US aggression in Yemen cloaked by 'self-defense' lie

By Craig Mokhiber
Former head of New York OHCHR

OPINION

Yemenis assess the damage caused by a US air strike on a market in Sanaa, Yemen, on April 21, 2025.
MOHAMMED HUWAIS/AFP

The US (like the Israeli regime with which it collaborates so closely) is fond of the "magic word defense". When operating outside the bounds of international law and human morality, they simply spout terms like "terrorist" or "self-defense," as if these incantations provide an impermeable shield against legal accountability for their actions.

Needless to say, they do not. And yet you would not know this from the ways that Western media corporations dutifully parrot these narratives. It thus bears repeating that neither law nor morality is on the side of the US government in its armed assaults on Yemen.

The US is attacking Yemen because the Yemenis dared to impose a blockade on shipping destined to resupply the Israeli regime and its unlawful occupation and genocide in Palestine.

Thus, while the Yemeni maritime blockade on the Israeli regime is fully justified (in its opposition to the unlawful Israeli occupation, siege, and genocide in Palestine), the US attacks on Yemen are entirely unjustifiable and unlawful under international law.

Indeed, in its attacks on Yemen, the US is violating both its own laws (requiring Congressional authorization), as well as international law on three levels: by committing the crime of aggression, by acting in complicity with the genocide in Palestine, and by violating the international humanitarian law rules of necessity, proportionality, and distinction.

This is not a questionable case. The UN Charter, a binding treaty imposing legal obligations on all countries, only allows the use of armed force by a state in two cases: (1) when the use of force is explicitly authorized by the UN Security Council or (2) temporarily, as an act of self-defense, if an armed attack occurs against a UN member state, until the Security Council can act. So, when, in January of 2024, the US (and the UK) failed to get Security Council authorization to use armed force against Yemen in support of the Israeli regime's genocide in Palestine, they adopted two tactics: lie about the resolution and claim self-defense.

But those tactics cannot conceal the unavoidable conclusion that their attacks on Yemen are as unlawful as they are morally reprehensible.

No Security Council authorization

To be clear, despite US and UK efforts, the resolution invoked by the US and its allies to justify their attacks, Resolution 2722, adopted by the Security Council on January 10, 2024, provides no authorization for the use of force.

None.

The Security Council had already imposed sanctions on the Ansarullah (Houthis) of Yemen (in connection with the civil war), and later condemned the Red Sea blockade, but it never authorized the use of military force by member states.

But having failed to include force authorizing language, the US and its allies worked to include obscuring language in the resolution to provide cover for their false narrative.

The muddled negotiated text that resulted was, in a word, embarrassing for the Council. While it correctly denies any authorization for the use of force, it also distorts international law and gives cover to the US and its allies for acts of aggression against Yemen.

Its distortion of international law is evident in its purported placement of the norm of freedom of navigation above the jus cogens [peremptory norm] and erga omnes [towards all] rules of genocide prevention, self-determination, and third state obligations not to aid the acquisition of territory by force.

I say "purported" because, as a matter of law, UNSC resolutions cannot trump jus cogens and erga omnes rules of international law. The Council simply does not have that authority. Any such assertion by the Council would be null and void.

Indeed, the Security Council derives its mandate and any powers it has from the UN Charter. And the Charter is a treaty that is part of international law. It does not stand above international law.

And the obligations to prevent genocide, apartheid, and unlawful occupation all predate the adoption of the UNSC resolution and bind all UN member states in all circumstances.

These obligations are clearly codified in the UN Charter, in treaties like the Genocide Convention and the Geneva Conventions, and in customary international law.

But to make matters even clearer, just two weeks after the adoption of resolution 2722 (on January 26, 2024), the ICJ found Israel to be plausibly committing genocide in Palestine and put all third states on notice of their obligation to cease supplying the regime's crimes.

And just a few months after that (on July 19, 2024), the ICJ explicitly notified states of their obligation to cut off all aid to the Israeli occupation regime.

This leaves no room for doubt. Israel's occupation, apartheid, and genocide violate the highest-level rules of international law, imposing on all countries obligations to do all in their power to stop these crimes.

Yemen's blockade of Israel was therefore justified in international law. Attacking Yemen was not.

But this has not stopped the US and its allies from trying to invoke the UNSC resolution from January 2024 as a justification for armed attacks on Yemen, even after the various findings of the ICJ on Israel's offenses in Palestine since the resolution was adopted.

They have shamelessly sought to claim that the resolution authorizes the use of force against Yemen, when it does no such thing.

Indeed, despite US efforts, the resolution definitively does not include any Chapter VII authorization for the use of force.

Rather, it merely "takes note" of the right of states to defend their vessels from attacks. This is, in itself, legally dubious language and does more to obscure than to provide clarity. But it is definitively not, as a matter of both international law and Security Council practice, an authorization for an armed attack on a country.

And not only does the resolution not authorize an armed attack, but it actually discourages such action by urging "caution and restraint to avoid further escalation" and encouraging "enhanced diplomatic efforts by all parties to that end".

Additionally, the resolution only defends the navigational rights and freedoms of vessels "in accordance with international law". Ships seeking to resupply the Israeli regime during its genocide, siege, and unlawful occupation of Palestine are not acting "in accordance with international law," as the International Court of Justice has made clear.

What is more, the resolution reaffirms that international law, including the United Nations Convention on the Law of the Sea (which, by the way, Yemen has ratified but the US has not), sets out the legal framework applicable to activities in the oceans, including "countering illicit activities at sea".

And that is indeed a statement of the law. But it begs the question of what activity at sea could be more illicit than using shipping to resupply a genocide and an illegal occupation, in breach of third state treaty obligations, and after the ICJ has already pronounced on the subject.

Every ship that attempts to break the blockade in order to resupply the Israeli regime as it conducts genocide and unlawfully occupies Palestinian territory is in breach of international law. Any seafaring activities to this end are by definition illicit. There is no right in international law to use force to defend such illicit activities.

No legitimate claim to self-defense

Thus, the US and its allies cannot legitimately invoke Resolution 2722 as a justification to attack Yemen. No doubt aware of this, they have padded their case with a claim of "self-defense" under the UN Charter.

This, too, is a false claim.

To be clear, states with the capacity to intervene to stop the resupply of the Israeli regime are duty-bound to do so. That is precisely what Yemen is doing. Attacking Yemen to support the Israeli regime is an act of aggression. This is precisely what the US is doing.

First, a country cannot invoke self-defense under Article 51 of the UN Charter in order to justify unlawful acts, such as facilitating unlawful occupation or genocide. If a state seeks to do so, and someone steps up to stop them, the state cannot claim self-defense as a basis for attacking them, and, even less, they cannot claim a right to make war on a country in the name of self-defense.

Secondly, the US has not been subjected to an "armed attack" within the meaning of international law. Indeed, the merchant ships engaged by the Yemenis were not American ships and were not sailing under the US flag. And even if they were, this would still not constitute an armed attack on the state (as defined in international law) and thus would not justify self-defense.

As for US military ships, these were only fired at in self-defense by the Yemenis after the Americans traveled to the region and participated in ongoing attacks on Yemen. No US claim to self-defense can flow from such circumstances. Simply put, traveling around the globe to attack another country and then claiming self-defense when they strike back is not a legitimate claim under international law.

Third, the US (and other complicit Western governments) are seeking to claim a cross-border right of self-defense against an entity that they do not recognize as a state. Neither the US nor the UK recognizes the Ansarullah (Houthi) government in Sanaa. Instead, they maintain relations with the UN-recognized Presidential Leadership Council that controls territory in the south of the country. And they do not claim that the entity that they recognize is in any way responsible for the Houthi actions. Generally, invoking self-defense requires that the armed attack to which a state is responding must be imputable to a foreign state. While there is debate on whether and in what (exceptional) circumstances Article 51 self-defense can be asserted against a non-state actor, it is indisputably a more difficult case to make. And using such a claim to actually wage war on the territory of a state (as the US is doing in Yemen) is even more dubious.

Fourth, the right of States to defend their individual vessels from attack is not the same as the right to make war on the country of the attacker. As correctly articulated by the Swiss representative to the Security Council, lawful force is "strictly limited to military measures to intercept attacks against merchant vessels and warships to protect said vessels and the persons on board. In this context, any military operation that goes beyond this immediate protection need would be disproportionate."

Fifth, the law of self-defense also requires respect for the principles of necessity and proportionality, and international humanitarian law requires strict application of the principle of distinction. The US has violated all three.

The US attacks are manifestly unnecessary because the US has not been attacked, and, in any event, it has other avenues of redress for its complaints about Red Sea shipping. It could, first of all, respect the humanitarian blockade and its international legal obligations to refrain from supporting the Israeli regime while it is engaged in unlawful occupation, siege, and genocide. It could withdraw its military ships and planes from the region and cease its threats and use of force.

Beyond that, it could seek diplomatic solutions. It could encourage ships to respect the blockade, thus obviating the perceived need for conflict. Knowing that there are alternative sea routes to the Mediterranean, it could encourage ships to take those routes. And, in any case, claims of necessity only apply to the use of force necessary to repel an armed attack. They are not allowed for the purpose of protecting a state's purported economic or security interests. And, in all cases, once an armed attack has ceased, the necessity ends.

For the same reason, the US attacks violate the principle of proportionality. The wholesale bombing of Yemen, including of Yemeni cities, civilians, and civilian infrastructure, for the stated purpose of facilitating the breaking of the blockade by merchant vessels, cannot be defended as within the bounds of proportionality.

Finally, the US strikes have violated the principle of distinction, deploying massive weaponry and disproportionally killing and wounding Yemeni civilians, now in their hundreds, many of them children and women.

The full article first appeared on Mondoweiss.

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