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116TH CONGRESS
1ST SESSION

H. J. RES. 37

[Report No. 116-]

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. GALLEG0, 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. LOEBSACK, 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. SHERRILL, 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

FEBRUARY --, 2019

Committed to the Committee of the Whole House on the State of the Union,
and ordered to be printed

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.

1 (4) The United States has established a Joint
2 Combined Planning Cell with Saudi Arabia, in which
3 members of the United States Armed Forces assist
4 in aerial targeting and help to coordinate military
5 and intelligence activities.

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

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

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

1 (8) Section 8(c) of the War Powers Resolution
2 (50 U.S.C. 1547(c)) defines the introduction of
3 United States Armed Forces to include “the assign-
4 ment of members of such armed forces to command,
5 coordinate, participate in the movement of, or ac-
6 company the regular or irregular military forces of
7 any foreign country or government when such mili-
8 tary forces are engaged, or there exists an imminent
9 threat that such forces will become engaged, in hos-
10 tilities”, and activities that the United States is con-
11 ducting in support of the Saudi-led coalition, includ-
12 ing aerial refueling and targeting assistance, fall
13 within this definition.

14 (9) Section 1013 of the Department of State
15 Authorization Act, Fiscal Years 1984 and 1985 (50
16 U.S.C. 1546a) provides that any joint resolution or
17 bill to require the removal of United States Armed
18 Forces engaged in hostilities without a declaration of
19 war or specific statutory authorization shall be con-
20 sidered in accordance with the expedited procedures
21 of section 601(b) of the International Security and
22 Arms Export Control Act of 1976 (Public Law 94–
23 329; 90 Stat. 765).

24 (10) No specific statutory authorization for the
25 use of United States Armed Forces with respect to

1 the conflict between the Saudi-led coalition and the
2 Houthis in Yemen has been enacted, and no provi-
3 sion of law explicitly authorizes the provision of tar-
4 geting assistance or of midair refueling services to
5 warplanes of Saudi Arabia or the United Arab Emir-
6 ates that are engaged in such conflict.

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

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

1 lution, in this section, the term “hostilities” includes in-
2 flight refueling, non-United States aircraft conducting
3 missions as part of the ongoing civil war in Yemen.

4 **SEC. 3. RULE OF CONSTRUCTION REGARDING CONTINUED**
5 **MILITARY OPERATIONS AND COOPERATION**
6 **WITH ISRAEL.**

7 Nothing in this joint resolution may be construed to
8 influence or disrupt any military operations and coopera-
9 tion with Israel.

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

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

1 **SEC. 5. REPORT ON INCREASED RISK OF TERRORIST AT-**
2 **TACKS TO UNITED STATES ARMED FORCES**
3 **ABROAD, ALLIES, AND THE CONTINENTAL**
4 **UNITED STATES IF SAUDI ARABIA CEASES**
5 **YEMEN-RELATED INTELLIGENCE SHARING**
6 **WITH THE UNITED STATES.**

7 Not later than 90 days after the date of the enact-
8 ment of this joint resolution, the President shall submit
9 to Congress a report assessing the increased risk of ter-
10 rorist attacks on United States Armed Forces abroad, al-
11 lies, and to the continental United States if the Govern-
12 ment of Saudi Arabia were to cease Yemen-related intel-
13 ligence sharing with the United States.