



How to end the war on terrorism properly

By: Christopher Preble- June 10, 2013

In his speech on counterterrorism last month, President Barack Obama said something both profound and overdue – the war underway since 2001 should end, not just factually but also legally. Outlining his views, the president said he wanted to “refine, and ultimately repeal,” the Authorization for Use of Military Force (AUMF), the main legislative vehicle governing U.S. counterterrorism operations around the world. He also pledged not to sign laws designed to expand this mandate further.

But to make that goal a concrete reality, the president should have called for legislation repealing the administration’s authority for war – sunseting the AUMF, which provides the legal authorization for our troops in Afghanistan, once combat operations there conclude at the end of 2014. Future counterterrorism operations can rely on the plentiful authorities the executive branch already has, including some that have been added since 9/11. And if this president – or any other in the future – needs greater war powers to deal with a threat, they can return to Congress and ask for specific, limited authorities tailored to address the future challenge.

The fact is that while there are other ways the AUMF could be usefully altered, a clean repeal has significant advantages.

From an operational perspective, the AUMF authorizes military force, but we’re winding down our operations in Afghanistan. Our military presence there helped decimate core al Qaeda, leaving them a shadow of their former selves. And this matters, for without the organizational support and training from core al Qaeda’s veteran operational commanders – most of whom are either dead or incarcerated – most self-radicalized terrorists are caught long before their plots are successful. Military operations should be the mechanism of last resort to deal with terrorist plots, especially outside war zones like Afghanistan.

The most successful counterterrorism operations involve timely intelligence collection and analysis, and cooperation with local officials, not open-ended military operations involving large deployments of U.S. troops. Law enforcement or intelligence services identified and disrupted multiple other plans over the years. These mechanisms do not rely upon the AUMF, so an eventual clean repeal won’t affect our ability to disrupt plots.

Conservatives who revere the Constitution should be most reluctant to hand over unending powers to the president. As James Madison said, granting “such powers [to the President] would have struck, not only at the fabric of our Constitution, but at the foundation of all well organized and well checked governments.”

Madison knew that war tended to enhance executive powers and erode liberties. And that has occurred. With Congressional acquiescence, the last two presidents have interpreted the AUMF as a warrant to attack or detain anyone that they say is a leader of al Qaeda or its associated forces, without geographic limit. The secretive and loose definition of those terms has given the president vast and excessive discretion to identify, target and kill suspected terrorists, or to detain indefinitely those who are captured. Sunsetting the law prevents that growth in executive power from becoming permanent.

Liberals who might trust this president's discretion in using these authorities have good reason to be concerned about what future presidents might do with broad and unlimited authority. We have already seen how the passage of time has stretched the AUMF well beyond its original purpose. The list of targets already includes individuals and groups that were not directly involved in the attacks of 9/11. Even President Obama recognizes the risk. "Unless we discipline our thinking and our actions," the President explained, "we may be drawn into more wars we don't need to fight."

We believe there should be a bipartisan consensus about restoring the balance on war powers and on seeing an end to this conflict. And the U.S. experience over the past decade shows that we can do so while keeping the nation secure.