

Impeachment Should Be on the Table If Trump Bombs Iran

Gene Healy

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We're told that the Trump administration's brinksmanship on Iran stems from a power grab by President Donald Trump's undeterrable national security advisor, John Bolton. And it's true that Bolton has never met a "preventive" war he didn't like and that there's every reason to suspect him of scheming to create an excuse for one. But lately it's getting hard to distinguish President Trump from "President Bolton." "If Iran wants to fight, that will be the official end of Iran," Trump rage-tweeted Sunday. "Never threaten the United States again!"

If the administration can't be convinced to stand down, the House of Representatives should launch a preemptive strike of its own. They should credibly threaten to impeach the president if he goes to war without congressional authorization.

Waging war without legal authority is an impeachable offense, if anything is. Impeachment was designed to thwart attempts to subvert the Constitution; congressional control of the war power was one of that document's core guarantees. "In no part of the constitution is more wisdom to be found," James Madison affirmed, "than in the clause which confides the question of war or peace to the legislature, and not to the executive department."

The first federal impeachment case, brought less than a decade after the Constitution's ratification, centered on charges of unauthorized warmaking. In 1797, the House impeached Tennessee Senator William Blount for conspiring to raise a private army for "a military hostile expedition" against Spanish-held Louisiana and Florida, "in violation of the obligations of neutrality, and against the laws of the United States." In the Founding era, usurpation of the war power was considered serious enough to merit the ultimate constitutional remedy.

No president has yet been impeached for illegal warmaking, but Richard Nixon came closest. In 1974, the House Judiciary Committee debated impeaching Nixon for conducting a secret bombing campaign in Cambodia "in derogation of the power of the Congress to declare war." The article never made it into the final charges, possibly scuttled by Democratic leadership out of fear of revealing "that a few prominent members of their party had known about the secret bombing at the time." As Congressman William Hungate put it afterwards: "It's kind of hard to

live with yourself when you impeach a guy for tapping telephones and not for making war without authorization.”

Current members of Congress should find it hard to live with themselves if they don't do something to prevent the Trump administration from dragging us into an illegal and unnecessary war. Yet so far the congressional response has been limited to ineffectual grousing and the introduction of a few bills that are wholly inadequate to the task at hand.

Instead the House should consider passing a resolution “expressing the sense of the House of Representatives that the use of offensive military force against Iran without prior and clear authorization of an Act of Congress constitutes an impeachable high crime and misdemeanor under article II, section 4 of the Constitution.”

The late, great Congressman Walter Jones, long one of the most jealous guardians of Congress's power “to declare War,” proposed a similar measure during President Obama's second term, when the administration was publicly contemplating airstrikes on Syria. Jones introduced a concurrent resolution stating that “except in response to an actual or imminent attack against the territory of the United States, the use of offensive military force by a President without prior and clear authorization of an Act of Congress” is an impeachable offense.

The Jones resolution only secured a handful of cosponsors and proved unnecessary in any event, when President Obama decided to seek congressional authorization for airstrikes, then abandoned the effort entirely. The stakes are far higher now.

The current House leadership is notably gun-shy about impeachment. But over the last two years, House Democrats have threatened to impeach Trump for much less. In the previous Congress, for example, Congressman Steve Cohen introduced articles charging Trump with, among other things, overspending on golf cart rentals at Mar-a-Lago. In January 2018, Congressman Al Green got 66 Democratic votes to move forward on a resolution to impeach Trump for “attempting to convert his bigoted statements into United States policy” in the form of the travel ban and the ban on transgender troops.

Surely, more Democrats—and even a few Republicans, like Congressman Justin Amash—could rouse themselves to threaten impeachment to avoid a disastrous war in violation of a core constitutional guarantee.

Other options on the table. H.R. 2354, barring funds for military action against Iran absent congressional authorization, can—and would—be vetoed by the president. A sense of the House resolution could not. It wouldn't have the force of law, but it would be more than mere symbolism: a shot across the administration's bow and fair warning to the president. Moreover, a resolution publicly declaring war with Iran an impeachable offense could serve as a precommitment device for the House, a public pledge to take action should he cross that line.

Only two presidents have ever been impeached by the House, yet others still fear joining their ranks. Trump has claimed he's “not even a little bit” worried about the prospect, but insider accounts and his public Twitter feed tell a different story. Earlier this week, he blew up at

Representative Amash for opining that he'd engaged in impeachable conduct: "Justin is a loser who sadly plays right into our opponents hands!"

Impeachment's purpose isn't primarily to punish abuses after the fact—that would be cold comfort here—but to prevent damage from being done in the first place. "It will not be the only means of punishing misconduct, but it will prevent misconduct," future Supreme Court justice James Iredell remarked during the ratification debates in 1788. "Although he may be a man of no principle, the very terror of punishment will perhaps deter him." But in law as in war, deterrence sometimes requires a credible threat.

Gene Healy is a vice president at the Cato Institute and author of Indispensable Remedy: The Broad Scope of the Constitution's Impeachment Power.