

Embargoed until 4:30pm, Wednesday, February 28th, 2018

Key points on Sanders-Lee joint resolution invoking War Powers Resolution to end unauthorized U.S. participation in Saudi-led war in Yemen

1. The Sanders-Lee joint resolution reflects bipartisan, bicameral concern over unauthorized war and U.S. participation in the catastrophic Saudi- and UAE-led conflict in Yemen. The joint resolution closely follows the framework and language of H.Con.Res 81, introduced by a bipartisan quartet of U.S. Representatives on September 27, 2017. The Sanders-Lee joint resolution is historic: the provisions of law being invoked to force this measure to the floor have never before been used in the Senate, and will culminate in the first-ever Senate vote to remove U.S. forces from unauthorized hostilities.

2. U.S. participation in Saudi-UAE hostilities against Yemen's Houthis has never been authorized by Congress. In March 2017, Senate Foreign Relations Committee Chair Corker "made it clear he doesn't believe the Authorization for the Use of Military Force that Congress passed in 2001 to counter al-Qaeda would apply to the Houthis," *Al-Monitor* reported. "Certainly engaging in a war against a group outside of ISIS [the Islamic State] is a step beyond the current authorization," Senator Corker was quoted as saying.¹ In November 2017, the House of Representatives overwhelmingly passed a resolution explicitly stating that U.S. military assistance to Saudi Arabia in its war in Yemen has never been authorized.²

The War Powers Resolution of 1973 affirms in Section 2(c):

The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised **only pursuant to (1) a declaration of war, (2) specific statutory authorization**, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.³

War Powers Resolution Section 8(c) defines the "introduction of United States Armed Forces" to include "the assignment of member of such armed forces to command, **coordinate, participate in the movement of, or accompany** the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities."⁴ This definition indisputably applies to U.S. midair refueling of Saudi and UAE warplanes bombing Houthi targets in Yemen, as well as the provision of U.S. targeting assistance for such airstrikes.

3. Withdrawal of U.S. participation in the Saudi-UAE war in Yemen would almost certainly force Saudi Arabia and the UAE to end the war and seek a diplomatic, political solution. *Foreign Policy* reported that the Saudi-UAE "daily bombing campaign would not be possible without the

¹ "Congress raises alarm over US confrontation with Yemen's Houthis," Julian Pecquet, *Al-Monitor*, March 30, 2017 <http://web.archive.org/web/20170817152657/https://www.al-monitor.com/pulse/originals/2017/03/congress-raise-alarm-us-confrontation-yemen-houthis.html>

² "House declares U.S. military role in Yemen's civil war unauthorized," Gregory Hellman, *Politico*, 11/13/2017, <https://www.politico.com/story/2017/11/13/house-yemen-civil-war-authorization-244868>

³ War Powers Resolution, http://avalon.law.yale.edu/20th_century/warpower.asp

⁴ War Powers Resolution, http://avalon.law.yale.edu/20th_century/warpower.asp

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constant presence of U.S. Air Force tanker planes refueling coalition jets” conducting airstrikes.⁵ The Associated Press referred to the conflict as a “bloody stalemate.”⁶ Bruce Riedel, Senior Fellow at the Brookings Institution and 30-year veteran of the CIA, asserted that “if the United States and the United Kingdom, tonight, told King Salman, ‘This war has to end,’ it would end tomorrow. The Royal Saudi Air Force cannot operate without American and British support.”⁷ In November, Riedel said, “The war in Yemen, which is Muhammad bin Salman’s signature policy move, has turned into a quagmire. It was supposed to be Operation Decisive Storm. There’s nothing decisive about it except the worst humanitarian catastrophe in the world today.”⁸

4. UNICEF has said that the Saudi-UAE war in Yemen has created the worst humanitarian crisis in the world.”⁹ The United Nations said in December that 8.4 million Yemenis were “a step away from famine.”¹⁰ UNICEF says that a child in Yemen is dying every ten minutes from preventable diseases such as malnutrition, diarrhea, and respiratory tract infections.¹¹

5. On December 6 2017, President Trump demanded that the Saudi regime end its blockade on imports into Yemen and “completely allow food, fuel, water, and medicine to reach the Yemeni people who desperately need it,” which “must be done for humanitarian reasons immediately.”¹² Two days later, the White House urged “all parties to immediately cease hostilities” in Yemen.¹³ Saudi Arabia has not complied with these U.S. demands.

A recent report by a UN panel of experts found that the Saudi blockade on humanitarian and commercial goods “is essentially using the threat of starvation as a bargaining tool and an instrument of war.”¹⁴ Contrary to Saudi claims to be addressing Yemen’s humanitarian crisis, the

⁵ “In Yemen, a Saudi War Fought With U.S. Help; Riyadh's air campaign has killed hundreds of civilians -- and it wouldn't be happening without the Pentagon,” Paul McLeary, *Foreign Policy*, November 23, 2015, <http://foreignpolicy.com/2015/11/23/in-yemen-a-saudi-war-fought-with-u-s-help/>

⁶ “Saudi military leaders replaced amid stalemate Yemen war,” *Associated Press*, February 26, 2018,

<http://www.foxnews.com/world/2018/02/26/saudi-military-leaders-replaced-amid-stalemate-yemen-war.html>

⁷ “WATCH: Sen. Chris Murphy on revisiting U.S.-Saudi relationship,” Fred Dews, Brookings, April 22, 2016,

<https://www.brookings.edu/blog/brookings-now/2016/04/22/watch-sen-chris-murphy-on-revisiting-u-s-saudi-relationship/>

⁸ “5 takeaways from Bruce Riedel’s talk on the U.S.-Saudi relationship,” Fred Dews, Brookings, November 28, 2017

<https://www.brookings.edu/blog/brookings-now/2017/11/28/5-takeaways-from-bruce-riedels-talk-on-the-u-s-saudi-relationship/>

⁹ “WHO, WFP and UNICEF: Yemen’s families cannot withstand another day of war, let alone another 1,000; WHO, WFP and UNICEF appeal for humanitarian access and an end to conflict, as 75 per cent of population now in need of urgent assistance,” 29 December 2017 https://www.unicef.org/media/media_102360.html

¹⁰ “UN aid official in Yemen urges lifting of blockade, says millions a ‘step away from famine’,” 11 December 2017 <https://news.un.org/en/story/2017/12/639042-un-aid-official-yemen-urges-lifting-blockade-says-millions-step-away-famine>

¹¹ “UNICEF: Yemen Worst Place on Earth to Be a Child,” *VOA News*, November 26, 2017

<https://www.voanews.com/a/unicef-yemen-vaccine/4137238.html>

¹² “Statement by President Donald J. Trump on Yemen,” December 6, 2017

<https://www.whitehouse.gov/briefings-statements/statement-president-donald-j-trump-yemen/>

¹³ “Statement by the Press Secretary Regarding the Violence and Humanitarian Conditions in Yemen,” December 8, 2017, <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-regarding-violence-humanitarian-conditions-yemen/>

¹⁴ “Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council,” 26 January 2018 http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2018/68

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coalition has maintained its blockade of essential goods. In January, aid group Save the Children warned against a misconception that the Saudi-led coalition has lifted its blockade, noting that “fuel is still being blocked, leading to crippling shortages across the country and unsustainable rises in the price of basic goods.”¹⁵ On February 22, the International Rescue Committee denounced the Saudi “aid” plan as a “war tactic,” noting that it does not lift the Saudi blockade on Yemen’s Red Sea ports that is a key cause of Yemen’s humanitarian crisis.¹⁶

6. The State Department’s Bureau of Counterterrorism affirms the generally acknowledged fact that the war has “enabled al-Qaeda in the Arabian Peninsula (AQAP) and ISIS’s Yemen branch to deepen their inroads across much of the country.”¹⁷ In December 2017, Lora Shiao, acting director of intelligence for the National Counterterrorism Center, affirmed in Senate testimony that AQAP “continues to exploit the conflict in Yemen to gain new recruits and secure areas of safe haven, contributing to its enduring threat.”¹⁸ The Associated Press has referred to AQAP as a “de facto ally” of Saudi Arabia and the UAE in Yemen.¹⁹

7. Analysts independent of the Saudi and UAE governments argue that the Gulf monarchies have greatly exaggerated Iran’s role in supporting the Houthis in order to try to mobilize and justify U.S. support for their catastrophic war. The Carnegie Endowment for International Peace, which receives funding from the U.S. government, says “Iranian support for the Houthis has been marginal and does not shape their decisionmaking as much as local alliances and conflict dynamics do,” and that “claims of Iran’s influence over the Houthis have been overblown.”²⁰ In October 2017, Dr. Elisabeth Kendall, nonresident senior fellow with the Brent Scowcroft Center’s Middle East Peace and Security Initiative and senior research fellow in Arabic and Islamic studies at Pembroke College at Oxford University, investigated the extent of Iran’s presence in Yemen and concluded that “with or without Iran’s involvement, the underlying structure of the conflict would likely be the same.”²¹

¹⁵ “U.N. Mediator for Yemen Conflict Leaving Post,” Rick Gladstone, *New York Times*, Jan. 22, 2018

<https://www.nytimes.com/2018/01/22/world/middleeast/yemen-un-envoy.html>

¹⁶ “Yemen: Saudi ‘aid’ plan is war tactic,” International Rescue Committee, February 22, 2018,

<https://www.rescue.org/press-release/yemen-saudi-aid-plan-war-tactic>

¹⁷ “Country Reports on Terrorism 2016,” Bureau of Counterterrorism, United States Department of State, July 2017

<https://www.state.gov/documents/organization/272488.pdf>

¹⁸ “Adapting to Defend the Homeland against the Evolving International Terrorist Threat,” Hearing Before the Senate Committee on Homeland Security and Governmental Affairs, December 6, 2017

<https://www.dni.gov/index.php/nctc-newsroom/nctc-speeches-testimonies-and-interviews/item/1821-hearing-before-the-senate-committee-on-homeland-security-and-governmental-affairs-adapting-to-defend-the-homeland-against-the-evolving-international-ter>

¹⁹ “Pro-government tribal leader among dead in US raid in Yemen,” Maggie Michael and Ahmed Al-Haj, *Associated Press*, Feb. 16, 2017, <https://apnews.com/d927fc2962f44a6d8edf6a790b556bbc/pro-government-tribal-leader-among-dead-us-raid-yemen>

²⁰ “Iran’s Small Hand in Yemen,” Mareike Transfeld, Carnegie Endowment for International Peace February 14, 2017 <http://carnegieendowment.org/sada/67988>

²¹ “Iran’s Fingerprints in Yemen: Real or Imagined?” Elisabeth Kendall, Atlantic Council, October 19, 2017 <http://www.atlanticcouncil.org/publications/issue-briefs/iran-s-fingerprints-in-yemen-real-or-imagined>