

October 15, 2019

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
H-232, U.S. Capitol
Washington, D.C. 20515

The Honorable Charles Schumer
Minority Leader
United States Senate
S-221, U.S. Capitol
Washington, D.C. 20515

The Honorable Adam Smith
Chairman, House Armed Services Committee
2216 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jack Reed
Ranking Member, Senate Armed Services Committee
Russell Senate Building, Room 228
Washington, D.C. 20510

Dear Speaker Pelosi, Leader Schumer, Chairman Smith and Ranking Member Reed:

We write to ask for your leadership on a constitutional matter facing Congress that may be unparalleled in its potential impact on millions of human lives. We urge you to use the opportunity presented by the National Defense Authorization Act of 2020 (NDAA) to reassert the power over war that the Constitution vests in Congress in order to terminate unauthorized U.S. participation in the Saudi-led military campaign against Yemen's Houthis.

As you know, the ongoing conflict between Saudi Arabia and Yemen's Houthis threatens fresh U.S. military action in the region. President Trump recently signaled that the United States is "locked and loaded" for possible intervention at the behest of Saudi Arabia, deployed U.S. troops to the Saudi kingdom, and escalated military tensions with Iran. In addition to making a war with Iran more likely, the conflict in Yemen is also imperiling tens of millions of the most vulnerable people on earth through disease, starvation, and violence. Eighty percent of Yemen's population, or 24 million, are in need of humanitarian assistance, and roughly 10 million Yemenis are on the brink of famine.

In July, the House of Representatives voted by a bipartisan, 240-vote margin to incorporate the Smith-Khanna-Schiff-Jayapal amendment into the NDAA. This measure would codify Congress's directive to end unconstitutional U.S. military involvement in the Saudi-led war with the passage of the landmark bill, Senate Joint Resolution 7—the Yemen War Powers Resolution. The amendment is carefully tailored to terminate funds for the flow of U.S. logistics, spare parts for warplanes, intelligence sharing, and other support activities that are essential to waging Saudi Arabia's deadly aerial bombing campaign against Yemen's Houthis. Experts believe that, if enforced, a prohibition on funds for this broad spectrum of U.S. military assistance could quickly halt these Saudi bombings.

Even before questions regarding the implementation of the amendment are considered, the political signal of its incorporation into the NDAA could alone spur an end to the war. Just as the imminent Senate adoption of the Yemen War Powers Resolution in November of 2018 led to the preemptive suspension of U.S. midair refueling for Saudi coalition warplanes, the adoption of the Smith-Khanna-Schiff-Jayapal amendment in the NDAA could hasten the Saudi government's recognition that there is no military solution to the war. By motivating Saudi Arabia to move quickly to political negotiations in the face of an impending cessation of crucial U.S. operational involvement in airstrikes, an NDAA that includes the Smith-Khanna-Schiff-Jayapal amendment could play a key role in resolving the conflict and humanitarian crisis.

In April, when President Trump vetoed Senate Joint Resolution 7, he rejected Congress's directive to terminate unauthorized hostilities and he insisted on prosecuting a war affirmatively declared unconstitutional by majorities of both the House and Senate. This defiance has no precedent in the history of America's constitutional governance.

It is therefore critical that Congress now utilize its ultimate leverage—the power of the purse—to effectively override Trump's veto, enshrine its will into federal law, and prohibit all funds from going to this war. Through the NDAA, Congress can reclaim its exclusive power to declare and authorize war.

If this course of action is not pursued during this once-a-year authorization for Defense Department appropriations, we fear the erosion of Congress's authorities under the Constitution and the War Powers Act of 1973. The Executive Branch would be emboldened to launch and sustain unconstitutional wars in the face of majority opposition from Congress, so

long as a two-thirds majority does not exist to override a veto. Congressional reliance on veto-proof majorities to carry out its Article I duties under the Constitution is simply untenable.

We therefore ask you, as Democratic leaders with a new governing majority in the House and a bipartisan majority in the Senate, to hold firm and work together to ensure that the final NDAA, widely considered “must-pass” legislation, retain the House amendment to bring the Saudi-led war to an end.

To those across the country who voted in the 2018 midterm elections for a powerful counterweight to an executive who defies the rule of law, your commitment to prohibit the authorization of funds available for U.S. involvement in the Saudi-led military intervention in Yemen through the NDAA is vital. By advancing life-saving policy over Trump’s opposition, you will demonstrate the legislative assertiveness that is necessary for Congress to serve as an effective check on this administration.

We thank you for your concerted and coordinated effort to defend the Constitution, exercise the Article I authorities of Congress, and advance the rule of law.

Sincerely,

[Affiliations for identification purposes only]

Bruce Ackerman
Sterling Professor of Law and Political Science
Yale University

Hon. Barbara K. Bodine
U.S. Ambassador to Yemen, 1997-2001
Director, Institute for the Study of Diplomacy, Georgetown University

Laurence H. Tribe
Carl M. Loeb University Professor and Professor of Constitutional Law
Harvard University

Bruce Riedel
Former Central Intelligence Agency analyst, White House senior advisor
Author, *Kings and Presidents: Saudi Arabia and the United States since FDR*

Susan Rice
National Security Advisor (2013-2017)
United States Ambassador to the United Nations (2009-2013)

Samantha J. Power
Anna Lindh Professor of the Practice of Global Leadership and Public Policy, Harvard Kennedy School
William D. Zabel ’61 Professor of Practice in Human Rights, Harvard Law School
United States Ambassador to the United Nations (2013-2017)

Ben Rhodes
Co-Chair, National Security Action
White House Deputy National Security Advisor (2009-2017)

Jake Sullivan
Co-Chair, National Security Action
National Security Advisor to the Vice President of the United States (2013-2014)

Wendy R. Sherman
Undersecretary of State for Political Affairs (2011-2015)

Dafna Rand
Former Deputy Assistant Secretary of State, Bureau of Democracy, Labor and Human Rights

Robert Malley
Former White House Coordinator for the Middle East, North Africa and Gulf Region

Colin Kahl
Co-Director of Center for International Security and Cooperation, Stanford University
Deputy Assistant Secretary of Defense for the Middle East (2009-2011)
National Security Advisor to the Vice President of the United States (2014-2017)

Kelly Magsamen
Vice President, National Security and International Policy, Center for American Progress
Principal Deputy Assistant Secretary of Defense for Asian and Pacific Security Affairs (2014-2017)

Jon Finer
Chief of Staff and Director of Policy Planning for Secretary of State John Kerry

Nazanin Ash
Former Deputy Assistant Secretary of State, Bureau of Near East Affairs (2011-2013)

Jeremy Konyndyk
Former Director, USAID Office of Foreign Disaster Assistance

Thomas Perriello
Executive Director, Open Society Foundations, U.S. Programs
Former U.S. Special Envoy to the African Great Lakes Region

Gene B. Sperling
White House National Economic Advisor (1997-2001, 2011-2014)

Jon Favreau
White House Director of Speechwriting (2009-2013)

Shireen Al-Adeimi
Assistant Professor of Education, Michigan State University

Jehan Hakim
Chair, Yemeni Alliance Committee

Somia Elrowmeim
Board President, Action Corps NYC

Aisha Jumaan
President, Yemen Relief and Reconstruction Foundation

Diane Randall
Executive Secretary, Friends Committee on National Legislation

Joe Cirincione
President, Ploughshares Fund

Rahna Epting
Executive Director, MoveOn

Leah Greenberg
Co-Founder, Co-Executive Director, Indivisible Project

Jon Soltz
Chairman, Co-Founder, VoteVets

Robert Weissman
President, Public Citizen

David Segal
Executive Director, Demand Progress

Stephen Miles
Executive Director, Win Without War

Andrew Bacevich
President, Quincy Institute for Responsible Statecraft

Kevin Martin
President, Peace Action

Alex McCoy
Political Director, Common Defense

Leah Hunt-Hendrix
Co-Founder, Way to Win

Jody Williams
Nobel Peace Laureate (1997)

Mark Ruffalo
Actor, Director, Producer, Humanitarian

Alyssa Milano
Actor, Producer, Humanitarian

Ava DuVernay
Filmmaker

Jodie Evans
Activist, Author, Film Producer

Guy Saperstein
Civil Rights Attorney