



Written by [Michael Tennant](#) on June 14, 2018

Bill to Rein in Presidential Warmaking Would Actually Legalize It

Congress is belatedly considering amending the 2001 Authorization for the Use of Military Force (AUMF), which has been used by Presidents George W. Bush, Barack Obama, and Donald Trump to justify wars that are completely unrelated to the AUMF's original purpose of punishing those involved in the 9/11 attacks. Unfortunately, the preferred solution at present, a new AUMF, could end up making things far worse by endorsing the current wars and granting the president — in perpetuity — the authority to initiate wars unilaterally.



The Atlantic's [Conor Friedersdorf](#) summarizes the legislation's major provisions:

1. The bill would authorize the president to wage ongoing wars against the Taliban, al-Qaeda, ISIS in Iraq and Syria, al-Qaeda in the Arabian Peninsula, al-Shabaab, al-Qaeda in Syria, the Haqqani Network, and al-Qaeda in the Islamic Mahgreb, in countries including Afghanistan, Iraq, Syria, Somalia, Yemen, and Libya.
2. The bill would create a way for the president to lawfully wage counterterrorism campaigns against those terrorist organizations in still other countries, and to add still other groups or individuals as "associated forces."
3. More specifically, to wage war in a new country, or against a new group or person, Trump would merely have to notify Congress within 48 hours. Legislators would review his expansion of war and could vote to stop it — but that congressional "no" would be subject to a presidential veto, so it would effectively take a two-thirds majority in the House and Senate to stop any expansion of war. (Waging war against a new country would still be governed by the War Powers Resolution of 1973 — not that presidents generally adhere to that law.)
4. It would repeal the 2002 Iraq War authorization.
5. It would expand the list of those vulnerable to indefinite detention without charges or trial by applying a former National Defense Authorization Act to new groups.

On top of all that, Friedersdorf points out, the bill's "failure to exclude the United States as a country that the president can add, and language that allows individuals to be added as 'associated forces,' even raises the specter of drone strikes or other targeted killings on American soil — something many today would consider not only unlawful, but an impeachable offense."

The bill was introduced by Senators Tim Kaine (D-Va.) and Bob Corker (R-Tenn.). Just two months ago, Kaine [told](#) MSNBC that the 2001 AUMF "is a complete blank check to the president" that needs to be limited, yet now he is sponsoring legislation that would make that "blank check" explicit — and worse.

Fortunately, the new AUMF has caught the attention of people across the ideological spectrum who



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recognize the grave dangers it poses to constitutional government and civil liberties.

Representative Barbara Lee (D-Calif.), in a [press release](#), said the bill “would continue our state of perpetual war.”

Senator Rand Paul (R-Ky.), who organized a hearing against the bill, declared, “This authorization transfers the power to name the enemy and its location from Congress to the president. Worse yet, this authorization changes the nature of declaring war from an affirmative vote of a simple majority to a negative, supermajority vote to disapprove of presidential wars.”

The American Civil Liberties Union’s Christopher Anders [told](#) Paul’s subcommittee, “It would be hard to overstate the depth and breadth of the dangers to the Constitution, civil liberties, and human rights that the Corker-Kaine AUMF would cause.”

Legal scholar Jonathan Turley told the panel the bill “will make this body a pedestrian to war. It will put war-making on autopilot. And this law does not even have a sunset provision. It just goes on. Under the former AUMFs, we’ve gone through 17 years of war. Adopt this proposal and we’ll have 170 more. It will revise the Constitution without an amendment.”

Judge Andrew Napolitano expressed [similar sentiments](#).

“Congress,” Kaine told MSNBC, “needs to quit acting like an Article Two-and-a-half branch and start acting like an Article One branch again.”

Kaine’s AUMF, however, would essentially — and unconstitutionally — relinquish Congress’ control over matters of war and peace to the executive branch. Perhaps that is what Kaine and other Washington elites want. But it is certainly not in the best interest of the American people or their sons and daughters who will be sent to fight the nonstop wars the bill practically guarantees.

Photo of Senators Tim Kaine (left) and Bob Corker (right): AP Images



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