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Repeal, Don't Replace, Trump's War Powers

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On Monday, two days after President Trump declared “Mission Accomplished” on the latest round of missile strikes against Syria, a bipartisan group of senators unveiled legislation intended to reassert Congress’s relevance to the wars we fight. But the new Authorization for the Use of Military Force, introduced by Bob Corker, the chairman of the Senate Foreign Relations Committee Chairman, and the Democrat Tim Kaine, may end up doing the opposite.

Senator Kaine is right that, as he said in a speech about the bill, “for too long Congress has given presidents a blank check to wage war.” The 2001 authorization, passed three days after the Sept. 11 attacks and aimed at the perpetrators of those attacks, has done just that. Three presidents in a row have warped its limited authority into an enabling act for globe-spanning presidential war.

The Corker-Kaine resolution won’t bring an end to the Forever War; it will institutionalize it. Instead of ratifying war powers that three presidents in a row have seized illegally, Congress should repeal — and not replace — the 2001 legislation.

In authorizing the use of force against a list of terrorist organizations and their affiliates, the bill states that it “establishes rigorous congressional oversight,” “improves transparency” and ensures “regular congressional review and debate.” Such transparency requirements are an improvement over the status quo. But the bill also turns the constitutional warmaking process upside down.

Our Constitution was designed to make war difficult, requiring the assent of both houses and the president. The bill essentially changes that by merely requiring “regular congressional review” of presidential warmaking and requires reauthorization every four years; meanwhile, choosing new enemies, in new countries, is the president’s call, unless Congress can assemble a veto-proof majority to check him.

The legislation concurs with the argument asserted by Presidents George W. Bush, Barack Obama and now Donald Trump that the war on terror has “evolved”; as the draft authorization announces in its preamble: “Numerous nonstate actors” now “pose a grave threat to the United States.” For both the White House and Senators Corker and Kaine, this justifies giving the president new warmaking powers, with Congress taking a back seat.

And yet if the past 17 years have taught us anything, it’s that far from being an existential menace, in most cases terrorism is a manageable threat: Since Sept. 11, an American’s chance of being killed in the United States by a terrorist is about one in 40 million. And the groups that

Corker-Kaine authorizes war with — the Taliban, Al Qaeda and the Islamic State — do not pose a grave threat to our country now, if they ever did.

All three are either contained or decimated; why Mr. Trump and future presidents need a perpetually renewable authorization to fight them is not clear. Still less do they need continuing authority to wage war against Al Shabab in Somalia or the Haqqani Network in Afghanistan, among other groups explicitly named in the Corker-Kaine bill.

Instead, Congress should declare that the purposes of the 2001 authorization have been fulfilled and that it has run its constitutionally justified course.

This “repeal, don’t replace” option wouldn’t leave the executive branch legally hamstrung should any of these groups, or others, become a genuine threat. The president would still retain independent constitutional power to “repel sudden attacks” in case of an imminent threat. Should Mr. Trump decide that Al Shabab, for example, represents a serious, long-term danger to our national security, he is free to make that case to the people’s representatives and secure authorization for war.

As we have painfully learned, war often spawns new threats. The Islamic State had its origins in the Sunni insurgency that rose to fight American forces in Iraq. As early as 2006, the National Intelligence Estimate on Trends in Global Terrorism found that the Iraq war had “become the ‘cause celebre’ for jihadists, breeding a deep resentment of U.S. involvement in the Muslim world and cultivating supporters for the global jihadist movement.” In the seven countries that the United States either invaded or bombed since Sept. 11, the number of individual terrorist attacks rose by an astonishing 1,900 percent from 2001 to 2015. If anything, open-ended war in the Middle East has made us less safe, not more.

Presidential war undermines fundamental values of our representative democracy. “In no part of the constitution,” James Madison wrote in 1793, “is more wisdom to be found than in the clause which confides the question of war or peace to the legislature, and not to the executive department” — were it otherwise, “the trust and the temptation would be too great for any one man.”

Not long ago, Senator Corker, who is retiring this fall, publicly agonized that President Trump’s “volatility” could put America “on the path to World War III.” And yet, for some unfathomable reason, as his legacy project, Mr. Corker has advanced a measure that empowers one abundantly flawed human being to wage war practically at will. The rise of Mr. Trump, if nothing else, should crystallize the imperative to constrain the imperial presidency.

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