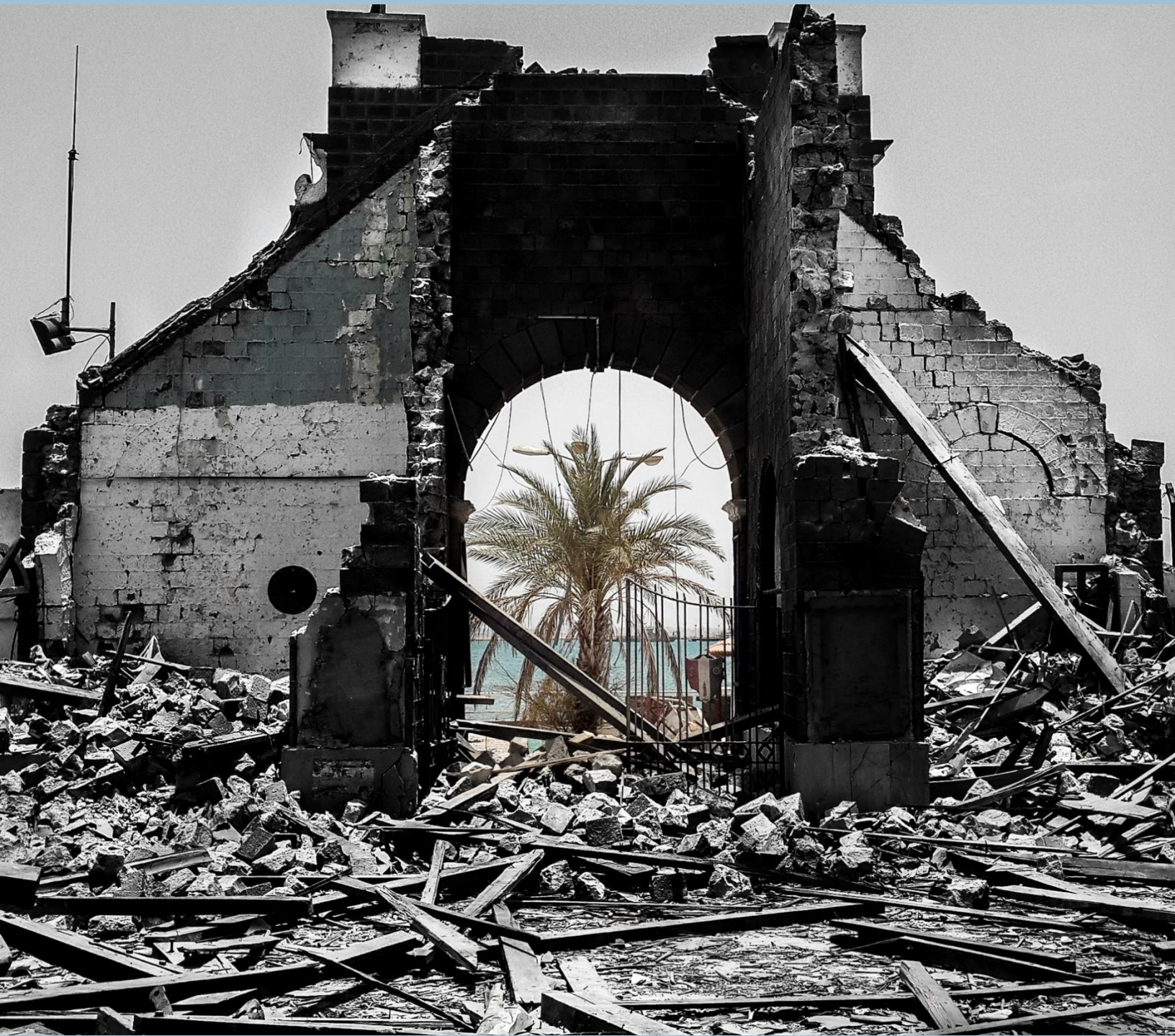


# THE YEMEN PEACE PROJECT



**America's Role in Yemen  
2017 and Beyond**

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The Yemen Peace Project (YPP) has produced this report to inform and guide discussions of the United States' involvement in Yemen. This document is not intended as a comprehensive statement of the positions of the Yemen Peace Project. The YPP is an independent organization, and is not funded or otherwise supported by any US or foreign government entity.

**The Yemen Peace Project** (YPP) is a nonprofit organization dedicated to transforming the relationship between the United States and Yemen by promoting understanding between Americans and Yemenis and advocating for more peaceful, constructive US policies.

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## Background Summary

In March of 2015, 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 military units and irregular militias allied with President ‘Abd Rabbuh Mansur Hadi and his government-in-exile, a coalition of states led by Saudi Arabia and the United Arab Emirates, armed elements of the Southern Movement (*al-Hirak*), forces tied to General ‘Ali Muhsin al-Ahmar and the Islah Party, and an assortment of *Salafi* and *jihadi* factions.

To date, more than 10,000 Yemenis have been killed by weapons in this conflict; the majority of these have been civilians. Tens of thousands more—including at least 10,000 children under the age of five<sup>1</sup>—have died from malnutrition and a lack of access to medical care, both of which are direct results of the war. More than 3.25 million civilians have been forced to flee their homes, with more being displaced every day. 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—though contradictory—role. US military and intelligence personnel provide technical and logistical assistance to the Saudi-led coalition, including in-air refueling for coalition warplanes, which have repeatedly violated international humanitarian law by targeting civilian residences and infrastructure and failing to protect civilians from harm.**

**Meanwhile, on the diplomatic front, the US is supporting the United Nations Special Envoy’s peace plan and working to bring the warring parties to the table. The Trump administration must continue these diplomatic efforts to end hostilities and reach an internationally supported political settlement, work with Yemen’s neighbors and the rest of the international community to establish secure routes for the delivery of humanitarian aid, and craft a comprehensive infrastructure and economic reconstruction plan. The US must also work with other members of the UN 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 UN Charter.**

The US has also continued to carry out its own airstrikes against suspected members of al-Qaeda in the Arabian Peninsula (AQAP), killing at least 156 people in no fewer than 31 airstrikes in 2016,<sup>2</sup>

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<sup>1</sup> Stephen O’Brien, “Statement to the Security Council,” *Reliefweb*, October 31, 2016, accessed January 17, 2017, <http://reliefweb.int/report/yemen/under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator-10>.

<sup>2</sup> Bill Roggio and Bob Barry, “Charting the Data for US Air Strikes in Yemen, 2002-2017,” *The Long War Journal*, updated October 27, 2016, accessed January 12, 2017, <http://www.longwarjournal.org/multimedia/Yemen/code/Yemen-strike.php>.

\* According to UNOCHA, Saudi Arabia spent \$230 million on humanitarian efforts outside of the UN framework. Much of this was channeled through charities controlled by the Saudi state and restricted to organizations and areas under government or coalition control.

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and killing as many as 60 more in January 2017.<sup>3</sup> US counterterrorism efforts in Yemen have long attracted criticism for their emphasis on “kinetic” tactics—missile strikes and armed assaults—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), roughly 80 percent 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 imminent. 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, which stands at \$1.63 billion as of January 2017, is only 60 percent funded. The US is the largest donor to the UN fund, contributing \$316 million in 2016. Early in the conflict Saudi Arabia pledged to cover the entirety of the previous appeal; to date the Saudis have delivered only \$61.3 million.\* Both the coalition and the Houthi-Saleh alliance are preventing aid from reaching civilians, in violation of international law.

### THE HUMAN COST OF WAR

- According to the UN, at least 10,000 Yemenis have been killed by ground fighting and airstrikes since March 2015, and tens of thousands more have been wounded.
- More than half of the dead have been civilians, many of them children and women.
- At least 3.27 million Yemenis have been displaced from their homes by the conflict.
- In July 2016, the UN declared Yemen to be in a “level 3” humanitarian crisis, the most severe designation.
- More than 80 percent of Yemen’s total population is in need of some form of humanitarian assistance—almost double the number targeted by the UN’s latest Humanitarian Response Plan, which remains only 60 percent funded.
- 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 cholera, malaria, and dengue fever.

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<sup>3</sup> Spencer Ackerman, Jason Burke and Julian Borger, “Eight-year-old American girl ‘killed in Yemen raid approved by Trump’,” *The Guardian*, February 1, 2017, <https://www.theguardian.com/world/2017/feb/01/yemen-strike-eight-year-old-american-girl-killed-al-awlaki>.

## Priority Recommendations for the US Government

### *Diplomatic engagement:*

- The US must urge Saudi Arabia and its allies to end their military intervention and insist that international involvement in the conflict adhere to the restrictions of the UN Charter.
- The US must work toward the inclusion of all parties and factions, including non-state fighting groups, in the peace process and the post-war transition. The participation of such groups in negotiations is essential to a lasting peace.
- The US must actively engage with regional actors outside the Gulf Cooperation Council (GCC) states, such as Iran, 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.

### *Military intervention:*

- The US must immediately suspend all military support for the Saudi-led coalition, and halt any pending transfers of ordnance or other materiel to coalition states until the coalition achieves concrete progress on a long-term ceasefire agreement.
- The US must take all measures at its disposal, including public demarches, 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 to 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 US must suspend its targeted killing program immediately and conduct a detailed evaluation of the program's legality and effectiveness.
- 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 and security assistance to Yemen, and condition any future assistance to real institutional reforms.

## Policy Assessment and Recommendations

### Diplomatic engagement

#### *The transitional period*

The US has been intimately involved in Yemen's political transition process since the popular uprising 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 Saleh and members of his administration blanket immunity from prosecution within Yemen.

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***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.***

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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. 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 groups that had been left out of the transitional regime—including nonpartisan revolutionary youth activists, women, representatives of the Southern independence movement (al-Hirak), and the Houthi Movement (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 US throughout the transitional period was defined by checklist diplomacy, whereby the US 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 was to keep its counterterrorism program in Yemen operational; the need to preserve the centralized regime and Yemen's security and intelligence agencies in the service of that goal guided much of American policy between 2011 and 2015.

US policy has always been 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—Saudi Arabia, Kuwait, the United Arab Emirates (UAE), Qatar, Bahrain, and Oman—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,<sup>4</sup> and leading purchasers of US arms; the US has sold more than \$100 billion worth of military equipment to GCC members since 2009, according to outgoing Secretary of Defense Ashton Carter.<sup>5</sup> Saudi Arabia and the other GCC 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 bin 'Abd al-'Aziz and his inner circle—Defense Minister Muhammad bin 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.<sup>6</sup>

### *Wartime diplomacy*

Following the Houthi coup, the US State Department—under the leadership of Secretary John Kerry and Ambassador Matthew Tueller—has played a leading role in the diplomatic effort to bring Yemen's warring factions back into UN-sponsored negotiations. American and Omani negotiators, in addition to the UN Special Envoy, 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 2015. It is unclear whether Secretary of State Rex Tillerson shares his predecessor's commitment to the UN roadmap for peace; some of his statements during the confirmation process indicated instead that he would recommend military escalation. However, as of February 2017, State Department officers were still working actively on the peace process.

The Joint Comprehensive Plan of Action (JCPOA) signed by the US, United Kingdom (UK), European Union, France, China, Russia, and Iran has been a major source of tension between the US and its GCC allies. In order to win the GCC states' approval for the agreement—which limits Iran's nuclear development—President Obama had to make specific assurances concerning America's readiness to defend them from Iranian interference or aggression. Foreign policy experts—and indeed, US government officials—have invoked the US-GCC “Camp David Summit” as an explanation and justification for the Obama administration's substantial participation in the Saudi-led military intervention in Yemen, and in particular for the administration's failure to hold Saudi Arabia and other coalition members accountable for flagrant violations of international humanitarian law (IHL). The Trump administration is unlikely to abide by the terms of the JCPOA.

Coalition members and UN investigators have uncovered evidence that Iranian small arms are being smuggled into Yemen, but the extent of Iran's material and financial support for the Houthi-GPC alliance is not clear. At present, diplomatic contact between the US and Iran regarding the Yemen conflict seems to be mediated by Oman. More direct and robust engagement with Iran is likely necessary to secure Ansar Allah's commitment to the peace process.

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<sup>4</sup> 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>.

<sup>5</sup> Secretary Ashton Carter, “Department of Defense Accomplishments (2009-2016): Taking the Long View, Investing for the Future,” Department of Defense, January 5, 2017, <https://www.defense.gov/Portals/1/Documents/pubs/FINAL-DOD-Exit-Memo.pdf>.

<sup>6</sup> 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>.

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Although the GCC and Iran are the leading foreign sponsors of the warring factions in Yemen, many of the fighting groups involved in the conflict are not under the direct control of the Hadi administration or foreign states. The US and the UN envoy must 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 must start to deal realistically with President Hadi's repeated obstruction of the peace process. The current UN road map envisions the removal of President Hadi once a unity government is formed. Thus, participating in peace talks is not in Hadi's personal interest. The US will have to work proactively with other prominent members of Hadi's administration, while also encouraging Saudi Arabia to put pressure on Hadi, in order to move negotiations forward.

The power and importance of the Southern independence movement, al-Hirak, has grown significantly since the war began, despite the movement's inherent decentralization. It is no longer feasible or beneficial for foreign powers to refuse to engage directly with Hirak leadership, or to treat Southern self-determination as a political red line. Yemen's unity may be salvageable only if the peace process and post-war transition are handled correctly, but the US and the international community must work to ensure that legitimate Southern stakeholders are fully included in all negotiations, and that the demands of the South are not preemptively silenced or sidelined.

### ***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 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 (UNSC) unanimously approved Resolution 2201, which "deplored" the coup and called for a military withdrawal and a return to UN-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 UNSC approval and control. In so doing, 2216 positioned the UNSC on the pro-Hadi/pro-Saudi side of the conflict. This stance places the UNSC 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. Although subsequent UNSC statements have stressed the body's support for the peace process, the functional conflict created by 2216 has not been resolved.

### ***The Trump Administration***

The administration of President Donald Trump is likely to be less interested than its predecessor in working closely with the UN Special Envoy, particularly if that means following the UN's lead rather than acting unilaterally. Trump's administration can also be expected to ascribe even less importance to IHL than did Obama's. Mr. Trump and his advisors have made contradictory statements on the



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importance of the US-Saudi relationship, but can be expected to be more receptive to Saudi lobbying vis-à-vis Iran. A more bellicose posture toward Iran could negatively impact America's diplomatic role in Yemen.

### **Recommendations:**

- The US must encourage the Yemeni government in exile to drop its 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 new US administration must formally express its commitment to the UN road map for peace and ensure continuity in its 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 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 Yemeni parties and factions, including non-state fighting groups, in the peace process and the post-war transition. The participation of such groups in negotiations is essential to a lasting, inclusive 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 US has not committed its own strike aircraft to the Saudi-led bombing campaign. However, Saudi and allied warplanes may still be using US airbases to fly sorties over Yemen. US refueling aircraft also continue to support Saudi and coalition air missions. This means that US military personnel have been involved in airstrikes that have resulted in civilian casualties. The Obama administration insisted that US military and intelligence personnel serving in the

“Joint Planning Cell” have tried to steer Saudi war planners away from illegal targets. Without transparent reporting and an impartial, independent investigation, however, it is impossible to determine whether US planners have had prior knowledge of Saudi attacks on civilian targets.

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***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.***

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Human Rights Watch<sup>7</sup> and Amnesty International<sup>8</sup> have found compelling evidence that many of the Saudi-led coalition’s airstrikes have violated IHL. 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,<sup>9</sup> as a result of these airstrikes. UNSC Resolution 2216, which condones the international intervention into Yemen’s conflict, explicitly calls on all parties to observe IHL 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.<sup>10</sup>

Despite the adoption of Resolution 2216, the US remains obligated to uphold the UN Charter, which forbids the international use of force outside of actions 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 which poses additional danger to local civilian populations.

In October 2016, a series of Saudi airstrikes on a funeral at a civilian venue killed at least 100 Yemenis and wounded more than 500. The vast majority of the casualties were civilians, including

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<sup>7</sup> 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>.

<sup>8</sup> 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/>.

<sup>9</sup> 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>.

<sup>10</sup> 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/>.

children. This was not the first Saudi airstrike of this nature. Human rights organizations and journalists have provided evidence from the scene proving that the munitions used were manufactured in and provided to Saudi Arabia by the US.<sup>11</sup> This atrocity prompted the Obama administration to order a review of all US support to the coalition.<sup>12</sup>

After the October incident, the administration drastically reduced the number of US personnel working at the Joint Planning Cell. It also temporarily froze an approved transfer of munitions guidance kits to Saudi Arabia. These actions were intended to signal that the US will not continue to support the coalition unless civilian casualties are reduced. However, these very limited disciplinary measures have not had a substantial effect on the coalition's war effort, and the coalition has continued to strike civilian targets.

In January 2017, the Saudi-led coalition formed the Joint Incidents Assessment Team (JIAT) to investigate allegations of illegal airstrikes in Yemen.<sup>13</sup> While JIAT has found the coalition responsible for a few such incidents, it is clear that such a body, appointed by the entity whose conduct it is reviewing, cannot complete a thorough and unbiased assessment of the coalition's culpability for IHL violations. Saudi Arabia, the US, and the UK have blocked international efforts to create a truly independent investigative body.

### ***Threats of escalation***

In opposition to the trend toward a reduction of US support for the coalition war effort in the latter months of the Obama administration, Trump administration officials have signaled a desire to increase America's military involvement in Yemen. During his initial hearing before the Senate Foreign Relations Committee, incoming

Secretary of State Rex Tillerson said that the US should "[provide the coalition] better targeting intelligence, better targeting capability." The new administration also seems intent on framing the fight against the Houthis in Yemen as part of a broader conflict against Iran. In a public statement on February 1, 2017, National Security Advisor Michael Flynn spoke of "recent Iranian actions, including a provocative ballistic missile launch and an attack against a Saudi naval vessel conducted by Iran-supported Houthi militants."<sup>14</sup>

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***There is no evidence that Houthi-Saleh military forces are under the control of Iran; nevertheless, the Trump administration will likely portray escalation in Yemen as a means of countering Iran. Such a policy will have dire ramifications not just for Yemen, but for the entire region.***

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There is no evidence that Houthi-Saleh military forces are under the command and control of Iran; nevertheless, it appears likely that the Trump administration will portray a US military escalation in

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<sup>11</sup> Human Rights Watch, "Yemen: Saudi-Led Funeral Attack Apparent War Crime," October 13, 2016, <https://www.hrw.org/news/2016/10/13/yemen-saudi-led-funeral-attack-apparent-war-crime>.

<sup>12</sup> The White House, "Statement by NSC Spokesperson Ned Price on Yemen," October 8, 2016, <https://www.whitehouse.gov/the-press-office/2016/10/08/statement-nsc-spokesperson-ned-price-yemen>.

<sup>13</sup> Al Arabiya English Staff, "Saudi-led coalition to investigate claims in Yemen," January 31, 2016, <http://english.alarabiya.net/en/News/middle-east/2016/01/31/Saudi-led-coalition-our-bases-prevent-targeting-civilian-areas-.html>.

<sup>14</sup> Michael Flynn, "Statement by the National Security Advisor," The White House, February 1, 2017, <https://www.whitehouse.gov/the-press-office/2017/02/01/statement-national-security-advisor>.

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Yemen as a means of countering Iranian hostility. Such a policy will have dire ramifications not just for Yemen, but for the entire region. It is not possible for either side in this conflict to win a decisive military victory; a more robust American intervention will not change that fact. The longer the conflict drags on, the harder it will be for Yemen to recover. A perpetual war and power vacuum in Yemen will have a range of negative effects on the wider region. Furthermore, it is likely that the introduction of American combat forces would encourage Iran to provide more support to the Houthi-Saleh alliance, not less.

### **Recommendations:**

- The US must immediately suspend all logistical and technical support, including refueling, for Saudi and coalition military actions, which continually fail to meet legal standards regarding the protection of civilians or distinction between combatants and noncombatants.
- The US must not engage directly in hostilities, or otherwise escalate its military involvement in the conflict.
- The US must 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.
- The US should seek a UNSC resolution that requires any further military intervention in Yemen to comply with Chapter VII of the UN Charter.
- 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, independent investigation of war crimes committed by all parties to the conflict.
- The US must not engage in direct military action against Houthi-Saleh forces, or threaten any such action.

## Humanitarian assistance

Since 2008 the US has been one of the leading donors of humanitarian assistance to Yemen. Although the current conflict has forced USAID to suspend its development 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 60 percent funded as of mid-January 2017;<sup>15</sup> 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 claim that the Saudi-led naval blockade—which in 2015 cut Yemenis off from crucial humanitarian aid, fuel, food, medicine, and commerce<sup>16</sup>—is no longer in place. Instead, the UN Verification and Inspection Mechanism for Yemen (UNVIM) is responsible for ensuring that ships headed to Yemen are not carrying weapons or other prohibited cargo. But humanitarian and commercial shipments currently reaching Yemen's ports are insufficient to meet the need. This is due in large part to the coalition's targeting of port facilities in 2015-2016. In August 2015, 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.<sup>17</sup> At present it takes 30 days on average to offload a single ship at the damaged port.<sup>18</sup> On January 26, 2017, UN Under-Secretary-General Stephen O'Brien informed the UNSC that Saudi Arabia was refusing to allow a UN-chartered vessel, cleared by UNVIM, to bring mobile cranes to al-Hudaydah to increase the port's capacity.<sup>19</sup> The coalition has also refused to allow San'a International Airport to operate regularly throughout the war.

Houthi-Saleh forces are also restricting the delivery and distribution of humanitarian aid inside Yemen. 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. One purpose 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, particularly in Ta'iz governorate, much of which remains effectively under siege. US talks with Houthi and GPC representatives must include demands to end these practices.

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<sup>15</sup> Stephen O'Brien, "Remarks to the Press," August 12, 2015, <https://docs.unocha.org/sites/dms/Documents/ERC%20O%27Brien%20Remarks%20to%20Press%20in%20Aden%2012Aug2015%20CAD.pdf>.

<sup>16</sup> 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>.

<sup>17</sup> 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>.

<sup>18</sup> Stephen O'Brien, "Statement to the Security Council," *Reliefweb*, October 31, 2016, accessed January 17, 2017, <http://reliefweb.int/report/yemen/under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator-10>.

<sup>19</sup> Stephen O'Brien, "Yemen: A child under the age of five dies every 10 minutes of preventable causes," UNOCHA, January 26, 2017, <http://www.unocha.org/top-stories/all-stories/yemen-child-under-age-five-dies-every-10-minutes-preventable-causes-un-human>.

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The politicization of humanitarian relief has been a consistent characteristic of the current conflict. In April 2015, the Saudi government announced that it would cover the entire amount of a UN emergency appeal. To date, very little 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.<sup>20</sup> 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 legal 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.

### *The financial crisis*

On September 18, 2016, President Hadi issued a decree replacing the governor of the Central Bank of Yemen (CBY) and relocating the Bank's headquarters to Aden. This decision conflicts with the Yemeni constitution and applicable laws, and was taken against the advice of the US government. Subsequently, the US Federal Reserve, which has long served as the CBY's bank for foreign currency transactions, froze the CBY's accounts. Without access to its foreign currency reserves, the CBY is unable to finance imports of badly-needed food staples and other vital commodities. Yemen's for-profit importers cannot purchase wheat, rice, or other foodstuffs without CBY subsidies.

Meanwhile, the CBY has also stopped salary payments to civil servants and members of the armed forces and security services in northern Yemen. Most government employees outside of the south have not received payments since August 2016. Many civil servants in the south are also going without pay, despite apparent liquidity in the CBY's Aden branch. Between 10 and 25 percent of Yemen's population depends on government salaries.

### **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 and other GCC states to deliver the funds already pledged for humanitarian assistance and to 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 allocate additional resources for the reconstruction of Yemen's air and sea ports, and demand that the coalition allow San'a's airport to reopen to civilian traffic.
- The US must work with the UN and international financial institutions to enact a temporary solution to the liquidity crisis and unfreeze assets held by the Federal Reserve.

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<sup>20</sup> 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>.

## Security and counterterrorism

### *The fight against al-Qaeda*

During the current war, 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 and disrupt the organization's activities.

But America's counterterrorism efforts in Yemen—in particular the targeted killing program—are 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, thereby 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 played a part in the fighting against Houthi forces in Aden, Abyan, al-Baydha, and Shabwah, and have taken advantage of the chaotic state of affairs to temporarily take control of the city of al-Mukalla and other areas. Since the start of the war, IS in Yemen has grown in strength and launched devastating attacks against military and civilian targets in both Houthi- and coalition-controlled areas. Since pro-government and coalition forces drove Houthi-GPC forces out of Aden and Abyan, local authorities have been unable to secure the region against AQAP and IS. 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.

Signs are now emerging that some officials within the Pentagon and the White House want to

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increase the tempo of counterterrorism operations in Yemen, and intend to increase the roll of US ground forces in those operations. On January 28, 2017, US Special Operations Forces carried out a raid on suspected AQAP leaders in al-Baydha that, according to local Yemeni officials and eyewitnesses, resulted in more than a dozen civilian fatalities. Among those killed was an eight-year-old girl with US citizenship, a daughter of the late AQAP propagandist Anwar al-Awlaqi. One US Navy SEAL

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was also killed in the raid. Following the action, sources at the Pentagon told reporters that they expected to see faster and more frequent approval for such operations in the near future.<sup>21</sup> But given the prevailing governance vacuum in Yemen, and the absence of programs addressing radicalization and human development, such an escalation by the US is unlikely to defeat or even weaken AQAP. Instead, it will validate the rhetorical frame employed by both AQAP and IS, that the US is waging war on the Islamic world, and will bolster recruitment efforts by terrorist groups.

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."<sup>22</sup>

### ***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.<sup>23</sup> Any future assistance should be subject to internal and independent evaluations of past military aid, and must be tied to political and military reforms.

Prior to the current conflict, President Hadi repeatedly employed irregular, non-state 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 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 non-state 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 non-state or sub-state military forces, a practice which enables near-term tactical gains but contributes to destabilization in the long term. Any future US military assistance to

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<sup>21</sup> Thomas Gibbons-Neff and Missy Ryan, "In deadly Yemen raid, a lesson for Trump's national security team," *The Washington Post*, January 31, 2017, [https://www.washingtonpost.com/news/checkpoint/wp/2017/01/31/how-trumps-first-counter-terror-operation-in-yemen-turned-into-chaos/?utm\\_term=.578cdc4c1779](https://www.washingtonpost.com/news/checkpoint/wp/2017/01/31/how-trumps-first-counter-terror-operation-in-yemen-turned-into-chaos/?utm_term=.578cdc4c1779)

<sup>22</sup> Yemen Policy Initiative, "Letter to President Obama," March 26, 2013, <http://www.atlanticcouncil.org/images/files/uploads/yipi130326obamaletter.pdf>.

<sup>23</sup> 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>.



or cooperation with Yemen must avoid such practices, and instead focus on strengthening the capacity and legitimacy of Yemeni state institutions.

President Trump 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. It has been estimated that minors make up roughly one third of all government-allied and non-state militias.<sup>24</sup> Elements of the state military—most notably the pro-Hadi First Armored Division—have also recruited large numbers of children.<sup>25</sup> 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. Continued American encouragement of this practice is unacceptable. The Obama administration also exempted Yemen from restrictions on military aid established by US laws and regulations on human trafficking and budget transparency.<sup>26</sup> Such exemptions are short-sighted and serve to undermine reform and the rule of law in Yemen.

### **Recommendations:**

- The US must suspend its targeted killing program and “boots on the ground” operations immediately, and undertake an evaluation of the legality and effectiveness of these programs, 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 under the Section 1206 and 1207(n) programs in Yemen and tie any future assistance to real institutional reforms.
- The US must not provide direct or indirect support to unaccountable, non-state military forces.
- President Trump 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 non-state militias, based on international best practices.

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<sup>24</sup> 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>.

<sup>25</sup> 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>.

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

## Conclusion: Enabling a Lasting Peace

The US 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 policymakers 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, crippled the country's economy, and left nearly all of Yemen's population dependent on humanitarian aid. The US will need to work closely with Yemen's neighbors and with other members of the international community 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, with support from international advisors, 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.

**The US 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 new US administration and Congress will have to rethink several aspects of US 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 policy, one that is in line with America's values and its obligations under international law, and that respects the civil and human rights of the Yemeni people.**