



THE UN AND YEMEN: THE NEED FOR PRECISELY GUIDED DIPLOMACY

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Cover photo: Martin Griffiths, UN Special Envoy of the Secretary-General for Yemen, briefs the Security Council on the situation in Yemen on May 2019 ,15
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Introduction

The conflict in Yemen is now in its fifth year with no end in sight.⁽¹⁾ Like most of the world's seemingly unsolvable conflicts Yemen has ended up at the United Nations Security Council, the international community's forum of last resort.

The UN, which has limited tools at its disposal, has responded to Yemen the same way it responds to most confusing wars: a special envoy and sanctions. This is the carrot-and-stick approach to conflict resolution. The special envoy shuttles back-and-forth between the various sides, working to convince each to sit down at the negotiating table. Lurking in the background is the other side of the equation, the threat of targeted sanctions, which the UN has imposed on five individuals in Yemen.⁽²⁾

The only problem with the UN's approach is that it is not working. Yemen is now on its third special envoy in five years and Martin Griffiths appears no closer to success than either of his two predecessors. A divided Security Council – mostly between the US and Russia, but at times also pitting traditional allies like the US and UK against one another⁽³⁾ – has meant that no new sanctions have been imposed since 2015.⁽⁴⁾ And the sanctions the UN has imposed have unleashed a series of unintended consequences that has made the war more difficult to resolve.

Yemen is a humanitarian disaster⁽⁵⁾ and a political mess. It is also increasingly unlikely, regardless of what the UN does, that the country can ever be put back together again. The Security Council should be honest about what it can and cannot accomplish in Yemen. That requires not only looking back at the mistakes of the past five years, but also looking forward at what options remain to affect change in Yemen. This paper does both.

The Special Envoy: A Bad Hand Poorly Played

On February 16, 2018, UN Secretary General António Guterres appointed Martin Griffiths, a British diplomat, as his new special envoy to Yemen.⁽⁶⁾ Initially observers were optimistic that a change in envoys might help bring the parties back to the negotiating

1) Ruwanthika Gunaratne and Gregory D. Johnsen, "When Did the War in Yemen Begin?," *Lawfare*, June 28, 2018.

2) Narrative Summaries, 2140 Sanctions Committee Yemen, UN Security Council.

3) Julian Borger, "UN agrees Yemen ceasefire resolution after fraught talks and US veto threat," *The Guardian*, December 21, 2018.

4) This is on individuals sanctioned by the 2140 committee. There have been sanctions imposed on al-Qaeda and ISIS members in Yemen.

5) "Humanitarian crisis in Yemen remains the worst in the world, warns the UN," *UN News*, February 14, 2019.

6) "Secretary-General Appoints Martin Griffiths of United Kingdom as his Special Envoy to Yemen," *UN Press Release*, February 16, 2018.

table. After all, Griffiths' immediate predecessor, the Mauritanian diplomat Ismail Ould Cheik Ahmed, had ended his tenure as the negotiator with whom no one wanted to meet. In May 2017, Ahmed's convoy had been shot at during a visit to Sana'a,⁽⁷⁾ and the Houthis later banned him from returning to the capital for perceived bias.⁽⁸⁾ The fact that Griffiths was a British national and that the UK was also the penholder for the Yemen file at the UN, it was hinted in New York, might help streamline the process.

That, unfortunately, has not happened. Griffiths' first attempt to bring the warring sides together, in September 2018, failed when the Houthis refused to leave Sana'a.⁽⁹⁾ Predictably, each side blamed the other for the false start, but ultimate responsibility rested with Griffiths who had somehow failed to predict exactly such a scenario. A few months later, in December 2018, Griffiths did manage to get the Houthis on a plane to Sweden where they met the Yemeni government for talks, but in his desperation for progress and some sort of a deal Griffiths rushed through a series of vague agreements that did more harm than good. In particular the Hudaydah Agreement was so ambiguous that both sides were able to read into the text whatever they wanted.⁽¹⁰⁾ Not surprisingly, more than four months after the signing, the agreements have yet to be implemented. The Houthis unilateral withdrawal in May 2019 appears little more than a delaying tactic in which some Houthis hand over the port to other Houthis in different uniforms.⁽¹¹⁾

Part of the problem for Griffiths and his two predecessors is that they have been largely working from the same flawed negotiating script: UN Security Council Resolution 2216. Originally agreed to in April 2015, barely three weeks after the Saudi-led military coalition entered the war, the resolution expresses alarm at the Houthis' "advance towards Aden" and calls on them to withdraw from Sana'a and relinquish all weapons that they have seized.

In the four years since 2216 was passed, however, the situation on the ground has changed significantly. The Houthis, despite the UN's warning, marched into Aden and then months later were pushed back out. The Kuwait peace talks came and went without a breakthrough.⁽¹²⁾ And the Houthis have transformed themselves from a tribal militia into a de facto state in northern Yemen. But for all these changes, Resolution 2216 has remained exactly the same.

This is important because Resolution 2216, which requires unilateral concessions from the Houthis, is part of what convinces the Saudi-led military coalition that, no matter its faults and errant bombings,⁽¹³⁾ it still has the upper hand when it comes to international law and the UN. The Houthis took power through a coup and 2216 is essentially a roadmap to surrender.

7) "U.N. wants investigation into attack on Yemen envoy's convoy," *Reuters*, May 25, 2017.

8) "Houthis ban U.N. special envoy from Yemen for alleged bias," *Reuters*, June 5, 2017.

9) Stephanie Nebehay, "Yemen peace talks collapse in Geneva after Houthi no-show," *Reuters*, September 8, 2018.

10) "Full Text of the Hudaydah Agreement," *Office of the Special Envoy*, December 13, 2018.

11) Bethan McKernan and Patrick Wintour, "Hope for 'Turning Point' in Yemen after Houthi Hodeidah Withdrawal," *The Guardian*, May 15, 2019.

12) Rod Norland, "Talks to End War in Yemen are Suspended," *New York Times*, August 6, 2016.

13) Rick Gladstone, "Saudi Airstrike Said to Hit Yemeni Hospital as War Enters Year 5," *New York Times*, March 26, 2019.

The Houthis, of course, see things differently. In their view, they have the upper hand in this war. They hold the territory and the Saudis and Emiratis, despite years of airstrikes, have been unable to uproot them. As the Houthi foreign minister said in late 2018: “We expect this war to be very long. It is a war of bone-breaking – they break us or we break them.”⁽¹⁴⁾

Indeed, the Saudi-led military coalition is no closer to military victory now than it was when it launched Operation Decisive Storm in March 2015. Saudi Arabia and the UAE, the two main partners in the coalition, face largely the same military choices they did then. They can withdraw completely, essentially ceding victory to the Houthis. They can double-down and launch a ground offensive aimed at bringing the Houthis to their knees, but that would be both extremely bloody and unlikely to succeed. Or, they can simply continue to carry out airstrikes and hope for a different result. And as unappetizing and unlikely to result in success as the last option is, it is still more attractive to the Saudi-led military coalition than the first two.

That, at its most basic, is the Yemen conundrum: two sides that both see themselves as being in the stronger position. None of Yemen’s three special envoys has been able to square this circle and negotiate an end to the war. Nor is it likely that any future envoys will be able to accomplish what past ones have not for the simple reason that both the Saudi-led military coalition and the Houthis currently see war as more beneficial than peace.

Sanctions: A Broadsword not a Scalpel

The UN has imposed two sets of sanctions in Yemen. The first came in November 2014 and the second in April 2015. Each carried the same penalties: an asset freeze and a travel ban.⁽¹⁵⁾ But instead of a carefully calibrated and deliberate campaign of economic and diplomatic pressure, the Security Council went for a knockout blow, and it missed.

Sanctions work in two ways, by applying actual pressure to an individual and by the threat of pressure to an individual. In Yemen, in 2014 and 2015, the two individuals whose behavior the Security Council wanted to change were former president Ali Abdullah Saleh and Houthi leader Abdelmalik al-Houthi. But the designation criteria for adding someone to the sanctions list was written so broadly that anyone deemed to “threaten the peace, security, and stability of Yemen” could be sanctioned. This gave the Security Council options.

Often in such a scenario sanctions would be levied against someone in either Saleh’s or Abdelmalik al-Houthi’s network, who also met the designation criteria. This would do two things. First, it would act as a warning, increasing the pressure on Saleh and Abdelmalik by placing one of their subordinates under sanctions. Second, it would give Saleh and Abdelmalik time to alter their own behavior to avoid having sanctions placed on them.

14) Robert Worth, “How the War in Yemen Became a Bloody Stalemate,” *New York Times Magazine*, October 31, 2018.

15) 2140 Committee Guidelines, March 8, 2017

Ideally, the pressure would be increased over time, as more and more subordinates are sanctioned each time getting one step closer to both Saleh and Abdelmalik al-Houthi.

The UN, however, did none of these things. Instead, on November 7, 2014, in its first round of sanctions, it went right to the top of the pyramid, sanctioning Ali Abdullah Saleh and two top Houthi leaders.⁽¹⁶⁾ Five months later, in April 2015, it sanctioned Abdelmalik al-Houthi and Saleh's eldest son, Ahmed.⁽¹⁷⁾ In the span of a few months, at the very beginning of the war, the UN sanctioned the two key decision makers whose behavior it was attempting to alter. Once it played the sanction card on Saleh and Abdelmalik al-Houthi it couldn't play it a second time. By April 2015, the UN was effectively out of options when it came to sanctions. Instead of using sanctions as a point of leverage to influence future behavior it had used them as punishment for past actions.

Making matters worse, the sanctions the UN imposed in 2014 and 2015 had an unintended consequence, which significantly altered the course of the war. Although the sanctions the UN imposed on both groups were the same – a travel ban and an asset freeze – Ali Abdullah Saleh's network and the Houthis were not. Saleh was the former president of Yemen, who headed an extensive network of allies and had money in foreign bank accounts. The Houthis were a tribal militia. Their leaders largely did not travel abroad and they had few international assets that could be seized. In other words, UN sanctions weren't going to have much of an impact on the three Houthis listed by the Security Council. But Saleh was a different story. The travel ban was annoying, but it was the asset freeze that altered the balance of power in Yemen.

Saleh never had the \$32 – \$60 billion in assets that the 2014-2015 Yemen Panel of Experts alleged he had.⁽¹⁸⁾ But he did have millions in foreign real estate and in various companies that he controlled, often through trusted relatives. He used these assets and money to sustain his network of supporters even after he resigned the presidency. Shortly before the sanctions took effect in November 2014, Saleh was able to transfer some assets and money to one of his sons, Khaled,⁽¹⁹⁾ but significant portions of his finances were frozen and what wasn't frozen was hard to access. Initially this didn't affect him; he still had money on-hand in Sana'a and a number of loyal followers. But over time the asset freeze started to take a toll. Saleh's network was built on a system of rewards, which was impossible to sustain without money. By July 2016, even as he was signing a deal with the Houthis to form the Supreme Political Council,⁽²⁰⁾ his network was shrinking. More than a year later, in December 2017 when Saleh broke with the Houthis, it had all but disappeared. Saleh called up old allies and one-time friends begging for help during the bloody street fighting in Sana'a, but few of them responded.⁽²¹⁾ In the end, surrounded and outnumbered, Saleh was caught and executed by the Houthis.⁽²²⁾

16) "Narrative Summaries," 2140 (Yemen) Sanctions Committee, UN Security Council.

17) "Narrative Summaries," 2140 (Yemen) Sanctions Committee, UN Security Council.

18) "Final Report," *Yemen Panel of Experts*, UN Security Council, February 25, 2015, pg. 44. Subsequent UN reports were unable to verify Saleh had anything close to the \$32 billion that the 2015 panel alleged.

19) "Final Report," *Yemen Panel of Experts*, UN Security Council, January 26, 2018, pgs. 43 – 46.

20) Yemen: Houthi, Saleh council formation criticised by UN," *al-Jazeera*, July 29, 2016.

21) Author's interview with confidential source, February 2019.

22) Shuaib Almosawa and Ben Hubbard, "Yemen's Ex-President Killed as Mayhem Convulses Capital," *New York Times*,

UN sanctions, of course, weren't the only reason Saleh lost his battle with the Houthis. After more than three decades in power, and nearly six years out of power, he had grown complacent and seemingly unaware of some of the operational risks he was taking each time he spoke on an unsecured cell phone. He had also failed to plan adequately for an uprising against the Houthis. But these mistakes may have been survivable with money; without it Saleh didn't have a chance. UN sanctions had a disproportionate effect in Yemen: what barely fazed the Houthis crippled Saleh. Absent Saleh there is now no effective counterweight to the Houthis in Sana'a.

A Way Forward

So, if a new special envoy and more sanctions on the Houthis won't make a difference in Yemen, what will? First, the Security Council – divided as it is – needs to determine what it wants in Yemen.⁽²³⁾ It is unlikely that the 15 members will be able to agree on a post-war roadmap for what the future of Yemen should look like, but all members can and do agree that the war should stop. Second, the Security Council needs to determine how to accomplish its goal of ending the war. Strongly worded resolutions that express alarm, call for ceasefires, and bemoan the number of civilian casualties have fallen on deaf ears for the past five years and will continue to do so for the next five unless something changes in the Security Council's approach to Yemen.

The Security Council needs to recognize the reality on the ground. That, like it or not, the Houthis are a part of Yemen and cannot simply be bombed out of existence. At the same time, the Houthis came to power through a coup and cannot be recognized absent truly free and fair elections. In other words, both the Saudi-led military coalition and the Houthis are going to have to compromise, something neither has been willing to do throughout the course of this war.

This is where the UN Security Council, in the absence of international leadership on Yemen, is positioned to make a difference. Instead of one-sided resolutions like 2216 or, more recently 2451, which attempted to set in stone the rather illusory gains of the Stockholm Agreement,⁽²⁴⁾ the Security Council should draft a new resolution which codifies three things: transitional arms control, sanctions removal with a snap-back option, and a port-for-port swap.

December 4, 2017.

23) "You'll be sorry", Russia tells Britain at U.N. nerve agent attack meeting," *Reuters*, April 5, 2018.

24) UN Security Council Resolution 2451, December 21, 2018.

Transitional Arms Control

In a war like Yemen's, in which neither side trusts the other, unilateral disarmament is a non-starter. The Houthis will not lay down their missiles and heavy weapons for the fear that they won't be able to pick them up again. But what could work is transitional arms control. Under this framework, the Special Envoy would secure a pledge from each side. The Saudi-led military coalition would agree to halt all airstrikes for a period of one month, and the Houthis would agree to halt all cross-border missile strikes and the siege on Taiz for the same period. As part of this agreement, the Houthis would also be required to place their missiles and heavy weapons under lock-and-key. UN observers, which were originally part of the UN Mission to Support the Hedaydah Agreement,⁽²⁵⁾ could be stationed near these weapons depots to ensure no Saudi-led coalition airstrikes. However, the Houthis would maintain the key to the weapons depot so that in the event they once again felt threatened by coalition airstrikes they could easily retrieve their weapons.

The idea is that each side not only gives up something but also gets something in return. The Saudis give up their airstrikes, which after four years have limited utility, and receive border security from ballistic missiles. The Houthis give up their ability to strike Saudi Arabia, which rarely results in casualties, and receive an end to Saudi airstrikes.

Removal of Sanctions

Once the Houthis have begun placing their ballistic missiles and heavy weapons under lock-and-key, the 2140 Sanctions Committee should move to remove all sanctions from the five Yemenis currently listed. To begin with, Ali Abdullah Saleh is dead and no longer needs to be on the list, and his son, Ahmed, is under house arrest in the UAE and no longer a threat to the peace, security, and stability of Yemen. As for the Houthis, as mentioned above, the sanctions as currently configured aren't having an impact on Abdelmalik al-Houthi or his key deputies. These should be removed as a reward for participating in the process of transitional arms control.

Should the Houthis stop complying, the Security Council would be in a position to re-impose sanctions. This time, however, the Security Council should take a more deliberate approach, initially focusing sanctions on Houthi figures who travel frequently to places like Lebanon, Oman, Iran and the European Union as a way of putting pressure on the movement. The Security Council would need to exercise some strategic patience as, after years of minimal impact, it will take time before Abdelmalik al-Houthi recognizes that UN sanctions can be effectively used against him.

25) UN Security Council Resolution 2452, January 16, 2019.

Port-for-Port Swap

Finally, in conjunction with the transitional arms control process, the Special Envoy should negotiate a swap between the Houthis and the Saudi-led coalition. The Houthis would agree to withdraw completely from Hudaydah and in exchange the Saudi-led coalition would agree to the re-opening of the Sana'a International Airport. As with the transitional arms control deal, each side would be giving something up but also getting something in return.

The Houthis would be finally forced to fully withdraw from Hudaydah, which they have been reluctant to do, even in the aftermath of the Stockholm Agreement. That agreement basically required the Houthis to withdraw in order to avoid an attack. This port-for-port swap would change the incentive structure, providing the Houthis with a domestic victory. Re-opening the Sana'a airport would go a long way toward relieving Yemen's horrendous humanitarian situation. Aid could be flown directly in, and patients who can't handle the long drive to open airports in Aden or Hadramawt could be flown out for medical treatment.

For its part, the Saudi-led military coalition could be convinced to allow the Sana'a International Airport to re-open as a way of restoring their international reputation in the wake of numerous botched bombings and the murder of Jamal Khashoggi,⁽²⁶⁾ which helped spark a Congressional resolution against the participation of US troops in the Yemen war.⁽²⁷⁾ The Houthi withdrawal from Hudaydah would also alleviate Saudi security concerns over Houthi ballistic missiles being smuggled into Yemen through that port.

None of these three steps, of course, are enough to put Yemen back together again. But taken together, they would go a long way toward ending the war. They are small but doable steps, and diplomacy is often the art of making the possible real.

26) Julian E. Barnes, "CIA concludes that Saudi Crown Prince Ordered Khashoggi Killed," *New York Times*, November 16, 2018.

27) S.J. 7, passed by the Senate on March 13, 2019.

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