

War Powers Resolution Activist Guide

January 2022

The *War Powers Resolution of 1973*, otherwise known as the War Powers Act, is a federal law passed at the height of the Vietnam War. It was intended to provide a framework for **Congress's check on presidential power** to use military force without congressional consent. The War Powers Resolution has three main parts.

1. The President must get a **declaration of war** or specific authorization from Congress before sending troops overseas unless the United States or its armed forces are attacked
2. If the President initiates hostilities, these can **only last 60 days** and must then be terminated **unless Congress authorizes their continuation**
3. If there is no declaration of war or specific statutory authorization passed within 60 days, Congress can require the president to end U.S. participation in hostilities **at any time**

Any member of the House or Senate, regardless of committee assignment, can invoke section 5(c) of the War Powers Resolution and get **a full floor vote** on whether to require the president to **remove U.S. armed forces** from hostilities.

Under the procedural rules written into the War Powers Act, these bills receive a **special expedited status** that requires Congress to make a full floor vote within 15 legislative days of their introduction. This provision is especially useful because it allows members of Congress to **force important debates and votes** on the president's use of military force and Congressional war authority.

[Read the full bill text here.](#)



**About
Constitutional
War Authority**

Under Article 1 Section 8 of the Constitution, Congress, not the president, has the power to declare war. This cornerstone of our nation's founding document inspired James Madison to say, "In no part of the constitution 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."

The Founders felt that it was important to distinguish America from the British monarchy when it came to who could declare war. Wary of kings hastily engaging in war, often at the expense of their subjects, they entrusted Congress with this duty, ensuring the input of the American people in such a grave decision.

As Madison noted, "The constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it.

It has accordingly, with studied care, vested the question of war in the Legislature.”

While Congress has the power to declare war, according to Article II the President serves as the Commander in Chief, enabling him or her to conduct the wars once authorized by Congress. In addition, the President has a limited defensive power to use force to repel sudden attacks on the United States.

Before World War II, the executive and legislative branches, for the most part, acted in accordance with the constitutional division of war powers. The War of 1812, the Mexican American War, the Spanish American War, World War I, and World War II were all *declared by Congress*.

But *after World War II*, the executive branch began taking more liberties with the use of force. In 1950, President Truman went around

Congress and *invaded Korea*, calling it a “police action” and setting a dangerous precedent for future administrations.

In 1963, President Kennedy *sent military equipment* and advisors to South Vietnam. In 1969, President Nixon *began bombing Cambodia* in secret and without informing the American people.

This case of executive overreach by Nixon in Cambodia angered so many in Congress that they wrote and passed into law the *War Powers Act* on November 7, 1973, with a two-thirds majority overriding Nixon’s veto.



Watch this video to learn more about the history of the War Powers Act.

**What's at
Stake?**

Even with the War Powers Act written into law, the president and Congress have been at odds in regards to the proper division of war powers post-1973. U.S. presidents have consistently said that the War Powers Act is an *unconstitutional infringement* on the executive branch's powers.

President Reagan used the military *without congressional authorization* in Grenada. President George H.W. Bush did get authorization for the first Gulf War but asserted that he *did not need permission* from Congress to go to war.

Constitutional scholars have argued that Bush's 1989 invasion of Panama *did not comply* with the requirements under the War Powers Act and was not authorized by Congress, in accordance with Article I of the Constitution.

Similarly, in 1998 President Clinton sent troops to Kosovo to conduct *an extensive air campaign* without Congressional authorization.

One week after the attacks on September 11, 2001, Congress passed an *Authorization for the Use of Military Force* (AUMF) against the “nations, organizations, or persons” who planned, aided, or committed the attacks, as well as anyone who harbored those nations, organizations or persons.

This law paved the way for President George W. Bush and the three subsequent presidents to send U.S. forces not only to Afghanistan but also to Pakistan, Somalia, Syria, Yemen, and other nations as part of the War on Terror.

After more than two decades, the terror threats to the United States and its allies look very different from those at the time of the attacks on September 11.

According to the Department of Homeland Security, the vast majority of attempted terrorist attacks since 2011 have emanated from domestic groups rather than foreign ones.

The 2001 AUMF has been used as grounds for the use of military force against groups like the Islamic State of Iraq and Syria (ISIS), Al Qaeda, and Al Shabaab, despite the fact that these groups were formed many years after the attacks on September 11.

Many in Congress now support a sunset of the 2001 “War on Terror” AUMF and a repeal of the 2002 AUMF that authorized the war in Iraq. But while expressing the desire to repeal and replace these laws and end endless wars, the Biden administration has not articulated a coherent strategy that would actually do so.

The use of military force—both authorized and unauthorized—over the decades has cost Americans and humanity at large millions of lives and trillions of dollars. It has also contributed to the destabilization of multiple countries, an expanding refugee crisis, accelerating climate devastation, and the rise of new terror groups, all of which have made the United States and people around the globe less secure.

But Congress has the power to reassert its war authority and change this dynamic.

Find out more about the [costs of war](#).

**Historic Passage
of a War Powers
Resolution to End
U.S. Involvement
in the War in
Yemen**

In 2019, the U.S. Congress, led by Senators Bernie Sanders (VT), Mike Lee (UT), and Chris Murphy (CT), made history when it passed [S.J.Res.7](#), a War Powers Resolution to end U.S. military involvement in the Saudi-led coalition's war in Yemen.

It was the first War Powers Resolution to pass both chambers of Congress since the enactment of the War Powers Act in 1973.

This legislative effort built upon the Senate's passage of [S.J.Res.54](#), the first iteration of the Yemen War Powers Resolution, in December 2018.

Senate approval of S.J.Res. 54, even though it was not enacted, produced tangible results in the lives of millions of Yemenis.

The vote demonstrated to the U.S. administration and the Saudi-led coalition that the American people and their representatives wished to end U.S. involvement in the war.

This in turn increased U.S. leverage with Saudi Arabia and the Hadi government in Yemen to agree to a ceasefire. Shortly after the vote, former UN Special Envoy to Yemen Martin Griffith persuaded Hadi government officials and Houthi leaders to agree to a ceasefire in Hodeida Province, and to exchange 15,000 prisoners with the Saudi military.

Hodeida is one of the main ports of Yemen and is the supply line for aid to millions of Yemenis, who are suffering one of the world's worst humanitarian crises. The passage of this War Powers Resolution created leverage for peace talks, which resulted in an agreement that averted further deterioration and may have saved hundreds of thousands of Yemeni lives.

As a bipartisan coalition lobbied Congress to end U.S. complicity in the Saudi-led war and blockade, FCNL encountered many congressional offices that seemed unaware of the suffering of Yemenis.

Some believed they had no power to stop the war in Yemen or U.S. complicity in it. Many of these congressional offices had never thought critically about U.S. military support for the Yemen war because they hadn't been compelled to vote on it.

But each time Senators Sanders, Lee, and Murphy and Representatives Ro Khanna (CA-17), Mark Pocan (WI-02), Thomas Massie (KY-04), and Adam Smith (WA-09) used the War Powers Resolution to force votes on U.S. participation in the Saudi-led war in Yemen in 2017, 2018, and 2019, they inched closer to winning a majority until the measure finally passed both chambers of Congress on April 4, 2019.

The passage of the War Powers Act of 1973 was a major bipartisan achievement of the peace movement during the Vietnam War, and the historic passage of S.J.Res.7 in 2019 was the culmination of decades of bipartisan organizing.

Watch [Senator Menendez's floor speech](#) in support of the Yemen War Powers Resolution

**What's
Next?**

The passage of the Yemen War Powers Resolution in 2019 changed what was thought to be possible in Congress. The advocacy effort for this legislation mobilized hundreds of thousands of activists all over the country to win bipartisan majorities in the House and Senate. The resolution's passage pushed the United Arab Emirates (UAE)—a key Saudi partner in the war—to draw down its military forces in Yemen. It also spurred a reduction in cross-border attacks by the Saudis and Houthis, and revived negotiations between the warring parties.

Unfortunately, however, the message was clouded. President Trump *vetoed the resolution*, and the Senate sustained his veto. The House *passed a provision*, as part of the House-passed version of the FY2020 National Defense Authorization Act (NDAA), to end military assistance to the Saudis, but the provision was dropped in final negotiations with the Senate and did not make it into law.

Without a clear U.S. demand for an end to the war and a negotiated peace, Yemen in December 2020 suffered a breakdown in diplomacy, *an uptick in violence*, and a continuation of hostilities.

There have been several promising Yemen policy changes by the Biden administration, including a restoration of humanitarian aid to all parts of the country and a lifting of terror designations on the Houthis, which has allowed aid operations to continue without interruption.

On February 4, 2021, President Biden announced that the United States was *ending its support* for the Saudi-led coalition's offensive operations in Yemen, but important aspects of U.S. complicity remain.

These include ongoing maintenance and *intelligence sharing* for warplanes conducting airstrikes and *enforcing the blockade* on Yemen, as well as new arms sales to Saudi Arabia.

Such support allows Saudi forces to *evade accountability* for their grave human rights violations, including airstrikes targeting civilians and civilian infrastructure; prolongs one of the world's worst humanitarian crises; and provides political cover for the illegal blockade that is choking off the flow of humanitarian and commercial goods.

In 2022, FCNL will seek the enactment of a new Yemen War Powers Resolution to end ongoing U.S. complicity in one of the most devastating conflicts in modern history, which has killed hundreds of thousands and pushed millions more to the edge of famine.

After seven years of U.S.-enabled devastation, Yemen can't wait any longer.

Take Action

Urge your Members of Congress to introduce a Yemen War Powers Resolution to end all U.S. involvement in the Saudi-led war and blockade in Yemen, including weapons sales, aircraft maintenance, transfers of spare parts, and intelligence sharing.

- » Call on your members of Congress to introduce or support a new Yemen War Powers Resolution in 2022. Thank your legislators if they previously voted for S.J.Res.7.
- » Reach out to your representative and two senators to request a virtual or in-person meeting to discuss their position on U.S. military support for the Saudi-led war in Yemen.



Friends Committee
on National Legislation

www.fcni.org



quakerlobby



quakerlobby



fcni