in the region" (BBC, 2014). It is true that the NDC overcame many obstacles and it can be seen as a significant accomplishment. The pressure to find solutions to many political, social,

institutional issues was high not only nationally but also internationally and the fact that the Conference was able to convene mostly in cooperative atmosphere despite the diversity of actors included should be regarded as a considerable achievement. The important inclusion of young Yemeni men and women should be noticed, as this could signify a generational shift in national politics in Yemen in the future.

However, since the GCC initiative and its implementation mechanism had somewhat problematic contents, naturally the NDC had also its own complications. This is not too shocking when remembering that the framework for the NDC was already decided in the GCC initiative and its implementation mechanism: the NDC was just one of the pieces of the complex transition puzzle that was created mainly by the GCC. Even though the NDC was able to gather actors with diverse backgrounds to discuss variety of issues, it nevertheless seemed to prioritize the old, established political elites, such as the GPC and the JMP, while the Houthis and the Southern Separatist Movement were often left on the sidelines and their grievances were ignored. It was clear that the NDC was an elaborate game of power: when the elites needed the support of some marginalized group, they would give some attention to them, but this interest would be faded soon after. Moreover, and maybe even more importantly, the public tended to see the NDC only as a distraction from the reality they lived in, as the transitional period had not produced any concrete improvements regarding issues that they cared about, whether concerning employment, housing possibilities, education or the overall quality of life (Salisbury, 2016).

The negotiations concerning the federalization of the country turned out to be the main bone of contention. Clausen (2015) points out that the most difficult question, the future structure of the Yemeni state was effectively brushed aside until the deadline for closing the NDC was coming increasingly closer. Furthermore, the NDC arrived at the result that the Yemeni state was to become a six-region federation did not please the Houthis, nor the Southern Separatist Movement. The Houthis argued that the division of Yemen into six federal regions does not allocate wealth fairly but effectively "divides Yemen into poor and wealthy regions" and they thus rejected the plan (Gulf News, 2014). The Southern Separatist Movement, on the other hand, were also displeased with the six-region federation plan, as it did not meet their demands of independent South Yemen, which was the only acceptable solution to them. "We will continue our peaceful struggle until we achieve independence", was the ethos with the Southern Separatist Movement

participants when the plan was announced – they naturally rejected it, too (Al Jazeera America, 2014).

In hindsight, the NDC did not succeed in its goal of resolving issues and producing solutions that the country desperately needed. Moreover, the reconciliation between conflicting parties was at minimal in the end and the distrust was able to grow. Lackner (2016) seems to argue that all in all, the NDC bit off more than it could chew: the agenda of the NDC was enormous, and it would not be a small feat to any country to solve all these complex issues during a period of six months. She argues that the NDC might have had better success if it was done as a consultative process. However, as the whole point of the NDC was to make decision concerning the future of the country, the technicalities of how to bring about the needed change in Yemen were often ignored in the heat of a political debate.

However, the situation escalated again in mid-August, as mass protests were organized in several cities in Yemen. According to the SCR from August 2014, the demonstrators were inspired by the Houthi leadership that claimed that the current government was corrupt and not up to speed with reforms that were promised in the NDC, such as improvement of living conditions. The Houthis demanded president Hadi to dismiss the government, as the Houthis believed that it was not representative enough. The Houthis and their supporters had established camps around the Sana'a governorate and in the capitol, aiming at blocking strategic routes to the governorate. The UNSC expressed grave concern of the deteriorated security situation in its presidential statement (S/PRST/2014/18) in late August. The statement condemned the actions taken by the Houthis and their supporters, as they threatened the political transition and the security of Yemen and called the Houthis to cease these activities. In September president Hadi dissolved the government and promised to make some concessions that the Houthis demanded, but the Houthis rejected them. The security situation deteriorated quickly and fighting ensued, leaving over 300 people dead in the course of just a couple of days. In late September, president Hadi met with the representatives of the Houthis, and signed the Peace and National Partnership Agreement (PNPA) that was negotiated under the auspices of the UN, and Special Advisor Benomar was facilitating the negotiations (SCR, September 2014, p.12).

According to the PNPA, a new government was to be appointed. The agreement states that "the principles of competence, integrity and national partnership shall be upheld, and

broad participation of political constituencies shall be ensured" (UNDPPA, 2014, art. 1). The president was supposed to select new political advisors for him from both the Houthi movement and the Southern Separatist Movement in order to guarantee more inclusive political participation. The political advisors should have been responsible for creating criteria for new government officials, based on "integrity, competency, requisite expertise in a field relevant to the ministerial portfolio, commitment to the protection of human rights and the rule of law, and impartiality in the conduct of state affairs" (art. 2). Moreover, the PNPA also sought to improve living conditions by introducing various economic and social measures (art. 3). In return, the Houthis promised to hand over all medium and heavy weaponry to legitimate state officials (art. 4). The UNSC welcomed the signing of the PNPA, and issued a press statement, which stated that the signing and implementation of the agreement would provide "the best means to stabilize the situation and prevent further violence" and urged all parties to "abide strictly by the terms of the Peace and National Partnership Agreement in its entirety" (SC/11578).

Now it seemed that at least the Houthis got what they wanted: they were effectively part of the new government and in rather powerful positions. In early November, the new government was sworn in with Houthis in it. According to the SCR from November 2014, the security situation did not improve, since the Houthis did not withdraw their forces from the capitol, but rather added fuel to the fire as they advanced their campaign to other parts of Yemen, too. Another problematic fact was that the UNSC 2140 Sanctions Committee imposed targeted sanctions on two Houthi leaders, due to their deviation from the PNPA, exactly on the same date as when different parties in Yemen arrived at an agreement concerning a new technocratic government. The Houthis denounces the sanctions right away. These sanctions will be detailed later, as they are pillar III tools. However, it is important to mention this issue here, as the timing of the sanctions was rather unfortunate, and it seriously impeded the UNSC's relations with the Houthis.

These three agreements, the GCC initiative and its implementation mechanism, the NDC and the PNPA, which were made during the transitional period from 2011 to 2014 with the support of the GCC and the UN belong clearly under the pillar II of R2P. A regional organization stepped up, namely the GCC, and was mainly responsible for drafting the initiative and its implementation mechanism. The international community, through the UN and the GCC were both present in the NDC, while the PNPA was achieved with the help of the UN. These agreements were made in order to stabilize the country so that it

could protect its people. However, in hindsight, these agreements failed in their pursuit. Nevertheless, it is important to understand that at least there were efforts to solve the situation in Yemen, even though they did not succeed.

Even though the UN was on the stage from the very beginning, it seems that it was an understudy, while the GGC was playing the leading role. It is not unusual for the UN to allow a regional organization to take the reins, and there are plenty of reasons why it can sometimes be a beneficial course of action. As it has been pointed out earlier in this study, regional organizations can be very useful in solving local conflicts, as they usually are closer geographically, maybe culturally and socially, than the UN, which is headquartered in New York. Given their proximity, they can react to crises quicker that just are just bubbling beneath the surface and de-escalate them before they break out. In addition, there is often a selfish interest involved: it is very likely that a crisis can have a spill-over effect and it can spread to neighbouring countries. Thus, it is only sensible and more feasible to try to extinguish a small fire before it becomes a forest fire. Hence, regional organizations play a crucial role in the implementation of R2P and their opinions should be taken into consideration. However, Weiss and Welz (2014) also point out that the involvement of regional organizations is not always entirely unproblematic: they argue that occasionally regional actors cannot distance themselves enough from the situation and they might go after their own short-term interests and this way complicate the conflict even further (p. 889). As Burke (2012) notes, the GCC has long disregarded Yemen: it is the only country in the Arabian Peninsula that does not belong to the organization and is seen in the eyes of the GCC as a poor, conflict-ridden, terrorist-infested country. AQAP is a real threat, not only to the region, but to the whole world, as it is able to gain more supporters and control large areas due to the confusion and chaos in Yemen. It is entirely possible that the GCC wanted to stabilize the country with its initiative and through the NDC, since the threat of terrorism only grows, when there is instability. As the GCC initiative and its implementation mechanism set the scene for the transition of power and taken into consideration what kind of problems the initiative had, as it prioritized short-term peace, in order to stabilize the country, it is seems very likely that the GCC aimed at only restraining AQAP at the expense of long-term peace and justice.

5.1.2. Fact-finding missions

As already mentioned, there are also other pillar II measures that the UNSC has employed or benefitted from in the context of Yemen during the time period of 2011-2018. Namely,

fact-finding missions: the Panel of Experts (PoE), established through UNSC Resolution 2140 in 2014 and the Group of Eminent International and Regional Experts (hereafter "the Group of Experts"), created by UNHRC Resolution 36/31 in 2017. This subsection examines these two fact-finding missions and analyses their importance.

The mandate of the PoE is laid down in two different UNSC Resolutions: 2140 (2014) and 2216 (2015), while its mandate has been extended by Resolutions 2204 (2015), 2266 (2016), 2342 (2017) and 2402 (2018). The PoE supports the work of the 2140 Sanctions Committee by providing relevant information for the Committee, which was established in the same Resolution. The work and importance of the 2140 Sanctions Committee will be discussed in more detail later in this study. According to Resolution 2140 (2014), the PoE was tasked with "providing the Committee at any time with information relevant to the potential designation at a later stage of individuals and entities who may be engaging in the activities described in paragraph 17 and 18" (para. 21). These activities described in paragraph 17 of Resolution 2140 (2014) are defined as "acts that threaten the peace, security or stability of Yemen", while paragraph 18 gives a more detailed description of these activities, which include "obstructing or undermining the successful completion of the political transition, as outlined in the GCC Initiative and Implementation Mechanism Agreement; impeding the implementation of the outcomes of the final report of the comprehensive National Dialogue Conference through violence, or attacks on essential infrastructure; or planning, directing, or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses, in Yemen". Resolution 2216 (2015), on the other hand, expanded the PoE's mandate by increasing the number of members in the Panel from four persons to five, in order to be able to support the work of the 2140 Sanctions committee better. Thus, the work of the PoE is strictly connected to the work of the Committee. However, as the PoE does itself not designate sanctions targets, as that is the mandate of the Committee, it is more sensible to address its role under this subsection.

The PoE was also mandated by Resolution 2140 (2014) with the task of providing the UNSC with yearly reports concerning those activities that might undermine the political transition (para. 21). The PoE has produced five reports that address the years from 2014 to 2018. Those reports have been incredibly helpful for the UNSC and the 2140 Sanctions Committee, as they have documented incidents that threaten the peace, security or stability of Yemen in great detail. The reports analyse the implementation of targeted

sanctions that have been assigned to certain individuals or entities, but they also include a lot of information of violations of IHL and IHRL that have occurred during the conflict. As the conflict raged on, the PoE came to the conclusion already in its report S/2016/73 (2016), which addressed the year 2015 that "all parties to the conflict in Yemen have violated the principles of distinction, proportionality and precaution, including through their use of heavy explosive weapons in, on and around residential areas and civilian objects, in contravention of international humanitarian law. The use of such attacks in a widespread or systematic manner has the potential to meet the legal criteria for a finding of a crime against humanity" (para. 124). The same trend has continued throughout the reports by the PoE, where widespread violations of IHL and IHRL are documented and detailed, which may amount to crimes against humanity or war crimes.

This information produced by the PoE has been extremely helpful for the 2140 Sanctions Committee and through that, naturally for the UNSC, as well. As it has been made clear multiple times during this study, the events in Yemen have progressed with a very fast pace, and the SCR from September 2014 notes how they "seem to have outpaced the Council's ability to react to them" (p. 13). Thus, it is of utmost importance that the UNSC has such tools as the PoE available, as new information accumulates quickly. As Tourinho, Stuenkel and Brockmeier (2016) point out, the significance of panels of experts is huge: "panels of experts, which are widely recognised as increasing the quality of sanctions implementation, serve as investigative panels to provide the Council with credible and impartial information about events on the ground" (p. 147).

Moreover, the PoE also gives recommendations after each yearly report and they have been increasingly specific: for example, the final report by the PoE in 2015 (S/2015/125) that addressed the year 2014, the recommendations to the UNSC were rather vague. They essentially recommended the UNSC to remind the government of Yemen and the parties to the conflict of their international responsibilities under applicable international law. However, in the report by the PoE in 2019 (S/2019/83), which detailed the events of the year 2018, the recommendations to the UNSC were a lot more precise. For instance, the 2019 final report by the PoE urged the UNSC take specific actions, e.g. a resolution or presidential statement, which would urge the parties to the conflict to recognize their international obligations.

While the PoE's work has mainly concentrated on assisting the 2140 Sanctions Committee, the mandate of the Group of Experts is somewhat different. As mentioned

above, the Group of Experts was established through UNHRC Resolution 36/31 in 2017, with the mandate to "monitor and report on the situation of human rights, to carry out a comprehensive examination of all alleged violations and abuses of international human rights and other appropriate and applicable fields of international law committed by all parties to the conflict since September 2014, including the possible gender dimensions of such violations, and to establish the facts and circumstances surrounding the alleged violations and abuses and, where possible, to identify those responsible" (para. 12). Thus, even though the acting UN body that created the Group of Experts, the information it produces is clearly beneficial and important regarding the work of the UNSC in the context of R2P. The UNSC also reacted positively to the establishment of the Group of Experts: at the UNSC meeting in October 2017 (S/PV.8066), the formation of the Group of Experts was seen as "a significant sign of the increased engagement of the international community and a step forward towards accountability and reducing future violations" (p. 2). This is an example of pillar II talk at its finest: the responsibility of the international community in atrocity crimes prevention is clearly stated.

Since the work of the Group of Experts is already detailed earlier in this study (see Chapter 2.5.), it is not sensible to repeat it here. For the sake of simplicity, according the report of the Group of Experts (A/HRC/39/43) published in 2018, there is reasonable grounds to believe that all parties to the conflict have committed acts that may amount to war crimes and crimes against humanity. Moreover, the report also made recommendations, and it urged "the Secur ity Council to emphasize the human rights dimensions of the conflict in Yemen and the need to ensure that there will be no impunity for the most serious crimes" (para. 113). The Group of Experts found credible information on such individuals or entities, who have perpetrated international crimes and this confidential list was passed on to the OHCHR (para. 11). This a very clear example of R2P talk once again. Gross and systematic violations of human rights are taking place in Yemen, and these acts are perpetrated by all parties to the conflict. The report by the Group of Experts clearly reminds the UNSC of its duties: these crimes cannot go unpunished and impunity cannot reign.

5.2. Timely and Decisive Response

Chapter 3.2.3. detailed the third pillar of R2P, which is refers to the responsibility of the international community to apply relevant means. As the Chapter described, there are plenty of possible tools available, ranging from pacific settlement of disputes through

diplomatic and humanitarian means, or more coercive methods, such as targeted sanctions or non-consensual military force. This section details the R2P tools, which belong under the umbrella of pillar III that the UNSC has employed in the context of Yemen during the time period of 2011-2018. First of all, as it has been mentioned earlier in this study, the UNSC has imposed targeted sanctions on individuals, who have been determined to be potential or actual threats to peace and security in Yemen. These sanctions include arms embargoes, travel bans and assets freezes. Chapter 5.3.1. below will detail the work of the UNSC regarding sanctions and how they have evolved throughout the time period of 2011-2018. It should be kept in mind that a successful implementation of sanctions does not happen in a vacuum, but there are also other measures at play, which is exactly what has happening in the context of Yemen: when the UNSC was threatening to impose sanctions on various actors in Yemen, it was also engaging in the negotiations concerning the political transition. Wise use of sanctions can be a very effective tool for maintaining international peace and security. However, the timing of the sanctions could have been better, and it can be argued that the sanctions the UNSC finally imposed were "too little, too late".

Naturally, the UNSC has tried to find a solution to the conflict through mediation, which is another pillar III method. Peace negotiations have been organized under the auspices of the UN in Switzerland twice in 2015, once in Kuwait in 2016 and once in Sweden in 2018. Moreover, there were a number of negotiations that the UNSC tried to organize, but for a reason or another they had to be cancelled (e.g. parties were not able to attend). Mediation that taking place under the protection of the UN is an important measure in the R2P toolbox, as it effectively aims at finding a solution to a crisis, which in turn would minimize civilian suffering, which is quite often present in wars and armed conflicts. It should also be remembered that even if peace negotiations are said to "fail", they at least keep the communication channels open. It would be a lot harder task to negotiate peace, if the UNSC could not be able to reach the parties to the conflict. In addition, a negotiation situation is an exceptionally valuable situation to remind the parties to the conflict of their international responsibilities under international law. This being said, it does not mean that the peace negotiations have necessarily been conducted in the most effective way. Chapter 5.3.2. will detail the evolution of Yemeni peace negotiations.

5.2.1. Sanctions

The UNSC considered the possibility of sanctions for the first time in Resolution 2051 (2012), when the GGC initiative and its implementation mechanism were on the table and the political transition was just about to commence. However, it was already then clear that there were individuals and entities whose actions threatened the political transition. In Resolution 2051 (2012), the UNSC "expresses its readiness to consider further measures, including Article 41 of the United Nations if such actions continue" (para. 6). As previously mentioned in this study, Article 41 of the UN Charter specifies various diplomatic and economic sanctions that are within the reach of the UNSC, if they are deemed necessary. Even though Resolution 2051 stopped short of naming any individuals or entities, the UNSC had clear targets in mind: the SCR from June 2012 states that some UNSC members questioned the Article 41 reference in Resolution 2051, as it was "an implicit threat of sanctions against Saleh and his relatives" (p. 19). Thus, it is quite clear that the UNSC trusted that only the threat of sanctions very implicitly would be enough at this point. Later, as the NDC was about to begin in March 2013 and there were again clear signs that Saleh and his accomplices were threatening the derail the political transition, the UNSC issued a presidential statement (S/PRST/2013/3) in February. In the statement, Saleh and his former Vice President Ali Salim Al-Beidh are singled out and the UNSC repeats its threat of further measures, including sanctions (para. 5). However, as the SCR from February 2013, which reflected the importance of the presidential statement points out, the UNSC did not seem to be too enthusiastic about imposing sanctions on these potential spoilers. The reason was the timing: the SCR argues that if such decision were made and sanctions were imposed, this could somehow affect the participants at the NDC and this could also reflect negatively on the negotiations at the Conference, too. However, this time the UNSC made it very clear, who it is addressing and thus send a strong signal against any potential spoilers to the political transition.

However, as these measures were not enough, the UNSC unanimously adopted Resolution 2140 (2014), which established a sanctions regime, a sanctions committee (i.e. 2140 Sanctions Committee) and the PoE, which was already discussed earlier in this study. According to the Resolution 2140 (2014), the sanctions regime comprises of an asset freeze and travel ban. The asset freeze called the UN member states to "freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities designated by the Committee" (para. 11), while the travel ban required all member

states to “take the necessary measures to prevent the entry into or transit through their territories of individuals designated by the Committee” (para. 15). These are very text-book examples of the R2P implementation, as described earlier in this study. The designation criteria for sanctions, according to Resolution 2140 applied to individuals or entities that “threaten the peace, security or stability of Yemen” (para. 17) by “obstructing or undermining the successful completion of the political transition, as outlined in the GCC Initiative and Implementation Mechanism Agreement” (para. 18a), “impeding the implementation of the outcomes of the final report of the comprehensive National Dialogue Conference through violence, or attacks on essential infrastructure” (para. 18b) or “planning, directing, or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses, in Yemen” (para. 18c) would be targeted with abovementioned sanctions. However, even though the presidential statement from February 2013 (S/PRST/2013/3) named two individuals (former president Saleh and former Vice President Al-Beidh) that the UNSC regarded as potential spoilers to the peaceful political transition, Resolution 2140 refrained from naming any individuals or entities explicitly. The SCR from March 2014 sheds some light on the matter. The report reveals that while the Council members were negotiating the contents of Resolution 2140, they were unable to come to an agreement to specifically target any individuals or entities. As a compromise, the matter was left for the 2140 Sanctions Committee to decide how to proceed. Moreover, the report details that some Council members “the aim of the sanctions is to serve more as a threat meant to change the behaviour of spoilers or discourage potential ones, rather than measures to be actually imposed” (p. 19).

As mentioned in the context of the PoE, the UNSC issued a presidential statement (S/PRST/2014/18) in late August, where the target of the sanctions seemed to have changed: the UNSC expresses concern about the activities of the Houthis. The UNSC clearly reminds that any individual or entity that threatens the peace, security or stability in Yemen can be targeted with sanctions. The UNSC specifically names one political leader of the Houthis, Abdul Malik al-Houthi. However, the UNSC is only threatening to impose sanctions, but actually falls short of doing that. It seems that the UNSC once again hoped that by merely threatening to use sanctions would be enough to discourage individuals acting as spoilers. Nevertheless, in hindsight, this hope was misplaced. As described earlier in this study, in the context of the PNPA, the security situation had deteriorated gravely, as the Houthis did not obey the terms of the PNPA, but rather

escalated the conflict even further. The UNSC was in a very difficult spot, as the actions of the Houthis and their allies, troops loyal to former president Saleh, were clearly threatening the political transition and thus the peace and security in Yemen, and it would be justifiable to impose sanctions on these actors. However, as the SCR from September 2014 points out that since the Houthis were now in control of large parts of Yemen and it was likely that they were to participate in the new government, targeting the Houthi leadership with sanctions could seriously damage the UNSC's capability to interact with them. The fact is that the UNSC needs to take these kinds of matters into account too, when deciding what is the best course of action in order to maintain international peace and security. The UNSC is not a foreteller, even if that is sometimes expected from it, and sometimes it is impossible to know what happens in situations like these, when events happen so quickly that it is nearly impossible even for the UNSC to react to them.

The 2140 Sanctions Committee imposed sanctions on three individuals on 7 November 2014. According to the UNSC press statement (SC/11636), the Sanctions Committee "stresses the need for robust implementation of the sanctions as an important tool in achieving a peaceful, inclusive, orderly and Yemeni-led political transition process" (para. 2). The individuals that the Committee decided to impose a travel ban and assets freeze on two Houthi military leaders, Abd al-Khaliq al-Huthi and Abdullah Yahya al Hakim, and former president Ali Abdullah Saleh. According to the press statement, all these three individuals have engaged in acts that threatened the peace, security or stability of Yemen, by purposely trying to obstruct the agreements that have been made in order to guarantee a peaceful transition of power. However, as mentioned earlier in connection with the PNPA, the same day the Committee announced that it would be moving forward to impose sanctions on these individuals, the new government of Yemen was announced, and it included the Houthis, the JMP, the Southern Separatist Movement and naturally the GPC, whose leader Saleh still was. Even though the GPC and the Houthis released statements arguing that the sanctions imposed were unfair, the UNSC issued a press statement (SC/11638), where it simply welcomed the new government, and noted that the sanctions imposed on those three individuals only "underscored the international community's commitment to support a peaceful Yemeni political transition process" (para. 5).

It needs to be understood that the UNSC was facing a very difficult choice. It could not let these individuals off the hook, but at the same time, it could not risk antagonizing such

a big player in the conflict, such as the Houthis. The UNSC needed to show that there were consequences to these actions, but at the same time it needed to be able to interact with all the players in the conflict. According to the SCR from November 2014, this is the reason why the political leader of the Houthis, Abdul Malik al-Houthi (who was mentioned as a potential spoiler in the presidential statement in August 2014), was not targeted with sanctions. The same rationale also applies why former president Saleh's son, Ahmed Ali Abdullah Saleh was not designated, as an incentive for the faction to cooperate with the UNSC, even though the UNSC had information, which showed him engaging in activities, which threatened the peace and security in Yemen (p. 8).

After these sanctions were imposed on the three individuals, it started to become increasingly evident that the UNSC was headed towards an internal crisis in the context of Yemen. According the SCR from January 2015, Russia was originally opposed the idea of imposing sanctions and singling out the Houthis, as it argued that this could antagonize the group and thus make the crisis next to impossible to solve. However, the GCC countries or those countries championing their position in the Council, were in disagreement with this position and wanted the UNSC to take stronger measures against the Houthis (p. 6). It seems that the GCC countries have been able to wield in the Council, as can be seen in the handling of the GCC initiative and its implementation mechanism. This kind of internal fighting amongst the Council members is always counterproductive, and it can seriously impede the ability of the Council to carry out its work, as it should be in everyone's interests that the UNSC can effectively maintain international peace and security. Before this, the UNSC seemed to be somewhat unified regarding its stance on Yemen, but these more coercive actions seemed to have caused a rift between certain Council members.

This difference in opinion among the UNSC members became even more evident, when the Council adopted Resolution 2216 (2015), when Russia abstained from voting. By only abstaining, it did not block the resolution from being passed. By not vetoing it, Russia can be seen obeying the R2P doctrine, as it is mindful of its duties and responsibilities that are bestowed upon the P5. As Russia exemplifies the behaviour of RN2V, it guarantees that the UNSC can work effectively in a situation like this, but at the same time makes its opinion rather clear concerning the resolution. According to the SCR from May 2015, the reason why Russia abstained from voting was due to the content of the resolution: Russia felt that the UNSC should tread carefully with the Houthis and avoid

singling them out, as it could sabotage future negotiations with the faction. Moreover, Russia was displeased that the resolution did not call for an immediate ceasefire. However, the P3 (the UK, the US and France) and Jordan, which was a non-permanent member of the UNSC and had advocated the position of the GCC members, supported a strong response from the Council. Thus, they were also against calling for a ceasefire, as they believed it would seriously impair the effectiveness of the Saudi-led intervention (p. 8).

Resolution 2216 was passed few weeks after the Saudi-led coalition had started its military campaign 'Decisive Storm', after president Hadi had requested help from the GGC and the League of Arab States in defeating the Houthis. Resolution 2216 (2015) changed the sanctions regime regarding the sanction measures, list of targeted individuals and designation criteria. Concerning the sanctions measures, the resolution established an arms embargo, targeting the Houthis and forces loyal to former president Saleh (para 14). The resolution also imposed a travel ban and assets freeze on Abdul Malik al-Houthi, the political leader of the Houthis, and Ahmed Ali Abdullah Saleh, former president Saleh's son. The designation criteria were also altered: it explicitly added the violations of arms embargo and the obstruction of delivering, accessing or distributing humanitarian assistance as acts that threaten the peace, security or stability of Yemen (para. 19).

After Resolution 2216 (2015), there were no changes to the sanction measures, individuals targeted or designation criteria during the time period of this study. The sanctions regime was renewed yearly in Resolutions 2266 (2016), 2342 (2017) and 2402 (2018). In hindsight, it can be argued that the sanctions the 2140 Sanctions Committee imposed were too little, too late. The UNSC also recognized this: in the UNSC meeting (S/PV.7596), the chair of the Sanctions Committee Raimonda Murmokaitė argued that "when the sanctions regime was set up, the prevalent thinking was that the threat of sanctions alone was sufficient to deter spoilers. That proved erroneous. Empty shells do not deter spoilers. When the first individuals were finally designated in November 2014, it was already too late" (p. 13). Sanctions are a useful tool available to the UNSC, and they can be used for preventative rather than punitive purposes, and the UNSC tried to pursue that road in the context of Yemen.

Even though the Sanctions Committee or the UNSC did not impose more sanctions during the time period of 2011-2018, there were calls for that. The first report of the PoE (S/2016/73) after the Saudi-led coalition had intervened in Yemen, pointed out that all

sides to the conflict, including the coalition were guilty of violations of IHL and IHRL and the obstruction of humanitarian assistance. As detailed above, these are offenses that are among the designation criteria for sanctions. However, the coalition did not face any threats of "further measures" by the UNSC: even the PoE report did not make any new recommendations for new designations. According to the SCR from February 2016, several UNSC were displeased with the report, but for different reasons. There were those Council members, who were disappointed in the report, partly because it did not provide new recommendations on the list of targeted individuals. Then there were those members, who questioned the PoE's information on these violations. Lastly, there was Egypt as a non-permanent member that had replaced Jordan in the Council but continued to support the GCC's cause. In Egypt's interpretation, the PoE had exceeded its mandate as it also reporting on the violations perpetrated by the Saudi-led coalition that it also belongs to, since according to Resolution 2140 (2014), which established the PoE, its mandate was to find "information relevant to the potential designation at a later stage of individuals and entities" (para. 21), but not member states. Here is a text-book example of why the UNSC should be careful when giving regional actors too much power, as they can have their own interests in the matter that are not necessarily in line with the Council's mission. Moreover, as it has been earlier discussed in this study, the P3 and other Council members have strategic and financial relations with the members of the coalition, especially with Saudi Arabia and the UAE. This also has seriously hindered the ability of the UNSC to be more engaged on Yemen if it has meant countering the preferences of Saudi Arabia. These unfortunately close relationships of the Council members with Saudi Arabia will be explored in the chapter below, which details the mediation efforts done in order to solve the crisis in Yemen diplomatically.

5.2.2. Mediation efforts

As discussed earlier in this study, peace negotiations are an important part the implementation of R2P. In the context of Yemen, the mediation process started under the auspices of the UN soon after the Saudi-led coalition began their intervention at the request of president Hadi. Throughout the conflict, the UNSC has been determined that there cannot be a military solution to the conflict, and in this the Council has been unified. The negotiations between the two parties, the Houthi-Saleh delegation and the internationally recognized government of Hadi took place twice in Switzerland in 2015, once in Kuwait in 2016 and finally once in Sweden in 2018, which marks the end of time period examined in this study. Only the negotiations in Sweden produced tangible results,

as they produced the so-called Stockholm Agreement, which has three parts: the Al-Hudaydah Agreement, the Tai'zz Understanding and a prisoner swap agreement. The peace negotiation process will be detailed in the next subsection, starting chronologically with the first round of negotiations that were hold in Geneva in June 2015.

The UN-brokered negotiations were able to commence in Geneva on 15 June after several delays, and they ended on 19 June without any new agreements. This is partly due to the stance of the Yemeni government officials: according to the SCR from June 2015, the representatives of the government stated that they were going to Geneva not to negotiate, but to implement resolution 2216, even though the UNSC had specifically asked all parties to attend the consultations without preconditions. Here, it is necessary to examine Resolution 2216 closer, as it has so far only been analysed in the context of sanctions, as it will play a significant part later in the negotiations process.

Resolution 2216 (2015) takes an exceptionally strong stance against the Houthis. This is partly explained by the fact that the penholder for the resolution was Jordan, which is a member of the Saudi-led coalition, instead of the UK, which traditionally is the penholder on Yemen in the UNSC. Resolution 2216 condemns the actions taken by the Houthis "in the strongest terms" and demands the Houthis to "refrain from further unilateral actions that could undermine the political transition in Yemen", "end the use of violence", and "withdraw their forces from all areas they have seized, including the capital Sana'a" in effective immediately and in an unconditional manner (para. 1). What makes the situation even more difficult is that according to the SCR from July 2015, the Saudi-led coalition argues that the resolution authorises its military intervention, even though that is not true: Resolution 2216 reaffirms the UNSC's support for the legitimacy of president Hadi, but it did not authorize any specific measures to enforce this, other than those related to the sanctions regime (p. 5). It seems that the Yemeni government and the Saudi-led coalition supporting it completely overlook the part of Resolution 2216 (2015), which calls the parties to "resume and accelerate inclusive United Nations-brokered negotiations" (para. 5). Moreover, the timeline here is rather odd: the Saudi-led coalition began their intervention in later March, while Resolution 2216 was adopted in April.

Thus, this was the backdrop against which the Yemeni government officials arrived in Geneva: before the Houthis have started implementing Resolution 2216, there would be no talks. The Houthis, on the other hand, had a precondition of their own, according to the SCR from June 2015: they wanted the coalition airstrikes to stop before they could

engage in the negotiations and the inclusion of the PNPA as a reference document in the negotiations. However, the Yemeni government and the GCC members did not approve of this, as in their view the agreement was signed under coercion. This puts the UNSC in a rather awkward situation, since it has stated in its various statements and resolutions the importance of implementing these transitional period tools, the GCC initiative and its implementation mechanism, the NDC outcomes and also the PNPA. Thus, it can be argued that the precondition of the Houthis is more acceptable, since so far the UNSC has been supporting the implementation of the PNPA.

However, even though the first round of talks in Geneva did not produce any new agreements, it was still an achievement that they were able to convene around the same table, taken into account how hostile the situation was on the ground in Yemen. The last months had only deepened their divisions, as the two sides were in open war against each other. Thus, in this light, the negotiations can be seen as a significant accomplishment. It is next to impossible to negotiate a peace deal, if the warring parties are not even willing to meet each other. As the consultations were hold in Geneva and under the auspices of the UN, it gave both parties the sense that the negotiations were organized in a neutral, unbiased manner. This is of utmost importance, when trying to negotiate peace.

However, there were certain issues that in hindsight the UNSC could have managed better. The Council did not really put any significant pressure on the government or the coalition during the negotiations concerning their precondition and interpretation of Resolution 2216. Moreover, as the SCR from October 2015 reveals, the UNSC have not publicly corrected this false interpretation of the resolution (p. 18). As it has been pointed out repeatedly in this study, some Council members have a close relationship with Saudi Arabia through e.g. arms deals and are traditional allies of the Kingdom. It is very likely that these close relationships have strongly impeded the ability of the UNSC to effectively criticize the Saudi-led coalition. It is also rather interesting, how much power Saudi Arabia wields in the Council, despite not being a member. It has clearly counted on the help of other Arab nations that always have a representative in the Council to champion the coalition's positions in the UNSC. This is very unfortunate and it seriously waters down the effectiveness to implement R2P. However, it is also a fact that the UNSC is a political organ and the members care about their personal relationships with other countries: in the context of Yemen, it has sadly meant that the UNSC has been restrained

when discussing the situation in Yemen, and how the military intervention affects the humanitarian situation.

The UNSC issued a press statement (SC/12096) on 23 October 2015 that the Houthi-Saleh delegation and the Yemeni government officials were ready to participate in direct talks with each other. The UNSC once again called the parties to engage in the negotiations without any preconditions. However, interestingly enough, according to the SCR from November 2015, it seems that the UNSC members, importantly including the US, activated after the last negotiations in Geneva and they made it very clear to the Yemeni government that the implementation of Resolution 2216 can occur over time during the negotiation process, and it should not be a precondition for future talks (p. 14). It can be argued that since the Yemeni government was willing to participate in talks, it seemed to indicate that they accepted the requirement of the UNSC not to hold the implementation of the resolution as a precondition. Thus, it can be seen here very clearly how much it matters if the UNSC has a common view that they are advocating for and that they make that position publicly known. Especially the fact that the US has supported this view makes a huge difference. The peace talks began on 15 December and concluded on 20 December in an undisclosed location in Switzerland.

It was revealed in the UNSC meeting (S/PV.7596) that the second round of negotiations were at least initially more successful, since "the discussions in Switzerland led to a common understanding of a negotiating framework for the conclusion of a comprehensive agreement to end the conflict and resume inclusive political dialogue. That framework is firmly based on resolution 2216 (2015) and other relevant Security Council resolutions, and provides a mechanism for a return to a peaceful and orderly transition based on the GCC Initiative and National Dialogue outcomes" (p. 3). This is a significant breakthrough, as the Houthi-Saleh delegation was previously unwilling to take Resolution 2216 into account, and now they agreed to have it as a part of the framework through which Yemen could return back to having dialogue concerning the transition. The mediation process seemed to have changed their mind on that. However, a big problem was that there negotiations did not produce any kind of a written document, and this greatly hindered the future mediation efforts, as the Kuwait negotiations proceeded. The negotiations were supposed to continue on 14 January 2016, but they never materialized due to escalated fighting in Yemen, as the Saudi-led coalition announced on 2 January 2016 that they were officially ending the truce that was in place during the

negotiations, even though neither party really seemed to have any respect for it (SCR January 2016).

According to the SCR from April 2016, a new round of talks between the government of Yemen and the Houthi-Saleh delegation was supposed to commence in Kuwait later in April, preceded by a cessation of hostilities. The negotiations were seeking to establish a roadmap of sorts, which would focus on five main areas: "the withdrawal of militias and armed groups; the handover of heavy weapons to the state; interim security arrangements; the restoration of state institutions and political dialogue; and the creation of a committee for prisoners and detainees" (p. 15). However, the negotiations did not start in a particularly good atmosphere, as the Houthi-Saleh delegation could not arrive in Kuwait on time, due to the coalition airstrikes, which was a clear violation of the cessation of hostilities. Moreover, after the opening ceremony of the negotiations was over, it was reported that the parties did not meet again face-to-face during this round, which led to the point where UN officials were running from one room to the other in order to be able to facilitate the negotiations. Another issue that seriously impeded the negotiations was that there was no written version of draft roadmap, which was supposed to include these five deals – it is entirely possible that this also contributed to the failed negotiations (Salisbury, 2017, p. 36).

It was reported in the UNSC meeting (S/PV.7721) that the Kuwait talks came soon into an impasse over the sequencing of these steps in the proposed roadmap. In other words, the puzzle pieces were there, but the parties were unable to come to an understanding what should be the first piece to be put in place. The government officials were advocating for the first step to be the withdrawal of the Houthis from seized territories and disarmament, while the Houthis were interested in an agreement that begins with the establishment of an inclusive government, where they would also be present (p. 2). Naturally, this clearly indicates lack of trust between the parties. It is understandable, taken into account everything that has transpired in the war so far, but it can also be argued that the two parties are clearly looking after only their own personal interests, and they are putting those ahead of security and stability of the Yemeni people. The UNSC reacted to this, and they "urged the parties to show flexibility to secure an agreement" (SCR, July 2016, p. 3). However, these calls fell for deaf ears, as after more 90 days of negotiations, they ended inconclusively in August and fighting soon intensified again in Yemen. One of the reasons as why the negotiations broke down was the announcement in late July by

the Houthi-Saleh faction that they were creating a ten-person Supreme Political Council (SPC), which would govern Yemen: this naturally violates Resolution 2216 (2015), which specifically demanded to "refrain from further unilateral actions that undermine Yemen's political transition" (para. 1). Potentially as a response to this, according to the SCR from September 2016, the Houthi-Saleh delegation were unable to return to Yemen, as the Saudi-led coalition decided to ban commercial flights arriving or departing from Sana'a after the unsuccessful Kuwait talks, effectively refusing to allow the delegation's return (p. 19).

It became increasingly evident after the Kuwait talks that the UNSC stands divided on Yemen. The members of the Council still agreed that the conflict can only be resolved through diplomatic means and thus military force is out of the question. However, reaching consensus on anything else has been very difficult for the UNSC, especially between Russia, which has defended the Houthi-Saleh perspective and those championing the coalition's positions such as Egypt (of which it is a member) and occasionally Senegal. Again, other Council members have been less vocal, due to their close ties with the Gulf countries, especially with Saudi Arabia, which tend to seek stronger condemnation of the Houthis. Thus, the UNSC has not really been able to exert real pressure on the parties. Even though the demands stated in Resolution 2216 (2015) are terribly outdated and unrealistic, taken into account the situation on the ground, it is rather unlikely that the UNSC would shift the framework away from the resolution: this is due to the coalition preferences, as the resolution clearly benefits them in the conflict. It is highly unlikely that the Houthi-Saleh forces would withdraw and disarm without an agreement that guarantees their future political participation. Nevertheless, this is the demand of the Yemeni government, and they have proven to be unwilling to do compromises on this matter. Little did the UNSC know that Resolution 2216 would end up being one of its biggest stumbling blocks, when trying to negotiate peace between the warring parties. Again, as it is impossible for anyone to foresee the future, so it is also for the UNSC.

Moreover, the situation is further complicated by the fact that any agreement the UN is able to strike with the two parties, it also needs to be acceptable to the coalition, especially to Saudi Arabia, due to its importance in the region. The country clearly has leverage over the UNSC, and even over the UNSG: during the Kuwait negotiations in June, the UNSG's annual report on children and armed conflict was published. The report included the

coalition's airstrikes as a highly contributing factor in the child casualties in Yemen, and thus the Saudi-led coalition was listed in the annex of the report alongside the Houthis for the recruitment of children. However, this inclusion of the coalition triggered a strong reaction from Saudi-Arabia, and its UN ambassador argued that "the report's information was inaccurate and incomplete", while suggesting that the publication could seriously undermine the potential progress in the Kuwait talks. After a couple of days, the UNSG removed the Saudi-led coalition from the report's annex, after some coalition members had been threatening to defund some UN programmes. (SCR, August 2016, p. 16).

It is simply unacceptable that Saudi Arabia wields so much power within the UN system and is able to escape from its responsibilities. This kind of behaviour, both from the UNSC being unable to confront the Saudi-led coalition due to traditional and strategic relationships and the UNSG falling prey to an extortion, seriously damages the credibility of the UN. Then-SG Ki-moon stated in his speech that the decision to remove the coalition from the report's annex was "one of the most painful and difficult decisions I have had to make". However, in the same speech he also points out that the effects of defunding UN programmes would be even more detrimental to millions of children, and this is why he arrived at the conclusion of removing the Saudi-led coalition from the listing. He also reminds that it is "unacceptable for Member States to exert undue pressure" (Ki-moon, 2016). This portrays quite accurately the very complicated political environment: not only the UN needs to cater to the needs of the Yemeni government and Houthi-Saleh alliance, but also it needs to carefully consider the demands of the coalition due to their importance in the region and in the conflict. However, if the government of Yemen and the Houthi-Saleh alliance are looking after their own interests, exactly the same can be said about some of the members of the UNSC, too.

It should be noted that in general, 2017 and 2018 were rather inactive years for the UNSC on Yemen. Since Resolution 2216 (2015), the UNSC did not produce any new resolutions, other than those renewing the Yemen sanction regime annually – Resolutions 2266 (2016), 2342 (2017) and 2402 (2018). This was reportedly due to the UNSC members' unwillingness to compromise their political bilateral relationships and interests with Saudi Arabia and other Gulf countries. Moreover, it would have been very likely that a resolution which would somehow challenge the Saudi-led coalition or the Yemeni government, would be opposed by Gulf countries, or by those who champion their position in the UNSC (SCR, May 2017).

However, even if the UNSC was somewhat inactive during 2017, the situation in Yemen stayed the same as the war raged on. However, there were at least two very significant changes in the power dynamics in Yemen: the establishment of the Southern Transitional Council (STC) and Saleh's death. The STC was formed in May with the backing of the UAE (which is a member of the Saudi-led coalition) and is the political offshoot of the Southern Separatist Movement with the goal to restore the independence for South Yemen. Later, in January 2018, the STC declared a state of emergency in Aden, which serves as a temporary base of the Yemeni government, as the Houthis' are in control of Sana'a, and threatened to overthrow the government. Concerning the death of Saleh, the unlikely alliance of convenience between the former president and the Houthis had shown fissures already for months. However, the turning point was in early December 2017, when Saleh delivered a televised statement in which he stated that him and the GPC were "open to dialogue and willing to turn a new page with the Saudi Arabia-led coalition". Two days later, the Houthi forces killed Saleh and several family members of his and high-ranking GPC officials. However, the Houthis announced that their disagreement was with Saleh and those who militarily opposed them, but not with the entire GPC, in an obvious attempt to keep some of the GPC members still as the supporters of their cause (SCR, January 2018, p. 20).

After the Kuwait talks, it was only in December 2018, when the two parties met again face-to-face in UN-brokered negotiations in Stockholm, Sweden. The UN had tried to organize peace talks earlier in Geneva, but these never materialized. According to the SCR from September 2018, the Houthi delegation insisted that they would fly to Switzerland via Oman, in order to get medical treatment for their wounded fighters. A bigger problem to the negotiations was that the Houthis did not receive guarantees from the Saudi-led coalition that they would be able to return to Sana'a – as mentioned, after the failed Kuwait talks, the Houthi delegation was not able to arrive back at Sana'a with ease. However, as the Houthis were absent, the Special Advisor only engaged with the delegation composed of the Yemeni government officials.

After over two years since their last UN-brokered negotiations, the Houthis and the Yemeni government were able to sit down in Stockholm Sweden, in December 2018. This was noticed in the UNSC meeting (S/PV.8424) that took place one day after the negotiations had concluded. However, it was also noted in the meeting that the agreement was not the only thing that was achieved: according to the Special Envoy, the Houthis

and the Yemeni government "did business together, almost always in good spirits" (p. 3). This is a significant achievement, taken into consideration how long it has been since the two parties met in Kuwait and how those talks concluded. More importantly, these negotiations produced actually something tangible: the Stockholm Agreement, which is composed of an agreement on the city of a Al-Hudaydah, an agreement concerning prisoner exchange and a statement of understanding on Tai'zz. The UNSC adopted Resolution 2451 (2018), in which it "calls on parties to implement the Stockholm Agreement" (para. 3).

The Stockholm Agreement is an exceptional achievement: after all, it is the first peace agreement by the Houthis and the government of Yemen. The separate agreements within the Stockholm Agreement clearly aim at confidence-building, alleviating human suffering and improving the human security situation. The Agreement on Al-Hudaydah aims at keeping the three crucial ports of the city open, as they have been primary entry points for humanitarian aid. In June, the Saudi-coalition launched a siege on the city of Al-Hudaydah, which had been under the Houthi control, and this effectively blocked humanitarian aid from entering the country. The Agreement on Al-Hudaydah stipulates that both parties withdraw from the city. The Statement of Understanding on Tai'zz would work towards establishing a humanitarian corridor, which would alleviate the humanitarian suffering in the governorate, which has also been under the Houthi control since 2015. The prisoner exchange agreement, on the other hand, focuses on creating trust between the two parties, which is of utmost importance, when looking for any sustainable solution in a conflict (OSEGY, 2018).

As such, it is appropriate to limit the time period of this study between 2011, when the conflict started to boil over and 2018, when the main belligerents were able to come to an agreement on several points, for the first time during the conflict. Even though the support of the international community is crucial in crises like these, it cannot override the responsibility of the state, which has the primary responsibility to protect its population. However, even the help of the international community is pointless if those who are creating chaos and destruction are not willing to listen. It is certainly true that the population of Yemen needs the help of the international community, and the UNSC needs to better fulfil its responsibility to protect them, as all parties to the conflict have blatantly ignored IHL and IHRL and quite clearly committed war crimes and crimes against

humanity. Preserving strategic bilateral relationships is not good enough a reason to turn a blind eye to these violations.

6. Conclusion

Without a doubt, there is a lot to unpack. The situation in Yemen has deteriorated year after year and the humanitarian catastrophe is the gravest in the world. This study has examined the R2P measures taken by the UNSC, and the aim of this chapter is to draw together some conclusive remarks.

As mentioned earlier, the UNSC reacted relatively early to the situation in Yemen by invoking R2P measure. It reminded Yemen of its obligations under pillar I in Resolution 2014. However, since then, there has not been any clear reference to R2P. It is not very surprising, when taken into consideration how politically sensitive the topic itself is. The UNSC is forced to manoeuvre in politically and diplomatically delicate situations, which are concerned with maintaining international peace and security. Moreover, another reason as to why the UNSC has not invoked R2P more clearly is simply the fact that it is very likely that these kinds of statements would not have been adopted, due to the massive influence that Saudi Arabia and other Gulf countries clearly exercise in the Council. However, even if R2P has not been explicitly uttered in words, it can be seen in the actions of the Council: reminding the Yemeni government of its protection obligations, regional and international cooperation during the transitional period, fact-finding missions, imposing sanctions and finally the efforts in peace negotiations, while continuously calling parties to respect IHL and IHRL. These were all recognized as clear R2P measures. Thus, R2P has been implemented on the context of Yemen, even if it has not been clearly stated. This is probably a conscious choice by the UNSC, as invoking R2P explicitly is always a delicate matter and the atmosphere in the Council is often strained. After all, R2P implies that atrocity crimes are being committed, which are the most heinous and serious crimes in international relations.

There are certain issues that need some attention. Even though the UNSC has implemented R2P measures, it can be argued that it acted too late. It allowed the regional cooperation, the GCC, to take the driver's seat in the beginning: as such, it is not negligence from the UNSC, but the initiative the GCC proposed was deeply flawed. It allowed Saleh to with impunity. He and his henchmen had committed serious human rights violations for over 30 years. Yet, the international community did not hold him accountable, as the GCC initiative granted him immunity. The UNSC, like the UNHR, made their point of view very clear: they did not approve of the immunity law, but they did not stop it from happening. It should be understood that this lack of accountability

has exacerbated the conflict and made it more difficult to resolve. Not only when it comes to Saleh, but to all parties to the conflict, as they are merely paying lip service to IHL and IHRL. There needs to be accountability rather than immunity, even if accountability is harder to achieve. Serious human rights violations cannot be swept under the carpet. It is necessary to root out the causes of instability and insecurity, before it is too late. There can never be an effective trade-off between peace and justice, and this is what Yemen has hopefully taught to the international community. It is of utmost important that once this conflict has come to an end, one way or the other, there must be consequences for those, who have perpetrated these horrendous crimes on the civilian population. The international community owes that to the people of Yemen. Yemen should ratify the Rome Statute of the ICC in order to help the endeavours of the international community. It cannot be emphasized enough how important it is to stop the culture of impunity that has raged too long in Yemen.

Before the Saudi-led coalition began their intervention in late March 2015, Yemen was making progress to confront some of its most crucial problems. Yemen was widely viewed as a success story in the UNSC: the only country in the region that was heading towards a peaceful transfer of power. The UNSC was confident that its cooperation with the GCC was working in conflict prevention. However, as the conflict escalated as the coalition intervened, the situation deteriorated quickly, and the country descended into full-scale war. The measures taken by the UNSC during the transitional period in order to salvage the Yemen's political transition failed. However, it is also necessary to highlight that the UNSC at least tried. It is not fair to argue that Yemen has not been on the agenda of the Council or that the international community has completely ignored Yemen. The UNSC has attempted to find a solution to the crisis and alleviate the human suffering, but it has failed. It still needs to be understood that ignoring and failing are completely two different things: if one has failed, one has at least tried.

The UNSC is inherently a political organ, as it is composed of different member states. The decisions it makes can sometimes end up being counterproductive: such is the case with Resolution 2216, for example. It effectively minimizes the possibilities to resolve the crisis and it forces the UNSC to work in a framework that is terribly outdated. However, due to those relationships that some members of the Council preserve for political reasons, it has found itself in a position, where it does not have the will or the power to change these circumstances. Moreover, the situation is further complicated by

the fact that the UNSC feels the need to take into account the regional opinions, especially the position of Saudi Arabia. Since Saudi Arabia has been able to garner so much influence in the Council, the approval of the country is a necessity on matters concerning Yemen. Western countries, those who are making more or less lucrative arms deals with the members of the coalition, should seriously reassess their priorities and their relationships.

Taken into consideration the influence the Saudi-led coalition has concerning the crisis in Yemen, it is peculiar that the coalition has not been represented at the peace talks. As pointed out earlier, it is impossible to strike a deal between the two parties, the Houthis and the Yemeni government without the approval of the coalition. Thus, it is only counterproductive not to have them present, when peace is negotiated. Connected to this thought, the UNSC's understanding of the crisis in Yemen seems to be very binary, as if there are only two factions at play: the government and the Houthis. However, this is not a very realistic picture. There are more players, whose needs and requests should be taken care of or the very least, taken into account. For example, the Southern Separatist Movement has completely been ignored, even after they politically organized themselves and formed the STC and threatened to overthrow the government. Even if the UNSC was able to resolve the conflict between the government and the Houthis, there is still the Southern question that needs to be settled. Ignoring the STC is going to be counterproductive in the long run. It is understandable that the UNSC wants to prioritize the conflict between the Houthis and the government, as it is causing excessive and unnecessary civilian suffering. It is also a fact that the more parties there are involved in a conflict, the harder it is to find a solution that is acceptable to everyone. However, it is impossible to find lasting and sustainable peace in Yemen, if some important players, such as the Saudi-led coalition and the STC are not represented at the peace negotiations.

What should go without saying, is that R2P is clearly a politically and diplomatically delicate matter. It puts a lot of pressure on the UNSC where tensions even without R2P can rise very high. After all, it is the UN organ that has the primary responsibility when deciding on matters concerning international peace and security thus often making the Council a place, where national interests of member states come to play a huge role. Moreover, the need for political will is an absolute necessity in regard to the responsibility to protect. The demonstration of this political will is necessary at every step. The state needs to show political will, when it owns up to its responsibility to protect its population.

The international community needs to gather its collective political will if the state fails to manifest its primary raison d'être. Political will needs to be present in every decision that is made regarding R2P, whether those means are diplomatic, economic, humanitarian, or something in between. And if the Security Council deems military power to be the last and only possible measure, political will is a necessity in the rebuilding phase – the international community needs to be committed in reconstructing the state in partnership with local authorities.

The UNSC realizes that there is a real possibility to end the conflict in Yemen. A considerable amount of political will needs to be garnered, and this needs to happen on local, regional and international levels. The longer the conflict continues, the harder it is to find a viable, sustainable and peaceful solution to the problem. Suspicions and distrust only grow insurmountable the longer it takes to resolve the conflict and have all the factions gathered around one table. The international community needs to show greater commitment to Yemen. Regional actors need to understand that their actions have consequences. The state exists to protect its population from gross human rights violations, atrocity crimes. That is the essence of its duty. Yemen needs to own up to its obligations and responsibilities.

6.1. Future research possibilities

Yemen, R2P and human security as such are extremely important and also intriguing research topics. There is much to discover and plenty of ideas. For example, future research could look into the situation in Yemen from Freedom from Want -perspective: however, one should narrow the topic down very effectively, since there is a lot to uncover – from food insecurity to health issues. If one is interested in gender aspect, one could take a look at the situation in the light of UNSC Resolution 1325 (2000), which addresses the disproportionate impact that armed conflict has on women and girls and calls for more inclusive peace negotiations and post-conflict reconstruction. It is a fact that when more women are involved, peace is more durable and sustainable. Women are, after all, taking the greatest toll of the war as noted in 2017 during a UNSC meeting (S/PV.7953), as they are often the prime civilian targets. There is also a lot more to discuss about bilateral relationships, which often hindered the UNSC's ability to address the situation in Yemen effectively: for example, one could examine the changes in the relationship between the US and Saudi Arabia during the Obama Administration to the Trump Administration and

now again, what newly inaugurated president Biden decides to do. As said, there are a lot of options for future research. Yemen should be researched more carefully, as there is lot to unpack and to understand.

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Appendix

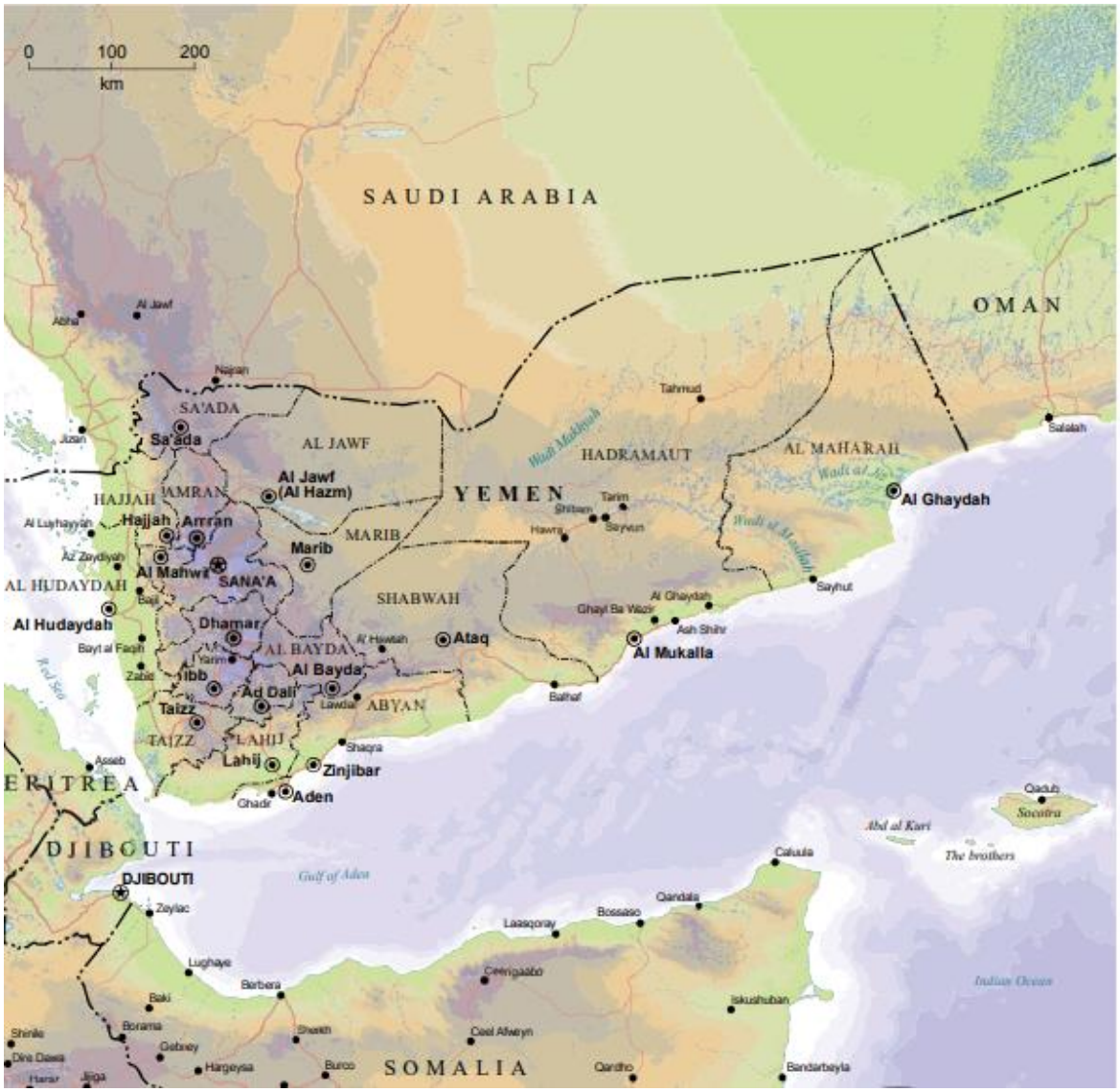

Figure 1: Map of Yemen and the region (OCHA, 2010)