

H.Con.Res. 83: A Dangerous, Partisan Resolution that Emboldens Iran and Jeopardizes Americans and Our Allies Abroad

BOTTOM LINE: OPPOSE

The President has the Constitutional authority to defend our nation and people from all threats. This partisan messaging resolution seeks to tie the Commander-in-Chief's hands and undermine our military's ability to defend Americans abroad. We need to show unity and strength in the face of Iran's increased aggression, not engage in a political exercise.

BACKGROUND:

For two decades, Soleimani had been the mastermind of terror in the Middle East, killing over 600 Americans and thousands of others. In the last two months alone, he orchestrated 11 attacks on U.S. troops in Iraq—killing a U.S. contractor, injuring 4 soldiers — and an attack on the U.S. Embassy in Baghdad. On Jan. 2, U.S. forces struck Soleimani in Baghdad as a “defensive action to protect U.S. personnel abroad,” according to DOD. General Milley, Chairman of the Joint Chiefs, said the trigger for the Soleimani strike was “**clear, unambiguous intelligence indicating a significant campaign of violence against the United States in the days, weeks, and months,**” and that the Administration would have been “**culpably negligent**” if it didn't act.

OPPOSE H.CON.RES. 83, which:

- ▶ **Ignores President Trump's clear ongoing efforts to avoid war** and bring Iran to the negotiating table. He has called upon NATO and other allies to help us work toward a responsible diplomatic de-escalation in the Middle East.
- ▶ Requires termination of the use of force against Iran, even though **U.S. forces are NOT currently engaged in hostilities against Iran.**
- ▶ **Dangerously forbids the use of force against any part of Iran's government or military, even if they are imminently threatening American civilians, diplomats, allies, or commerce.**
- ▶ **Is purely a Democrat political messaging exercise.** A concurrent resolution cannot have the force of law because it is not presented to the President and subject to veto, as required by Supreme Court constitutional case law since 1983.
- ▶ **Rushing this to the Floor in less than 24 hours proves the Democrats are not serious.** No hearings, markup, committee report or regular order.

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LEGALITY OF STRIKE

As Commander-In-Chief, the President has inherent Article II authority to defend the United States and our forces. He possessed the legal authority for the strike on Soleimani and complied with the 48-hour reporting requirements under the War Powers Resolution.

- **ARTICLE II POWERS:** Presidents of both parties have claimed the inherent Constitutional right to use U.S. military force without Congressional authorization in pursuit of an important U.S. national interest, such as defense of U.S. personnel or diplomatic facilities abroad, as long as that use of force is limited in nature, scope, and duration – as the strike on Soleimani was.
- **2002 AUMF:** As additional authority, National Security Advisor Robert O’Brien cited the 2002 AUMF that authorized the use of force “to defend the national security of the United States against the continuing threat posed by Iraq.” This authorization has been used previously to address terrorist threats in Iraq, including by Obama to go after ISIS.
- Former Obama DHS Secretary and DoD General Counsel Jeh Johnson said: “Whether [Soleimani] was a terrorist or a general in a military force that was engaged in armed attacks against our people, he was a **lawful military objective.**”
- In 2011, then-Democrat Leader Pelosi claimed that President Obama did not require Congressional authorization for thousands of U.S. airstrikes inside Libya over several months to protect Libyan civilians, stating “I’m satisfied the President has the authority he needs.”