

**MARKUP OF: H.J. RES 37, DIRECTING
THE REMOVAL OF UNITED STATES
ARMED FORCES FROM HOSTILITIES
IN THE REPUBLIC OF YEMEN THAT
HAVE NOT BEEN AUTHORIZED BY
CONGRESS**

HEARING
BEFORE THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

FEBRUARY 6, 2019

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REMOVAL OF UNITED STATES ARMED
FORCES FROM HOSTILITIES IN THE REPUB-
LIC OF YEMEN THAT HAVE NOT BEEN
AUTHORIZED BY CONGRESS**

WEDNESDAY, FEBRUARY 6, 2019

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC

The committee met, pursuant to notice, at 1:34 p.m., in Room 2172 Rayburn House Office Building, Hon. Eliot Engel (chairman of the committee) presiding.

Chairman ENGEL. A quorum which is carried over from before is present, and we meet today to consider a single item. Pursuant to notice for purposes of markup, I call up House Joint Resolution 37. [H.J. Res. 37 follows:]



1A

116TH CONGRESS
1ST SESSION

H. J. RES. 37

Directing the removal of United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2019

Mr. KHANNA (for himself, Mr. POCAN, Mr. MCGOVERN, Mr. SMITH of Washington, Mr. HOYER, Mr. ENGEL, Ms. JAYAPAL, Ms. LEE of California, Mr. TED LIEU of California, Ms. GABBARD, Mr. BUCK, Mr. BIGGS, Mr. SCHIFF, Mrs. LOWEY, Mr. JONES, Mr. KENNEDY, Ms. SCHAKOWSKY, Mr. GALLEGO, Mr. PANETTA, Mr. COURTNEY, Mr. COOPER, Mr. CASTRO of Texas, Ms. SÁNCHEZ, Mr. GARAMENDI, Mr. CARBAJAL, Mr. GRIJALVA, Mr. SARBANES, Mr. CICILLINE, Mr. LUJÁN, Mr. LIPINSKI, Ms. OMAR, Mr. HIMES, Ms. OCASIO-CORTEZ, Mr. HASTINGS, Mrs. WATSON COLEMAN, Mrs. CAROLYN B. MALONEY of New York, Ms. TLAIB, Mr. CARTWRIGHT, Mr. CROW, Mr. COHEN, Mr. LOEBBACH, Mr. LOWENTHAL, Mr. LEVIN of Michigan, Ms. MCCOLLUM, Mr. SERRANO, Mr. KRISHNAMOORTHY, Mr. DANNY K. DAVIS of Illinois, Mr. COX of California, Ms. CLARKE of New York, Ms. JOHNSON of Texas, Mr. DEUTCH, Mrs. DINGELL, Ms. JUDY CHU of California, Ms. CLARK of Massachusetts, Ms. SHERILL, Mr. RUPPERSBERGER, Ms. NORTON, Mr. CISNEROS, Mrs. NAPOLITANO, Ms. MOORE, Mr. HUFFMAN, Mr. DEFazio, Mr. TONKO, Mr. WELCH, Mr. ROSE of New York, Ms. VELÁZQUEZ, Ms. BLUNT ROCHESTER, Ms. DELBENE, Ms. BONAMICI, Mr. MOULTON, and Mr. NEGUSE) submitted the following joint resolution; which was referred to the Committee on Foreign Affairs

JOINT RESOLUTION

Directing the removal of United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds the following:

5 (1) Congress has the sole power to declare war
6 under article I, section 8, clause 11 of the United
7 States Constitution.

8 (2) Congress has not declared war with respect
9 to, or provided a specific statutory authorization for,
10 the conflict between military forces led by Saudi
11 Arabia, including forces from the United Arab Emir-
12 ates, Bahrain, Kuwait, Egypt, Jordan, Morocco,
13 Senegal, and Sudan (the Saudi-led coalition),
14 against the Houthis, also known as Ansar Allah, in
15 the Republic of Yemen.

16 (3) Since March 2015, members of the United
17 States Armed Forces have been introduced into hos-
18 tilities between the Saudi-led coalition and the
19 Houthis, including providing to the Saudi-led coali-
20 tion aerial targeting assistance, intelligence sharing,
21 and mid-flight aerial refueling.

22 (4) The United States has established a Joint
23 Combined Planning Cell with Saudi Arabia, in which
24 members of the United States Armed Forces assist

1 in aerial targeting and help to coordinate military
2 and intelligence activities.

3 (5) In December 2017, Secretary of Defense
4 James N. Mattis stated, “We have gone in to be
5 very—to be helpful where we can in identifying how
6 you do target analysis and how you make certain
7 you hit the right thing.”.

8 (6) The conflict between the Saudi-led coalition
9 and the Houthis constitutes, within the meaning of
10 section 4(a) of the War Powers Resolution (50
11 U.S.C. 1543(a)), either hostilities or a situation
12 where imminent involvement in hostilities is clearly
13 indicated by the circumstances into which United
14 States Armed Forces have been introduced.

15 (7) Section 5(e) of the War Powers Resolution
16 (50 U.S.C. 1544(e)) states that, “at any time that
17 United States Armed Forces are engaged in hos-
18 tilities outside the territory of the United States, its
19 possessions and territories without a declaration of
20 war or specific statutory authorization, such forces
21 shall be removed by the President if the Congress so
22 directs”.

23 (8) Section 8(e) of the War Powers Resolution
24 (50 U.S.C. 1547(e)) defines the introduction of
25 United States Armed Forces to include “the assign-

1 ment of members of such armed forces to command,
2 coordinate, participate in the movement of, or ac-
3 company the regular or irregular military forces of
4 any foreign country or government when such mili-
5 tary forces are engaged, or there exists an imminent
6 threat that such forces will become engaged, in hos-
7 tilities”, and activities that the United States is con-
8 ducting in support of the Saudi-led coalition, includ-
9 ing aerial refueling and targeting assistance, fall
10 within this definition.

11 (9) Section 1013 of the Department of State
12 Authorization Act, Fiscal Years 1984 and 1985 (50
13 U.S.C. 1546a) provides that any joint resolution or
14 bill to require the removal of United States Armed
15 Forces engaged in hostilities without a declaration of
16 war or specific statutory authorization shall be con-
17 sidered in accordance with the expedited procedures
18 of section 601(b) of the International Security and
19 Arms Export Control Act of 1976 (Public Law 94-
20 329; 90 Stat. 765).

21 (10) No specific statutory authorization for the
22 use of United States Armed Forces with respect to
23 the conflict between the Saudi-led coalition and the
24 Houthis in Yemen has been enacted, and no provi-
25 sion of law explicitly authorizes the provision of tar-

1 getting assistance or of midair refueling services to
2 warplanes of Saudi Arabia or the United Arab Emir-
3 ates that are engaged in such conflict.

4 **SEC. 2. REMOVAL OF UNITED STATES ARMED FORCES**
5 **FROM HOSTILITIES IN THE REPUBLIC OF**
6 **YEMEN THAT HAVE NOT BEEN AUTHORIZED**
7 **BY CONGRESS.**

8 Pursuant to section 1013 of the Department of State
9 Authorization Act, Fiscal Years 1984 and 1985 (50
10 U.S.C. 1546a) and in accordance with the provisions of
11 section 601(b) of the International Security Assistance
12 and Arms Export Control Act of 1976 (Public Law 94–
13 329; 90 Stat. 765), Congress hereby directs the President
14 to remove United States Armed Forces from hostilities in
15 or affecting the Republic of Yemen, except United States
16 Armed Forces engaged in operations directed at al-Qaeda
17 or associated forces, by not later than the date that is
18 30 days after the date of the enactment of this joint reso-
19 lution (unless the President requests and Congress author-
20 izes a later date), and unless and until a declaration of
21 war or specific authorization for such use of United States
22 Armed Forces has been enacted. For purposes of this reso-
23 lution, in this section, the term “hostilities” includes in-
24 flight refueling, non-United States aircraft conducting
25 missions as part of the ongoing civil war in Yemen.

1 **SEC. 3. RULE OF CONSTRUCTION REGARDING CONTINUED**
2 **MILITARY OPERATIONS AND COOPERATION**
3 **WITH ISRAEL.**

4 Nothing in this joint resolution may be construed to
5 influence or disrupt any military operations and coopera-
6 tion with Israel.

7 **SEC. 4. REPORT ON RISKS POSED BY CEASING SAUDI ARA-**
8 **BIA SUPPORT OPERATIONS.**

9 Not later than 90 days after the date of the enact-
10 ment of this joint resolution, the President shall submit
11 to Congress a report assessing the risks posed to United
12 States citizens and the civilian population of Saudi Arabia
13 and the risk of regional humanitarian crises if the United
14 States were to cease support operations with respect to
15 the conflict between the Saudi-led coalition and the
16 Houthis in Yemen.

17 **SEC. 5. REPORT ON INCREASED RISK OF TERRORIST AT-**
18 **TACKS TO UNITED STATES ARMED FORCES**
19 **ABROAD, ALLIES, AND THE CONTINENTAL**
20 **UNITED STATES IF SAUDI ARABIA CEASES**
21 **YEMEN-RELATED INTELLIGENCE SHARING**
22 **WITH THE UNITED STATES.**

23 Not later than 90 days after the date of the enact-
24 ment of this joint resolution, the President shall submit
25 to Congress a report assessing the increased risk of ter-
26 rorist attacks on United States Armed Forces abroad, al-

8

7

1 lies, and to the continental United States if the Govern-
2 ment of Saudi Arabia were to cease Yemen-related intel-
3 ligence sharing with the United States.

○

Without objection, the resolution is considered read the first and second time and open for amendment at any point and committee members may have five calendar days to submit statements for the record.

According to House Rule 11 Clause 2, the chair announces that he may postpone further proceedings today on the question of approving any measure or matter or adopting an amendment on which a recorded vote is ordered.

Without objection, the chair is authorized to declare a recess at any time. Now I recognize myself for opening remarks. We are going to have opening remarks, Mr. McCaul's opening remarks. Then we are going to go to vote and come back immediately after votes to mark this up and to have members say anything they might want to say.

So the committee has just heard testimony about the crisis in Yemen, about the death, disease, and displacement of millions that this destructive conflict has caused, and in my view, it is incumbent on this committee and this body to do everything we can to put a stop to it. We need to push all parties toward a political solution.

And let me explain why I think this measure introduced by Mr. Khanna of California will help us do that.

Now, in last year's Defense Authorization, Congress required the administration to certify that the Saudis and Emiratis were taking real steps to reduce the risk of harm to civilians and civilian infrastructure resulting from the military operations in Yemen.

In the period of time before the certification was due, attacks against civilians rose sharply. According to the International Red Cross, August was the most violent month in 2018 in Yemen with nearly 500 people killed in just 9 days.

Since 2015, the coalition has undertaken 18,000 air strikes. That is one every 99 minutes, if you do the math. Fully one-third of those have hit nonmilitary targets—one in three.

This is not just a statistic. One of those one in three was a school bus in northern Yemen with 40 children on it. That is not acceptable.

So I was stunned, frankly, that in September the administration certified that the Saudis and Emiratis were indeed taking these steps, these so-called demonstrable actions to reduce civilian deaths.

The administration simply could have waived the requirement. The law allowed that. But they did not. They essentially told us not to believe our eyes.

Let me be clear. We have real strategic interests in that part of the world. Iran continues to destabilize the region and their support for the Houthis is only part of their strategy to bleed their regional adversaries.

But I do not support providing assistance that we know is being used to kill civilians. And so, if the administration will not demand any sort of accountability from the Saudis and Emirates, the work then falls to the Congress.

The Pentagon cutoff refueling as a matter of policy. But that could be reversed at any time. This resolution would cutoff refueling as a matter of law. It also sends a clear message to the admin-

istration, to our partners in the Gulf, and to our adversaries that Congress will not sit back and shirk our responsibilities when it comes to foreign policy. It is time to have the debates about how, when, and where the U.S. military is engaged around the world. This resolution is sparking that debate.

So I will support moving this measure to the floor and at this time I will yield to the ranking member for any comments he might have.

Mr. McCAUL. Thank you, Mr. Chairman.

I have a tremendous respect for the chair, but I must say this first markup is a departure from the strongly bipartisan cooperation that we have enjoyed on this committee.

I believe that this committee does have a solemn responsibility to appropriately exercise congressional war powers under Article 1 of the Constitution. But the mechanism to force withdrawal of U.S. forces under the War Powers Act applies only when we are engaged in live fire hostilities.

This is not the case here. This is not what our military is doing currently in Yemen. This resolution would set a very dangerous precedent. Are we now going to allow any member to use this privileged war powers tool to second guess all U.S. security cooperation agreements throughout the world?

This interpretation could impact our assistance to Israel. It could impact our cooperation with African nations in the Sahel. We could recklessly undo critical security relationships we have spent decades building.

This is not what the War Powers Resolution has ever meant and it should not be used this way now. A vote in favor is a victory for bad policy.

As we heard at this morning's hearing, the situation in Yemen poses critical, strategic, and humanitarian issues that deserve careful attention. If we want to discuss conditioning assistance to Saudi Arabia in this conflict, that is an area we can explore and debate.

But this resolution is trying to hammer a square peg into a round hole. It misuses an extraordinary an extraordinary War Powers tool to try to get at the issue of security assistance to a third country.

Even our aerial refueling of Saudi jets, which does not constitute hostilities as traditionally understood, ended last November. And I spoke with Defense Department representatives yesterday who reaffirmed that U.S. forces are not engaged in hostilities against Houthi forces in Yemen.

They confirmed the continuing accuracy of the detailed letter sent to Congress last year by the department's acting general counsel.

No one is saying that U.S. security assistance to Saudi Arabia or anyone else is beyond congressional scrutiny. We have many tools to use including this committee's arms sales notifications, targeted legislation, and the annual appropriations process, among others.

But this resolution stretches the definition of hostilities to cover non-U.S. military operations by other countries. It reinterprets U.S. support to those countries as engagement in hostility.

This has implications far beyond Saudi Arabia. Under this model, if any Member of Congress does not like something that any

of our security partners does overseas, that member can force quick consideration of a resolution directing the removal of U.S. forces from hostilities, quote, “in or affecting,” unquote, that situation. It no longer matters that U.S. forces are not actually conducting those hostilities.

The bill is vague and irresponsible. It will create doubts for our partners and allies around the world. It will trouble the many Americans who believe the burden sharing with capable allies is vital for U.S. national security.

And for that reason, I oppose this measure and, Mr. Chairman, I ask unanimous consent to place into the record three documents.

One, the January 2019 Department of Defense report to Congress concerning our similar acquisition and cross-servicing activities with over 117 nations around the world including our NATO allies, CT partners in the Sahel, Israel, and others.

Two, the November 28th, 2018 statement of the administration policy opposing S.J. Res. 54 because, quote, “The United States forces are not engaged in hostilities between the Saudi-led coalition and Houthi forces in Yemen,” unquote.

And third, the February 27th, 2018 letter from the Department of Defense Office of General Counsel explaining the legal and security concerns posed by the approach used by today’s resolution.

I ask unanimous consent to place those in the record.

Chairman ENGEL. Without objection, so moved.

[The information referred to follows:]

REPORT TO CONGRESS
CONCERNING
ACQUISITION AND CROSS-SERVICING ACTIVITIES
FOR FISCAL YEAR 2018



OFFICE OF THE UNDER SECRETARY OF DEFENSE
FOR ACQUISITION AND SUSTAINMENT

JANUARY 2019

THE ESTIMATED COST OF THIS REPORT OR STUDY FOR THE DEPARTMENT OF DEFENSE IS APPROXIMATELY \$2,500.00 FOR THE 2019 FISCAL YEAR. THIS INCLUDES \$2 IN EXPENSES AND \$2,500.00 IN DoD LABOR.

Section 1271 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232) amends Section 2342 of title 10, United States Code (U.S.C.), to require the Secretary of Defense to submit an annual report to the appropriate committees of Congress on acquisition and cross-servicing activities that sets forth, in detail, the following:

- (1) A list of agreements in effect pursuant to subsection (a)(1) of section 10 USC section 2342 during the preceding fiscal year;
- (2) The date on which each agreement listed was signed, and, in the case of an agreement with a country that is not a member of the North Atlantic Treaty Organization, the date on which the Secretary notified Congress pursuant to subsection (b)(2) of the designation of such country under subsection (a) of title 10, U.S.C. section 2342;
- (3) The total dollar amount and major categories of logistic support, supplies, and services (LSSS) provided during the preceding fiscal year under each such agreement;
- (4) The total dollar amount and major categories of reciprocal provisions of logistic support, supplies, and services received under each such agreement; and
- (5) With respect to the calendar year during which the report is submitted, an assessment of: (a) the anticipated LSSS requirements of the United States; and (b) the anticipated requirements of other countries for U.S. LSSS.

Pursuant to title 10, U.S.C. section 2342(g)(1) and (g)(2), TAB 1 provides a list of agreements that were in effect during the preceding FY 2018 and the date each agreement listed was signed, and, in the case of an agreement with a country that is not a member of the North Atlantic Treaty Organization, the date on which the Department of Defense (DoD) notified Congress pursuant to title 10, U.S.C. section 2342 (b)(2) of the designation of such country under subsection (a).

Pursuant to title 10, U.S.C., section 2342(g)(3) and (g)(4), TAB 2 provides a list of the total dollar amount and major categories of LSSS provided by DoD during FY 2018 under each such agreement. TAB 2 also provides the total dollar amount and major categories of reciprocal provisions of LSSS received by DoD during FY 2018 under each such agreement.

- The category shown as “Services” includes the following types of LSSS, as defined in title 10, U.S.C., section 2350: food, billeting, transportation (including airlift), communications services, medical services, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, repair and maintenance services, calibration services, and port services.
- The category shown as “Supplies” includes the following types of LSSS, as defined in title 10, U.S.C., section 2350: petroleum, oils, lubricants, clothing, ammunition, spare parts and components, the value of the temporary use of general purpose vehicles and other nonlethal items of military equipment which are not designated as Significant Military Equipment (SME) on the United States Munitions List, and the value of loans of SME made pursuant to Section 1207 of

the Carl Levin & Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291).

- The total value of LSSS provided under agreements during FY 2018 was \$861,023,595. The total value of LSSS acquired by the United States during FY 2018 was \$596,075,442.

Pursuant to title 10, U.S.C., Section 2342(g)(4), TAB 3 provides a list showing the DoD assessment of the anticipated LSSS requirements of the United States and the anticipated requirements of other countries for U.S. LSSS during CY 2019.

TAB

1

TAB 1 Agreements FY18 ACSA Congressional Report

	Country	Agreement Title	Date Signed	NATO Member	Date Congress Notified
1	Afghanistan	US-AF-02	20-Mar-14		6/10/2002
2	Albania	US-ALB-02	23-Sep-15	Y	N/A
3	Argentina	US-AR-02	27-Mar-09		1998*
4	Armenia	US-ARM-02	3-Nov-15		3/15/2002
5	Australia	US-AS-03	27-Apr-10		2/11/1988
6	Austria	US-AU-02	15-Mar-00		7/27/1992
7	Azerbaijan	US-AJ-01	23-Jan-14		3/6/2002
8	Bahamas	US-BHS-01	2-Jul-18		7/18/2000
9	Bahrain		20-Jan-94		2/11/1988
10	Belgium	USA-BEL-02	6-May-82	Y	N/A
11	Belize	US-BH-01	13-May-13		7/18/2000
12	Benin	USA-BEN-01	16-Jun-09		12/17/1997
13	Bosnia & Herzegovina	US-BIH-02	9-Jun-15		3/15/2002
14	Botswana	US-BC-02	6-Jul-16		7/27/1992
15	Brazil	US-BR-01	5-Jun-18		1/31/2001
16	Brunei	US-BR-01	30-Jul-10		10/2/2001
17	Bulgaria	US-BU-01	21-Feb-01	Y	N/A
18	Burkina Faso	USA-BFA-01	6-Aug-08		5/26/2004
19	Cameroon	US-CM-01	31-Aug-15		12/17/1997
20	Canada	US-CD-01	28-Feb-07	Y	N/A
21	Cape Verde	US-CV-02	24-Mar-14		3/1/2002
22	Chad	US-CD-02	19-Sep-14		12/17/1997
23	Chile	US-CI-02	2-Sep-11		1999*
24	Colombia	US-CO-02	30-Jun-12		12/16/1999
25	Comoros	US-KM-01	7-Jul-14		10/29/2004
26	Costa Rica	US-CR-01	18-Apr-18		9/1/2004
27	Croatia	USA-HRV-02	1-Aug-12	Y	N/A
28	Czech Republic	USA-CZE-02	19-Nov-96	Y	N/A
29	Denmark	US-DE-02	8-Jan-98	Y	N/A
30	Djibouti	US-DJ-01	1-Feb-12		2000*
31	Dominican Republic	US-DR-02	5-Mar-13		7/18/2000
32	Democratic Republic of Congo	USA-COD-01	29-Sep-06		3/19/2004
33	El Salvador	US-ES-02	8-Jun-12		7/18/2000
34	Estonia	USA-EST-02	1-Jul-08	Y	N/A
35	Ethiopia	US-ET-02	29-Mar-16		2002*
36	European Union	US-EU-01	8-Dec-16		International Organization
37	Finland	USA-FIN-02	9-Jul-08		10/30/1995
38	France	USA-FRA-02	13-Sep-13	Y	N/A
39	Gabon	USA-GAB-01	19-Jul-06		2/6/1996
40	Georgia	USA-GEO-02	6-Jun-13		12/17/1997
41	Germany	MSA	21-Jan-83	Y	N/A
42	Ghana	US-GH-02	28-Apr-15		2/6/1996
43	Greece	MLSA	5-Aug-96	Y	N/A
44	Honduras	US-HO-02	5-Mar-13		2/11/1988
45	Hungary	US-HUN-02	10-Dec-14	Y	N/A
46	Iceland	USA-ISL-01	1-Feb-13	Y	N/A
47	India	US-IN-01 LEMOA	29-Aug-16		2/6/1996
48	Indonesia	US-ID-01	9-Dec-09		1993*
49	Iraq	USDOD-IQMOD-01	14-Aug-14		2/3/2004
50	Ireland	USA-IRL-02	17-Jun-14		12/17/1997
51	Israel	US-ISR-03	29-Jun-08		1997
52	Italy	US-IT-02	15-Apr-01	Y	N/A
53	Jamaica	US-JM-01	6-Mar-14		7/27/1992
54	Japan	US-JA-02	15-Apr-96		00/10/1986
55	Jordan	US-JO-01	29-Mar-06		2/11/1988
56	Korea	MLSA	8-Jun-88		1988*
57	Kosovo	USA-KOS-01	27-Jan-14		4/28/2009
58	Kuwait	US-Kuwait-01	1-Nov-13		4/27/1992
59	Latvia	USA-LVA-02	15-Oct-08	Y	N/A

* Estimated year of notification to Congress

NOTE: Congressional notification of NATO Member Countries and International Organizations is not required

TAB 1 Agreements FY18 ACSA Congressional Report

	Country	Agreement Title	Date Signed	NATO Member	Date Congress Notified
60	Lebanon	US-LB-01	24-Aug-06		1/23/2004
61	Liberia	USA-LBR-01	18-Apr-07		3/19/2004
62	Lithuania	LSA USA-LTU-02	31-May-06	Y	N/A
63	Luxembourg	USA-LUX-01	15-May-15	Y	N/A
64	Macedonia	US-MKD-02	22-Sep-08		2/6/1996
65	Malawi	US-MW-01	7-Mar-13		12/17/1997
66	Malaysia	US-MY-02	9-May-05		1994*
67	Maldives	US-MV-01	22-Sep-10		10/1/2001
68	Mali	USA-MLI-01	20-Sep-06		12/17/1997
69	Mauritania	US-MR-01	22-Jun-05		12/17/1997
70	Mexico (SEMAR)	US-MX-01 SEMAR	15-Sep-17		3/15/2002
71	Moldova	US-MD-02	25-Nov-13		12/17/2001
72	Mongolia	US-MG-02	2-Aug-13		10/1/2001
73	Montenegro	USA-MNE-01	25-Sep-07	Y	N/A
74	Morocco	USA-MAR-01	6-May-15		7/27/1992
75	Mozambique	USA-MOZ-01	2-May-07		12/17/1997
76	NATO ACT	US-SACT-01	18-Apr-08	Y	N/A
77	NATO NC30	US-NC30-01	27-May-11	Y	N/A
78	NATO NSPO	US-NSPO-01	25-Feb-13	Y	N/A
79	NATO SHAPE	MLSA	31-Jan-95	Y	N/A
80	Netherlands	US-NL-01	22-Feb-83	Y	N/A
81	New Zealand	US-NZ-02	6-Nov-12		8/20/1998
82	Nicaragua	US-NU-01	20-Nov-09		2/6/2001
83	Niger	US-NE-01	13-Aug-13		3/19/2004
84	Nigeria	USA-NGA-01	9-Nov-16		11/16/2000
85	Norway	USA-NOR-02	5-Aug-09	Y	N/A
86	Oman	US-OM-02	20-Feb-14		2/11/1988
87	Papua N. Guinea	US-PNG-01	15-Apr-14		4/1/2004
88	Peru	US-PE-02	20-Mar-12		1999*
89	Philippines	MLSA RP-US-02	23-Nov-17		2/11/1988
90	Poland	US-POL-02	3-Dec-12	Y	N/A
91	Portugal	US-PRT-02	8-Dec-09	Y	N/A
92	Qatar	US-QATAR-02	19-Dec-13		4/12/1999
93	Romania	USA-ROU-02	5-Dec-12	Y	N/A
94	Rwanda	US-RW-02	15-Dec-14		12/17/1997
95	San Tome & Principe	USA-STP-01	13-Aug-07		3/19/2004
96	Saudi Arabia	US-KSA-01	16-May-16		2/11/1988
97	Senegal	US-SG-01	14-May-01		7/27/1992
98	Serbia	US-SRB-01	8-Nov-00		1/16/2004
99	Singapore	US-SN-02	4-Apr-11		1993*
100	Slovakia	US-SK-01	15-Dec-98	Y	N/A
101	Slovenia	US-SVN-02	11-Nov-15	Y	N/A
102	South Africa	US-SF-01	8-May-01		7/24/1998
103	Spain	US-ESP-03	9-May-11	Y	N/A
104	Sri Lanka	US-CE-02	4-Aug-17		10/2/2001
105	Sweden	US-SW-02	11-Sep-03		11/30/1995
106	Switzerland	US-SZ-01	6-Dec-01		12/17/1997
107	Thailand	US-TH-02	30-Jan-14		2/11/1988
108	Tonga	US-TN-01	11-Sep-07		1997*
109	Tunisia	N/A	29-Apr-94		7/27/1992
110	Turkey	US-TU-01	2-Aug-96	Y	N/A
111	United Arab Emirates	US-UAE-01	22-Jan-06		7/27/1997
112	Uganda	US-UG-02	22-Dec-14		2/6/1996
113	United Kingdom	US-GBR-02	7-Jan-07	Y	N/A
114	Ukraine	US-UP-01	19-Nov-99		2/6/1996
115	United Nations	US-UN-01	25-Sep-15		International Organization
116	Uruguay	US-UY-01	20-Jun-12		1999*
117	Uzbekistan	US-UZ-02	7-Jul-16		3/21/2001
Total Number of Agreements in effect as of September 30, 2018					118

* Estimated year of notification to Congress

NOTE: Congressional notification of NATO Member Countries and International Organizations is not required

TAB 1 Agreements FY18 ACSA Congressional Report

Country	Agreement Title	Date Signed	NATO Member	Date Congress Notified
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* DoD could not locate copies of letters to providing notice that the DoD intended to designate this country as being eligible for the negotiation and conclusion of an acquisition and cross servicing agreement with the DoD. The year the notification should have occurred is provided instead. Since the period of time when the notification for these countries took place, OSD implemented record keeping procedures to eliminate the potential for lost documentation. 2002 was the last year for which documentation has not been located.

* Estimated year of notification to Congress

NOTE: Congressional notification of NATO Member Countries and International Organizations is not required



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

November 28, 2018
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S.J. Res. 54 – To Direct the Removal of United States Armed Forces from Hostilities in the Republic of Yemen that Have Not Been Authorized by the Congress
(Sen. Sanders, I-VT and 16 cosponsors)

The Administration strongly opposes passage of S.J. Res. 54, a joint resolution that purports to direct the removal of United States Armed Forces that have not been authorized by the Congress from hostilities in the Republic of Yemen. The fundamental premise of S.J. Res. 54 is flawed—United States forces are not engaged in hostilities between the Saudi-led coalition and Houthi forces in Yemen. Since 2015, the United States has provided limited support to member countries of the Emirati and Saudi-led coalition, including intelligence sharing, logistics, and, until recently, aerial refueling. This support is provided in accordance with licenses and approvals under the Arms Export Control Act, statutory authorities to provide logistics support, and the President's constitutional powers. United States counterterrorism operations and an October 2016 strike on radar facilities in Houthi-controlled territory, which was the subject of a prior report consistent with the War Powers Resolution of 1973, are separate matters. Other than those engagements, no United States forces have been introduced into hostilities, or into situations where hostilities are clearly imminent, in connection with ongoing support to the Saudi-led coalition. As a result, this United States support does not implicate the War Powers Resolution.

In addition to its erroneous premise, the joint resolution would harm bilateral relationships in the region and negatively impact the ability of the United States to prevent the spread of violent extremist organizations such as al-Qa'ida in the Arabian Peninsula and ISIS in Yemen. The continued cooperation of the United States allows the Administration to support diplomatic negotiations to end the war, ensure humanitarian access, enhance efforts to recover United States hostages in Yemen, and defeat terrorists that seek to harm the United States.

Accordingly, if S.J. Res. 54 were presented to the President in its current form, his advisors would recommend that he veto the joint resolution.

* * * * *



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1600

FEB 27 2018

The Honorable Mitchell "Mitch" McConnell
Majority Leader
United States Senate
Washington, DC 20510

Dear Mr. Majority Leader:

On February 22, 2018, the Department of Defense (DoD) briefed your staff concerning DoD support to the Kingdom of Saudi Arabia's (KSA) operations in Yemen. Subsequently, you requested an unclassified letter reflecting DoD's views on a draft joint resolution that would "direct[] the President to remove United States Armed Forces from hostilities in or affecting the Republic of Yemen, except United States Armed Forces engaged in operations directed at al Qaeda in the Arabian Peninsula or associated forces..." DoD opposes this Joint Resolution. Even if enacted into law, the Joint Resolution would not achieve its apparent purpose of restricting U.S. support to the KSA-led coalition, because, as described below, that support does not constitute "hostilities." In addition to the potential constitutional concerns raised by such a proposal, the draft resolution's restrictions on U.S. military support to our partners could undermine our ability to foster long-term relationships, increase interoperability, promote burden sharing, and build strong security architectures throughout the world. The KSA is a key U.S. partner in the Middle East and we rely on our strong military partnership to promote regional security.

DoD opposes the resolution because the resolution's fundamental premise is flawed. Specifically, the draft resolution incorrectly asserts that U.S. forces have been "introduced into hostilities between the [KSA-led] coalition and the Houthis" The limited military and intelligence support that the United States is providing to the KSA-led coalition does not involve any introduction of U.S. forces into hostilities for purposes of the War Powers Resolution or of section 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (50 USC 1546a).

Since 2015, the United States has provided limited support to KSA-led coalition military operations against Houthi and Saleh-aligned forces in Yemen. With the exception of a defensive strike in October 2016, U.S. forces are not taking direct military action in this Saudi-led effort in Yemen. Instead, the United States provides the KSA-led coalition defense articles and services, including air-to-air refueling; certain intelligence support; and military advice, including advice regarding compliance with the law of armed conflict and best practices for reducing the risk of civilian casualties.



The draft resolution incorrectly describes United States support to the KSA-led coalition as an operation that introduces U.S. forces into hostilities or imminent involvement in hostilities for purposes of the War Powers Resolution. It has been the longstanding view of the Executive Branch that “hostilities” refers to “a situation in which units of U.S. armed forces are actively engaged in exchanges of fire with opposing units of hostile forces.”¹ U.S. personnel providing support to the KSA-led coalition are not engaged in any such exchanges of fire. Further, the limited U.S. support to the KSA-led coalition does not implicate the activities identified in section 8(c) of the War Powers Resolution. Section 8(c) defines the term “introduction of United States Armed Forces” but does not address the term “hostilities.” “[W]hen applying section 8(c), the relevant question remains whether U.S. forces—not the foreign forces they are accompanying—are introduced into hostilities or situations involving the imminent threat thereof.”² With respect to U.S. support to the KSA-led coalition, U.S. forces do not currently command, coordinate, accompany, or participate in the movement of coalition forces in counter-Houthi operations. Thus, no U.S. forces are accompanying the KSA-led coalition when its military forces are engaged, or an imminent threat exists that they will become engaged, in hostilities. Accordingly, U.S. forces supporting the KSA-led coalition have not been introduced into hostilities or situations where hostilities are imminent.

Although the resolution’s requirement to remove U.S. forces from hostilities would not implicate U.S. support to the KSA-led coalition, this requirement could call into question the statutory authority for ongoing U.S. counterterrorism operations in Yemen. Pursuant to the 2001 Authorization to Use Military Force (AUMF) (Public Law 107-40), U.S. armed forces are currently engaged in hostilities against both al Qaeda in the Arabian Peninsula (AQAP) and the Islamic State of Iraq and Syria (ISIS) in Yemen. Hostilities against AQAP and associated forces are explicitly exempted from the resolution’s termination requirement, but hostilities against ISIS are not similarly exempted.

The resolution also asserts incorrectly that there is no authorization for U.S. participation in a Joint Combined Planning Cell with the KSA and mid-air refueling of KSA-led coalition aircraft. President Obama directed such military and intelligence support pursuant to his authority under Article II of the Constitution as Commander in Chief and Chief Executive and his authority to conduct U.S. foreign relations. See *Fleming v. Page*, 50 U.S. (9 How.) 603, 615 (1850) (explaining that the President “is authorized to direct the movements of the naval and military forces placed by law at his command”); *Training of British Flying Students in the United States*, 40 Op. Att’y Gen. 58, 62 (1941) (“[T]he President’s authority has long been recognized as extending to the dispatch of armed forces outside the United States, either on missions of goodwill or rescue, or for the purpose of protecting American lives or property or American interests.”).³ Because, as discussed above, this limited support to the KSA does not

¹ Letter to Rep. Clement J. Zablocki from Monroe Leigh, Legal Adviser, Dept. of State, and Martin R. Hoffinan, General Counsel, Dept. of Defense (June 3, 1975).

² Letter to Sen. Carl Levin from Robert Taylor, Acting General Counsel, Dept. of Defense (May 6, 2013). Mr. Taylor’s letter described U.S. military non-combat support to French operations in Mali. That support included intelligence collection, in-flight refueling, and logistics. See also Memorandum of June 16, 1978, reproduced in the report of the hearing before the Subcommittee on International Security and Scientific Affairs of the Committee on International Relations, House of Representatives, August 10, 1978, at pp. 32-33.

³ Because the President has directed U.S. troops to support the KSA operations pursuant to his authority under Article II, and because the limited operation does not implicate Congress’s constitutional authority to Declare War,

involve the introduction of U.S. forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated, it does not implicate section 4(a)(1) of the War Powers Resolution. *See* 50 U.S.C. § 1543(a)(1). The Obama Administration published its summary of that limited support to the KSA-led coalition as part of the December 2016 “Report of the Legal and Policy Framework Guiding the United States Use of Military Force and Related National Security Operations.” As discussed further below, DoD and the Department of State have implemented the President’s direction through statutory authorities available to the respective Secretaries.

Article II of the Constitution likewise supplied the legal authority for the October 2016 strikes against radar facilities in Houthi-controlled territory in defense of U.S. Navy ships in international waters. The President has authority pursuant to Article II to take military action that furthers sufficiently important national interests. The limited October 2016 strikes were taken to protect U.S. vessels and personnel. Consistent with the War Powers Resolution, President Obama notified Congress of these strikes on October 14, 2016. The Obama Administration also published a summary of its legal analysis for the strike in its December 2016 report.

In late July 2017, President Trump completed a review of the Obama Administration’s policy of limited support to the Saudi-led coalition. President Trump decided to continue that support, adjusting the priorities in light of the recommendations of Secretary of Defense James Mattis and intervening developments in Yemen. President Trump’s policy guidance for support to the KSA-led coalition’s operations in Yemen is to focus on ending the war and avoiding a regional conflict, mitigating the humanitarian crisis, and defending Saudi Arabia’s territorial integrity and commerce in the Red Sea. Authorized types of support continue to include intelligence, logistics, and advisory support to the KSA-led coalition.

DoD and the Department of State have implemented the President’s policy guidance to provide limited support to the Saudi-led coalition pursuant to legal authorities available to the respective Secretaries. The most prominent forms of support to the KSA and the United Arab Emirates (UAE), as well as the corresponding legal authorities, are detailed below.

Arms and Other Defense Articles: The Arms Export Control Act (AECA) is the underlying authority through which the United States provides or licenses defense articles and defense services to the KSA, UAE, and other members of the KSA-led coalition; many of these defense articles and defense services have been used in the conflict in Yemen. The AECA and associated delegations of authority provide the Secretary of State with the authority to approve the transfer of arms and other defense articles and defense services, primarily through the Foreign Military Sales program (which is overseen by the State Department and implemented through DoD) and through the State Department’s licensing of Direct Commercial Sales to foreign partners. The authority to approve such transfers or licenses is not contingent upon whether the foreign recipient is engaged in an ongoing armed conflict, although the existence of

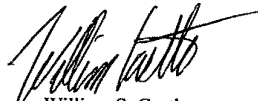
the draft resolution would raise serious constitutional concerns to the extent it seeks to override the President’s determination as Commander in Chief.

such a conflict clearly increases demand and can be a policy factor in approval decisions. Transfers and licenses made pursuant to the AECA are subject to various requirements (such as notifications to Congress when transfers are above certain monetary thresholds) as well as restrictions on end-use (including no further transfer by the end-user without U.S. consent and that proposed uses must be consistent with the law of armed conflict).

Logistics: Pursuant to licenses issued by the State Department under the AECA, U.S. contractors provide defense services in the form of essential maintenance and sustainment for KSA and UAE combat aircraft engaged in hostilities in Yemen. The in-flight refueling of KSA and UAE aircraft, including combat aircraft, and certain other support, may also be provided pursuant to 10 U.S.C. §§ 2341 *et seq.*, which authorizes DoD to provide logistic support, supplies, and services to the military forces of a country with which DoD has an Acquisition and Cross-Servicing Agreement (ACSA) in force. DoD must first obtain State Department approval to conclude an ACSA; DoD has ACSAs with the Ministry of Defense of the KSA (applied provisionally pending its formal entry into force) and with the Armed Forces General Headquarters of the UAE.

I trust that this response will be helpful to your understanding of U.S. support to the KSA's operations in Yemen, and the reason for the DoD's opposition to this proposed Joint Resolution. Thank you for your continued support of the Department of Defense.

Sincerely



William S. Castle
Acting

cc:
The Honorable Charles E. "Chuck" Schumer
Minority Leader
United States Senate

Mr. McCAUL. And I thank the chairman for that and, again, I oppose this measure and I yield back my time.

Chairman ENGEL. The ranking member yields back.

Does any other member seek recognition on the resolution? I am told Mr. Connolly does.

Mr. CONNOLLY.

Mr. CONNOLLY. Thank you, Mr. Chairman.

I appreciate the juridical distinction made by the ranking member that the United States is not technically involved on the ground in hostilities.

But the United States most certainly has been involved in equipping, re-equipping, training, and other support for the Saudi activity in Yemen that has led to one of the greatest humanitarian crises on the face of the planet.

And that is what we are trying to address today. We can hide behind juridical language that it is not technically a combat involvement of the United States. But it begs the question.

Since 2015, the United States has provided support to the Saudi-led coalition in its war against Houthis rebels in Yemen. In addition to claiming an estimated 60,000 Yemeni lives, this war is fueling the world's largest humanitarian crisis.

Humanitarian agencies now estimate that 85,000 children—children—have died from malnutrition. More than half the population currently requires emergency food assistance and one in every ten Yemeni children has been forcibly displaced from his or her home due to this conflict.

In September 2018, Secretary Pompeo certified to this Congress that the Saudi and Emirate government were mitigating harm to civilians and civilian infrastructure in Yemen.

Meanwhile, the Saudi-led coalition has conducted attacks, killing dozens of civilians at a time often with U.S.-provided munitions, giving—belying the certification made in September 2018.

Article 1 Section 8 of the United States Constitution States unequivocally Congress shall have the power to declare war and to raise and support armies and other armed forces.

I would argue, just as the executive branch says there are implied in the role of commander in chief, certainly there are implied powers about our ability to stop military interventions as we deem fit. Article 1 says so, as far as I am concerned.

Pursuant to the War Powers Resolution, Public Law 93148, the president must remove U.S. armed forces engaged in hostilities outside U.S. territory without a specific statutory authorization if Congress so directs, and I would argue that that's a broad, broad authority for Congress.

It does not necessarily mean U.S. combat troops on the ground. Support for ongoing hostilities by a third power—an ally—certainly qualify as far as I am concerned.

Chairman ENGEL. Will the gentleman yield? We are concerned that there's time running out. There is 37 seconds left. So—

Mr. CONNOLLY. I support the resolution in front of us. I believe Congress needs to reclaim its congressional power and I will vote for the resolution pending before this committee.

I thank the chair.

Chairman ENGEL. I thank the gentleman.

The committee will now recess until after votes on the floor. The committee stands in recess.

[Recess.]

Chairman ENGEL. The committee will come back to order.

For those who were not here, before we broke I gave my opening statement and the ranking member gave his opening statement and then Mr. Connolly of Virginia gave a statement.

So we can now call on any other members seeking recognition. First we will start from the Republican side. Anybody seeking recognition?

Mr. WILSON. Mr. Chairman.

Chairman ENGEL. Mr. Wilson.

Mr. WILSON. Thank you, Mr. Chairman.

Mr. Chairman, I appreciate that the Foreign Affairs Committee has always had a strongly bipartisan cooperation to work on issues that are so important to the American people.

I believe the committee has the solemn responsibility to appropriately exercise the congressional War Powers Act under Article 1 of the Constitution.

But the mechanism to force withdrawal of U.S. forces under the War Powers Act applies only when we are engaged in live-fire hostilities. This is not what our military is currently doing in its operations and support of operations in Yemen.

This resolution would set a very dangerous precedent as we are now going to allow any member to use this privileged war powers tool to second guess all U.S. security cooperation agreements throughout the world.

This interpretation could impact our assistance to Israel. It would impact our cooperation with African countries in the Sahel. It would recklessly undo critical security relationships we have spent decades building.

This is not what the War Powers Resolution was ever meant and it should not be used in this way. A vote in favor is a victory for bad politics.

As we have heard at this morning's hearing, the situation in Yemen poses critical strategic and humanitarian issues that deserve careful attention. If we want to discuss conditioning assistance to Saudi Arabia in this conflict, that is the area that we need to explore and debate.

But this resolution is trying to hammer a square peg into a round hole. It misuses the extraordinary War Powers tool to try to get to the issue of security assistance to a third country.

This—even our refueling of Saudi jets, which does not constitute hostilities as traditionally understood, ended last November. I spoke with the Department of Defense representatives yesterday who reaffirmed that U.S. forces are not engaged in hostilities against the Houthis forces in Yemen.

They confirmed the continuing accuracy of the detailed letter sent to Congress last year by the department's acting general counsel.

No one is saying that U.S. security assistance to Saudi Arabia or anyone else is beyond congressional scrutiny. We have many tools to use including the committee's arms sales notifications, targeted legislation, and the annual appropriations process, among others.

But this resolution stretches the definition of hostilities to cover non-U.S. military operations by other countries. It reiterates and reinterprets U.S. support to these countries as engagement in hostilities.

This has implications far beyond Saudi Arabia. Under this model, if any Member of Congress does not like something that any of our security partners conducts overseas, that member can force quick consideration of a resolution directing the removal of U.S. forces from hostilities, quote, "in or on affecting," end of quote, that situation. It no longer matters that U.S. forces are not actually conducting the hostilities.

The bill is vague and irresponsible. It will create doubts for our partners and allies around the world. It will trouble the many Americans who believe that burden sharing with capable allies is vital for U.S. security to protect American families.

For these reasons, I strongly oppose this measure. I yield back my time.

Chairman ENGEL. Are there any other members seeking recognition?

Mr. Deutch.

Mr. DEUTCH. Thank you, Mr. Chairman.

Mr. Chairman, I am grateful to you for moving quickly to give this committee the opportunity to advance debate on U.S. involvement in the Yemen conflict. It is a debate that is long overdue.

As we just heard earlier today, U.S. presence in the Arabian Peninsula and our relationships with regional States are vital to stability in the Middle East. These ties are enduring and date to the end of the Second World War.

We should be clear from the outset that we value our alliances and we do share common interests. But we should be honest in reassessing where those interests diverge and in identifying actions that set back our mutual objectives.

First and foremost, we have to view our relationship with regional States through the prism of our own interests. Where do our priorities align? What types of action undermine our own goals?

The Saudis and Emirates are preoccupied with their campaign in Yemen, which they see as a direct threat to their national security. The U.S. is right to support these countries' right to self-defense and shares the concern that Iran is assisting the Houthis to further its own regional ambitions.

But I also remain deeply troubled by the protracted military campaign in Yemen. The number of civilian casualties is alarming, to say the least. The lack of humanitarian access that has fostered famine and other extreme conditions and has put tens of millions of people at risk of starvation and disease is creating the worst crisis in decades.

And I fear that the United States, through our coalition support, may be furthering the suffering and helping to perpetuate a conflict that has no military solution.

The coalition war against the Houthis also redirects attention away from al-Qaida in the Arabian Peninsula, the most dangerous branch of al-Qaida, and one that has sought to attack the United States directly.

In fact, public reporting has indicated these very groups the U.S. has long targeted in Yemen have at times been empowered by our own allies. Numerous reports of the use of child soldiers on both sides, illegal detention centers, shadow mercenaries, and continued reckless targeting should at least give us pause to reexamine exactly what role we should play in this conflict.

That is why I am an original co-sponsor of H.J. Res. 37. That is why I will vote in support of it today. For too long this Congress has abdicated its role in foreign policy.

Last Congress procedural moves were made to prevent us from even having this debate. The Trump administration, our Saudi and Emirate partners, the Houthis, and the Iranian backers must know that the status quo is unacceptable and must take greater steps to reach a diplomatic settlement to end the war.

The administration has only been willing to stand up for U.S. principles when there is sustained pressure by Congress, as we saw with the suspension of refueling. It is time for accountability.

The world must know that the United States does not accept and cannot be complicit in the deaths of innocent civilians in Yemen. Being an ally does not mean being given free rein and we must ensure that we are supporting our partners and making decisions that are in our best interest.

I look forward to continuing this debate with my colleagues on the House floor and I look forward to ensuring that our policies in the Middle East are also protecting U.S. security interests.

And I appreciate, Mr. Chairman, the opportunity to speak on this and yield back the balance of my time.

Chairman ENGEL. Thank you, Mr. Deutch.

Mr. Kinzinger.

Mr. KINZINGER. Mr. Chairman, I can pass on my opening statement if there is nobody else. Otherwise, I will speak.

Chairman ENGEL. I think—Mr. Curtis, I think, wanted to speak.

Mr. KINZINGER. Yes, go ahead.

Chairman ENGEL. Mr. Curtis.

Mr. CURTIS. Thank you, Mr. Chairman, Ranking Member McCaul, for giving me a brief moment to speak regarding House Joint Resolution 37 directing the removal of U.S. armed forces from hostilities in Yemen.

To be clear, I support the intent of the resolution. I have spoken often and including on the House floor regarding my concerns with U.S. involvement in Yemen's civil war.

This is one of the world's deadliest wars that has killed tens of thousands of civilians. It is horrific—a horrific humanitarian crisis. An estimated 85,000 children have been killed or died of malnutrition and disease.

The time has come for the U.S. to reconsider our support of this disastrous war and to consider the moral imperatives that form the foundation of our values and strategic interests.

It is my fear that our continued support of the Saudi-led coalition's effort in Yemen will only increase resentment of United States in the region and could diminish America's reputation as champion of human rights and civil liberties.

Aside from the gross inhumanity of this war, I have growing concerns about the behavior of Saudi Arabia as it affects our larger

American strategic interest in the region and our interest in preserving global humanitarian norms.

With all of that said, I will be voting no on the resolution before the committee today. My concerns are with the way the resolution is written and I believe it is the wrong vehicle to achieve the objective.

I believe that the resolution distorts the War Powers tool to address the situation in Yemen. It is my concern that this resolution could set a dangerous precedent and would have the unintended consequences of complicating U.S. security cooperation with partners around the world.

And for those reasons, I oppose the resolution. With that, Mr. Chairman, I yield my time.

Chairman ENGEL. Thank you. Thank you.

Mr. Lieu.

Mr. LIEU. Thank you, Mr. Chair.

Yemen is not and should not be a partisan issue. As all of you know, U.S. assistance to the Saudi-led coalition started under the Obama Administration in September 2015.

I wrote a letter to the Pentagon about this then little known war in Yemen because we were seeing reports that the Saudi-led coalition was striking innocent civilians.

In the following months and years more and more Democrats as well as Republicans started to get involved, and it is not just the humanitarian catastrophe we are concerned about. It is war crimes.

And regardless of what your view is of Saudi Arabia or our relationship, we cannot be assisting a coalition that is engaging in war crimes.

We also know, based on years of looking at their activity, it is not as if the Saudi jets are trying to hit a moving Houthi target and they miss and they strike a bunch of civilians.

What they are doing is precisely trying to strike the civilians. They have intentionally hit schools, wedding parties, funerals, most recently a bus with over 40 school kids.

And that is why I support this resolution. I do note that some of my Republican colleagues do have concerns related to War Powers.

That is why Representative Malinowski, Yoho, and I also introduced a simple clean bill that just tells us to get out of Yemen and the Armed Services Committee will have jurisdiction over that.

Having said that, I support this resolution and I urge people to support it as well.

Chairman ENGEL. Thank you.

Does any other member seek recognition?

If not, we can go to an immediate vote.

Mr. Kinzinger.

Mr. KINZINGER. Thank you, Mr. Chairman. I did change my mind because there was more discussion than I thought. So thank you for this opportunity to address this again.

Mr. Chairman, I respect the intention of everybody to try to get to the solution. I respect the fact that everybody has compassion for what is going on in Yemen, as we all should.

I am going to make the point that I made earlier today, which I think is very important to make, before I make a few other points.

The vast majority, or at least a significant number of people that are on this committee are freshmen. The freshmen on this committee have not had an opportunity to be briefed by the administration on what is going on in Yemen and what we are doing in Yemen.

The reason many people that are supporting this are supporting this are supporting this and OK voting for this without being briefed in a SCIF about what is going on in Yemen. And I hate to say this because I love this committee, but it is political.

It is because back home the Yemen war is all over Twitter and because there is pressure so we want to just pass this thing out of here. I mean, I love the hearing we did earlier. That is important.

But for the very first action of this committee to be to pass a War Powers Resolution that has nothing to do with what the War Powers Resolution was intended to do, the fact that there is over a hundred agreements between the Department of Defense and other countries that this, if passed, would now open up for any Member of Congress who disagrees with any one of those cooperation agreements to do the same exact thing.

Let us say we have a member of this committee that is—or of Congress that does not like our engagement with Israel. By the way, I notice that in this resolution it says none of this shall be construed to hurt our cooperation with Israel.

Well, that is true. It also is not construed for our cooperation with Georgia or the puppy brigade or anybody because this is specifically about Yemen.

The point about Israel is this opens up that opportunity now for any member to come forward and say they disagree with our military cooperation with Israel and do a privileged resolution and force a vote on the floor.

In the country of Georgia, where a third of it is occupied by Russian forces, we have cooperation with that nation. Now anybody that is pro-Russian can come forward and say that we need to debate ending cooperation with the Georgian military and everything else.

I am not—look, if you vote for this I do not think you are a bad person. Trust me. I do not think you have America's interests not at your heart. But my request of this committee, if we are going to take up this resolution is let us all have really good discussions about it.

Let us have information in the SCIF about what we are really doing over there. Let us have a detailed discussion about what happens if we pull out all cooperation of Saudi Arabia and what does that look like in terms of targeting in Yemen, and go through what we need and then as a committee we can have this vote.

But, Mr. Chairman, respectively, and I have a great deal of respect for you, this is our very first committee action and we are getting ready to take an action that is going to have detrimental consequences without really thinking it through.

So I have a great deal of respect here for all of my colleagues. But I would beg you—I would beg you to think through what your

vote would have. I get the political implications of this. I get that Saudi Arabia, for instance, is a hot topic right now in the political sphere.

But what we do on this committee is not about politics. There is always some of that. We get it. What I have loved about being on the Foreign Affairs Committee and the reason I have fought hard to get my waivers to be on this committee is because this is a committee that puts partisan politics for the most part in front—behind what is good for this Nation.

And if you all think this is good for this Nation, that is fine. But I think you need to make that decision after having all the information in front of you before just saying in the very first meeting of this committee let us have a vote that could have a massive impact, open up over a hundred defense agreements for any other member of the House of Representatives that takes a problem with that to debate and bring a privileged resolution.

So with all due respect, I would beg you to vote against this. I would beg the majority to pull this resolution. But if they do not pull it, I would beg you to vote against it.

Let us get briefings, let us move on, and then have a really good debate and vote after that.

Thank you, Mr. Chairman.

Chairman ENGEL. Thank you.

Mr. Malinowski.

Mr. MALINOWSKI. Thank you, Mr. Chairman.

I very much appreciate the sentiment that was just expressed and the passion behind it. With respect, I am a freshman who has spent many, many hours in SCIFs looking at this situation, having helped to oversee some of our assistance to Saudi Arabia in this conflict.

We have a number of freshman members here who have significant national security experience. So I think we should debate the substance of this rather than suggest that any of us on this side have not thoroughly studied the question.

For me, I—look, many of us on both sides have concerns about our engagement with Saudi Arabia. I share some of my Republican colleagues' concerns about not overusing the War Powers Resolution.

I think there may be other ways to address these concerns, and as Mr. Lieu mentioned, we hope to be able to work together with you on that.

But the question here before us is a very simple one. Are we actually involved in active hostilities with the Saudis in Yemen?

I can tell you most of my former colleagues in the State Department who are lawyers looking at this question believe that the answer to is was yes and I think it stands to reason.

Imagine, if you will, if a foreign power were engaged in air strikes against Washington, DC. as we spoke and a second foreign power was refueling its aircraft over the Chesapeake Bay and then servicing those aircraft when they landed to stock up on bombs again so that they could resume their operations against us.

Would we consider the second power to be engaged in active hostilities against us? I think all of us in this room would say yes. We are deeply, deeply embedded in the Saudi conflict in Yemen in a

way that we are not in the various partnership relationships we have in Africa, in the Middle East, that my friend fears that this will implicate.

I think the standard we are setting here for defining engagement in active hostilities is in fact very, very high, very, very appropriate and I will be voting for this resolution as a result.

Thank you.

Mr. CONNOLLY. Would my friend yield for a question?

Mr. Malinowski.

Mr. MALINOWSKI. Yes, absolutely.

Mr. CONNOLLY. Would my friend agree, in addition to the points he made, that we are arguing over what constitutes combat and hostilities and that the support we have been giving in the Yemen conflict with the Saudis would clearly fall within the penumbra of hostilities and combat support involving U.S. military if not on the ground?

Mr. MALINOWSKI. I would say yes and in a way that is distinct from most of our partner relationships around the world. The provision of weapons to Saudi Arabia, in my mind, would not rise to that level.

Mr. CONNOLLY. And would my friend—

Mr. MALINOWSKI. But refueling operations, targeting where we are actually there with them selecting the target and enabling the aircraft to reach the target, if any—if this was being done to us there is no question in my mind that we would agree that that would be hostilities against the United States.

Mr. KINZINGER. Will the gentleman—

Mr. CONNOLLY. So—I am not finished yet. If my friend would further yield.

Mr. MALINOWSKI. Of course, yes.

Mr. CONNOLLY. So some—I understand that there are differences in approach and that some have a juridical approach, which is that strictly speaking, unless there are boots on the ground, we are not in combat and this does not apply and we are overreaching.

I beg to differ as, obviously, does my friend from New Jersey. But let me ask one final question.

Would my friend also agree that just as there are implied powers for the role of the commander in chief that over the years have really been expanded that there are also implied powers in Article 1 Section A to the Constitution exclusively granting to the legislative branch the power of war and peace and the assembling of armed forces? That is explicit language in the Constitution of the United States.

And that today we are in fact—you could disagree with the action but certainly you cannot argue constitutionally that we are not within our right to circumscribe the involvement of U.S. military when we have grave doubts about half the people we represent.

Mr. MALINOWSKI. I certainly agree with my friend and it is a responsibility that Congress over the years has, arguably, abdicated and I think one of the points of this resolution and our broader efforts on Saudi Arabia, however we approach them, is to assert that Congress has that role and responsibility.

Obviously, we need to exercise it responsibly. But I think we are doing so here.

Chairman ENGEL. Time is up.

Anybody on the Republican side wish to be heard?

If not, we have one more—Mr. Zeldin?

Mr. ZELDIN. I yield to Mr. Kinzinger.

Mr. KINZINGER. Thank you, Mr. Zeldin. Thank you, Mr. Chairman.

Just I am not going to take all 5 minutes. I do want to make a point, though. If the U.S. Government was overthrown by a terrorist organization and somebody was bombing that terrorist organization and there was a country refueling and giving them targeting against the terrorist organization, I certainly would not consider them an enemy.

I think that is an important point to make. And again, I think just—because I do not want to take all 5 minutes—one of the biggest things here is what precedent are we setting in any one of our defense cooperation agreements by this?

I respect, sir, the gentleman from New Jersey, that you do know what is going on. I would argue that there are a lot of people that just do not. And that is not a cut to them. There is probably situations around the world I do not know anything about because I have not been briefed to the level I should have been.

And I got to tell you—and this is dead honest, and my friends on the other side of the aisle know this about me—if my party in 2015 was bringing this up against President Obama, who began this cooperation, I would be saying the exact words I am saying today and I would be opposing my own party in this resolution because I think it is so bad.

With that, I will just yield back, or I will yield back to the gentleman.

Mr. ZELDIN. I yield back to the chair.

Chairman ENGEL. Thank you.

Ms. Spanberger.

Ms. SPANBERGER. Thank you, Mr. Chair.

To comment on the positions put forth by my colleague from Illinois, I would like to posit that we in fact are making informed decisions. That is the focus of what we are doing here, and I can think of no better first action than one that is focused on Article 1 of the Constitution that requires that Members of Congress make informed decisions about hostile engagement that in fact we undergo.

And my colleague's reverse hypothetical of my colleague from New Jersey's position was actually not one that was something that we can perceive as a comparison because in fact the minute we start changing under which circumstances we are willing to abdicate our responsibility related to Article 1 in the case of a government overthrow, does Congress just step back and let the administration or the executive branch do whatever they want in this circumstance or that circumstance.

We are taking away and we are abdicating our responsibility as Members of Congress and the minute we engage in these hypotheticals where we are talking about different circumstances and allowing for and justifying behaviors in different circumstances, I think that is where we get into challenging territory.

And so I will be supporting this resolution today because I think it is absolutely because we need to make informed decisions that

Congress should be engaged on where it is that we are in fact engaged in hostile activity or military activity.

I yield back. Thank you.

Chairman ENGEL. All right. Thank you.

Hearing no further requests for recognition, the question is to report House Joint Resolution 37 to the House with the recommendation that the bill does pass.

All those in favor, say aye.

[Chorus of ayes.]

All opposed, no.

[Chorus of noes.]

In the opinion of the chair, the ayes have it.

Mr. KINZINGER. Mr. Chairman, I ask for a recorded vote.

Chairman ENGEL. A recorded vote has been requested. The clerk will call the role.

Ms. STILES. Mr. Sherman. Mr. Sherman.

[No response.]

Ms. STILES. Mr. Meeks. Mr. Meeks.

[No response.]

Ms. STILES. Mr. Sires.

Mr. SIRES. Aye.

Ms. STILES. Mr. Sires votes aye.

Mr. CONNOLLY.

Mr. CONNOLLY. Aye.

Ms. STILES. Mr. Connolly votes aye.

Mr. DEUTCH.

Mr. DEUTCH. Aye.

Ms. STILES. Mr. Deutch votes aye.

Ms. BASS.

Ms. BASS. Aye.

Ms. STILES. Ms. Bass votes aye.

Mr. KEATING.

Mr. KEATING. Aye.

Ms. STILES. Mr. Keating votes aye.

Mr. CICILLINE.

Mr. CICILLINE. Aye.

Ms. STILES. Mr. Cicilline votes aye.

Mr. BERA.

Mr. BERA. Aye.

Ms. STILES. Mr. Bera votes aye.

Mr. CASTRO.

Mr. CASTRO. Aye.

Ms. STILES. Mr. Castro votes aye.

Ms. TITUS.

Ms. TITUS. Aye.

Ms. STILES. Ms. Titus votes aye.

Mr. ESPAILLAT. Mr. Espaillat.

[No response.]

Mr. LIEU.

Mr. LIEU. Aye.

Ms. STILES. Mr. Lieu votes aye.

Ms. WILD.

Ms. WILD. Aye.

Ms. STILES. Ms. Wild votes aye.

Mr. PHILLIPS.
 Ms. PHILLIPS. Aye.
 Ms. STILES. Mr. Phillips votes aye.
 Ms. OMAR.
 Ms. OMAR. Aye.
 Ms. STILES. Ms. Omar votes aye.
 Mr. ALLRED.
 Mr. ALLRED. Aye.
 Ms. STILES. Mr. Allred votes aye.
 Mr. LEVIN.
 Mr. LEVIN. Aye.
 Ms. STILES. Mr. Levin votes aye.
 Ms. SPANBERGER.
 Ms. SPANBERGER. Aye.
 Ms. STILES. Ms. Spanberger votes aye.
 Ms. HOULAHAN.
 Ms. HOULAHAN. Aye.
 Ms. STILES. Ms. Houlahan votes aye.
 Mr. MALINOWSKI.
 Mr. MALINOWSKI. Aye.
 Ms. STILES. Mr. Malinowski votes aye.
 Mr. TRONE.
 Mr. TRONE. Aye.
 Ms. STILES. Mr. Trone votes aye.
 Mr. COSTA.
 Mr. COSTA. Aye.
 Ms. STILES. Mr. Costa votes aye.
 Mr. VARGAS.
 Mr. VARGAS. Aye.
 Ms. STILES. Mr. Vargas votes aye.
 Mr. GONZALEZ.
 Mr. GONZALEZ. Aye.
 Ms. STILES. Mr. Gonzalez votes aye.
 Mr. McCAUL.
 Mr. McCAUL. No.
 Ms. STILES. Mr. McCaul votes no.
 Mr. SMITH.
 Mr. SMITH. No.
 Ms. STILES. Mr. Smith votes no.
 Mr. CHABOT. Mr. Chabot.
 [No response.]
 Mr. WILSON.
 Mr. WILSON. No.
 Ms. STILES. Mr. Wilson votes no.
 Mr. PERRY.
 Mr. PERRY. No.
 Ms. STILES. Mr. Perry votes no.
 Mr. YOHO.
 Mr. YOHO. No.
 Ms. STILES. Mr. Yoho votes no.
 Mr. KINZINGER.
 Mr. KINZINGER. No.
 Ms. STILES. Mr. Kinzinger votes no.
 Mr. ZELDIN.

Mr. ZELDIN. No.
 Ms. STILES. Mr. Zeldin votes no.
 Mr. SENSENBRENNER. Mr. Sensenbrenner.
 [No response.]
 Mrs. WAGNER.
 Mrs. WAGNER. No.
 Ms. STILES. Mrs. Wagner votes no.
 Mr. MAST.
 Mr. MAST. No.
 Ms. STILES. Mr. Mast votes no.
 Mr. ROONEY. Mr. Rooney.
 [No response.]
 Mr. FITZPATRICK.
 Mr. FITZPATRICK. No.
 Ms. STILES. Mr. Fitzpatrick votes no.
 Mr. CURTIS.
 Mr. CURTIS. No.
 Ms. STILES. Mr. Curtis votes no.
 Mr. BUCK. Mr. Buck.
 [No response.]
 Mr. WRIGHT.
 Mr. WRIGHT. No.
 Ms. STILES. Mr. Wright votes no.
 Mr. RESCHENTHALER.
 Mr. RESCHENTHALER. No.
 Ms. STILES. Mr. Reschenthaler votes no.
 Mr. BURCHETT.
 Mr. BURCHETT. No.
 Ms. STILES. Mr. Burchett votes no.
 Mr. PENCE.
 Mr. PENCE. No.
 Ms. STILES. Mr. Pence votes no.
 Mr. WATKINS.
 Mr. WATKINS. No.
 Ms. STILES. Mr. Watkins votes no.
 Mr. GUEST.
 Mr. GUEST. No.
 Ms. STILES. Mr. Guest votes no.
 Chairman ENGEL. May I ask the clerk how——
 Ms. STILES. Chairman Engel.
 Chairman ENGEL. Votes aye.
 Ms. STILES. Chairman Engel votes aye.
 Chairman ENGEL. Mr. Espallat.
 Mr. ESPALLAT. Aye.
 Ms. STILES. Mr. Espallat votes aye.
 Chairman ENGEL. Have all members been recorded?
 And the clerk will report.
 One more?
 Chairman ENGEL. Is Mr. Sherman recorded?
 Mr. SHERMAN. Aye.
 Ms. STILES. Mr. Sherman votes aye.
 [Laughter.]
 Ms. STILES. Mr. Chairman, on that vote, there were 25 ayes and
 17 noes.

Chairman ENGEL. Twenty-five ayes and 17 noes. The ayes have it.

The measure is ordered favorably reported and the motion to reconsider is laid upon the table.

Without objection, the staff is authorized to make necessary technical and conforming changes, and this concludes our business today.

I want to thank Mr. McCaul and all our members on both sides of the aisle and the committee stands adjourned.

[Whereupon, at 2:50 p.m., the committee was adjourned.]

APPENDIX

**FULL COMMITTEE HEARING AND MARKUP NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128**

Eliot L. Engel (D-NY), Chairman

February 6, 2019

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing and markup of the Committee on Foreign Affairs to be held in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at <https://foreignaffairs.house.gov/>):

DATE: Wednesday, February 6, 2019
TIME: 10:00 a.m.
SUBJECT: U.S. Policy in the Arabian Peninsula

WITNESSES: Mr. David Harden
Managing Director
Georgetown Strategy Group

Mara Karlin, Ph.D.
Director of Strategic Studies and Associate Professor
School of Advanced International Studies
Johns Hopkins University

Mr. Jake Sullivan
Nonresident Senior Fellow
Carnegie Endowment for International Peace

Mr. Michael Singh
Senior Fellow and Managing Director
Washington Institute for Near East Policy

MARKUP WILL BEGIN IMMEDIATELY FOLLOWING HEARING

MARKUP OF: H.J. Res. 37, Directing the removal of United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress.

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS
MINUTES OF FULL COMMITTEE MARKUP

Day Wednesday Date February 6, 2019 Room 2172

Starting Time 1:34 p.m. Ending Time 2:50 p.m.

Recesses 1 (1:46 to 2:20) (____ to ____) (____ to ____) (____ to ____) (____ to ____)

Presiding Member(s)

Chairman Elliot L. Engel

Check all of the following that apply:

Open Session ☒

Executive (closed) Session ☐

Televised ☒

Electronically Recorded (taped) ☒

Stenographic Record ☒

BILLS FOR MARKUP: (Include bill number(s) and title(s) of legislation.)

H.J. Res. 37, Directing the removal of United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress.

COMMITTEE MEMBERS PRESENT:

See attached.

NON-COMMITTEE MEMBERS PRESENT:

N/A

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

SFR_Cicilline, SFR_Buck, IFR_Cicilline, IFR_McCaul I, IFR_McCaul II, IFR_McCaul III

ACTIONS TAKEN DURING THE MARKUP: (Attach copies of legislation and amendments.)

N/A

RECORDED VOTES TAKEN (FOR MARKUP): (Attach final vote tally sheet listing each member.)

<u>Subject</u>	<u>Yeas</u>	<u>Nays</u>	<u>Present</u>	<u>Not Voting</u>
<i>Record Vote on H.J. Res 37</i>	<i>25</i>	<i>17</i>	<i>0</i>	<i>4</i>

TIME SCHEDULED TO RECONVENE _____

or

TIME ADJOURNED 2:50 p.m.

Evan Bursey
Full Committee Hearing Coordinator

HOUSE COMMITTEE ON FOREIGN AFFAIRS

FULL COMMITTEE MARKUP

<i>PRESENT</i>	<i>MEMBER</i>
X	Eliot L. Engel, NY
X	Brad Sherman, CA
	Gregory W. Meeks, NY
X	Albio Sires, NJ
X	Gerald E. Connolly, VA
X	Theodore E. Deutch, FL
X	Karen Bass, CA
X	William Keating, MA
X	David Cicilline, RI
X	Ami Bera, CA
X	Joaquin Castro, TX
X	Dina Titus, NV
X	Adriano Espaillat, NY
X	Ted Lieu, CA
X	Susan Wild, PA
X	Dean Phillips, MN
X	Ilhan Omar, MN
X	Colin Allred, TX
X	Andy Levin, MI
X	Abigail Spanberger, VA
X	Chrissy Houlahan, PA
X	Tom Malinowski, NJ
X	David Trone, MD
X	Jim Costa, CA
X	Juan Vargas, CA
X	Vicente Gonzalez, TX

<i>PRESENT</i>	<i>MEMBER</i>
X	Michael T. McCaul, TX
X	Christopher H. Smith, NJ
	Steve Chabot, OH
X	Joe Wilson, SC
X	Scott Perry, PA
X	Ted Yoho, FL
X	Adam Kinzinger, IL
X	Lee Zeldin, NY
	James F. Sensenbrenner, Jr., WI
X	Ann Wagner, MO
X	Brian J. Mast, FL
X	Francis Rooney, FL
X	Brian K. Fitzpatrick, PA
X	John Curtis, UT
	Ken Buck, CO
X	Ron Wright, TX
X	Guy Reschenthaler, PA
X	Tim Burchett, TN
X	Greg Pence, IN
X	Steve Watkins, KS
X	Michael Guest, MS

STATEMENTS SUBMITTED FOR THE RECORD

Statement for the Record from Representative David N. Cicilline

Markup of H. J. Res. 37

February 6, 2019

Mr. Chairman, I want to thank you and the Ranking Member for bringing up this bill today. By taking up this important War Powers Resolution, this Committee is reasserting our constitutional authority over American military actions, and sending an important message both to the Saudi-led coalition and to the Trump Administration. I applaud the efforts of my colleague Mr. Khanna, who has been unwavering in his dedication to seeing accountability for American involvement in Yemen.

Congress cannot and will not look the other way while the war in Yemen results in tens of thousands of innocent lives lost and a spiraling humanitarian catastrophe.

The Iranian-backed Houthis have acted with complete disregard for civilian lives, blocking humanitarian aid, and mounting attacks into Saudi Arabian cities. There is no question that they bear much of the blame for the current humanitarian crisis.

However, the Saudi and Emirati-backed coalition is using American-made weapons, aided by American logistical support, to kill innocent civilians. Just in recent weeks we have seen reports of civilians killed and grain silos destroyed by Saudi-backed efforts. For too long, the United States has been involved in this war, without proper congressional authorization or oversight.

The consideration of this bill comes amidst the longer discussion of the future of the U.S.-Saudi relationship, which I strongly believe must be reevaluated.

I hope that the strong, bipartisan passage of this resolution will signal to Saudi Arabia, the AUE, and the many observers around the world that the United States will not continue to blindly support partners that commit violations of international law, murder journalists, and lock up and torture human rights activists.

It has been three months since Washington Post journalist Jamal Khashoggi was lured into the Saudi Consulate in Istanbul and hacked to pieces. This atrocious killing of a journalist was, sadly, not an isolated incident.

According to the Committee to Project Journalists, there are currently 16 journalists sitting in Saudi prisons – 12 of whom have been imprisoned since Crown Prince Mohammad bin Salman came to power.

The Saudi Government has continued to crack down on human rights activists, particularly women.

Mr. Chairman, I would like to submit for the record “She Wanted to Drive, So Saudi Arabia’s Ruler Imprisoned and Tortured Her” by Nicholas Kristof. Right now, as we speak, Loujain al-Hathloul is sitting in a Saudi prison, with a recent report from the New York Times that she has been tortured and waterboarded.

Congress cannot remain silent.

I urge the Administration to take immediate steps to punish those who were involved in murder of Jamal Khashoggi and the imprisonment and torture of female activists, including utilizing Magnitsky sanctions, and other methods at their disposal.

But accountability rests at the top, and any retaliatory actions that leave out the Crown Prince will be inadequate in my view.

H.J. Res 37 is an important first step of what I hope will be continued oversight by this Committee and by this Congress. This bill does not limit or restrict the role the United States can play as a constructive diplomatic and defense partner both in the Gulf region and around the world – I think this Committee, on both sides, supports America's partnerships and alliances. This bill also does not impact our ability to conduct counter-terrorism operations in Yemen. This bill does, however, reassert Congress' Constitutional responsibility to authorize sending the Armed Forces into conflict.

The United States has a critical role to play, alongside our partners, in the Arabian Peninsula. We should be focused on supporting diplomatic efforts that will bring an end to suffering of the Yemeni people, and taking steps to counter extremists in the region.

The never-ending war in Yemen has been bad for the Yemeni people, harmed American national security interests, and threatened our strategic alliances in the region. It's time to find a diplomatic solution.

Thank you.

Statement for the Record from Representative Ken Buck

Markup of H.J. Res. 37

February 6, 2019

Mr. Chairman, thank you for the opportunity to discuss this important War Powers Act resolution. Over the past two decades, Congress has completely ceded its Article I authority to declare war to the Executive Branch. This House has not taken a single vote to authorize a military conflict or change the scope of an existing Authorization of Military Force (AUMF) since I took office. I support the intent of this legislation, to ensure Congress is exercising its Article I powers to decide whether to send our sons and daughters to war.

However, I am concerned about how broadly this legislation is drafted. The language includes intelligence sharing activities and aerial targeting assistance among the list of hostile activities the United States is engaging in. This potentially opens pandora's box as we maintain intelligence sharing agreements with dozens of countries across the globe. Additionally, our troops do not have to put boots on the ground to assist with aerial targeting. As such, I am concerned that this legislation may create unintended consequences that we are not fully considering at this moment.

ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD

2/12/2019

Opinion | She Wanted to Drive, So Saudi Arabia's Ruler Imprisoned and Tortured Her - The New York Times

The New York Times

She Wanted to Drive, So Saudi Arabia's Ruler Imprisoned and Tortured Her

he U.S. should pressure Saudis to respect the human rights of outspoken women.



By Nicholas Kristof
Opinion Columnist

an. 26, 2019

emember this name: Loujain (pronounced Loo-JAYNE) al-Hathloul. She is 29 years old and a
ourageous advocate for gender equality — so she is in a Saudi Arabian prison, and reportedly
ur Saudi allies have tortured her, even waterboarded her.

here has properly been global outrage at Saudi Arabia's murder of Jamal Khashoggi, a
columnist for The Washington Post and resident of Virginia. Jamal was a friend of mine, and I find
t infuriating that President Trump and other officials won't hold Saudi Arabia accountable for
illing and dismembering him.

till, we can't bring him back. So let's direct equal attention to those still alive — like Hathloul,
long with nine other women's rights activists who are also in custody, including some who say
hey have endured torture.

rump, Secretary of State Mike Pompeo and Jared Kushner bet big on the Saudi crown prince,
ohammed bin Salman, but they were bamboozled. M.B.S. isn't a great reformer, and he isn't
oming clean about Khashoggi's murder.

or is he releasing Hathloul, who, along with others, had peacefully and persistently campaigned
or years to allow women the right to drive.

n 2014, she was arrested when she tried to drive into Saudi Arabia with a driver's license from
he United Arab Emirates, nominally valid also in Saudi Arabia. Then in 2015, Hathloul was one of
he first women to run for a seat on a municipal council. (She lost).

he moved to the emirates. But in 2017, Saudi security forces effectively kidnapped her and her
usband and returned them to the kingdom. The couple have divorced, and while accounts differ,
ome believe this is because of pressure the government placed on the husband.

<https://www.nytimes.com/2019/01/26/opinion/sunday/foujain-al-hathloul-saudi.html>

1/4

2/12/2019

Opinion | She Wanted to Drive, So Saudi Arabia's Ruler Imprisoned and Tortured Her - The New York Times

hortly before women were allowed to drive last June, the government rearrested Hathloul, along with other women's rights activists who had fought for the right the government was about to grant.

"She said she had been held in solitary confinement, beaten, waterboarded, given electric shocks, sexually harassed and threatened with rape and murder," her sister, Alia al-Hathloul, who lives in Belgium, wrote in a searing Op-Ed in The Times this month, recounting what Loujain had told her parents when they saw her. "My parents then saw that her thighs were blackened by bruises."

Despite being threatened with rape and murder and having her body thrown into the sewage system, Hathloul would not stay silent and reported the torture to her parents.

Her sister said Loujain was "shaking uncontrollably, unable to hold her grip, to walk or sit normally."

Like other imprisoned women suffered similar treatment, according to Human Rights Watch, Amnesty International and their families. They were said to have been subjected to electric shocks, whippings, forced kissing and hugging, threats of rape and more. Some were tied to a metal bed and flogged.

"Loujain's abuse exemplifies the methods of Saudi thuggish and lawless leadership, hellbent on exacting sadistic vengeance against any citizen who dares to think freely," Sarah Leah Whitson of Human Rights Watch told me. "The Saudi people owe a huge debt to Loujain."

The government spokesman did not respond to my inquiries about why Hathloul was imprisoned and tortured. A pro-government newspaper did suggest that Hathloul is a traitor who could even deserve to be executed.

In recent years, Saudi Arabia has stepped up the pace of executions, with about 150 reported last year. Apparently for the first time, prosecutors have sought the death penalty for a woman who is a nonviolent human rights defender, Israa al-Ghomgham.

2/12/2019

Opinion | She Wanted to Drive, So Saudi Arabia's Ruler Imprisoned and Tortured Her - The New York Times



Loujain al-Hathloul recorded a video in 2014 showing her driving in the United Arab Emirates toward the border with Saudi Arabia. Loujain al-Hathloul, via Associated Press

rump is right that Saudi Arabia is an important ally. That's why it's important that it have a decent, modernizing leader, rather than one who feuds with neighbors, kidnaps Lebanon's prime minister, invades Yemen, murders a journalist and tortures outspoken women.

Saudi politics are murky, but there are whispers that the crown prince will not necessarily be elevated to king on the death of his father. Yet Trump, Pompeo and Kushner are acting as M.B.S.'s protectors and backers — so the world could be stuck with M.B.S. as a destabilizing and oppressive ruler for the next half century.

READ MORE ABOUT SAUDI HUMAN RIGHTS ABUSES

[Opinion | Alia Al-Hathloul: My Sister Is in a Saudi Prison. Will Mike Pompeo Stay Silent?](#)

Jan. 13, 2019

[Opinion | Nicholas Kristof: So, I Asked People in Saudi Arabia About Their Mad, Murderous](#)

[Crown Prince](#) Dec. 15, 2018

[Opinion | Katherine Zoepf: The Saudi Regime's Other Victims](#) Dec. 13, 2018

2/12/2019

Opinion | She Wanted to Drive, So Saudi Arabia's Ruler Imprisoned and Tortured Her - The New York Times

merica doesn't have much leverage to improve human rights in countries like China, Venezuela or Iran. But we have enormous leverage over Saudi Arabia, because it depends on us for its security. Yet Trump, Pompeo and Kushner refuse to use that leverage.

can't find any indication that any official in the Trump administration has even publicly mentioned Hathloul's name or called for her release. So I hope Congress will step up, oversee the relationship and ask tough questions about why we are silent when our close ally waterboards a woman seeking equal rights.

Saudi Arabia will never live up to its potential as long as it treats women as second-class citizens. What's at stake is not only justice but also stability, economic development and peace in the region.

thus I urge the Nobel Peace Prize committee to consider selecting Hathloul this year.

Nicholas Kristof has been a columnist for The Times since 2001. He has won two Pulitzer Prizes, for his coverage of China and of the genocide in Darfur. You can sign up for his free, twice-weekly email newsletter and follow him on Instagram. @NickKristof · Facebook

version of this article appears in print on Jan. 27, 2019, on Page SR11 of the New York edition with the headline: Tortured For Wanting To Drive

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**Committee on Foreign Affairs
U.S. House of Representatives
116th Congress**

Date: 02/06/19

Record Vote Description:

SPD
Clerk's initials

Member	Aye	No	Present
Eliot L. Engel, D-NY, Chairman	/		
Brad Sherman, D-CA	/		
Gregory W. Meeks, D-NY			
Albio Sires, D-NJ	/		
Gerald E. Connolly, D-VA	/		
Theodore E. Deutch, D-FL	/		
Karen Bass, D-CA	/		
William R. Keating, D-MA	/		
David N. Cicilline, D-RI	/		
Ami Bera, D-CA	/		
Joaquin Castro, D-TX	/		
Dina Titus, D-NV	/		
Adriano Espaillat, D-NY	/		
Ted Lieu, D-CA	/		
Susan Wild, D-PA	/		
Dean Phillips, D-MN	/		
Iihan Omar, D-MN	/		
Colin Allred, D-TX	/		
Andy Levin, D-MI	/		
Abigail Spanberger, D-VA	/		
Chrissy Houlahan, D-PA	/		
Tom Malinowski, D-NJ	/		
David Trone, D-MD	/		
Jim Costa, D-CA	/		
Juan Vargas, D-CA	/		
Vicente González, D-TX	/		
SUBTOTAL 1	25	—	—

Member	Aye	No	Present
Michael T. McCaul, R-TX	/		
Chris Smith, R-NJ	/		
Steve Chabot, R-OH			
Joe Wilson, R-SC	/		
Scott Perry, R-PA	/		
Ted Yoho, R-FL	/		
Adam Kinzinger, R-IL	/		
Lee Zeldin, R-NY	/		
Jim Sensenbrenner, R-WI			
Ann Wagner, R-MO	/		
Brian Mast, R-FL	/		
Francis Rooney, R-FL			
Brian Fitzpatrick, R-PA	/		
John Curtis, R-UT	/		
Ken Buck, R-CO			
Ron Wright, R-TX	/		
Guy Reschenthaler, R-PA	/		
Tim Burchett, R-TN	/		
Greg Pence, R-IN	/		
Steve Watkins, R-KS	/		
Michael Guest, R-MS	/		
SUBTOTAL 2	—	17	—

	Aye	No	Present
SUBTOTAL 1			
SUBTOTAL 2			
TOTAL	25	17	

RECORD VOTE

MARKUP SUMMARY

02/06/2019 House Foreign Affairs Committee Markup Summary

The Chair called up the following measure to be considered:

H. J. Res. 37 (Khanna), Directing the removal of United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress.

The Chair moved to report the resolution favorably. A recorded vote was requested, and by a roll call vote of 25 Ayes and 17 Noes, the motion was adopted.

The Committee adjourned.

