

Trump Cannot Be Trusted: Congress Must Reclaim “War-Making Authority”

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In-depth Report: [NORTH KOREA](#), [Nuclear War](#)

Featured image: A US Air Force MQ-1B Predator unmanned aerial vehicle, carrying a Hellfire air-to-surface missile lands at a secret air base in the Persian Gulf region on January 7, 2016. (Photo: John Moore/Getty Images via [Truthout](#))

*The House Appropriations Committee unexpectedly passed an amendment to the Department of Defense Appropriations bill last week that would repeal the Authorization for Use of Military Force (AUMF) passed by Congress in 2001 after the 9/11 terrorist attacks. If this effort to revoke the AUMF proves successful, the repeal would effectively limit **Donald Trump**’s ability to use military force against North Korea, Iran and elsewhere.*

In the 2001 AUMF, Congress authorized the president to use military force against groups and countries that had supported the 9/11 attacks. Congress rejected the **George W. Bush** administration’s request for open-ended military authority “to deter and preempt any future acts of terrorism or aggression against the United States.” ISIS (also known as Daesh) did not exist in 2001.

Although Congress limited the scope of the AUMF, it has nevertheless been used as a blank check for military force [more than 37 times](#) in 14 different countries, according to the Congressional Research Service.

Bush relied on the 2001 AUMF to invade Afghanistan and start the longest war in US history. **Barack Obama** used the AUMF to lead a NATO force into Libya and forcibly change its regime; ISIS then moved in to fill the vacuum. Obama also invoked the AUMF to carry out targeted killings with drones and manned bombers, killing myriad civilians. Trump relies on the AUMF for his drone strikes in Syria, Iraq, Yemen, Somalia, Libya and Afghanistan, which have killed thousands of civilians.

Rep. Barbara Lee (D-California) introduced the new amendment, tweeting,

“GOP & Dems agree: a floor debate & vote on endless war is long overdue.”

Lee was the only Congress member to vote against the AUMF in 2001. She said,

“I knew then it would provide a blank check to wage war anywhere, anytime, for any length by any president.”

Lee clarified that her amendment would repeal “the overly broad 2001 AUMF, after a period of eight months after the enactment of this act, giving the administration and Congress sufficient time to decide what measures should replace it.”

It remains to be seen whether Lee’s amendment will be defeated in the House of Representatives, as it is opposed by the House Foreign Affairs Committee, which said it “should have been ruled out of order” because the Appropriations Committee lacked jurisdiction over the matter.

The AUMF Should Be Repealed to Constrain Trump’s War-Making

Lee’s amendment raises the issue of how much war-making authority Congress should delegate to the president.

The 2001 AUMF should be repealed. But Congress should not give Trump a newer, more tailored, one. Trump cannot be trusted with war-making authority.

Tensions with North Korea continue to escalate. In response to Pyongyang’s ballistic missile test, the Trump administration participated with South Korea in a massive live-fire ballistic missile exercise as a warning to **Kim Jong-un**. Trump warned he is considering [“some pretty severe things.”](#)

Trump’s recent saber-rattling against North Korea led **Laura Rosenberger**, a former State Department official who worked on North Korea issues, to warn that Trump is “playing with fire here — nuclear fire.”

Trump has indicated his willingness to use nuclear weapons. As he said on MSNBC in 2016,

“Somebody hits us within ISIS, you wouldn’t fight back with a nuke?”

Secretary of Defense James Mattis cautioned against war with North Korea. In May, he stated on CBS’s “Face the Nation” that a conflict in North Korea “would be probably the worst kind of fighting in most people’s lifetimes.” It would be “tragic on an unbelievable scale,” he said at a Pentagon press conference.

Nikki Haley, US ambassador to the United Nations, warned the Security Council,

“One of our capabilities lies with our considerable military forces. We will use them if we must, but we prefer not to have to go in that direction.” But, she said, North Korea is [“quickly closing off the possibility of a diplomatic solution.”](#)

The UN Charter requires the pursuit of peaceful alternatives to the use of military force. **Christine Hong**, associate professor at the University of California, Santa Cruz, [wrote in the Progressive](#),

“Unsurprisingly, few media outlets have reported on North Korea’s overtures to the United States, even as these, if pursued, might result in meaningful de-escalation on both sides. To be clear: peaceful alternatives are at hand. Far from being an intractable foe, North Korea has repeatedly asked the United

States to sign a peace treaty that would bring the unresolved Korean War to a long-overdue end.”

But Trump, not known for his patience, is unlikely to pursue a diplomatic solution for long.

Moreover, his uses of military force thus far have been conducted unlawfully.

Trump’s Unlawful Military Attacks

Trump’s drone strikes cannot be justified by the 2001 AUMF or any other act of Congress. They thus violated the War Powers Resolution.

Passed in the wake of the Vietnam War, the War Powers Resolution requires the president to report to Congress within 60 days of initiating the use of military force. The Resolution allows the president to introduce US Armed Forces into hostilities or imminent hostilities in only three situations:

First, after Congress has declared war, which has not happened since World War II. Second, in “a national emergency created by attack upon the United States, its territories or possessions, or its armed forces,” which has not occurred. And third, when there is “specific statutory authorization,” such as an AUMF.

The UN Charter requires that countries settle their disputes peacefully. The Charter forbids a country from using military force against another country, except in self-defense or with the approval of the Security Council.

Trump launched 59 Tomahawk cruise missiles against Syria in retaliation for an unproven claim that the Syrian government was responsible for a deadly chemical attack in Khan Sheikhoun.

“There’s no doubt that international law, the UN Charter, prohibits the use of military force for retaliation or for reprisal, punishment,” said **Mary Ellen O’Connell**, professor of international law at the University of Notre Dame. “You can only use military force in self-defense, and he did not.”

Trump’s Tomahawk missiles in Syria did not comply with the UN Charter or the War Powers Resolution.

The Trump administration utilized a self-defense rationale for shooting down a Syrian fighter jet and two Iranian-made drones. But neither Syria nor Iran had attacked the United States. And the Security Council did not sanction the US strikes. Those shoot-downs also violated the UN Charter.

The Stakes of the Effort to Repeal the AUMF

Trump’s military interventions and the frightening prospect that he may attack North Korea raise the question of whether the 2001 AUMF should be repealed.

In 2015, Obama proposed repealing the 2001 AUMF and replacing it with a new one. Obama’s proposal contained no geographical limitation and would have allowed the use of military force against ISIS and “associated forces,” which is overly broad. And although it

would have prohibited “enduring offensive operations,” it contained a loophole that would have permitted the limited use of ground troops by labeling operations “defensive.”

Obama essentially asked Congress to bless endless war against anyone he wanted, wherever he wanted. Congress declined Obama’s invitation.

Article I of the Constitution gives Congress the power to declare war. Congress should retain that authority as the framers intended, not hand it over to an unpredictable and volatile president. The fate of the world is at stake.

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