

UNITED STATES POLICY & YEMEN'S ARMED CONFLICT



SEPTEMBER 2015

THE YEMEN PEACE PROJECT



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Sana'a Center for Strategic Studies is a youth-led research center established in 2014. It aims to provide new approaches to Yemeni and regional issues.

Resonate! Yemen is a youth-run foundation aiming to bring the voices and ideas of young Yemenis to Yemen's public policy discourse and support youth action on issues of national and international significance.

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Executive Summary

In March of this year, long-simmering regional and political tensions exploded into a full-fledged armed conflict in Yemen, with the Houthi movement and military forces loyal to former president 'Ali 'Abdullah Saleh fighting for control of the country's major cities and key provinces. Arrayed against the Houthi-Saleh alliance are local militias allied with President 'Abd Rabbuh Mansur Hadi and his government-in-exile, a coalition of Arab states led by Saudi Arabia and the United Arab Emirates, armed elements of the Southern Movement (*al-Hirak*), army units tied to General 'Ali Muhsin al-Ahmar and the Islah Party, several powerful tribes, and an assortment of *salafi* and *jihadi* factions.

To date, more than 4,300 Yemenis have been killed in this conflict; at least half of these have been civilians. More than 1.4 million civilians have been forced to flee their homes. Most of the civilian casualties are the result of illegal indiscriminate attacks, carried out by both the Saudi-led coalition and the Houthi-Saleh alliance.

Although the United States has not committed combat forces to the conflict, it is playing an important role. On the diplomatic front, the United States has played an important and laudable role in working to bring the warring parties to the table. The Obama administration must now work with Yemen's neighbors and the rest of the international community to establish secure routes for the delivery of humanitarian aid, push for an end to hostilities, reach an internationally-supported political settlement, and build a comprehensive material and economic reconstruction plan. The US must also work with other members of the United Nations Security Council, which has been circumvented by the Saudi-led coalition, to ensure that any further military intervention in Yemen complies with Chapter VII of the United Nations Charter.

In contrast to its constructive diplomatic efforts, many of the US administration's other activities and policies are contributing to the perpetuation of the conflict and the destabilization of Yemen. US military and intelligence personnel are supporting the Saudi-led coalition's ongoing campaign of aerial bombardment, which has violated international humanitarian law by deliberately targeting civilian residences and infrastructure, and by failing to protect civilians from harm.

The United States has also continued to carry out its own airstrikes against suspected members of al-Qaeda in the Arabian Peninsula (AQAP), killing at least 76 people in 2015.¹ US counterterrorism efforts in Yemen have long attracted criticism for their emphasis on “kinetic” tactics—missile strikes and armed assaults on AQAP targets—rather than programs that address the causes and facilitating factors of extremism and violence. As the balance of power within Yemen changes, US strikes risk further destabilizing the situation, and contributing to militant groups’ recruitment efforts.

Yemen was already facing a humanitarian emergency before the present conflict broke out. Today the country is in the midst of a full-blown catastrophe. According to the UN Office for the Coordination of Humanitarian Affairs (UNOCHA), more than 80% of Yemen’s population is in need of some form of assistance. Millions of Yemenis are suffering from food insecurity and a lack of clean water; famine is just around the corner. Meanwhile, Yemen’s health care system has collapsed, and thousands of Yemenis are dying for lack of access to medicine and treatment. The UN’s emergency appeal for Yemen is only 18% funded. Early in the conflict Saudi Arabia pledged to cover the entirety of the previous appeal; none of the promised funds have been delivered. Both the coalition and the Houthi-Saleh alliance are preventing aid from reaching civilians, in violation of international law. Despite the presence of several US warships in the Gulf of Aden, the US has failed to assist in the evacuation of US citizens and other foreign nationals from Yemen, as required by a recent UNSC resolution.

Priority Recommendations

Diplomatic engagement:

- The US must urge Saudi Arabia and its allies to end their military intervention, and insist that any further international involvement in the conflict adhere to the restrictions of the UN Charter and international law. The US should push for a new UNSC resolution to that end.
- The US must work toward the inclusion of all parties and factions, including nonstate fighting groups, in the peace process. The participation of such groups in negotiations is essential to a lasting peace.
- The US must actively engage with regional actors outside the GCC—most importantly Iran—and with other global powers, with the aims of discouraging proxy support for factions in Yemen’s internal conflicts and creating a regional and international structure of support for an eventual peace agreement.

¹ Bill Roggio and Bob Barry, “Charting the Data for US Air Strikes in Yemen, 2002-2015,” *The Long War Journal*, updated August 14, 2015, accessed August 18, 2015.
<<http://www.longwarjournal.org/multimedia/Yemen/code/Yemen-strike.php>>

Military intervention:

- The US must immediately suspend its logistical and technical support for Saudi and coalition airstrikes, which do not meet legal standards regarding the protection of civilians or distinction between combatants and noncombatants, and halt any pending transfers of ordnance or other materiel to coalition states.
- The US must take all measures at its disposal to discourage unlawful attacks against Yemeni civilians, or military actions which place civilians at undue risk.

Humanitarian assistance:

- The US must act immediately to fund the UN's humanitarian response plan, and to help establish safe routes for the delivery of aid.
- The US must urge Saudi Arabia to deliver the funds it has already pledged for humanitarian assistance, and allow UNOCHA to determine where and how those funds are used.
- The US must urge the Houthi-Saleh alliance, as well as the Saudi-led coalition, to allow the free passage and distribution of humanitarian assistance.

Security and counterterrorism:

- The United States must suspend its targeted killing program immediately, and put in place a system to evaluate the program's effectiveness, as well as the potential effectiveness of alternative, non-kinetic programs.
- The White House, intelligence community, Department of State, and Department of Defense must establish a counterterrorism strategy prioritizing non-military solutions to long-term challenges.
- The Department of Defense must evaluate the effectiveness of past military aid to Yemen, and tie any future assistance to real institutional reforms.

Assistance to US citizens:

- State Department and military officials must take all possible measures to ensure the safe evacuation of any remaining US citizens who wish to leave the country, and ensure that citizens and their family members who have left Yemen already—many of whom are now in Djibouti, Egypt, Jordan, or elsewhere in the region—are quickly and safely transported to the US.

Additional recommendations are included in the Policy Assessment and Recommendations section below.

Background

In late 2010, after six years of war, the Yemeni state and the so-called Houthi movement came to an uneasy truce. Government forces withdrew from much of Sa‘dah Governorate, Yemen’s northernmost province, allowing movement leader ‘Abd al-Malik al-Houthi and his followers to establish an unofficially autonomous quasi-state in the mountainous region south of Yemen’s border with Saudi Arabia. The following year, the Houthis joined the popular uprising against the regime of President ‘Ali ‘Abdullah Saleh, who had ruled Yemen for 33 years. The movement’s political leadership adopted the name Ansar Allah; positioning itself as an alternative to both the regime and the mainstream opposition parties, the Houthis attracted supporters from across the political spectrum, including some who did not necessarily identify with the group’s original Zaydi ideology or its rural, northern roots.

While the political wing of Ansar Allah raised the movement’s profile in San‘a and beyond, its military wing pursued a campaign of expansion across the northwest. Between 2011 and 2014, Houthi fighters waged war against salafi activists in Sa‘dah, and against local tribes and military units aligned with the Islah party in Hajjah, ‘Amran, al-Jawf, and Marib Governorates. In July 2014, Houthi forces swept into ‘Amran city and attacked the headquarters of the 310th Armored Brigade, killing the Brigade’s commander and seizing its vehicles and materiel. The 310th was loyal to ‘Ali Muhsin al-Ahmar, an Islahi general who held sway over much of Yemen’s military. The Houthis targeted local Islahi institutions, and destroyed homes and property belonging to members of the al-Ahmar clan, the paramount family of the Hashid tribal confederation, who have ties to the Islah Party and have long been at odds with the Houthis.² Meanwhile, an alliance of convenience was developing between the Houthi leadership and former president Saleh’s General People’s Congress (GPC). Saleh saw in the Houthis’ rise an opportunity to return to power, while the Houthis saw the GPC-aligned military as their ticket to expansion beyond the highlands of Upper Yemen.

Throughout this campaign of aggressive expansion, President ‘Abd Rabbuh Mansur Hadi consistently positioned the state as a mediator between Ansar Allah and its foes, rather than a party to the conflict. President Hadi maintained this position during the conquest of ‘Amran, even though General ‘Ali Muhsin—Hadi’s official military advisor at the time—was directly involved in the conflict. In late September the Houthi forces moved into San‘a; as they had in ‘Amran, they targeted Islah Party institutions, pro-‘Ali Muhsin military positions, and the homes and property of the al-Ahmar family.³ President Hadi’s government reportedly asked other security forces not to challenge the Houthi fighters.⁴

² Charles Schmitz, “The Fall of Amran and the Future of the Islah Party in Yemen,” *Middle East Institute – Recent Publications*, August 25, 2014. <<http://www.mei.edu/content/at/fall-amran-and-future-islah-party-yemen>>

³ Iona Craig, “What the Houthi Takeover of Sanaa Reveals About Yemen’s Politics,” *Al Jazeera America*, September 25, 2014, accessed August 22, 2015. <<http://america.aljazeera.com/articles/2014/9/25/houthi-yemen-takeover.html>>

⁴ BBC World, “How Yemen’s Capital Sanaa was Seized by Houthi Rebels,” September 27, 2014, accessed August 22, 2015. <<http://www.bbc.com/news/world-29380668>>

Even more important than Hadi's passivity was the active support the Houthis received from former president Saleh. Despite the internationally-supervised "military restructuring" scheme that began in 2012, Saleh retained influence or direct control over a large portion of Yemen's armed forces after his resignation. With the help of these units, Ansar Allah's militias

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established military control of San'a within days. Following their takeover of the capital and the resignation of Prime Minister Muhammad Salim Basindwah, the Houthis concluded a new political deal with President Hadi, the Peace and National Partnership Agreement. The PNPA called for the formation of a politically neutral, technocratic government, and required that President Hadi appoint two new advisors—one from Ansar Allah and one from al-Hirak—to help select that government. The PNPA also required the establishment of an economic reform program, and called for wider democratic participation in the drafting of Yemen's new constitution and the full implementation of the outcomes of the National Dialogue Conference. On paper, the agreement—signed in the presence of UN Special Envoy Jamal Benomar—was a promising step toward peace and stability.⁵ In practice, the Houthis' military position gave them an effective veto over all affairs of state.

In late January the Houthi-Saleh alliance began the final stage of their slow-motion coup d'état, overrunning the small contingent of Presidential Guards surrounding the presidential palace, placing President Hadi and several government ministers under house arrest, and installing a "Revolutionary Committee" in their place. Consolidating physical control of San'a and its environs posed few problems, but Ansar Allah was less adept at political administration. The Houthis essentially ransacked government ministries, and responded to opposition and protests with a heavy hand. Many activists who opposed the coup were attacked, arrested, or disappeared.

As the pro-Houthi and pro-Saleh forces advanced to the east and south of the capital, however, they faced significant resistance. One of the alliance's priorities since taking over San'a in September has been extending its power into Marib Governorate, which borders San'a Governorate to the east. Marib contains much of Yemen's crucial energy infrastructure, and is a stronghold of the Islah Party. Since advancing into Marib, Houthi-Saleh forces have been bogged down in costly combat with local tribal militias on the outskirts of the provincial capital. A similar scenario unfolded as Houthi-Saleh forces moved south into Aden, though on a much larger scale.

In late February, President Hadi escaped from his home in San'a and fled to Aden, where he established a provisional capital with the support of much of the international community.

⁵ "Yemen: The Peace and National Partnership Agreement," *Jadaliyya Reports*, September 23, 2014. <http://www.jadaliyya.com/pages/index/19341/yemen_the-peace-and-national-partnership-agreement>

President Hadi also gained the support of local militias, which he tasked with taking control of Aden's airport and military installations held by pro-Saleh forces. Hadi's militia failed to win a decisive victory, however, and elements of Yemen's air force—answering to the Houthi-Saleh alliance—bombed the presidential palace in Aden in an attempt to stamp out Hadi's resistance. As Houthi-Saleh units moved into Aden in force, several other local armed resistance groups were established, each with its own specific set of loyalties and political affiliations. Groups directly under Hadi's control were far from the largest or strongest of these.

On March 26, Hadi fled Aden for Oman and travelled on to Riyadh, reestablishing his government-in-exile in the Saudi capital just as Saudi Arabia and most of its Gulf Cooperation Council (GCC) partners—along with other allies including Egypt, Sudan, Jordan, and Morocco—announced that they would intervene militarily to halt the Houthis' advance and restore Hadi's government to power. A joint statement to the United Nations Security Council (UNSC) by representatives of Saudi Arabia, Bahrain, Qatar, Kuwait, and the United Arab Emirates stated that Houthi aggression constituted a threat “not only to the security, stability and sovereignty of Yemen, but also to the security of the region as a whole and to international peace and security.”⁶ Saudi Arabia's concern centered in particular on the fact that Saleh and Ansar Allah now controlled Yemen's air force and its stockpile of artillery and ballistic missiles, assets that could be used against Saudi targets. Saudi Arabia's army and air force fought briefly against the Houthis in 2009, and have watched the movement's rise with great concern since then.

On March 26, Saudi Arabia and its allies began a lengthy campaign of airstrikes across Yemen. The Saudi-led coalition also established a naval blockade in the Gulf of Aden and massed armor and infantry along the Saudi-Yemeni border. Shortly after the strikes began, the US administration announced that the United States and Saudi militaries had established a “Joint Planning Cell,” and that the US would provide “logistical and intelligence support to GCC-led military operations.”⁷ Recent reports indicate that roughly 45 US “advisors” are attached to this effort.⁸

On April 14, nearly three weeks into the Saudi-led air campaign, the UN Security Council adopted Resolution 2216, which called for an arms embargo on the pro-Houthi and pro-Saleh forces, and demanded that “the Houthis immediately and

Shortly after Saudi airstrikes began, the US administration announced that the United States and Saudi militaries had established a “Joint Planning Cell,” and that the US would provide “logistical and intelligence support to GCC-led military operations.”

⁶ United Nations Security Council, “S/2015/217: Identical letters dated 26 March 2015 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General and the President of the Security Council,” March 27, 2015. <http://www.un.org/ga/search/view_doc.asp?symbol=S/2015/217>

⁷ The White House, Office of the Press Secretary, “Statement by NSC Spokesperson Bernadette Meehan on the Situation in Yemen,” March 25, 2015. <<https://www.whitehouse.gov/the-press-office/2015/03/25/statement-nsc-spokesperson-bernadette-meehan-situation-yemen>>

⁸ W.J. Hennigan, Laura King, and Zaid al-Alayaa, “U.S. Boosts Support Role in Saudi-led Airstrikes on Yemen,” *The Los Angeles Times*, August 17, 2015. <<http://www.latimes.com/world/middleeast/la-fg-us-yemen-20150817-story.html>>

unconditionally...end the use of violence...withdraw their forces from all areas they have seized, including the capital...[and] relinquish all additional arms seized from military and security institutions, including missile systems.”⁹ To date, that demand—along with the demand for the restoration of President Hadi and his government, and an end to attacks or threats against Saudi territory—remains the basis of official positions put forward by the Hadi administration in exile, Saudi Arabia, and the United States.

In late July, a coalition military force led by troops from the United Arab Emirates helped local resistance forces establish control of most of Aden, pushing Houthi forces out of the city. The combined force subsequently advanced inland, driving Houthi-Saleh units out of most of Lahj, Abyan, Shabwah, and al-Dhali‘ Governorates. A local administration, nominally loyal to the government-in-exile, has been established in Aden, while various factions of the southern alliance have taken control of other “liberated” areas. In mid-August the coalition-backed resistance in Ta‘iz managed to retake much of that city from Houthi-Saleh forces as well. As August draws to a close, it appears that the fronts in Marib and al-Hudaydah will soon see major escalations as well.

The United States is a major sponsor of the Hadi regime, Yemen’s political transition process, and the international humanitarian response; it is also a major ally of and supplier of arms to Saudi Arabia and the GCC. As such, its policies and actions have a profound impact on Yemen. The remainder of this report focuses on the successes and failures of current US policy toward Yemen, and offers practical short- and medium-term recommendations for how the US can play a more constructive role in the current environment.

THE HUMAN COST OF WAR

- According to the United Nations, at least 4,300 Yemenis have been killed by ground fighting and airstrikes since mid-March, and tens of thousands more have been wounded.
- At least half of the dead have been civilians, many of them children and women.
- More than 1.4 million Yemenis have been displaced from their homes by the conflict.
- On July 1, the UN declared Yemen to be in a “level 3” humanitarian crisis, the most severe designation.
- More than 80% of Yemen’s total population are in need of some form of humanitarian assistance—almost double the number targeted by the UN’s latest Humanitarian Response Plan, which remains mostly unfunded.
- Yemen’s health system is collapsing, as supplies of fuel, funds, and medicine have been almost completely cut off. Yemen’s coastal areas are facing unprecedented outbreaks of malaria and dengue fever.

⁹ United Nations Security Council, “Resolution 2216 (2015),” April 14, 2015. <[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2216\(2015\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2216(2015))>

Policy Assessment and Recommendations

Diplomatic engagement

The transitional period

The United States has been intimately involved in Yemen's political transition process since the revolution of 2011. US officials helped to push through the GCC Initiative, which circumvented the demands of anti-regime activists by forging a power-sharing agreement between 'Ali 'Abdullah Saleh's ruling coalition and

the mainstream opposition bloc, the Joint Meeting Parties (JMP). The agreement stated that Saleh would hand over the presidency to his deputy, 'Abd Rabbuh Mansur Hadi, while remaining at the head of the General People's Congress (GPC), and that the GPC and JMP would form a unity government, splitting the ministries between themselves. It also effectively granted President Hadi the authority to govern by decree indefinitely, and gave 'Ali 'Abdullah Saleh and members of his administration blanket immunity from prosecution within Yemen.

The approach of the United States throughout the Hadi era has been defined by checklist diplomacy, whereby the US has continuously pushed for the steps laid out in the GCC Initiative to be completed as written, despite the ever-widening gulf between that text and the realities of Yemeni politics.

The centerpiece of the post-GCC-Initiative political transition was the National Dialogue Conference (NDC), a prolonged congress of Yemen's parties and factions that was designed to tackle the persistent grievances and structural issues that the Initiative itself had intentionally avoided for a number of pragmatic and substantive reasons. The US was a key supporter of the NDC, providing planning and technical assistance for the Conference organizers and training for participants. Although the NDC was, in principle, intended to include all of the groups that had been left out of the transitional regime—including nonpartisan revolutionary youth activists, women, representatives of al-Hirak, and Ansar Allah—the overwhelming majority of seats were given to the GPC and JMP, and President Hadi himself appointed many of the Youth and Hirak delegates.

The approach of the United States throughout the Hadi era has been defined by checklist diplomacy, whereby the US has continuously pushed for the steps laid out in the GCC Initiative to be completed as written, despite the ever-widening gulf between that text and the realities of Yemeni politics. The US administration's top priority has been to keep its counterterrorism program in Yemen operational; the need to preserve the Hadi administration and Yemen's security and intelligence agencies in the service of that goal has guided much of American policy since late 2011.

US policy is also strongly influenced by the interests of Saudi Arabia and the other Gulf states, which the US considers key allies and military partners. America relies on the GCC states to provide regional stability and to counter the threat of Iranian influence. These states are also

major oil producers, providing 20% of US oil imports,¹⁰ and leading purchasers of US arms; the US has sold at least \$79 billion worth of military equipment to GCC members since 2009.¹¹ Saudi Arabia and the other Gulf states have become increasingly assertive in the foreign policy arena in recent years, and their actions have at times been at odds with US policy. Saudi Arabia's King Salman ibn 'Abd al-'Aziz and his inner circle—Defense Minister Muhammad ibn Salman in particular—came into office in 2015 determined to solidify the Kingdom's position as regional superpower, regardless of the concerns of its western allies.¹²

Wartime diplomacy

Following the Houthi coup, the US administration—most notably Assistant Secretary Anne Patterson and others at the State Department—has played a leading role in the diplomatic effort to bring Yemen's warring factions back into negotiations. American and Omani negotiators have met repeatedly with representatives of Ansar Allah and the pro-Saleh GPC, and are working to keep channels between those parties and the Hadi administration open. The White House and State Department should be applauded for prioritizing diplomatic efforts throughout this conflict, despite President Obama's decision to close the US embassy in San'a in February.

The US recently concluded successful negotiations with Iran concerning that country's nuclear energy program, and in the process was able to convince Saudi Arabia and other GCC member states to accept the agreement. As the GCC and Iran are the leading foreign sponsors of the warring factions in Yemen, the positive momentum and good faith established by the nuclear talks could be beneficial for Yemen as well. However, many of the fighting groups involved in the current conflict are not under the direct control of the Hadi administration or foreign states. The US and other states will have to establish meaningful communication with these groups and find ways to involve them in negotiations in order to help secure a broad and lasting peace deal. The US will also have to deal realistically with the divisions that have emerged within the Hadi administration, and with widespread dissatisfaction with President Hadi inside Yemen. Though the US should do everything possible to help ensure the survival of Yemen's few institutions of democratic governance, Hadi's presidency may no longer be tenable.

The US at the UN

In February 2014 the US voted to approve UN Security Council Resolution 2140, which established sanctions on individuals who have interfered with Yemen's political transition or otherwise worked to destabilize the country. The panel of experts set up by this resolution ultimately designated three individuals for sanctions: former president 'Ali 'Abdullah Saleh, and Ansar Allah leaders 'Abdullah Yahya al-Hakim and 'Abd al-Khaliq al-Houthi. In February 2015, following the Houthi coup in San'a, the Security Council unanimously approved Resolution 2201, which "deplored" the coup and called for a military withdrawal and a return to UN-

¹⁰ US Energy Information Administration, "How much petroleum does the United States import and from where?" March 11, 2015. <<http://www.eia.gov/tools/faqs/faq.cfm?id=727&t=6>>

¹¹ William D. Hartung, "It's Not Diplomacy, It's an Arms Fair," *Foreign Policy*, May 14, 2015. <<http://foreignpolicy.com/2015/05/14/obama-arms-fair-camp-david-weapons-sales-gcc/>>

¹² Peter Salisbury, "Yemen: Why is Riyadh Flexing its Muscles?" *The World Today* 71:4 (July 2015). <<http://www.chathamhouse.org/publication/twt/why-riyadh-flexing-its-muscles>>

facilitated negotiations. Later that month, Resolution 2204 threatened to add additional names to the list of sanctioned individuals.

Resolution 2216, adopted in April 2015 with Russia abstaining, established an embargo on any arms transfers to pro-Houthi and pro-Saleh forces, and designated the former president's son, Ahmad 'Ali 'Abdullah, and Ansar Allah leader 'Abd al-Malik al-Houthi for sanctions specified by 2140. But 2216 also endorsed the Saudi-led military intervention, despite the questionable legality of such interventions without prior Security Council approval and control. In so doing, 2216 positioned the UNSC on the pro-Hadi/pro-Saudi side of the conflict. This stance places the Security Council at odds with the broader role of the UN in this conflict, which is to facilitate talks between all parties in good faith. By adopting 2216, the US and other UNSC members essentially abdicated the Council's duty to avert armed conflict and illegal uses of force whenever possible. As the Saudi-led coalition's role in the conflict evolved to include ground combat, the shortcomings of 2216 became even more apparent.

Recommendations:

- The United States must encourage the Yemeni government in exile and the Saudi government to drop their demand for full implementation of UNSC Resolution 2216 paragraph 1—unilateral ceasefire and withdrawal by pro-Houthi forces—as a precondition for peace talks. Full implementation is essential to a lasting peace, but as a precondition it hampers negotiations.
- The US must urge Saudi Arabia and its allies to end their military intervention, and insist that any further international involvement in the conflict adhere to the restrictions of the UN Charter and international law. The US should push for a new UNSC resolution to that end.
- The US must work with Hadi administration officials to address internal disputes, and ensure that the president and cabinet are prepared to play a constructive role in Yemen's future.
- The US must work toward the inclusion of all parties and factions, including nonstate fighting groups, in the peace process. The participation of such groups in negotiations is essential to a lasting peace.
- The US must actively engage with regional actors outside the GCC—most importantly Iran—and with other global powers, with the aims of discouraging proxy support for factions in Yemen's internal conflicts and creating a regional and international structure of support for an eventual peace agreement.
- The US must reopen its embassy in Yemen as soon as possible.

Military intervention

The United States has apparently kept to the position it set out in late March, and has not committed its own strike aircraft to the Saudi-led bombing campaign. However, reports indicate that Saudi and allied warplanes may be using US airbases—in particular Camp Lemonnier in Djibouti—to fly sorties over Yemen, and that US refueling aircraft are supporting Saudi and coalition air missions. This means that US military personnel have likely been

involved in airstrikes that have resulted in civilian casualties. Some press accounts have claimed that, through the aforementioned “Joint Planning Cell,” US military and intelligence personnel have tried to steer Saudi war planners away from illegal targets. Without transparent reporting by the relevant authorities, however, it is impossible to determine whether US planners have had prior knowledge of Saudi attacks on civilian targets.

Human Rights Watch and Amnesty International have found compelling evidence that many of Saudi Arabia’s airstrikes have violated international humanitarian law. Individual American military and intelligence personnel supporting Saudi air missions, as well as US administration officials, may also bear responsibility for war crimes under US and international law.

Human Rights Watch¹³ and Amnesty International¹⁴ have found compelling evidence that many of Saudi Arabia’s airstrikes have violated international humanitarian law. Individual American military and intelligence personnel supporting Saudi air missions, as well as US administration officials, may also bear responsibility for war crimes under US and international law.¹⁵ UNSC Resolution 2216, which condones the international intervention into Yemen’s conflict, explicitly calls on all parties to observe international humanitarian law and to protect civilians. Though the US has very limited influence over the behavior of the Houthi-Saleh alliance, it must also work to discourage those parties’ attacks on civilian targets.¹⁶

Despite the adoption of Resolution 2216, the United States is still obligated to uphold the UN Charter, which forbids the international use of force outside of uses specifically authorized and directed by the Security Council. This obligation is made even more urgent by the Saudi-led coalition’s ongoing ground campaign in Yemen, the basis of which is legally questionable, and poses additional danger to local civilian populations.

¹³ Belkis Wille and Ole Solvang, *Targeting Saada: Unlawful Coalition Airstrikes on Saada City in Yemen* (New York: Human Rights Watch, 2015). <<http://www.hrw.org/report/2015/06/30/targeting-saada/unlawful-coalition-airstrikes-saada-city-yemen>>

¹⁴ Amnesty International, *Yemen: Airstrike and Weapon Analysis show Saudi Arabia-led Forces Killed Scores of Civilians* (London: Amnesty International, 2015). <<https://www.amnesty.org/en/latest/news/2015/07/yemen-airstrike-analysis-shows-saudi-arabia-killed-scores-of-civilians/>>

¹⁵ Department of Defense, Office of the General Counsel, *Department of Defense Law of War Manual* (Washington: Department of Defense, 2015), 187. <<http://www.defense.gov/Portals/1/Documents/pubs/Law-of-War-Manual-June-2015.pdf>>

¹⁶ Amnesty International, *‘Nowhere Safe for Civilians’: Airstrikes and Ground Attacks in Yemen* (London: Amnesty International, 2015). <<https://www.amnesty.org/en/documents/mde31/2291/2015/en/>>

Recommendations:

- The US must insist that any further military intervention in Yemen complies with Chapter VII of the UN Charter.
- The US must immediately suspend its logistical and technical support for Saudi and coalition airstrikes, which do not meet legal standards regarding the protection of civilians or distinction between combatants and noncombatants.
- The US must halt any pending transfers of ordnance or other materiel to those states.
- The US must take all measures at its disposal to discourage unlawful attacks against Yemeni civilians, or military actions which place civilians at undue risk.
- Relevant US institutions must immediately investigate the involvement of US personnel in violations of international and US law. The US administration must also call for a credible investigation of war crimes committed by other parties to the conflict.

Humanitarian assistance

Since 2008 the United States has been one of the leading donors of humanitarian assistance to Yemen. Although the current conflict has forced USAID to suspend many of its programs there, the US still has a crucial role to play in mitigating the most severe humanitarian crisis in Yemen's history. The UN Humanitarian Response Plan for Yemen was only 18% funded as of mid-August;¹⁷ the US can contribute more to the Plan, and can also encourage its close ally, Saudi Arabia, to finally deliver the funding it has already promised.

US officials have reportedly tried to convince Saudi Arabia to ease its blockade of Yemen's air and sea ports, which has cut Yemenis off from crucial humanitarian aid, fuel, food, medicine, and commerce.¹⁸ Ambassador Samantha Power, US Permanent Representative to the UN, has spoken publicly about the importance of restoring commercial access to Yemen's ports.¹⁹ In late August, Saudi and coalition naval and air forces began an intense bombardment of the Houthi-controlled port of al-Hudaydah, which had been a key point for the delivery of humanitarian aid, effectively cutting off northern Yemen from crucial assistance.²⁰ By imposing undue hardship on Yemen's entire population, the Saudi blockade is in violation of international humanitarian law and broadly accepted international standards for naval conduct.

¹⁷ Stephen O'Brien, "Remarks to the Press," August 12, 2015. <<https://docs.unocha.org/sites/dms/Documents/ERC%20O'Brien%20Remarks%20to%20Press%20in%20Aden%2012Aug2015%20CAD.pdf>>

¹⁸ Julian Borger, "Saudi-led Naval Blockade Leaves 20m Yemenis Facing Humanitarian Disaster," *The Guardian*, June 5, 2015, accessed August 16, 2015. <<http://www.theguardian.com/world/2015/jun/05/saudi-led-naval-blockade-worsens-yemen-humanitarian-disaster>>

¹⁹ Samantha Power, Twitter post, June 24, 2015, 12:29 p.m. <<https://twitter.com/AmbassadorPower/status/613760779024789504>>

²⁰ Stephen O'Brien, "Statement to the Security Council," *Reliefweb*, August 19, 2015, accessed August 23, 2015. <<http://reliefweb.int/report/yemen/under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator-stephen-2>>

The US Navy claims that its warships in the waters surrounding Yemen's coast are not participating in the blockade, but they are inspecting ships en route to Yemen's ports.²¹ According to UNSC Resolution 2216, paragraph 17, any state that conducts such inspections of Yemen-bound cargo must promptly submit to the Security Council detailed reports explaining "the grounds for the inspections, the results of such inspections, and whether or not cooperation was provided," as well as additional details on any contraband or prohibited items found. To date, US authorities do not appear to have provided any such reports.

Amplifying the negative effects of the naval blockade, Houthi-Saleh forces are also restricting the delivery and distribution of humanitarian aid. In the weeks before their withdrawal from Aden, Houthi-Saleh fighters repeatedly shelled the port at al-Burayqah to prevent aid shipments from landing. They also shelled boats carrying displaced civilians. Part of the purpose

The US, like all UN member states, has a responsibility to ensure that humanitarian aid is not used as a weapon of war, and to encourage the free passage of food, medicine, and other essential supplies to civilians living under the blockade, as required by international law.

of such attacks was to force aid providers to reroute shipments to the Red Sea port of al-Hudaydah, which is under Houthi control. Pro-Houthi and pro-Saleh forces have also delayed, confiscated, or rerouted overland aid shipments, preventing foodstuffs and other vital assistance from reaching civilians. US talks with Houthi and pro-Saleh representatives should include demands to end these practices.

The politicization of humanitarian relief has been a consistent characteristic of the current conflict. In April, the Saudi government announced that it would cover the entire amount of a UN emergency appeal. To date, none of the promised funds from Saudi Arabia have been delivered, and some aid agencies that receive funding from the UN report that the Saudi government has sought to restrict where and how their funds are spent.²² It is unreasonable to expect that one of the primary parties to the conflict would distribute aid in an even-handed way. The US, like all UN member states, has a responsibility to ensure that humanitarian aid is not used as a weapon of war, and to encourage the free passage of food, medicine, and other essential supplies to civilians living under the blockade, as required by international law.

²¹ Dan Lamothe, "Navy Has Seven Combat Ships Around Yemen as Saudi-led Blockade Continues," *The Washington Post*, April 17, 2015, accessed August 16, 2015. <<http://www.washingtonpost.com/news/checkpoint/wp/2015/04/17/navy-has-seven-combat-ships-around-yemen-as-saudi-led-blockade-continues/>>

²² Al Jazeera, "Saudis Answer UN Call with \$274m Yemen Aid Pledge," Al Jazeera English, April 18, 2015, accessed August 16, 2015. <<http://www.aljazeera.com/news/middleeast/2015/04/saudis-answer-call-aid-yemen-150418050646933.html>>

Recommendations:

- The US must act immediately to fund the UN's humanitarian response plan, and to help establish safe routes for the delivery of aid.
- The US must urge Saudi Arabia to deliver the funds it has already pledged for humanitarian assistance, and allow UNOCHA to determine where and how those funds should be used.
- The US must urge the Houthi-Saleh alliance, as well as the Saudi-led coalition, to allow the free passage and distribution of humanitarian assistance.
- The US must support the efforts of organizations, such as the ICRC, that are working with local militias and officials to establish local truces and secure routes for aid delivery.
- US authorities must immediately provide the Security Council with the required reports for all inspections of ships carried out by US forces.

Security and counterterrorism*The fight against al-Qaeda*

Since March 2015, the US has continued to conduct missile strikes against suspected al-Qaeda in the Arabian Peninsula (AQAP) targets. AQAP poses a serious threat to Yemen's security, and it is important for US intelligence and military agencies to continue to monitor the organization's activities. Recent strikes, and most importantly the confirmed killing of AQAP's overall

commander, Nasir al-Wuhayshi, demonstrate that the current state of conflict has not completely disrupted US operations in Yemen and the region.

Local and international NGOs and independent researchers have compiled considerable evidence showing that strikes carried out under the secret program have killed civilians—including Yemenis involved in combating AQAP. There is also reason to believe that US operations against AQAP may be creating opportunities for other extremist groups to expand into Yemen.

But despite recent successes, America's targeted killing program is extremely problematic. Local and international NGOs and independent researchers have compiled considerable evidence showing that strikes carried out under the secret program have killed civilians—including Yemenis involved in combating AQAP. There is also reason to believe that US operations against AQAP may be creating opportunities for other extremist groups—in particular the so-called Islamic State (IS) network—to expand into Yemen. US counterterrorism efforts in Yemen have long attracted criticism for their emphasis on “kinetic” tactics—missile strikes and armed assaults on AQAP targets—rather than programs that address the causes and facilitating factors of extremism and violence. As the balance of power within Yemen changes, US strikes risk further destabilizing the situation, and contributing to militant groups' recruitment efforts.

The current conflict has already provided additional space for AQAP and similar groups to operate. AQAP and the related organization Ansar al-Shari‘ah (AAS) have reportedly played a part in the fighting against Houthi forces in Aden, Abyan, and Shabwah, and have taken advantage of the chaotic state of affairs to take control of the city of al-Mukalla and other areas. The massive influx of arms into southern Yemen, and the militarization of much of the local population, is very likely to strengthen AQAP, AAS, and IS in the near future.

Prior to the current conflict, President Hadi repeatedly employed irregular, nonstate fighting forces—referred to as Popular Committees—to combat militants affiliated with AQAP, due to the unreliability of the state’s US-supported counterterrorism forces. Following the Houthi takeover of San‘a

Future counterterrorism efforts must be designed to address the conditions that enable radicalization, to promote the rule of law, and to enhance Yemen’s capacity to police and prosecute political violence.

and the complete disintegration of Yemen’s armed forces, Houthi forces have also been engaged in combat with AQAP affiliates, raising the possibility of cooperation between the US and Ansar Allah. US support for nonstate military forces risks further enflaming local conflicts, and undermines the institutions of the state. In other theaters of conflict, most notably Iraq, the US has increasingly relied upon nonstate or substate military forces, a practice which enables near-term tactical gains but contributes to destabilization in the long term. Any future US military assistance to or cooperation with Yemen must avoid such practices, and work instead to strengthen the capacity and legitimacy of Yemeni state institutions.

Future counterterrorism efforts must be designed to address the conditions that enable radicalization, to promote the rule of law, and to enhance Yemen’s capacity to police and prosecute political violence. As the Yemen Policy Initiative stated in its 2013 letter to President Obama, “The only effective long-term strategy will prioritize helping the Yemeni government address the very factors that allow extremist ideology to spread: the absence of basic social services, a worsening food shortage, and chronic unemployment.”

Military assistance

Over the past decade, the US has provided hundreds of millions of dollars in military assistance, training, and materiel to Yemen’s armed forces—the very forces that are now waging war against the Yemeni people, under the leadership of ‘Ali ‘Abdullah Saleh and ‘Abd al-Malik al-Houthi. US military assistance has long contributed to instability in Yemen, as the Saleh regime and the subsequent Hadi regime used the state’s security apparatuses against their political rivals rather than legitimate security threats. Such uses of US military assistance were communicated to Congress as early as 2010. While US military assistance was suspended following the Houthi coup, US leaders should take this opportunity to reassess the policy and strategy surrounding such assistance moving forward. The US Department of Defense has never conducted a formal evaluation of the effectiveness of its assistance to Yemen, despite repeated instructions to do so

from Congress.²³ Any future assistance should be subject to internal and independent evaluations, and must be tied to political and military reforms.

President Obama and his successors must end the practice of exempting Yemen from restrictions, established by the US Child Soldiers Prevention Act, on states and groups that recruit child soldiers. This exemption has undercut efforts by NGOs and other organs of the international community that are working to end underage recruitment. Prior to the present conflict, it was estimated that minors made up roughly one third of all fighters in government-allied and nonstate militias.²⁴ Elements of the state military have also recruited large numbers of children.²⁵ Available reports indicate that the Houthi movement is one of the most aggressive recruiters of child soldiers, but nearly all factions involved in the present conflict are using underage fighters, including those forces allied with President Hadi. Continued American encouragement of this practice is unacceptable. The Obama administration has also exempted Yemen from restrictions on military aid established by US laws and regulations on human trafficking and budget transparency.²⁶ Such exemptions are short-sighted, and serve to undermine reform efforts and the rule of law in Yemen.

Recommendations:

- The United States must suspend its targeted killing program immediately, and put in place a system to evaluate the program's effectiveness, as well as the potential effectiveness of alternative, non-kinetic programs.
- The White House, intelligence community, Department of State, and Department of Defense must establish a counterterrorism strategy prioritizing non-military solutions to long-term challenges.
- US authorities must work with local leaders to provide monetary compensation to the families of civilian victims of US strikes as soon as possible.
- The Department of Defense must evaluate the effectiveness of past military aid to Yemen, and tie any future assistance to real institutional reforms.
- The US must not provide direct or indirect support to unaccountable, nonstate military forces.

²³ Charles Michael Johnson, Jr., *US Assistance to Yemen: Actions Needed to Improve Oversight of Emergency Food Aid and Assess Security Assistance* (Washington: Government Accountability Office, 2013), 19. <<http://www.gao.gov/assets/660/653163.pdf>>

²⁴ Human Rights Watch, "Yemen: Houthis Send Children Into Battle," *Human Rights Watch*, May 12, 2015, accessed August 16, 2015. <<https://www.hrw.org/news/2015/05/12/yemen-houthis-send-children-battle>>

²⁵ Human Rights Watch, "Yemen: Stop Using Children in Armed Forces," *Human Rights Watch*, April 14, 2011, accessed August 16, 2015. <<http://www.hrw.org/news/2011/04/14/yemen-stop-using-children-armed-forces>>

²⁶ Jeremy M. Sharp, *Yemen: Background and U.S. Relations* (Washington: Congressional Research Service, 2015), 28. <<https://www.fas.org/sgp/crs/mideast/RL34170.pdf>>

- President Obama and his successors must end the practice of exempting Yemen from restrictions established by the Child Soldiers Prevention Act of 2008, the Victims of Trafficking and Violence Protection Act of 2000, and other US regulations.
- The US and its allies must assist post-war Yemeni authorities in establishing a program for Disarmament, Demobilization, and Reintegration of child soldiers and other fighters in nonstate militias, based on international best practices.

Assistance to US citizens

Despite the fact that there are several US Navy vessels in and around the Gulf of Aden, the US has refused to commit its assets to aid in the evacuation of US citizens and other foreign nationals living in Yemen. In Resolution 2216, paragraph 10, the UNSC “calls on all parties to facilitate the evacuation” of foreign citizens. Several states, including India, Pakistan, Russia, China, Malaysia, and Thailand, have tasked ships and aircraft with evacuating their own and other foreign nationals, including American citizens.

US officials are understandably concerned that an organized, publicized evacuation effort could expose both American evacuees and military personnel to attacks by al-Qaeda or other armed groups. However, State and Defense Department officials have had ample time to plan for such a scenario.

A number of US citizens of Yemeni descent have lodged complaints in recent years, accusing US consular staff in San‘a, prior to the closure of the embassy, of confiscating their US passports without cause or due process. Though the State Department has met with some of the citizens affected, the issue has still not been addressed satisfactorily.

Recommendations:

- US authorities must establish more active communication with US citizens living in Yemen, to inform them of options for evacuation and repatriation.
- State Department and military officials must take all possible measures to ensure the safe evacuation of any remaining US citizens who wish to leave the country, and ensure that citizens and their family members who have left Yemen already—many of whom are now in Djibouti, Egypt, Jordan, or elsewhere in the region—are quickly and safely transported to the US.
- The State Department must take immediate action to address reports of discrimination and unfair treatment of Yemeni-Americans by consular staff, and ensure that such behavior does not continue.

Enabling a Lasting Peace

The United States has a crucial role to play in bringing Yemen's warring parties to the table and securing an end to the present hostilities. Its role in a post-war Yemen will be just as important. Yemen's leaders will face a wide array of challenges on the way to establishing a just and lasting peace; US policy makers should begin working now to support those future efforts.

- **Demilitarization:** In order for peace to firmly take root in Yemen, armed factions will have to agree to a full military withdrawal from the capital and other major cities, and from specific hotspots—such as Marib and al-Dhali‘—where high tensions could lead to a resumption of fighting. Such a demilitarization scheme may require the presence of international observers; the US should support the active, ongoing engagement of the UN Security Council in this matter as Yemeni leaders decide what the international community's role should be. Any form of occupation or military presence not conducted under the auspices of the UN would be likely to spark a resumption of hostilities, and would also set a dangerous international precedent.
- **Structured international support:** The current conflict has laid waste to much of Yemen's infrastructure, and has crippled the country's economy, multiplying the many challenges Yemen faced before the conflict erupted. The US will need to work closely with Yemen's neighbors and with other members of the international community—perhaps within a forum like the Friends of Yemen working group—to create a comprehensive strategy for recovery and reconstruction. In order to succeed, the reconstruction plan will need to establish Yemeni ownership of transitional institutions. Any reconstruction fund established must be placed under Yemeni control, as any arrangement that gives foreign officials authority over such resources would provide rhetorical leverage for spoilers. All foreign contributions to the recovery and reconstruction fund must be completely transparent and coordinated, and should not take the form of loans. The US and other international sponsors should consider debt forgiveness as part of the economic recovery effort.
- **Transitional justice:** Participants in Yemen's National Dialogue Conference stated in 2013 that a process of reconciliation and transitional justice would be crucial to Yemen's future. The current conflict, in which both Houthi-Saleh forces and their adversaries have committed war crimes, has made such an effort even more important. The US should work with Yemeni experts and stakeholders to support future transitional justice programs, help to fund the reform of Yemen's own judiciary, and, if necessary, urge the UNSC to refer war crimes committed in Yemen to the International Criminal Court.

Conclusion

The United States has an opportunity now to help Yemen and its neighbors reach a peaceful resolution to the current armed conflict, and to play a constructive role in Yemen's near future. In order to do so, and to mitigate the negative effects of its past involvement, the US administration will have to rethink several aspects of its policy toward Yemen and the objectives that underpin it. The recommendations provided in this report are intended to enable the development of a more just and constructive US policy, one that is in line with America's values and its obligations under international law, and that recognizes the civil and human rights of the Yemeni people.