

We negate Resolved: On balance, the current Authorization for Use of Military Force gives too much power to the president.

Contention One) The Terrorist Threat is still Present

Al Qaeda remains a significant terrorist threat against the United States of America

OBAMA WAS NOT ABLE TO END THE AUMF-AUTHORIZED MILITARY CONFLICT BECAUSE SUBSTANTIAL DANGER STILL EXISTED-**Bradley and Goldsmith '16** [Curtis, Professor of Law at Duke Law School; Jack, Professor of Law at Harvard Law School; Obama's AUMF legacy; American Journal of International Law; October 2016; page 628]

For a number of reasons, the administration was unable to end the AUMF-authorized war. First, **Al Qaeda, though diminished, remains a serious threat against the United States in various countries.** (47) Second, **Al Qaeda associates such as the Nusra Front in Syria and Al Qaeda in the Arabian Peninsula in Yemen continue to flourish and pose threats to the United States.** (48) Third, **active hostilities continue in Afghanistan** against Al Qaeda and the Taliban **even though** President **Obama declared** in late December 2014 that "our combat mission in Afghanistan is ending, and **the longest war in American history is coming to a responsible conclusion.**" (49) Despite this pronouncement, thousands of U.S. troops are scheduled to remain in Afghanistan through 2016, and U.S. targeting and related combat operations there continue. (50) Fourth, **the AUMF continues to provide the principal legal basis for detaining the remaining individuals held at Guantanamo,** including high-level detainees who are unlikely to be sent to other countries. If the AUMF was terminated or repealed without the enactment of an alternative source of detention authority, such detentions might be rendered unlawful.

A mutating terrorist threat means any repeal calls into question the United State's operations against ISIS

THE MUTATING THREAT OF TERRORISM JUSTIFIES A FLEXIBLE AUMF-**Detrow '17** [Scott; Correspondent; Tillerson And Mattis Warn Against Repealing War Power Authorizations; NPR; 30 October 2017; <https://www.npr.org/2017/10/30/560987606/tillerson-and-mattis-warn-against-repealing-war-power-authorizations/>; retrieved 10 February 2018]

That "mutating threat" led Mattis and Tillerson to lay out conditions for any new use of force Congress considers. They both argued that **a repeal of the existing measures "would call into question the domestic legal basis for the United States' full range of military activities against** the Taliban, Al-Qaida, and associated forces, including **ISIS,**" as Tillerson put it.

The AUMF's lack of an expiration date serves a greater good

Stimson '13 [Charles; Chief of Staff and Senior Legal Fellow; TESTIMONY: Law of Armed Conflict and the Use of Military Force; Heritage Foundation; 16 May 2013; <https://www.heritage.org/testimony/law-armed-conflict-and-the-use-military-force/>; retrieved 8 February 2018]

The AUMF, by its own language, **does not have an expiration date, nor should it.** While it is true that over the decade we have made hard-fought gains against the al Qaeda leadership, and key members of the Taliban and associated forces, other **elements of those [Terrorist] organizations still pose a continuing threat to the United States.** I base this opinion not on current intelligence briefings—to which I no longer have access—but my reading of open source materials. That said, Congress does have access to classified intelligence briefings, and **I encourage a thorough and dispassionate evaluation of the current threats by the Congress.**

Sub-Point A) Justified Powers

The complexity of terrorism justifies wide powers as part of the AUMF

THE SHEER COMPLEXITY OF THE TERRORIST THREAT JUSTIFIES WIDE POWERS AS PART OF THE AUMF-**Stimson '13** [Charles; Chief of Staff and Senior Legal Fellow; TESTIMONY: Law of Armed Conflict and the Use of Military Force; Heritage Foundation; 16 May 2013; <https://www.heritage.org/testimony/law-armed-conflict-and-the-use-military-force>; retrieved 8 February 2018]

Robert **Chesney's 2012 law review article** entitled "Beyond the Battlefield, Beyond al Qaeda: The Destabilizing Legal Architecture of Counterterrorism" **describes the strategic and legal complexity of the terrorist battlefield today. At the same time that al Qaeda itself has splintered, a number of groups have allied themselves with its mission, its techniques, and** only sometimes **al Qaeda itself.** A few examples are illustrative of this trend: **Al Qaeda has been linked in relatively unspecified ways to a group of Islamist extremists in northern Nigeria known as Boko Haram. The Algerian extremist group formerly known as the Salafist Group for Call and Combat has embraced the al Qaeda brand more formally,** becoming "al Qaeda in the Islamic Maghreb" or "AQIM," and has recently seized territory in Northern Mali working in close concert with a local armed group of extremists known as Ansar Dine ("Defenders of the Faith"). Multiple al Qaeda-linked groups have emerged in the area of the Sinai Peninsula in Egypt, including a group calling itself the Mujahideen Shura Council and another called Ansar al Jihad. Iraq famously became the home of al Qaeda in Iraq in the years following the U.S. invasion, and was famously (and foolishly) reluctant to conform its operations to the dictates of al Qaeda's senior leadership in Pakistan in its first iteration; after nearly being eliminated a few years ago, it is now enjoying a substantial resurgence. And as the civil war in Syria unfolds, there are claims in the media regarding the presence of "al Qaeda" fighters appearing, though whether this represents an influx of al Qaeda in Iraq members, of homegrown extremists appropriating al Qaeda's brand, something else, or mere propaganda is far from clear at this time. The point being, **each of these groups may differ markedly from one another** in terms of their actual degree of connection to al Qaeda itself, **their interest in conducting operations targeting America** or other western targets outside the confines of the state in which they usually operate, and in terms of their own organizational coherence[14]. As Chesney concludes, al Qaeda has embraced an increasingly decentralized model, while seeking ties to already existing regional terrorist actors. The trend makes ever more tenuous the assumption underlying the AUMF that **al Qaeda-style terrorism necessarily bears any direct or substantial relationship to al Qaeda itself, as is necessary to fall under the terms of the AUMF.** As this trend continues, the day will come when substantial threats to the United States are no longer encompassed within the existing force authorization. For the present, however, al Qaeda's enormous organizational flexibility—perhaps its chief strength—has allowed us to defer addressing that issue.

Broad congressional authorization is necessary to address the dangers of terrorism

BROAD CONGRESSIONAL AUTHORIZATION IS NECESSARY TO ADDRESS THE DANGERS OF TERRORISM-Anderson and **McCubbin '17** [Scott R., David M. Rubenstein fellow in Governance Studies at the Brookings Institution; Sabrina, JD Candidate at Georgetown Law School; Summary: Senate Foreign Relations Committee's AUMF Hearing; 1 November 2017; <https://www.lawfareblog.com/summary-senate-foreign-relations-committees-aumf-hearing>; retrieved 10 February 2018]

The secretaries were consistent in their prepared statements and in their characterization of the administration's expectations for a new authorization. Both expressed that **any new AUMF would need to be free of time constraints, geographical constraints or operational limitations;** instead they proposed a conditions-based approach that would end the authorization only once certain targets are met. (These targets were not specified.) The administration's position is that this **broad authorization is necessary to address the dangers posed by al-Qaida and related terrorist organizations due to the transnational and non-traditional nature of the threat they pose.** Several senators, including Sens. Jeff Merkley (D-OR) and Jeanne Shaheen (D-NH), raised concerns about this position, particularly because of the broad, unending authority it would create. Merkley implied that the administration appears to be seeking blanket authorization to fight an open-ended war against radical Islamic ideology, concerns echoed by SeJim Michaels,, 11-7-2017, "Coalition airstrikes decline by more than 50% as ISIS crumbles in Iraq, Syria," USA TODAY, <https://www.usatoday.com/story/news/world/2017/11/07/coalition-airstrikes-isis-crumbles-iraq-syria/841136001/> Coalition airstrikes have declined by more than 50% as U.S.-backed forces in Iraq and Syria have largely destroyed the Islamic State's self-proclaimed caliphate and surviving militants have been killed or fled.

The number of coalition bombs and other weapons dropped to about 850 in October, down from an average of 1,800-2,600 in previous months, Air Force Brig. Gen. Andrew A. Croft, a coalition official, told Pentagon reporters in a telephone briefing from Iraq Tuesday.

"You're going to see (the) number of strikes drop even further," Croft predicted.

The Islamic State, also called ISIS, has been pushed out of Mosul, Iraq's second-largest city, and more recently Raqqa, the terrorist group's de facto capital in Syria.

The coalition ramped up airstrikes dramatically earlier this year as U.S.-backed forces went to battle against militants in both cities.

As ISIS lost its grip on strongholds, the militants scattered, presenting fewer targets for coalition pilots.

But Croft said the demand for surveillance and reconnaissance drones and manned aircraft remains strong as U.S.-backed forces continue to pursue militants into their desert hideaways.

n. Rand Paul (R-KY).

Sub-Point B) America could use MORE in Future

In a world where the AUMF is touched, it would need to be expanded, not abolished

ANY SUCCESSOR LAW TO THE CURRENT AUMF MUST ALSO BE FLEXIBLE IN ORDER TO BATTLE THE ISLAMIC STATE AND ISLAMIC MILITANTS-

Savage '17 [Charlie; Journalist; No Need to Update 9/11 War Law, Trump Officials Tell Congress; New York Times; 31 October 2017; page NA1]

Two top Trump administration officials told Congress on Monday that they opposed rewriting a 16-year-old law that the government has cited to justify military operations against Islamist militants, including Al Qaeda and the Islamic State, saying the existing statute was sufficient.

Testifying before the Senate Foreign Relations Committee, **Defense Secretary Jim Mattis and Secretary of State Rex W.**

Tillerson also warned that if lawmakers did replace the law, known as the Authorization for Use of Military Force, or A.U.M.F., they should not impose any time or geographic constraints on the government's war powers.

The AUMF will eventually become obsolete without Congress touching it

IF ANYTHING, CONGRESS MUST BUILD ON THE AUMF AND NOT REPLACE IT- **Stimson '13** [Charles; Chief of Staff and Senior Legal Fellow;

TESTIMONY: Law of Armed Conflict and the Use of Military Force; Heritage Foundation; 16 May 2013;

<https://www.heritage.org/testimony/law-armed-conflict-and-the-use-military-force>; retrieved 8 February 2018]

Fourth, **Congress must build on the AUMF**, not replace it. To replace the AUMF would be risky and unwise at this time, because doing so would cast uncertainty on the legal basis for so many aspects of our campaign against al Qaeda. Any modification to the core AUMF grant of authority is risky for that reason. **Over time, the AUMF will obsolete itself, as al Qaeda and the Taliban**

fade into oblivion, and when that process is finally complete, the AUMF will no longer have any purpose or meaning. We are not yet at that day, however. Therefore Congress may need to build on the AUMF, expanding its authority to reach new threats, rather than altering it at this time.

The executive branch acts much quicker than congress will

HISTORY HAS PROVEN CONGRESS WON'T DECLARE WAR IF WE NEED IT; THE PRESIDENT NEEDS TO BE ABLE TO ACT QUICKLY. KEN **GUDE**, SENIOR FELLOW

WITH THE NATIONAL SECURITY AND INTERNATIONAL POLICY TEAM AT THE CENTER FOR AMERICAN PROGRESS, WRITES IN 20**14**:8

More than half of all the congressional use of force authorizations—18 of 35—came in the first 30 years after independence. These ranged from large wars, such as the War of 1812, to small engagements to fight naval piracy. It was

also relatively common for Congress to restrict the president to the use of specific types of armed force. This was the case in the Quasi-War, which even limited the number of naval ships that could be used. Even though it was a long time ago, the only time this congressional power was tested in the Supreme Court, it was upheld unanimously. **Congressional authorizations have grown much less**

frequent over time, with only nine occurring in the nearly 100 years since the United States entered World War I. **The last actual declaration of war under Article I was for World War II.** Congressional authorizations in the 20th century have often been for major military actions such as World Wars I and II, the Gulf War, the Iraq War, and the response to the 9/11 attacks. **The** 2001 authorization for the use of military force, or **AUMF, directed at the perpetrators of the 9/11 attacks is the longest continuously used congressional use of force authorization.**

THUS WE NEGATE

BLOCKS

Observation: BRING UP IN FIRST CX AND REBUTTAL

What is the Affirmative's burden in this round? What would you say the Neg needs to do in order to win this round?

The Affirmative has a specific burden in this round: It must not only criticize the AUMF, but also replace it. Very few qualified authors support the AUMF as it stands now, but even in the context of a debate round, it is completely meaningless if Congress is unwilling or unable to push a replacement forward. There are two specific reasons why we need a replacement.

FIRST, a lack of a replacement would create significant opportunities for terrorists.

REPEALING THE AUMF WITHOUT A REPLACEMENT WILL CREATE SIGNIFICANT OPPORTUNITIES FOR TERRORISTS-**Morello '17** [Carol; Journalist; Tillerson, Mattis tell Senate panel no need for new war authorization; The Washington Post; 30 October 2017]
Laws enacted in 2001 and 2002 gave the military the legal authority to fight international terrorism. **Even though the United States is fighting groups that didn't exist back then, including the Islamic State, the legal basis remains sound.** Mattis said. **He urged Congress not to repeal existing law, at least without a new authorization was already in place.** "The uncertainty accompanying that situation could only signal to our enemies and our friends that we are backing away from this fight," he said. **It would stall our operations, immediately reduce allied commitments and support, and create significant opportunities for our enemies to seize the initiative."**

Second, it would risk pulling the carpet out from under the legal foundation for fighting terrorism.

WE CANNOT RISK UNDERPINNING THE LEGAL FOUNDATION FOR THE FIGHT AGAINST TERRORISM-**Kheel '17** [Rebecca; Mattis, Tillerson tell Congress new war authorization should have no time, geographic constraints; The Hill; 30 October 2017; <http://thehill.com/policy/defense/357899-mattis-tillerson-describe-conditions-of-support-for-new-war-authorization> retrieved 10 February 2018]
At the top of Monday's hearing, Senate Foreign Relations Committee Chairman Bob Corker (R-Tenn.) appeared to cast doubt on Congress's ability to pass a new AUMF, saying that Congress should not take it up if there are partisan divisions. **"We cannot risk undermining the legal foundation for this critical fight," Corker said. "We must also be mindful that moving an AUMF without significant bipartisan support could send the wrong message to our allies and our adversaries that we are not united and committed to victory.** So far Congress has been unable to bridge the gap between those who see a new AUMF as primarily an opportunity to limit the president and those who believe constraining the commander in chief in war time is unwise."

Make the AFF prove they meet this threshold before allowing them any offense in this debate round.

A2: The Resolution doesn't ask us to get rid of the AUMF, it only wants us to analyze its impact

If you're saying something is bad, you are inherently also advocating for the fact that we would be better off without it. We aren't necessarily asking the Pro to advocate for anything specific, we're just saying that in a pro world where they, simply by the fact that they're on pro, are saying that the AUMF is bad, a policy CHANGE will occur, and that they can't just sit there and say "that doesn't matter". It DOES matter, we have to keep debate realistic and they need to at the very least discuss the AUMF's eventual replacement.

If the aff reveals it they don't have a plan for replacing it, that means the real world goes to shit and we will eventually literally ALL die

Contention One

A2) Al Qaeda Isn't a Terrorist Threat anymore

Despite efforts by President Trump, the Al Qaeda threat in Yemen is not even diminished

Eric **Schmitt** and Saeed Al-Batati, New York Times, "The U.S. Has Pummeled Al Qaeda in Yemen. But the Threat Is Barely Dented." - The New York Times", December 20, 20**17**, <https://www.nytimes.com/2017/12/30/world/middleeast/yemen-al-qaeda-us-terrorism.html>
The United States has tripled the number of airstrikes this year against Al Qaeda's branch in Yemen, one of the deadliest and most sophisticated terrorist organizations in the world. **American allies have pushed the militants from their** lucrative coastal **strongholds.** And **the Pentagon recently boasted of killing key Qaeda leaders and disrupting the group's operations. Yet the top United States counterterrorism official and other American intelligence analysts concede the campaign has barely dented the terrorist group's ability to strike United States interests. "It doesn't feel yet that we're ahead of the problem in Yemen,"** **Nicholas J. Rasmussen,** who stepped down this month after three years as **the director of the National Counterterrorism Center, said** in an interview. **"It continues to be one of the most frustrating theaters in our counterterrorism work right now."** **Even as President Trump lauds the demise of the** Islamic State's **self-proclaimed caliphate in Iraq and Syria, the threat of a terrorist attack** — with the most commonly feared target a commercial airliner — emanating from the chaotic, ungoverned spaces of Yemen **remains high on the government's list of terrorism concerns.** The group formally known as Al Qaeda in the Arabian Peninsula, or A.Q.A.P., has dogged Mr. Trump since his first days in office, when the president authorized an ill-fated raid on a Qaeda hide-out that left one member of the Navy's elite SEAL Team 6 dead.

Terror attacks by Al Qaeda are projected to INCREASE in 2018

Natasha **Turak**, CNBC, "Terror: ISIS and al-Qaeda likely to carry out more attacks in 2018", December 28, 20**17**,
<https://www.cnbc.com/2017/12/28/terror-isis-and-al-qaeda-likely-to-carry-out-more-attacks-in-2018.html>

The "caliphate" may be in ruins, but that doesn't mean ISIS is gone forever. **Terror attacks are likely to increase in 2018**, as the destruction of the Islamic State's physical stronghold in Iraq and Syria will strengthen its will to strike out abroad, experts say. **"ISIS will want to show that they are still in the fight, and their followers remain as fanatical as ever," said Lewis-Sage Passant, a former British Army intelligence officer** and founder of travel security company HowSafelsMyTrip. **"The number of attacks globally will likely increase as the group switches focus from the war in the Middle East to international terrorism."** Adam Deen, executive director of counter-extremism think tank Quilliam, makes a similar argument. **"We're going to see without a doubt more attacks in the West,"** he told UK newspaper the Independent in October. Deen said ISIS is now more focused on revenge, and warned against the false sense of victory that many expressed after the death of Osama Bin Laden.

Al Qaeda after Bin Laden is still a dangerous threat

AFP, Dawn, "Al Qaeda after bin Laden, still 'a dangerous threat' - World - DAWN.COM", May1, 20**16**,
<https://www.dawn.com/news/1255640>

The militant group Al Qaeda has survived the death of its founder Osama bin Laden on May 2, 2011 **and bolstered its notoriety with attacks in Africa, Europe and Yemen despite suffering a series of setbacks. Al Qaeda has been replaced as a pre-eminent global militant power** by the militant Islamic State (IS) group **but remains a potent force and dangerous threat, experts say.** By the time US special forces killed bin Laden in Abbottabad, the group he founded in the late 1980s had been badly damaged, with many of its militants and leaders killed or captured in the US "War on Terror". **Dissention grew in the militant ranks as** new Qaeda chief **Ayman al-Zawahiri struggled in bin Laden's place, until one of its branches, originally Al Qaeda in Iraq, broke away to form** the Islamic State of Iraq and the Levant (**ISIL**). After seizing large parts of Iraq and Syria in 2014, **the group declared a caliphate' in areas under its control, calling itself simply the IS. IS has since eclipsed its former partner, drawing thousands of militants to its cause and claiming responsibility for attacks that have left hundreds dead in Brussels, Paris, Tunisia, Turkey, Lebanon, Yemen, Saudi Arabia and on a Russian airliner over Egypt.** Its self-declared 'emir' Abu Bakr al-Baghdadi has won pledges of allegiance from extremist groups across the Middle East and beyond, with especially powerful IS affiliates operating in Egypt's Sinai Peninsula and in Libya. Jean-Pierre Filiu, a Paris-based expert on Islam and jihadist groups, said IS has been especially effective at using new technology to surpass its less tech-savvy rival. "Al Qaeda propaganda has become invisible on social networks thanks to the media war machine that Daesh has managed to successfully create," Filiu said, using an Arabic acronym for IS. "Al-Qaeda has lost everywhere to Daesh, except in the Sahel" desert region of northern Africa, he said.

A2) The AUMF Should have an expiration date

Any change to the AUMF is premature and irresponsible

Rebekah **Entralago**, ThinkProgress, "Senate votes against repeal of 2001 authorization for use of military force – ThinkProgress", September 13, 20**17**,
<https://thinkprogress.org/senate-votes-to-kill-an-amendment-that-would-repeal-the-2001-aumf-9bf8909f6bbe/>

Almost 16 years to the day it was first passed, the Senate voted to table an amendment by Sen. Rand Paul (R-KY) that would have repealed the 2001 Authorized Use of Military Force (AUMF) 61 to 36. This was the first time in 15 years the full Senate has voted on Congress' role in initiating war. "We have fought the longest war in U.S. history under an original authorization to go after the people who attacked us on 9/11," said Paul on the Senate floor Wednesday morning. "That war is long since over. The war has long since lost its purpose. And it's a long time that — and it's long time we have a debate in congress over whether we

should be at war or not. It is the constitutional role of congress.” **The vote on the amendment was tabled over concerns a repeal of the AUMF without a direct replacement would put the country’s national security in danger.** Sen. **John McCain** (R-AZ) **called the amendment “premature” and “irresponsible,”** however he expressed a need for an updated AUMF that is specific to the fight against ISIS. **The White House,** however, **isn’t looking for changes to the 2001 authorization, according to Legislative Director Marc Short.**

LAST FUCKING RESORT

NON-UNIQUE: EVEN BEFORE THE AUMF IS PUT IN PLACE, ALL PRESIDENTS HAVE ABUSED THEIR POWER. ANDREW JACKSON AND BILL CLINTON BOTH DECLARED WAR WITHOUT CONGRESSIONAL APPROVAL OR AN AUMF. IN ADDITION, EVEN WITHOUT THE AUMF, IN PLACE, THE PRESIDENT CAN DO WHATEVER THEY WANT WITH THE MILITARY SINCE THE AUMF DOESN’T ACTUALLY GIVE THE PRESIDENT ANY POWER.

Joshua **Keating**, Foreign Policy, "Actually, U.S. presidents have been going to war without Congress since the beginning – Foreign Policy", May 9, 20**13**, <http://foreignpolicy.com/2013/05/09/actually-u-s-presidents-have-been-going-to-war-without-congress-since-the-beginning/>

In the modern era, **it’s become increasingly common for presidents to send troops into battle without authorization from Congress** — a practice many argue is unconstitutional. During the 2011 intervention in Libya for instance, Yale law professor Bruce Ackerman wrote that “Barack Obama’s administration is breaking new ground in its construction of an imperial presidency — an executive who increasingly acts independently of Congress at home and abroad.” It may be unconstitutional, but **how unprecedented is it? There’s a general consensus that the imperial presidency model of warfighting began with Theodore Roosevelt and expanded dramatically after World War II — the last time Congress formally declared war.** The War Powers Resolution of 1973 was meant to check the president’s ability to do this, but several administration’s have skirted it. A paper by **William D. Adler** in Presidential Studies Quarterly **analyzes the “small wars” of early U.S. history and found that the tradition of the president acting as “generalissimo of the nation”** as the pseudonymous “Cato” put it in the Anti-Federalist Papers, **goes back much further than we think.** America’s two largest pre-civil war conflicts — the War of 1812 and the Mexican American War — were both organized by Congress, though James Polk played a major hand in instigating the second one. But **there were dozens of other conflicts, sometimes involving thousands of combatants. These included at least 10 major conflicts with Indian tribes between the 1790s and 1850s as well as ” the Quasi-War with France during the late 1790s; the conflict with the Barbary pirates during the 1800s (which had been an ongoing problem since Washington’s presidency); General Andrew Jackson’s repeated invasions of Spanish Florida; naval skirmishes in Sumatra during the 1830s; the so-called Patriot War from 1839 through 1841 on the northern border; “bleeding Kansas” during the 1850s; and the Mormon war in Utah later that decade.”**