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In times of crisis

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Louise Arimatsu and Rasha Obaid tell us Yemen's story. With crisis after crisis, emergencies unfolding within emergencies, the complexities of tackling disease in war and the legal responsibilities of leadership to protect life are ever starker and ever more urgent. This two-part piece offers poignant reflections on privilege and the realities of embedded political and economic interests that leave communities broken.

Part I: The crisis of disease and war

On 24 April Saudi Arabia, on behalf of the international coalition supporting the Government of Yemen in exile, announced a [unilateral ceasefire](#) in the conflict with the Houthi movement (*Ansar Allah*) that is now in its 6th year. The decision, it was claimed, was taken to enable Yemen to prepare for and take the necessary steps to mitigate the adverse effects of the COVID-

19 pandemic that threatened to [cripple the country](#). [Motivation](#) aside, Saudi Arabia's announcement nonetheless offered an opportunity to bring to an end one element of this war that has claimed [100,000 Yemeni lives](#).

Whether the other parties to the conflict – be they the forces loyal to President Hadi, those loyal to the Houthi movement, the Southern Transitional Council (STC) or any other armed group – will likewise see the threat of the virus as a [‘timely moment’](#) to halt ongoing hostilities (as urged by the [UN Secretary-General](#), the [OCHA](#), the [UN Security Council](#) and [Yemeni women activists](#)), prioritise the [‘fight’ against COVID-19](#) and even enter into meaningful peace talks remains to be seen. Early [signs](#) are not encouraging. The impending catastrophe appears to have had little impact on the [conduct](#) of some armed actors who, rather than abandoning violence, are treating the pandemic as an opportunity, a moment in time, to consolidate power through force. That said, even Saudi Arabia has not entirely stopped its [bombing campaign](#) notwithstanding the reported [surge in deaths](#) that are likely due to the virus and the fact that Yemen's healthcare system is far from prepared to respond to the crisis.

COVID-19 is not the first public health emergency that has been confronted by the Yemeni people in the midst of armed conflict. After all, [war spreads disease](#). It does through deprivation, destruction, the [movement of fighters](#) and the forced displacement of civilians. Over five years of hostilities characterised by [indiscriminate attacks](#) on the part of all the warring parties has stripped the Yemeni people of basic sanitation, access to clean water and nutritional food and forcibly displaced many who now live in overcrowded spaces fuelling the incidences of deadly diseases such as [MERS](#), [diphtheria](#), [dengue fever](#), [chikungunya](#) and [cholera](#) which were once under control.

The destruction of Yemen's medical infrastructure and targeting of health workers has reduced healthcare services to the bare bones increasing the likelihood of civilian deaths not only as a result of the hostilities between the belligerents but through the any number of illnesses that were [once treatable within the country](#). In particular, the reduction in ante- and post-

natal healthcare due to the conflict has reintroduced risks for women and girls exemplified by the [rise in maternal mortality rates](#). In some [cities](#) the luxury of hospital deliveries is no longer available. Over the years, Yemenis have individually and collectively borne one crisis after another forcing them into a precarious existence in which time has been disrupted and their mental health undermined, a reality that many around the world are experiencing first-hand.

Years of armed conflict has not only resulted in the decimation of Yemen's healthcare system but has severely depleted the immunity levels of the entire civilian population through conflict-created malnutrition and disease, earning Yemen the reputation of being the site of the worst [humanitarian crisis](#) in the world. The [fear](#) is that COVID-19, which is exacting a heavy toll in the most advanced healthcare systems in the world, will result in an [unthinkable death count](#) with epidemiologists warning that the virus can spread faster, more widely and with deadlier consequences than in many other countries. After all, even in the early stages of the outbreak, it was clear that those with lower immunity levels were at a heightened risk of death, a fact that necessitated prompt responses. As observed by the UN High Commissioner for Human Rights in late February, COVID-19 presented a ["serious threat to the right to life and to health of people everywhere"](#) requiring states to adopt effective human rights compliant strategies that were attentive to the particular risks faced by some most especially older people and those deprived of their liberty.



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The crisis of political leadership and legal responsibility

As COVID-19 began spreading across borders, some governments chose to take **comprehensive** and **sweeping** steps at an early stage to prevent the spread of the virus. Others, on the other hand, did **little** while some chose to **delay** intervening principally for economic reasons with **devastating human consequences** that are hard to ignore. The **handful** of governments that have elected to take these latter routes diverge ideologically but most subscribe to a politics that is populist, deeply hostile to internationalism – **institutional** and **normative** – and wedded to **patriarchal** beliefs.

The Hadi Government has been in a far more difficult position than most governments in that even if it chose to do so its *ability* to enforce political decisions to protect the population is constrained by the lack of control it has over large areas of the territory. Much of land in the north including Sanaa, the capital, are controlled by the Houthis while the Southern Transitional Council (STC), which **declared its intention to self-govern** in late April 2020, has control over Aden. The Government's loss of control does not however diminish its international legal obligations notwithstanding the ever-fragmenting liminal spaces in which emergencies are unfolding within emergencies. Rather, the doctrine of international legal responsibility continues to attach to the authority that claims the lawful right to govern, not least in crisis situations.

This does not mean that the Hadi Government is the *only* actor with legal responsibility. International humanitarian law (IHL) dictates that each

party to the conflict bears the primary responsibility to meet the basic needs of the population under its control. Treaty (GC, CA3; AP II, Art 7(2)) and customary international law (rule 110) requires the parties to respect and protect the wounded and the sick and provide medical care as far as practicable with the least possible delay and without discrimination. This involves permitting impartial humanitarian organisations such as the ICRC and inter-governmental organisations including the UN to assist in meeting the healthcare needs of the population. Permission to do so may not be arbitrarily refused (a practice that has become all too common in Yemen) and although the parties retain the right to determine the conditions of humanitarian access, including movement restrictions to prevent the spread of the virus, the basic IHL duty to facilitate the rapid and unimpeded passage of the humanitarian relief prevails.



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IHL obligations are further reinforced by international human rights law (IHRL) which applies to the Hadi Government as a matter of law and to the Houthis and STC on the basis that they have [effective control and exercise governmental powers](#) as expressly recognised by the [international human rights system](#). On 25 April, 2 days after public protests over the lack of basic supplies such as water and electricity, the STC declared a state of emergency in Aden and subsequently announced lockdown measures including the closure of public spaces and mosques ostensibly to protect the public from the virus. Meanwhile, the Houthis have chosen to detain those who are suspected of having COVID-19 leaving many Yemenis reluctant to seek medical assistance.

Although the duty to respect the norms set forth in the human rights treaties to which Yemen is a party is one that applies to all actors, state actors have additional obligations that extend beyond simply respecting those norms. All governments, including Yemen's, are required to take positive measures to protect life ([Article 6, ICCPR](#)) such as against life threatening diseases like COVID-19 ([General Comment 36](#) para 26) and the duty to '[take measures to prevent, treat and control epidemic and endemic diseases](#)' (General Comment 14, para 44) pursuant to [Article 12 ICESCR](#) among a host of other [positive legal obligations](#) set forth in human rights treaties to which they are party.

It remains to be seen whether some leaders will be held [responsible for failing to meet their minimum obligations](#). The major shortcoming of human rights law is that, notwithstanding the extensive governance powers wielded by the Houthis or indeed the STC, as non-state actors neither has international human rights obligations comparable to their state counterparts. For those Yemenis who find themselves in territories under the control of non-State actors, life remains precarious although this does not mean that the law is entirely absent. Both IHL and human rights law were [designed](#) to operate in crisis situations (man-made or natural) and provide [invaluable guidance to all](#) precisely when [hard political decisions](#) must be made.

Part II: Crisis and what we see

Crisis is a temporal concept derived from the Greek term krisis which referred to the turning point in a disease, the moment of change leading to recovery or death. Crisis also denotes a pivotal moment of upheaval when difficult decisions must be made.

If the pandemic has revealed anything, it is how privilege and patriarchy operate across the world. After all, every crisis exposes the elitist value system at play. Thus claims that diseases, such as COVID-19, are 'levellers' elides the fact that not everyone is at the same risk of contracting the disease. Immunity to disease is often the outcome of poverty – which is deeply gendered – resulting from political choices made and normalised within states and between states. Diseases trace the lines of existing inequalities accentuating hierarchies and disadvantage. Protections from risk are likewise measures available to the privileged who have control over spaces whether it is to exclude or to confine the other, typically deemed expendable, in communal spaces such as prisons, camps, hospitals, care homes, dormitories. The ability to social distance (or for that matter access to clean water) is a privilege not available to very many, least of all, those in armed conflict.



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That the virus would not only place at heightened risk certain individuals as a consequence of pre-existing man-made social, political and economic inequalities but that measures adopted by states to prevent, stop or mitigate its spread would also result in disproportionate adverse effects for certain groups, not least women and girls, were concerns that were [expressed](#) by human rights advocates within weeks of the outbreak in late December 2019. The academic and [humanitarian](#) communities were also quick off the mark to highlight the [different](#) and intersectional risks experienced by women, the [gendered implications](#) of the measures taken by states and of how women would be disproportionately adversely affected by both short-term 'protection' measures (lockdowns leading to a [rise in domestic violence, reintroduction of gendered roles](#) in the home) and long-term strategies to counter the next crisis in the shape of a global depression.

Much of life is structured around positive decisions and non-decisions made by those who occupy position of privilege. Crises such as disease and war surface [political and economic interests](#) that are deeply embedded in all societies bringing into relief who is expendable and who is not. The lack of [PPE](#) is not an administrative oversight but the consequence of political priorities. Inadequate protection for frontline clinicians must be seen against the latest figures for global [military expenditure which stands at over £1,500bn](#). In many countries the [arms industry](#) remains exempt from lockdown.

The outbreak of COVID-19 has surfaced and is facilitating the solidification of these and other patterns of patriarchal privilege that are typically

witnessed in conflict situations. The war in Yemen is no exception. The conflicts have disproportionately and adversely impacted Yemeni women and girls across every aspect of life. War has reversed hard won progress towards equality. Political exclusion, gender-based violence and economic deprivation have become the norm – the everyday realities of life – as has forced confinement, not least for those who [refuse to conform to male privilege](#).

The crises of war and public health drown out the crisis of gender equality which has never been characterised as a crisis in Yemen, or for that matter in any place or at any time. Instead, crises have become sites of myopic battles over control and patriarchal power. To that extent, the crisis that we should fear above all is that there will be no change, simply [repetition](#).



His face is turned toward the past. Where we perceive a chain of events, he sees one single catastrophe which keeps piling wreckage upon wreckage and hurls it in front of his feet. The angel would like to stay, awaken the dead, and make whole what has been smashed. But a storm is blowing from Paradise; it has got caught in his wings with such violence that the angel can no longer close them. The storm irresistibly propels him into the future to which his back is turned, while the pile of

debris before him grows skyward. The storm is what we call progress.



Walter Benjamin, Angel of History

All crises create opportunities for transformative change. An opportunity to create societies that, at a minimum, are free from oppression, discrimination, hate, exploitation, violence as a means to resolve disagreement, from want. None of these ambitions are utopian. Each is the outcome of political choices imprinted in history.

Throughout the world we have witnessed citizen led community responses and grass root organisations stepping up to the mark to support those most at risk when state structures have failed. These patterns of decentralised political activism (very many of which have been organised by women) are prevalent in conflict zones, including in Yemen and among [Yemen's diaspora](#). The closing of borders has paradoxically given us a glimpse into a more sustainable greener future, [tenuous](#) and [inconsistent](#) though it may be.

Limitations on the freedom of movement have propelled us to maximize the use of digital communications (notwithstanding the risks) and to consolidate and create global networks. Digital platforms are promoting greater dialogue and opportunities for women to amplify their voices. And lockdowns have forced us to reflect more deeply on our values, to think more creatively on how we live our lives individually and collectively and to develop [transformative solutions](#) to existing global problems. Ideas have [flourished](#) as they did so in the wake of the Spanish Flu in 1918 paving the way for an [agenda of social reform](#).



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New ideas aside, there are already ambitious international policy agendas and legal frameworks in existence that, if implemented fully, can likewise deliver on transformative change globally, including in Yemen. The [Sustainable Development Goals](#) provide a blueprint for change which has the potential to be transformative if states take the steps to adopt and implement progressive policies. The pursuit of more sustainable and inclusive economies and societies is a matter of political choice. Likewise, the [UN Security Council's Women, Peace and Security Agenda](#) (WPS) provides a framework for transformative change that complements the SDGs reinforcing the need for a gender-sensitive perspective that intersect with IHRL and in particular CEDAW.

The adoption of WPS [National Action Plans](#) by states to translate international obligations and political commitments into concrete measures at the domestic level create the potential for transforming gender relations to achieve equality without which a sustainable peace cannot be secured.

The work of the CEDAW Committee provides [valuable insights](#) into how existing international legal obligations can be operationalised to radically

change gender relations to secure transformative change. Conflict prevention, the protection of women's rights, equal participation and relief – the four pillars of the WPS agenda – are goals that were identified by [women's peace movements](#) over a [century](#) ago. That they *remain* to be achieved rather than already realised is the catastrophe.

As with war, COVID-19 is leaving communities broken and, in many cases, more divided politically, economically and socially. Meanwhile the global economy is [projected](#) to contract by 3 percent in 2020; the fallout for many is likely to be devastating especially for those already marginalised and for those in conflict zones. If these projections materialise, one thing is certain: women across the global will be disproportionately disadvantaged as they were in the aftermath of the 2009 global financial crisis. Against this backdrop and as countries begin to move out of lock-down, human rights advocates have [cautioned](#) states, as have [treaty bodies](#), against adopting measures that would run counter to their existing obligations.

But as 'recovery' measures are crafted and implemented we should remind ourselves that crises should not be seen as turning points only between death and recovery. After all, recovery denotes return and return simply takes us back to a point where repetition becomes inevitable. It is at this juncture that we have an opportunity to reject return and, instead, embrace transformative change through policy and law. The choices we make today and the measures we allow our government to make in our name will determine where we are and who we are tomorrow.

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