

War Authorization on a Silver Platter: The “Authority for the Use of Military Force 2018” (AUMF), A “Forever Vote” Is on the Move

By [Renee Parsons](#)

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The Senate Foreign Relations Committee [held a hearing on May 16th](#) regarding the authorization of a new Authority for the Use of Military Force 2018 (AUMF). Despite a current lack of unanimity on the committee, the draft authorization ([SJ Res 59](#)) has been brought forward as a working document despite the lack of successful back-room negotiations in recent weeks. The hearing was conducted with no quorum present, the lack of which denied the sponsors an easy vote of approval.

The AUMF 2018 would replace AUMF’s 2001 and 2002 which proponents suggest would remove the onerous Constitutional responsibility from a self-proclaimed over-burdened Congress from voting to approve every single separate act of war. While final approval of the AUMF 2018 represents a “Forever Vote,” product of a low vibration consciousness, the ACLU, which should be leading a vigorous national campaign against the proposal, appears absent from the debate.

Approval of a one-size-fits-all AUMF will greatly facilitate the Pentagon’s long held desire to [‘take out’ seven countries](#) in five years – although somewhat behind the original timeline, military conflict is ongoing throughout the Middle East and will allow dramatic escalation in each of those countries without meaningful accountability or Constitutional Congressional oversight.

Since the Congress has already exhibited a penchant for an inability to govern, why have a Foreign Relations Committee at all if their single, most essential Constitutional reason for existence of whether to take the country to war is eliminated?

When the draft AUMF 2018 was introduced by [Sen. Bob Corker](#) (R-Tenn) retiring Chair of the Committee in mid-April, he suggested that a strong vote in the Committee would translate into strong support on the Senate floor. After all, even members of the Senate are sensitive to not publicly dismembering their own Constitutional prerogative on a close vote.

Sen. Rand Paul (R-SC) and Sen. Jeff Merkley (D-Or) had both previously announced their opposition to AUMF and both spoke at the hearing against the proposal. Sen. Paul opened with a spirited assault on the AUMF as ‘flipping the Constitution on its head,’ eliminating the majority vote in favor of a two-thirds vote required to override Presidential action while allowing the unfettered expansion of war throughout the Middle East.

Since the 2001 AUMF, the status quo has reigned with every President initiating war with the

assumption that they had the authority to 'stretch' the AUMF to fit current circumstances. Paul argued that by codifying Presidential authority as the 2018 version would do, an opportunity for legal challenges to Presidential authority would be removed. Unrestrained war without the pesky need for Congressional participation is, of course, exactly what the pro-war Republicanrats who control the Senate and their MIC benefactors are hoping for. As an example of how a new AUMF might function, Paul said he had not yet figured out 'why we are chasing a herdsman in Mali?'

Sen. Tim Kaine (D-Va) avid co sponsor of the proposal and HRC's running mate in 2016, declared that

"Congress needs to send a message to our troops, one of them is [one of my kids](#), that the missions they are fighting and dying for, against non-state terrorist groups, has the support of Congress."

Kaine did not explain how codifying the legality of all future undeclared wars will somehow improve the morale of American troops.

One of the two hearing witnesses was [Rita Siemion](#), Adjunct Professor of Law, Human Rights First, George Washington University who provided effective testimony which attracted Kaine to focus his laser on her.

Kaine: "Do you support the need for continuing US military action against Taliban, Isis and al Qaeda?"

Siemion: "I think the use of military force is something that the president should be coming to Congress..."

Kaine interrupts "Well, can I just say...we are currently engaged in military action against al Qaeda, Isis and the Taliban, do you support need for that action or don't you?"

Siemion: "I think that hard questions need to be asked of the administration about what are we achieving by use of military force over the long term..."

Kaine interrupts again "So you are not prepared to say today whether you do or do not support the action that our troops are currently engaged in against ISIA, al Qaeda and the Taliban?"

Siemion: "I think that there are currently real questions that need to be answered about the efficacy of using military force..."

Kaine: "Let me ask a second question then. I think from your testimony that you would agree, separating this resolution, that the 2001 authorization should be rewritten/or replaced? Do I understand that to be your testimony?"

Siemion: "I agree that the status quo is incredibly problematic."

Kaine: "So then let me be more specific....do you think it should it be repealed with no replacement or rewritten and then replaced? "

Siemion: "I think if Congress agrees that use of military force is required and appropriate and it is demonstrated it can be effective for addressing particular terrorist threats, then Congress should authorize military force against those particular groups."

Kaine: "I understand that. Obviously if somebody does not think we should be using military force against alQaeda, Isis or the Taliban, then they should vote no on this...they should not vote for an authorization. That's a good reason to vote no if you do not support the military action that our troops are currently engaged in against al Qaeda, Isis and the Taliban."

In addition to his attempt to make Siemion look unpatriotic, if Kaine's goal was to intimidate Sen. Merkley who was next to address the panel, he failed.

Merkley focused on legal contradictions and broad interpretations within the AUMF providing the President with a new legal foundation to decide or interpret particular sections that otherwise would be the purview of Congress. Merkley further cited that

"the bottom line, what we have before us, codifies the existing situation, gives fresh authority for what has been done since 2001 and I fundamentally believe that delegation was not intended in 2001 and is not appropriate now."

He referred to the Federalist Papers on

"how they decided to give that war making power to Congress, that it should not be in the hands of one single person; it is too big an issue, the lives of our soldiers, our sons and daughters, is too big an issue to open that door and I believe they were exactly right. There is a fundamental reason behind that and it is still relevant today."

At conclusion of the hearing, [Sen. Robert Menendez](#) (D-NJ) the committee's ranking member directly addressed Kaine in that he

"reject as a false choice that voting against this, when it comes time for that if this is what the final product is, that voting against this proposal is a vote against our troops in the field. No. I reject the proposition that it's either this or you are not with our troops. That's ridiculous."

Kaine replied to

"clarify and the transcript would show this, I think, that I certainly did not suggest that if you vote against the AUMF, you are against the troops who are currently fighting. I did not suggest that. I did suggest if you are against military action, that is good reason to oppose our proposal. I was engaging in questions of the witness to see if she agreed we should be engaged in military action against these groups. She would not offer an opinion upon that."

With Secretary of State Pompeo scheduled to testify before Foreign Relations on Thursday, May 24th to clarify the Trump administration's position on AUMF proposal, a Committee mark up can be expected soon thereafter.

If qui bono is applied here and since the new AUMF would presumably focus on 'terrorists' and sovereign nations throughout the Middle East, Israel would appear to be the beneficiary

of the dismantling of Congress' Constitutional obligations. Therefore, it is instructive that fourteen out of twenty one Foreign Relations members were identified by the [Center for Responsive Politics](#) on their Top Twenty list of recipients of Pro-Israel PACs or individuals who donated over \$200.

Barasso (R-Wy)	2018	\$105,400	Markey (D-Mass)	2014	\$100,450
Booker (D-NJ)	2014	\$434,126	Menendez (D-NJ)	2012/2016	\$623,508
Cardin (D-Md)	2012/2018	\$415,993	Murphy (D-Ct)	2018	\$ 65,221
Coons (D-De)	2014	\$133,300	Portman (R-Oh)	2016	\$235,280
Corker (R-Tenn)	2012	\$102,950	Rubio (R-Fl)	2016	\$468,307
Johnson (R-Wis)	2016	\$231,814	Shaheen (D-NH)	2014	\$203,149
Kaine (D-Va)	2018	\$167,878	Udall (D-NM)	2016	\$110,379

Either the remaining seven Committee members did not receive sufficient Pro-Israel PAC money to qualify for the Top Twenty list or they received no Pro-Israel PAC money.

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Renee Parsons has been a member of the ACLU's Florida State Board of Directors and president of the ACLU Treasure Coast Chapter. She has been an elected public official in Colorado, an environmental lobbyist and staff member of the US House of Representatives in Washington DC. She can be found on Twitter @reneedove31.

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