



Silver Linings in the NDAA's Dark Cloud

By Diana Ohlbaum

The final agreement on the FY 2020 National Defense Authorization Act (NDAA) came as both a shock and a disappointment to FCNL.

A shock, because for months we had been hearing from highly-placed sources, including those directly engaged in the negotiations, that at least a few of our top priorities were likely to be included. A disappointment, because in the end almost everything we worked so hard for all year long was dropped out of the final bill, which then passed the House by an overwhelming margin. The Senate passed the measure today, and the president has indicated he would sign it.

The \$738 billion military budget authorized by this NDAA contains everything the Pentagon wanted – in fact, in some cases even more than they asked for – and little that would constrain or stop America's endless wars. The provisions we prioritized to repeal the 2002 Iraq war authorization, end U.S. support for the war in Yemen led by Saudi Arabia and the United Arab Emirates (UAE), and prevent unauthorized war with Iran, were all stripped out at the White House's insistence.

Despite falling short on the policy changes we sought, we remain hopeful for four reasons:

1. Congress heard us.

One year ago, neither repeal of the 2002 Iraq war authorization nor preventing unauthorized war with Iran were on the congressional radar screen. Last year's NDAA allowed the United States to continue refueling Saudi and UAE jets attacking Yemen as long as the Secretary of State certified that those governments were making good faith efforts to end the war and reduce harm to civilians. At the time we considered a that win.

This year, we sought much stronger provisions, and they came so close to final passage that the White House and Pentagon had to wage an all-out effort to keep them out of the bill. The Chairman of the House Armed Services Committee said he "fought for months" to include our three priorities in the legislation. And many of those who voted against the final NDAA specifically listed those provisions as the reason why.

2. Action by Congress led to progress on the ground.

Even though a complete ban on U.S. support for the war against the Houthis in Yemen has not yet been enacted, Saudi Arabia and the United Arab Emirates are feeling strong pressure to change their policies.

Last November, as Congress was gearing up to invoke the War Powers Act in Yemen for the first time, President Trump announced an end to the practice of refueling Saudi-coalition aircraft. December's historic vote to end U.S. involvement then led to a ceasefire in the port of Hodeidah and the beginning of a framework for stopping the war in Yemen.

Shortly after the House and Senate passed S.J.Res. 7 in March 2019, the UAE began to draw down its military presence in Yemen. Negotiators told us that House adoption of the Khanna-Smith and Malinowski amendments in June helped prompt Saudi Arabia and the Houthis to begin back-channel peace talks, which are making significant progress towards a final deal. Congressional efforts have contributed to a reduction in cross-border violence, greater access to humanitarian assistance, prisoner exchanges, and momentum for diplomacy.

3. The bill was leveraged to achieve important domestic policy victories.

The final deal provides 12 weeks of paid parental leave for all federal workers. And it adopts the Fair Chance Act (H.R. 1076/S. 387), banning the federal government from requesting criminal history information from applicants until they are issued a conditional offer of employment.

4. Incremental progress was made.

Lost in the headlines were some important provisions in the final bill we had lobbied for or supported behind the scenes:

- a two-year prohibition on refueling Saudi and UAE aircraft engaged in hostilities in Yemen;
- a report on civilian casualties caused by the Saudi-led coalition and Houthis;
- a requirement for the president to report every six months on all actions taken under the 2001 Authorization for Use of Military Force;
- a report on the number of strikes undertaken by the United States against terrorist targets in areas outside of active hostilities and the deaths resulting from those strikes;
- procedures for better reporting on civilian casualties resulting from U.S. military operations;
- a requirement that the Secretary of State seek to ensure the meaningful participation of women in the Afghan peace process;
- a 120-day notification and waiting period before the president can withdraw from the Open Skies Treaty or the New START Treaty;
- a one-year prohibition on the procurement or deployment of ground-launched, intermediate-range missiles previously banned by the INF Treaty and a report on alternative options; and
- an independent study on U.S. adoption of a policy of never using nuclear weapons first.

There seems to be only one explanation for the abrupt reversal of fortune that we experienced between November and December: the impeachment process. Democrats wanted to show that they could continue to legislate while carrying out the inquiry and investigation, while Republicans and the White House were emboldened by the president's continued strong polling numbers. It's important to remember that this is only a temporary shift in the political dynamics – and we'll have plenty more opportunities to try again in the coming year.