

Reclaim Congressional War Powers

The Overly Broad 2001 AUMF Has Been Stretched Beyond Recognition

The [2001 Authorization for the Use of Military Force](#)¹ was intended to grant the president authority to use military force against the perpetrators of the 9/11 attacks and any group or country that participated in the attacks or harbored the attackers.

- It does not impose geographic limits.
- It does not include an expiration date.
- Its broad description of acceptable targets has been used to justify military operations against groups that did not exist in 2001.

The 2001 AUMF is broad and vague enough that even if its meek limits were strictly adhered to, it would still function as a blank check for presidents to wage the War on Terror in perpetuity, with no congressional oversight and no public debate. But as broad and vague as it is, multiple administrations have stretched and overstepped the limits of the AUMF.

- President Obama came to Congress to ask for a new AUMF against ISIS, but he also argued that he did not need a new AUMF. He asserted that because ISIS grew out of al Qaeda's affiliate in Iraq, it was covered by the AUMF, despite the facts that al Qaeda and ISIS are enemies and ISIS did not exist in 2001.
- The Trump administration has argued that the U.S. military's downing of a Syrian airforce jet and its bombing of pro-government forces are covered by the 2001 AUMF because they were in defense of coalition forces engaged in the fight against ISIS. Even if one accepts the dubious assertion that operations against ISIS are covered by the 2001 AUMF, nothing in the 2001 AUMF authorizes force against Syrian forces in defense of coalition partners.

Missile Strikes Don't Amount to War?

The legal justification offered by the Trump administration for President Trump's multiple orders to launch missile strikes against Syrian government installations in response to chemical weapons attacks relies on the absurd notion that the strikes did not amount to war.

- In a [22-page memo](#)² outlining the supposed legal justification for the strikes, the Office of Legal Counsel (OLC) argued that the president had authority to order the strikes because they "did not amount to war in the constitutional sense and therefore did not require prior congressional approval."
- As Senator Tim Kaine (D-VA) [pointedly asked](#)³ in response to the memo, "Is there any doubt that America would view a foreign nation firing missiles at targets on American soil as an act of war?"
- Rather than relying on the letter of Article II, the War Powers Resolution, or any specific AUMF, the OLC memo [relies on a series of legal opinions and precedents](#)⁴ set by previous administrations to justify the strikes against Syrian government forces. That these strikes cannot be justified through the letter of the law alone underscores the lack of legal authority for such strikes, and the need for Congress to clarify the scope of presidential war powers.

¹ Authorization for the Use of Military Force, Pub.L. 107-40, September 18, 2001

² *April 2018 Airstrikes Against Syrian Chemical-Weapons Facilities*, Office of Legal Counsel, May 31, 2018

³ Korte, Gregory, *Trump lawyers: Syria missile strikes were legal because they weren't 'war'*, USA Today, June 1, 2018

⁴ Savage, Charlie, *Trump Had Power to Attack Syria Without Congress, Justice Dept. Memo Says*, New York Times, June 1, 2018

U.S. Support for the War in Yemen Violates the War Powers Resolution

- Sec. 2 (c) of the [War Powers Resolution](#)⁵ states that the president cannot send U.S. soldiers into hostilities or situations where hostilities are imminent without congressional authorization or an emergency caused by an attack on the United States, its territories or possessions, or its armed forces.
- Sec. 8 (c) also states that the “introduction of United States armed forces” into hostilities “includes the assignment of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.”
- In Yemen, U.S. intelligence analysts are literally coordinating with foreign military forces by sharing targeting intelligence with the coalition.
- Legal experts Bruce Ackerman, Sterling Professor of Law and Political Science at Yale, and Bruce Fein, Associate Deputy Attorney General to President Reagan from 1981-82, explain this in detail in a [March 2018 letter](#)⁶ to Senate leadership.
- Political organizations on [both](#)⁷ [sides](#)⁸ of the aisle support reclaiming congressional war powers by invoking the War Powers Resolution.

Steps Members of Congress Can Take

- **Co-sponsor [S.J.Res. 12](#) introduced by Sen. Rand Paul (R-KY) and Tom Udall (D-NM)** to withdraw U.S. forces from Afghanistan, sunset the 2001 Authorization for the Use of Military Force (AUMF), and give U.S. service members who were deployed in support of the Global War on Terror a \$2,500 bonus.
- **Co-sponsor [S.J.Res. 13](#) introduced by Sen. Tim Kaine (D-VA) and Sen. Todd Young (R-IN)** to repeal the 2002 Iraq War AUMF.
- **Co-sponsor [H.R. 1274](#) introduced by Rep. Barbara Lee (D-CA)** to sunset the 2001 Authorization for the Use of Military Force (AUMF).
- **Support passage in the House of a clean version of [S.J.Res. 7](#), introduced by Sen. Bernie Sanders (I-VT)**, directing the president to withdraw U.S. military support for the Saudi-led coalition in Yemen.
- **Give a floor speech, write an op-ed, or do other media outreach** supporting efforts to reclaim congressional authority to debate and vote on war, supporting the repeal of the 2001 AUMF, and demanding an end to the unconstitutional U.S. role in Yemen’s civil war.

⁵ War Powers Resolution of 1973, Pub. L. No. 93-148, November 7, 1973

⁶ Ackerman, Bruce and Bruce Fein, *Letter to Majority Leader McConnell and Minority Leader Schumer*, March 6, 2018

⁷ Vicenzi, Peter, *FreedomWorks Urges Congress to Reclaim Constitutional Powers and End U.S. Involvement in Yemen*, Freedomworks, November 28, 2018

⁸ Ali, Iram, *Stop the War, Save the Kids* | #YemenCantWait, MoveOn.org, December 13, 2018