

February 11, 2019

The Honorable James McGovern  
Chairman  
Committee on Rules  
H-312 Capitol Building  
Washington, DC 20515

The Honorable Tom Cole  
Ranking Member  
Committee on Rules  
H-312 Capitol Building  
Washington, DC 20515

**RE: Vote “YES” on McGovern-Massie-Lee Amendment #3 to  
H.J. Res. 37; vote “YES” on H.J. Res. 37, if amended by  
Amendment #3**



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Susan Herman  
*President*

Anthony Romero  
*Executive Director*

Faiz Shakir  
*National Political  
Director*

Dear Chairman McGovern and Ranking Member Cole:

The American Civil Liberties Union strongly urges you to vote for Amendment #3, by the Chairman and Representatives Massie and Lee, to H.J. Res. 37. If the resolution is amended by the McGovern-Massie-Lee amendment, the ACLU will also strongly support passage of H.J. Res. 37.

H.J. Res. 37, if amended by Amendment #3, would be an important assertion by Congress of its Article I constitutional sole authority to decide whether, when, and against whom the United States will use lethal force. As amended, the joint resolution would be a clear statement by Congress—with legal effect—that Congress has not authorized the U.S. role in the Saudi-led fight against the Houthis, and that the Executive Branch must end its role.

Across two administrations, the Executive Branch has acted without authorization from Congress, in violation of both the Constitution and the War Powers Resolution. Without any authorization from Congress, President Barack Obama ordered the use of American armed forces to participate in the Saudi-led hostilities against the Houthis in the Republic of Yemen. Over the past two years, President Donald Trump has continued, and at times expanded, the role of American armed forces in these hostilities, again without any congressional authorization. This longstanding and persistent use of U.S. armed forces has been in violation of both the Constitution and the War Powers Resolution. If amended by Amendment #3, H.J. Res. 37 will highlight and reinforce the illegality of the U.S. role in support of the Saudi-led forces, will reassert the constitutional authority of Congress, and will reinforce the legal, humanitarian, and political need to end the U.S. role.

The ACLU supports Amendment #3 because it will remove any argument by the Executive Branch that the scope of the resolution is somehow unclear, or that the joint resolution, even if enacted, would have no legal effect because of the Executive Branch's mistaken interpretation of the term "hostilities" under the War Powers Resolution. As amended by Amendment #3, H.J. Res. 37 would make clear that the President must "remove United States Armed Forces from hostilities directed at Houthi forces in or affecting the Republic of Yemen," which is a clear statement of the scope of the hostilities that must end. That statement is clear on its own, but an additional sentence at the end of section 2 of H.J. Res. 37, which specifies the kinds of activities considered "hostilities" for the purpose of the resolution, further ends any argument by the Executive Branch that "hostilities" somehow does not include the use of U.S. forces to assist in a sustained Saudi-led bombing campaign that has caused what a United Nations committee has called "the largest humanitarian crisis in the world."

The ACLU strongly urges you to support the McGovern-Massie-Lee Amendment #3, and to support the resolution itself if so amended. Please do not hesitate to contact us at [canders@aclu.org](mailto:canders@aclu.org) or 202-675-2308 if you have any questions. Thank you for your attention to this issue.

Sincerely,



Faiz Shakir  
National Political Director



Christopher E. Anders  
Deputy Director, Washington  
Legislative Office

CC: All members of House Rules Committee