

# The 2002 Iraq AUMF: What It Is and Why Congress Should Repeal It

Over the last two years, congressional support for repealing the 2002 Iraq Authorization for Use of Military Force (AUMF) has grown.

In 2019 the House voted, on a bipartisan basis, to *adopt* Rep. Barbara Lee’s (CA-13) amendment to the annual defense policy bill—the National Defense Authorization Act or “NDAA”—to repeal the 2002 Iraq AUMF. In 2020 the House twice voted to repeal this authorization, *first* as part of the January *No War Against Iran Act* and *second*, in the *annual defense spending bill* in July.

More than 130 members of Congress have cosponsored Rep. Lee’s stand alone bill to repeal the 2002 Iraq AUMF, *H.R. 2456*. In the Senate, *S.J. Res. 13* from Sens. Tim Kaine (VA) and Todd Young (IN) would repeal both the 2002 Iraq AUMF and the 1991 Gulf War AUMF, passed to authorize a military response to Saddam Hussein’s invasion of Kuwait.

## What is an AUMF and how is it different from a declaration of war?

- While declarations of war authorize “*total war*”—providing the president with the entire and unqualified use of the U.S. military—AUMFs authorize a more limited use of force.
- The last declaration of war was passed in 1942 against *Romania* during World War II. Since that time, the wars in Vietnam, the Persian Gulf, Afghanistan, and Iraq have all been authorized by AUMFs.

## What is the 2002 Iraq AUMF?

- Congress passed the *2002 Iraq AUMF* to authorize the war against Saddam Hussein’s regime in Iraq. It permitted the president to use the armed forces as “necessary and appropriate” to “defend U.S. national security against the continuing threat posed by Iraq” and to “enforce all relevant Security Council resolutions regarding Iraq.”
- The legal justification for attacking Iraq was that the Saddam Hussein regime was in breach of U.N. Security Council resolutions through its possession of weapons of mass destruction. As the world later learned, this justification had no basis in fact.

## How is the 2002 Iraq AUMF different from the 2001 AUMF?

- While the 2002 Iraq AUMF authorized force only against the Saddam Hussein regime, the *2001 AUMF* authorized force against all who “planned, authorized, committed, or aided the terrorist attacks

that occurred on September 11, 2001, or harbored such organizations or persons.” It is often referred to as the “*blank check*” for endless war.

- Members of Congress *intended* the 2001 AUMF to be tailored to target al Qaeda (who were responsible for the 9/11 attacks) and the Taliban (who harbored al Qaeda in Afghanistan). However, three presidents have used it to justify 41 operations in 19 countries by claiming that the 2001 AUMF applies to “associated forces” of al Qaeda and the Taliban—a term that appears nowhere in the law.

## **If the 2001 AUMF covers current conflicts, how is the 2002 Iraq AUMF being used now?**

- In 2014, the Obama administration *said* that “the Administration supports the repeal of the Iraq AUMF since it is no longer used for any U.S. Government activities.” However, the administration *later cited* the 2002 AUMF as an “alternative statutory basis” to the 2001 AUMF for its campaign against ISIS in Iraq, while maintaining that “our position on the 2002 AUMF hasn’t changed and we’d like to see it repealed.”
- The Trump administration reiterated this position, *claiming* in 2018 that the 2002 Iraq AUMF “reinforces” the authority to use force against ISIS in Iraq. But it also went further, asserting that the 2002 AUMF authorizes force to address both “threats to, or stemming from, Iraq” in “Syria or elsewhere.”
- In January 2020, the Trump administration *claimed* that the 2002 Iraq AUMF authorized its assassination of Iranian general Qassem Soleimani. This claim was *rejected* by legal scholars. Congress responded by passing the bipartisan *S.J. Res. 68*, under the War Powers Act that directed President Trump to terminate the use of force against Iran. President Trump subsequently vetoed the resolution.

## **Why should the 2002 Iraq AUMF be repealed?**

- **It’s not needed for existing operations.** Repeal would have no impact on the ability of the administration to continue current military operations. The administration admits it is only using the 2002 AUMF to reinforce its authority under the 2001 AUMF.
- **To prevent further abuse.** The Trump administration has already misused the 2002 Iraq AUMF to erroneously justify the assassination of an Iranian general, in a strike that *killed* 9 other people. The administration’s overbroad interpretation of the 2002 Iraq AUMF is deeply problematic and contrary to what Congress intended. Congress should remove the ability of the administration to further abuse the 2002 Iraq AUMF to justify unauthorized new wars.
- **It is no longer relevant.** The Saddam Hussein regime was overthrown in 2003 and a formal end to the U.S. mission in Iraq was declared at the end of 2011. The law that authorized this long over war should be repealed.