

The Constitutionality of Long Distance Air Strikes, Part 2



Jake MacAulay

Last week when I stated that I was troubled by the lack of constitutional authority I could find for the president's action with regard to Qasem Soleimani, I received more emails than I have for quite some time. And it appears we are not done with the topic.

Trump produced a record-breaking tweet supporting the people of Iran's protest after the Iranian government admitted its armed forces "unintentionally" shot down a Ukrainian commercial plane, killing all 176 people on board.

Combining your response and the president's comments, I wanted to finish where I left off.

Last week I affirmed there is no authority found in the Constitution for the president's use of long-distance airstrikes without a letter of marque or a congressional declaration of war.

This week I would like to pose the following questions:

- Was Soleimani an elite Iranian sanctioned military leader? Yes.
- Was Soleimani planning to attack our United States Embassy in Iraq? The evidence given to the President by the Pentagon would suggest so.

- Has Congress delegated preemptive military action to the President when the threat is real and imminent? Yes, the War Powers Resolution of 1973. This resolution requires the president to notify Congress within 48 hours of committing armed forces to military action and forbids armed forces from remaining for more than 60 [days](#), with a further 30-day withdrawal period, without a congressional authorization for use of military force (AUMF) or a [declaration of war by the United States](#). This resolution was passed overwhelmingly by two-thirds of the people's representatives in each of the House and Senate, overriding the [veto](#) of the bill by then-President [Richard Nixon](#).
- Did the President abide by the rules of Congress and the War Powers Resolution when he eliminated Soleimani? Yes

Neither Congress nor any presidential administration has ever challenged this resolution and we all know why. Because a challenge to the limits and powers of the presidency in any way would affect the powers of a presidency of their own political party. It is far more politically expedient to demonize another party without challenging the foundation they stand on.

Like you, I despise this political hypocrisy, but then again many are guilty of it. We carte blanche support everything our favorite candidate does and insult the other side for everything they do.

There is only one perfect person and that is our Creator, Lord and Savior Jesus Christ. This is why our founding fathers placed limits on the power of sinful humans in government. Father of the Constitution James Madison declared, "The powers of the federal government are enumerated; it can only operate in certain cases; it has legislative powers on defined and limited objects, beyond which it cannot extend its jurisdiction."

As I stated last week, your opinion and my opinion does not matter; constitutional authority matters.

With regard to Soleimani, my conclusion is that Trump did nothing outside of what Congress has authorized in 1973 and has stood by for decades until this present day. However, just because it was passed by Congress does not make it Constitutional.

The solution? Instead of just whining along the party line rhetoric, Congress needs to challenge the War Powers Resolution of 1973 or thank the President for his decisive action they authorized.

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