

# COUNCIL *on* FOREIGN RELATIONS

## *POLICY INNOVATION MEMORANDUM NO. # 41*

*Date:* February 19, 2014  
*From:* Charles E. Berger  
*Re:* Countering Terrorism: An Institution-Building Approach for Yemen

President Barack Obama's decision to resume repatriation efforts for Yemeni detainees held in the detention center at Guantanamo Bay presents a significant opportunity to strengthen the counterterrorism relationship between the United States and Yemen. As part of the repatriation effort, the United States should fund the establishment of a permanent terrorist rehabilitation institution in Yemen, providing a critical counterterrorism partner with a needed strategic capability to counter al-Qaeda in the Arabian Peninsula (AQAP) and forming the cornerstone of a strengthened intelligence-sharing relationship. While the center would initially be used to reduce the significant political and security risks of returning Guantanamo detainees, it could then serve to rehabilitate other Yemeni terrorism detainees, undermining AQAP and other militant groups threatening the security of the United States and Yemen.

### *THE YEMENI DILEMMA*

Over 600 Guantanamo detainees have been repatriated or released, but 155 remain. The Guantanamo Periodic Review Board (PRB) determined that there is no longer a basis to hold fifty-five of the detainees from Yemen as enemy combatants and cleared them for release. Of the fifty-five detainees, there are thirty in "conditional detention." Statute prevents their transfer until the president certifies the security situation in Yemen is adequately stabilized, appropriate third-country resettlement options have been arranged, or a suitable rehabilitation program has been established. These detainees are not considered high-value detainees for intelligence purposes. The youngest Yemeni detainee is thirty-two, making indefinite detention a forty- to fifty-year proposition. The PRB determination strengthens the possibility of these detainees eventually prevailing in federal courts, forcing their release or transfer under potentially less-than-ideal terms.

Resettling the Yemeni detainees in third countries would complicate reintegration and raise the risk of recidivism, which the Office of the Director of National Intelligence (ODNI) assessed to be more than 25 percent for released Guantanamo detainees. Resettlement would shift this security risk to those countries—a risk few are likely to accept.

The continued detention of the Yemeni detainees is straining the relationship with Yemen and is allowing al-Qaeda to delegitimize the United States' counterterrorism efforts. However, the recidivism risk involved with their repatriation is particularly acute in Yemen, home of AQAP, al-Qaeda's most active affiliate. The failed "underwear bomber" in 2009 and two subsequent attempted attacks on U.S.-bound cargo flights highlight AQAP's desire to strike the U.S. homeland. AQAP also radicalizes extremists in English-speaking countries through its online magazine, *Inspire*.

#### *DIFFERENT APPROACHES TO RISK MITIGATION*

This recidivism risk could be reduced through different mitigation strategies, including rehabilitation, parole, and post-release monitoring. Some terrorist rehabilitation programs have focused on deradicalization, a process designed to change individuals' political or religious beliefs through dialog as a means to convince them to abandon terrorism. Other programs emphasize demobilization, a system of incentives and disincentives to convince subjects to abandon violence. Deradicalization and demobilization are not mutually exclusive rehabilitative approaches and are often used simultaneously. Parole places various conditions on the subject as a condition for release with the consequence of incarceration for violating them. Post-release monitoring can include overt meetings and clandestine surveillance to determine if the subject is meeting the terms of parole, recommits terrorist acts, or associates with terrorists.

Various countries employed combinations of risk-mitigation approaches in a variety of settings, including prisons, halfway houses, military detention centers, and noncustodial settings. For example, the Pakistani military ran a deradicalization program in the Swat Valley to counter the Tehrik-i-Taliban Pakistan. Indonesia's police-run deradicalization approach includes sentence reduction and financial assistance. In Yemen, the Political Security Office (PSO) used religious scholars in a prison-based program to deradicalize detainees. Post-release, the National Security Bureau (NSB) monitored the detainees, typically for only about a year. Saudi Arabia uses a model similar to halfway houses in criminal justice systems. The center encourages parolees to publicly renounce al-Qaeda, placing them at odds with the terrorist groups and keeping the detainees dependent on the security services, making them easier to monitor when released. The Early Release Scheme (ERS) in Northern Ireland was a group demobilization approach in which imprisoned terrorists were paroled on the condition that all paroled members would be reincarcerated if their group carried out a terrorist attack. Colombia's reincorporation program operated in a noncustodial setting and allowed individual paramilitaries to leave the conflict with amnesty and financial incentives.

Assessing the recidivism rate for rehabilitation programs is difficult. Yemen asserted a 2 percent recidivism rate for the 364 detainees who went through its deradicalization program. Despite its claimed success, the program has not been active since 2005. Similarly, Saudi Arabia claims its program has a recidivism rate of 2 to 3 percent, but concedes that the recidivism rate for Saudi former Guantanamo detainees was about 8 percent. This outcome still compares favorably to the recidivism rate experienced with other Guantanamo detainees. These claims are hard to verify, as they are self-reported by the government agencies running the programs and based on intelligence with significant gaps. However, the ERS is independently monitored. Of the 450 prisoners who participated, only 16 were rearrested for terrorism-related activity.

#### *RECOMMENDATIONS*

The only viable option for the Yemeni detainees who have been cleared for release is to repatriate them; however, this process should be done in a manner that minimizes the risk to the United States and Yemen. While reducing the recidivism risk to zero is impossible, the most promising risk-mitigation program would include rehabilitation, strict post-release parole, and a rigorous post-release monitoring plan. The State Department should allocate International Narcotics Control and Law Enforcement funds to establish and operate a permanent rehabilitation institution in

Yemen. Based on the cost of the Saudi program, the estimated cost for initial build-out and three years of operating funds is roughly \$26 million. In comparison, the United States spends over \$454 million annually to run the Guantanamo detention center. An effective risk-mitigation initiative would include the following features:

- *A permanent institution.* The objective of rehabilitation should be to transition the detainees from long-term detention at Guantanamo into Yemeni society, making the halfway house model the most apt. The PSO should establish and administer a terrorist rehabilitation center that utilizes both deradicalization and individual demobilization approaches. Although security will be the PSO's responsibility, the center should be staffed with religious, psychological, and social-services experts from outside of government. As in the Saudi center, religious scholars should be used to deradicalize detainees. As part of the demobilization effort, the center would provide financial payments, family counseling, mental health services, basic education, and job assistance. Detainees would stay at the center for a minimum of three months prior to being paroled. After the Guantanamo detainees complete the program, Yemen would then use the center to rehabilitate and reintegrate its other Yemeni terrorism detainees, hundreds of whom are in custody.
- *Measureable outcomes.* Prior to being paroled from the rehabilitation center, PSO officials would have to certify the detainee successfully met standards measuring the likelihood of violence and of successful reintegration into society. Detainees' public renouncement of terrorism would be one such factor and should be used as part of Yemen's strategic-messaging campaign against al-Qaeda and its affiliates. ODNI would produce an annual report using qualitative and quantitative measures assessing the recidivism of the former detainees including those in rehabilitation or on parole. The classified report should include an unclassified annex for public dissemination.
- *Rigorous post-release monitoring and parole procedures.* Yemen should closely monitor the detainees via physical surveillance, home visits, and meetings with security services. The duration of the monitoring would be based on a risk assessment conducted jointly by the NSB and Central Intelligence Agency (CIA). As a form of group demobilization, the detainees' tribal elders would be required to sign parole agreements acknowledging the parolees' obligation not to commit terrorist acts or join militant groups. The PSO would provide funds to tribal leaders to encourage compliance and provide intelligence. A detainee's failure to meet the terms of the parole would result in the cessation of financial assistance to the accountable elders and would subject the former detainee to incarceration or military action by Yemen or the United States.
- *An ongoing intelligence-sharing relationship.* The CIA should bolster Yemen's counterterrorism capabilities by providing the PSO and NSB with technical and paramilitary assistance (if required). In return, the PSO and NSB should regularly share intelligence on former detainees, including their status in the program, the level of monitoring, and any indications of terrorist activity. In addition, human intelligence gathered from former detainees, tribal elders, and family members would aid Yemen and the United States in undermining AQAP and other militant groups.

#### A SIGNIFICANT OPPORTUNITY

AQAP poses a significant security threat to the United States. While it is in the United States' interest to repatriate the Yemeni detainees who have already been cleared for release, it must do so in a manner that does not strengthen AQAP, and ideally weakens it. Critics may argue that the security risks of repatriation outweigh the gains, but there are no viable alternatives. The most promising strategy to reduce the risk of recidivism is for Yemen to combine multiple risk-reduction approaches utilized by other countries. By repatriating Yemeni nationals while aiding in the efforts to minimize the risk they pose, the United States has the opportunity to strengthen the counterterrorism relationship between the two countries by providing funding and security assistance in return for human intelligence.

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