



H.J. Res. 37: Congressional Action on Yemen Isn't Only About Yemen

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SUMMARY

House Joint Resolution 37 (H.J. Res. 37) concerns U.S. support for Saudi Arabia/U.A.E.-led coalition military activities against the Iran-backed Ansar Allah (Houthi) movement in Yemen. As currently framed, it would have only modest impact on Saudi Arabia's calculus in prolonging Yemen's brutal, four-year old war. The resolution also will not alleviate, in and of itself, the ongoing dire humanitarian crisis in Yemen. Nonetheless, H.J. Res. 37 is a rebuke of the Saudi- and Emirati-led coalition's prosecution of the war – which has caused the world's worst current humanitarian crisis – and the U.S. role in supporting the coalition's military activities. To date, more than 60,000 Yemenis, including thousands of children, have been killed in the conflict.¹ Despite Saudi Arabia and the United Arab Emirates having received U.S. sales of precision weapons, U.S. training, U.S. refueling, and U.S. intelligence support, the U.N. has calculated that the “vast majority” of civilian casualties in Yemen have been caused by the 19,000-plus coalition airstrikes.² Beyond the serious undertaking of addressing the U.S. role in the Yemen conflict, the resolution has other strategic potential if Congress pursues it constructively. Review of this legislation and continued oversight work may succeed in sparking a sustainable debate on the future role of the United States in Yemen's conflict, the U.S.-Saudi and U.S.-U.A.E. relationships, and more broadly, on the proper role of the United States in the Middle East and its conflicts.

WHAT THIS RESOLUTION SAYS

H.J. Res. 37 was adopted under the procedures laid out in the War Powers Resolution, which empowers Congress to curtail the use of U.S. military forces in hostilities overseas. In this case, the resolution requires the removal of U.S. forces from the conflict being waged by the Saudi/U.A.E.-led coalition and the Yemeni government against the Houthis. The substantive provisions of H.J. Res. 37 are identical to those in S.J. Res. 54, passed by a bipartisan majority in the Senate in December 2018, but not taken up by the House during the last Congress. The Senate is expected to vote again on this resolution in the near future. In substance, H.J. Res. 37:

- » Directs the president to remove U.S. armed forces from hostilities in or affecting Yemen within 30 days unless the U.S. Congress authorizes a later withdrawal date, issues a declaration of war, or specifically authorizes the use of U.S. armed forces in Yemen;
- » Prohibits the U.S. armed forces from conducting activities such as in-flight fueling for non-U.S. aircraft conducting missions as part of the conflict in Yemen;
- » Requires the president to submit a report to the U.S. Congress within 90 days that assesses the risk posed by the United States ceasing support for operations in Yemen and if Saudi Arabia stopped sharing Yemen-related intelligence with the United States; and
- » States that the resolution does not restrict U.S. military operations against al Qaeda (and by extension ISIS).

1. “Group says Yemen war killed 60,000 since 2016,” Associated Press, December 12, 2018, <https://federalnewsnetwork.com/government-news/2018/12/the-latest-group-says-yemen-war-killed-60000-since-2016/>.

2. “Yemen Data Project Air Raids Summary for January 2019,” Yemen Data Project, February 19, 2019, <https://mailchi.mp/89d-ccc9c8978/february2019-yemen-data-project-update-469991>; “Press briefing note on Yemen, Cambodia, Cuba, Nicaragua and Montenegro,” U.N. Office of the High Commissioner for Human Rights, May 11, 2018, <https://reliefweb.int/report/yemen/press-briefing-note-yemen-cambodia-cuba-nicaragua-and-montenegro>.

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KEY ACTIONS

Initiate sustainable debate on the U.S. role in Yemen, U.S.-partner relationships in the Middle East, and the proper role of the U.S. in Middle East conflicts.

Pursue credible oversight of what organizations U.S./partner forces work with in Yemen and risks of weapons transfers to extremist organizations.

Press for a comprehensive assessment of how the Houthis threaten Saudi Arabia's security and U.S. interests in Yemen.

Study how limits on U.S. arms sales to Saudi Arabia would or would not pressure Saudi behavior in Yemen conflict.

Use H.J. Res. 37 as an entry point for debate on the congressional role in matters of use of force.



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WHAT IS THE IMPACT OF THIS RESOLUTION

On the surface, H.J. Res. 37 would remove the U.S. military from operating as a party to the Saudi/U.A.E. coalition and the Yemeni government’s conflict with the Houthis in Yemen. However, the direct impacts of H.J. Res. 37 will be limited. While H.J. Res. 37 seeks to halt U.S. military aerial refueling for the coalition, the U.S. military already stopped providing aerial refueling for the coalition in late 2018. Previous legislation, as well as H.J. Res. 37, also provides a number of certification and reporting requirements that could allow for some limited assistance to continue. The administration nominally cooperated with existing certifications requirements in FY2019 National Defense Authorization Act (NDAA) Sec 1290 (in September 2018). Though that certification was criticized as insufficient by the language’s sponsors, and the administration failed to submit a second required certification in February 2019 (with a third to be required in August 2019), the administration could continue to provide U.S. military assistance.^{3 4} H.J. Res. 37 also allows for continued U.S.-Saudi/Emirati intelligence sharing. The administration could also make an argument that such activities would not meet the standard of “hostilities” on which the War Powers Resolution is grounded and thus would not be prohibited.⁵ These loopholes could be addressed in future legislation regarding Yemen, especially if Congress assesses that the administration is not adhering to the spirit of H.J. Res. 37 and is continuing to support coalition activities against the Houthis.

H.J. Res. 37 also does not explicitly address U.S. military vessels deployed to protect the international maritime lines of trade and communication off the Yemen coast in the Red Sea, which also can interdict weapons shipments from Iran to the Houthis in Yemen, or from responding in self-defense to Houthi attacks in the littoral zone or beyond.⁶ U.S. vessels have engaged Houthi littoral targets at different times during the conflict, and the maritime domain remains the most likely domain in which direct fighting between the Houthis and the U.S. military could break out.⁷ If Congress is interested in comprehensively removing the U.S. military from situations where it would engage in hostilities against the Houthis, it could hold hearings with the administration and outside experts to assess the likelihood that such conflict could occur in the maritime and littoral domain, and potentially include explicit language prohibiting the U.S. military from participating in maritime operations off the coast of Yemen.

Finally, the resolution does not explicitly prevent U.S. armed forces from supporting local Yemeni partners, whether directly or indirectly through the Saudi and Emirati-led coalition, in areas of Yemen where these local Yemeni partner forces are fighting against al Qaeda and

3. Hugh T. Ferguson, “Pompeo Bolsters Saudi Military Actions in Yemen,” Politico, September 12, 2018, <https://www.politico.com/story/2018/09/12/pompeo-certifies-saudi-military-actions-815802>.

4. Jack Detsch, “Trump blows off Congressionally mandated Yemen certification,” Al-Monitor, February 13, 2019, <https://www.al-monitor.com/pulse/originals/2019/02/trump-blows-off-congress-yemen-war-certification.html>.

5. Phil Stewart, “U.S. halting refueling of Saudi-led coalition aircraft in Yemen’s war,” Reuters, November 9, 2018, <https://www.reuters.com/article/us-usa-yemen-refueling/u-s-halting-refueling-of-saudi-led-coalition-aircraft-in-yemens-war-idUSKCNINE2LJ>.

6. Missy Ryan, “U.S., U.N. seek to identify weapons seized off the coast of Yemen,” *The Washington Post*, October 25, 2018, https://www.washingtonpost.com/world/national-security/us-un-seek-to-identify-weapons-seized-off-the-coast-of-yemen/2018/10/25/08a6763f-6deb-4294-8c4b-939a1c741b15_story.html?utm_term=.0da49199b6ff; Jon Gambrell, “US Navy Seizes 1,000 Smuggled Rifles Off War-Torn Yemen,” Associated Press, August 31, 2018, <https://www.nbcchicago.com/news/national-international/US-Navy-Smuggled-Rifles-Yemen-492156431.html>; and C. J. Chivers and Eric Schmitt, “Arms Seized Off Coast of Yemen Appear to Have Been Made in Yemen,” *The New York Times*, January 10, 2017, <https://www.nytimes.com/2017/01/10/world/middleeast/yemen-iran-weapons-houthis.html>.

7. Matthew Rosenberg and Mark Mazzetti, “U.S. Ship Off Yemen Fires Missiles at Houthi Rebel Sites,” *The New York Times*, October 12, 2016, <https://www.nytimes.com/2016/10/13/world/middleeast/yemen-rebels-missile-warship.html>.



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ISIS (even if those same partner forces may find themselves engaged against Houthi forces in the same areas of the country). Although regulating this particular involvement of the U.S. military in combat activities against the Houthis is difficult, Congress could seek additional information from the administration and U.S. military and intelligence agencies, in public or classified venues, on the frequency of this situation occurring.

SUGGESTIONS FOR FUTURE CONGRESSIONAL OVERSIGHT ON YEMEN

Yemen’s civil war has indisputably led to one of the worst humanitarian crises in modern history, and it is a positive sign that Congress wants to expand its oversight of U.S. involvement in the Yemeni conflict. According to the U.N., more than 24 million people – 80 percent of Yemen’s population – require assistance and protection, with 14.3 million people considered in “acute” need, 20 million people “food insecure,” 19.8 million people lacking access to health care, and 17.8 million people lacking access to safe water and sanitation.⁸ Save the Children has calculated that more than 85,000 children under age five have starved to death since the conflict began in March 2015, and five of the leading humanitarian aid groups recently warned that international aid “can no longer prevent mass starvation if the war is not brought to an end immediately.”⁹ The U.N. assesses that the humanitarian response for 2019 will cost over \$4 billion.

There are several pathways for Congress to expand its role in determining how the United States engages in the Yemen war, but it is unclear the extent to which U.S. military support and arms sales can influence partner policies (especially those of Saudi Arabia and the United Arab Emirates). There are also several strategic questions regarding the relationship between the United States and Saudi Arabia in the broader Middle East, and the proper role of the United States in the region’s conflicts.

Regarding Yemen’s Conflict

One area of inquiry that Congress could pursue is how future legislation could be applied to counterterrorism operations conducted by the United States and its partners in Yemen. H.J. Res. 37 explicitly states that it does not apply to U.S. counterterrorism operations against al Qaeda and ISIS. It is these very operations that are the focus for direct U.S. action in Yemen, and they regularly are conducted in partnership with forces from Saudi Arabia and the United Arab Emirates. However, the coalition has been credibly linked to support for actors in Yemen that are tied to al Qaeda and ISIS. The sustained presence of AQAP (al Qaeda in the Arabian Peninsula) and ISIS affiliates in Yemen continues to pose a long-term threat to U.S. national security.¹⁰ H.J. Res. 37 does not address this significant issue raised by the conduct of U.S. partners in the Middle East, and future congressional action could be an important source of oversight on who exactly U.S. and partner forces work with in Yemen, and what kind of hard and soft assets end up in the hands of questionable actors on the battlefield.¹¹

8. “Humanitarian Crisis in Yemen remains the worst in the world, warns the UN,” UN News, February 14, 2019, <https://news.un.org/en/story/2019/02/1032811>.

9. Laura Smith-Spark and Nima Elbagir, “Act now over Yemen conflict or share blame for mass famine, charities tell US,” CNN, November 26, 2018; <https://edition.cnn.com/2018/11/26/middleeast/humanitarian-groups-yemen-plea-intl/index.html>.

10. Nima Elbagir, Salma Abdelaziz, Mohamed Abo El Gheit, and Laura Smith-Spark, “Sold to an ally, lost to an enemy,” CNN, February 2019, <https://www.cnn.com/interactive/2019/02/middleeast/yemen-lost-us-arms/>; Sudarsan Raghavan, “The U.S. Put a Yemeni warlord on a terrorist list. One of its close allies is still arming him,” *The Washington Post*, December 29, 2018, https://www.washingtonpost.com/world/middle_east/the-us-put-a-yemeni-warlord-on-a-terrorist-list-one-of-its-close-allies-is-still-arming-him/2018/12/28/f3c4fb5b-f366-4570-b27b-75a3ed0f0f52_story.html?utm_term=.b1246a5a7b1d.

11. Ibid.



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Another path of inquiry for Congress to pursue, which can build off H.J. Res. 37’s directive for a report on the risks of ceasing U.S. operations in Yemen, is how to impact Saudi Arabia’s strategic calculus as it pertains to assessing the threat the Houthis pose to its national security. In many ways, the Yemen conflict has become a self-fulfilling prophecy; as the conflict drags on and Saudi Arabia and the United Arab Emirates find their intervention ineffective and their reputations damaged, Iran increasingly sees its marginal support for the Houthis as an effective and inexpensive means of securing strategic advantage over Riyadh and Abu Dhabi. At this stage, unless an end to the current war in Yemen is negotiated, both Saudi Arabia and the United Arab Emirates have reason to be concerned about the Houthi movement as a long-term threat to their national security and territorial integrity. The Houthis conduct frequent cross-border raids into Saudi Arabia’s southwest Najran and Asir provinces, which reportedly has led the Trump administration to deploy U.S. Army Special Forces advisers to Saudi Arabia’s southwest border with Yemen.¹² Over the last several years, the Houthis also have developed a ballistic missile and armed unmanned aerial vehicle capability (with technical training and component parts from Iran) that can threaten both Saudi Arabia and the United Arab Emirates. This capability is not indigenous to Yemen, was provided by Iran, and has translated into the capacity to target and disrupt maritime traffic in the Red Sea with medium-range missiles and significant payloads.¹³ Their stockpile of missiles makes the Houthis most useful to the Islamic Revolutionary Guard Corps as a potential partner force that can be supported to apply strategic pressure against Saudi Arabia.¹⁴

Regarding Defense Sales to Saudi Arabia and the U.A.E. and Their Relationship with the United States

This resolution (and its companion bill in the Senate) will not be the last actions taken by Congress on Yemen, or on the broader issue of U.S.-Saudi and U.S.-Emirati relations in the near term. Bipartisan legislation introduced in both this session and last (H.R. 643 in this session and H.R. 7082) would curtail U.S. arms sales to Saudi Arabia and the United Arab Emirates until they end their military intervention against the Houthis in Yemen. Though it is unclear whether the bipartisan bill will be given a vote as a stand-alone measure in the Senate, a parallel House bill likely will garner support, which could result in relevant language (banning arms sales) being included in the next NDAA or other “must-pass” legislation. Together, such actions would follow the lead of more than half a dozen European countries who have cut off defense sales to Saudi Arabia and the United Arab Emirates. And they could have more tangible results in building the kind of leverage necessary to impact the Saudi and Emirati calculus. Congress also could hold hearings on the extent to which these measures would positively impact the conduct of the war in Yemen and potentially provide additional pressure on the Saudi and Emirati-led coalition to put greater effort into the U.N.-led peace process.

12. Helene Cooper, Thomas Gibbons-Neff, and Eric Schmitt, “Army Special Forces Secretly Help Saudi Combat Threat From Yemeni Rebels,” *The New York Times*, May 3, 2018, <https://www.nytimes.com/2018/05/03/us/politics/green-berets-saudi-yemen-border-houthi.html>.

13. Sunniva Rose, “Hezbollah is flaunting its support for Yemen’s Houthis,” *The National*, September 16, 2018, <https://www.thenational.ae/world/mena/hezbollah-is-flaunting-its-support-for-yemen-s-houthis-1.770904>; “US hits Iran IRGC with sanctions over support of Yemen’s Houthis,” *Al-Jazeera*, May 23, 2018, <https://www.aljazeera.com/news/2018/05/hits-iran-irgc-sanctions-support-yemen-houthi-is-180523053245629.html>.

14. U.S. Department of State, “Special Briefing with Brian Hook, Senior Policy Advisor to the Secretary of State and Special Representative for Iran,” November 29, 2018, <https://www.state.gov/r/pa/prs/ps/2018/11/287661.htm>.



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H.J. Res. 37 also suggests a trend developing that both chambers of Congress not only support a marked shift in U.S. policy toward Yemen, but also believe that there is a need to reevaluate the U.S. relationship with Saudi Arabia and the United Arab Emirates, specifically including the role of Saudi Crown Prince Muhammad bin Salman. It is no secret that there is a growing, bipartisan desire within the U.S. Congress to rigorously debate and analyze the U.S.-Saudi relationship, and the extent to which America’s interests and values diverge from Saudi interests. The resolution is part of a larger effort to bring that discussion to the fore, building on the momentum caused by outrage over the murder of Jamal Khashoggi and other actions taken by the Kingdom – whether against women activists at home or in ongoing diplomatic confrontations abroad. This is an important topic with great impact on the future of U.S. policy toward the Middle East, and Congress could hold a deeper inquiry into this subject.

Regarding The U.S. Role in the Middle East and War Powers

H.J. Res 37 does more than reflect Congress’ outrage over Saudi/U.A.E. conduct in the war in Yemen. The anticipated adoption of a War Powers Resolution by both houses of Congress in early 2019 (following the Senate vote to do so last year) also serves as an entry point to a long-overdue debate over what power Congress has in matters related to the deployment of the U.S. military abroad, especially in the Middle East. The fact that Congress has overwhelmingly supported the counter-ISIS campaign for the past five years, while being unable to agree on the legal authorization for the use of force for this conflict, instead allowing the Obama and Trump administrations to use the 2001 Authorization for Use of Military Force as the basis for the U.S. military intervention, is a major failure and abdication of congressional responsibility under the Constitution. Although the catastrophe of the Yemen war will inform this debate significantly, the tug-of-war between Congress and the Trump administration also will be driven by questions about the U.S.-Saudi and U.S.-Emirati relationships more broadly, and about the proper direction of U.S. policy toward (and military posture within) the Middle East in the 21st century. This push-and-pull will continue to grow more vocal and visible throughout the next two years, and likely beyond. Congress can use H.J. Res. 37 and its complementary pieces of legislation as further entry points into the debate on this important set of issues.