June 20, 2017

Senator Bob Corker
United States Senate
425 Dirksen Senate Office Building
Washington, DC 20515

Senator Ben Cardin
United States Senate
509 Hart Senate Office Building
Washington, DC 20515

Re: Authorizing the Use of Military Force

Dear Chairman Corker and Ranking Member Cardin:

One of the most pressing global security challenges is the threat posed by the Islamic State of Iraq and al Sham (ISIS) to the United States and its allies. Candidate Trump argued that he had a secret plan to defeat ISIS and said his generals would provide a plan within 30 days of inauguration. Yet, over 150 days in, the Trump Administration has failed to articulate a coherent, unified strategy to deal with this threat. In fact, the Administration's current ISIS strategy lacks any sense of clarity and threatens to sink the U.S. further into a conflict that could squander our blood and treasure.

To avoid this outcome, Third Way believes Congress should use the need for a new Authorization for Use of Military Force (AUMF) to force the Administration to develop and articulate a clear strategy for dealing with ISIS without dragging the country into a broader conflict with the Syrian regime or the Russian Federation. Developing such a measure will ensure that the Administration has the statutory authority to fight ISIS. But most importantly, a new AUMF will give the American people, military, and Congress a greater sense of clarity as to the U.S.'s long-term goals in the conflict, helping to avoid mission creep and excessive U.S. entanglement in a potential quagmire.

Background

The Islamic State of Iraq and al Sham (ISIS), a violent extremist movement, grew out of the ashes of Al Qaeda in Iraq and the Syrian civil war. In 2014, the group shocked the world by seizing vast sections of Iraq and Syria and incorporating them into a self-declared state. It also engaged in a concerted campaign of war crimes and genocide against minorities in its captured territory.

At the request of the Iraqi government, President Obama sent over 1,500 military advisors into Iraq and conducted over 150 airstrikes there to break ISIS's momentum, protect U.S. personnel, and save thousands of Iraqi religious minorities. On September 10, 2014, President Obama announced a four-part plan for an expanded effort against ISIS. This plan included: (1) a systematic campaign of airstrikes; (2) increased military assistance to forces on the ground; (3) a regional political effort to work with allies; and (4) humanitarian assistance to populations targeted by ISIS.

At the time, the President welcomed Congressional support for this effort and affirmed "we are strongest as a nation when the President and Congress act together." However, despite the President's openness to legislative action, Congress never passed a measure authorizing operations against ISIS.

Since 2014, the U.S. has continued the campaign that President Obama launched against ISIS, with more than 7,000 troops currently deployed in Iraq and Syria[1] and 17,632 air strikes having been conducted.[2] This involvement has only increased under the Trump Administration, which recently announced its plans to "accelerate" the conflict and grant U.S. commanders more flexibility in conducting anti-ISIS operations.[3] Further, the Trump Administration is reportedly deploying an additional 3,000 to 5,000 troops to Afghanistan to combat ISIS elements and other militants in that country.[4]

The conflict in Syria has become more perilous recently, as ISIS has been driven from its strongholds and clings to a few last cities. ISIS's reduced land holdings mean that the various forces combatting it, many with conflicting agendas, are now fighting in relatively close quarters, raising the possibility of conflict escalation. Nowhere is such a risk more clear than in Deir ez-Zor, one of the last strongholds of ISIS in Syria. There, the proximity of Kurdish and U.S.-supported forces to those of the Syrian regime and its Russian and Iranian supporters, not to mention ISIS militants, creates a proverbial powder keg that could easily erupt into broader conflict. Recent Iranian strikes against U.S.-backed groups in the area and the downing of a Syrian jet by U.S. forces further warn of the potential for broader conflict.

Given the increasing involvement of U.S. forces in the fight against ISIS, and the risk of escalation, now is the time for Congress to consider and pass legislation that provides necessary tailored authorization for the nation's effort against ISIS.

1. Left unchecked, ISIS will continue to threaten the U.S. and its allies

As of December 2016, ISIS controlled around 23,300 square miles of territory in Iraq and Syria (an area roughly the size of West Virginia) and had 12,000 to 15,000 battle-ready fighters.[5] Although these numbers are a substantial decrease from 2014 levels, they represent an entity with an established presence that can be used to project violence against civilians abroad.

ISIS can export violence abroad because, despite recent setbacks, it still commands substantial resources. Although U.S. airstrikes destroyed around $500 million of ISIS's cash reserves in early 2016, the group still has vast amounts of capital.[6] Recent reporting from the British organization Conflict Armament Research reveals that ISIS has been manufacturing tens of thousands of weapons on "an industrial scale."[7] ISIS has also begun developing and using weaponized drones,

[1] http://www.cbsnews.com/news/trump-gives-pentagon-power-to-determine-u-s-troop-levels-in-iraq-syria/
[2] https://www.defense.gov/News/Special-Reports/0814_Inherent-Resolve/
[3] https://www.theguardian.com/us-news/2017/may/28/james-mattis-defense-secretary-us-isis-annihilation
[4] https://www.nytimes.com/2017/06/18/world/asia/us-troops-afghanistan-trump.html
[5] http://www.bbc.com/news/world-middle-east-27838034; http://www.cnn.com/2016/12/14/politics/white-house-isis-numbers/index.html
[6] http://abcnews.go.com/International/us-airstrikes-destroy-500-million-isis-cash-reserves/story?id=37010061
[7] http://www.independent.co.uk/news/world/middle-east/isis-islamic-state-weapons-manufacturing-rockets-bombs-ammunition-iraq-factories-mosul-mortars-a7473321.html

and it likely still possesses many of the Soviet-made tanks, U.S.-made armored vehicles, and small arms that it has captured from Syrian and Iraqi government forces.[8]

That ISIS will keep threatening civilians abroad can be readily inferred from its lack of restraint in dealing with civilians in its territory. Its fighters have slaughtered, kidnapped, and enslaved members of ethnic and religious minorities, subjecting them to barbaric punishments like crucifixion and immolation. Further, it has trumpeted the beheadings of two American journalists, James Foley and Steven Sotloff, American aid worker Abdul-Rahman Kassig, Japanese nationals Haruna Yukawa and Kenji Goto, and British aid worker David Haines.

Recent attacks and revelations lend further credence to the assertion that ISIS will continue threatening the U.S. and Europe. Individuals directed, inspired, or enabled by ISIS have conducted terrorist attacks in locations as far-flung as Orlando, San Bernardino, Paris, and Berlin. Intelligence sources also believe that ISIS is currently developing "laptop bombs" which could target the U.S. and Europe by evading airport security screenings. This threat is only compounded by the fact that many of ISIS's fighters have European or American passports, making it easier for them to return home to conduct terrorist operations.

In order to stop this threat, Congress should pass an Authorization for the Use of Military Force (AUMF) against ISIS as part of a broader political plan for Iraq and Syria. But in doing so, Congress must act strategically and deliberately.

2. Because defeating ISIS will be a difficult, long-term effort, it is incumbent on Congress to pass a new Authorization for the Use of Military Force

In his September 10, 2014 remarks, President Obama asserted that he had all the authority he needed to attack ISIS under the 2001 AUMF and Article II of the Constitution. President Trump has also relied on the 2001 AUMF as justification for his operations against ISIS. However, some legal experts have raised concerns about relying on the 2001 AUMF, as ISIS is not an associated force of al Qaeda and did not exist at the time that authorization was passed.

Whether one believes that the President currently has full authority, limited authority, or no authority to act against ISIS, Congress should provide a new, specific AUMF against ISIS. In fact, President Obama welcomed such an action and asked Congress to update the AUMF to address emerging terrorist threats. More recently, Secretary of Defense Jim Mattis also expressed his support for Congress passing a new AUMF. Yet despite such executive branch support, Congress has done almost nothing to enact a new authorization.

Although Congress has refrained from passing a new AUMF over the last three years, Congress should now make passing one a priority for three primary reasons:

1. The campaign against ISIS will not be over quickly. We will have victories and suffer setbacks. Before our military commits more troops and resources to a sustained and difficult conflict, America's leaders should reach consensus about the need to send our troops into harm's way.

[8] http://www.independent.co.uk/news/world/middle-east/isis-weapons-drones-uav-programme-development-weaponised-explosives-surveillance-terrorist-groups-a7371491.html; http://www.dailysabah.com/mideast/2014/07/03/isiss-weapon-inventory-grows

2. Congress will have to repeatedly make decisions about action against ISIS, from funding the military, to reprogramming existing funds, to explaining the campaign to their constituents. Members of Congress should be on record with their position on a war of this magnitude.
3. The President's efforts to strengthen the international coalition to defeat ISIS will be enhanced if Congress has clearly shown its support for this action. Currently, U.S. allies may question the nation's commitment to fighting ISIS, given divisions within Congress. However, Congressional authorization would assuage such concerns and ensure a more robust approach to fighting terrorism.

3. Congress should pass a new, tailored authorization as part of a broader political and military plan to degrade and ultimately destroy ISIS.

Congress should assert its authority as a co-equal branch of government to debate and vote on plans for war and, through authorizations and appropriations legislation, define and clarify the scope and limits of what is certain to be an extended military campaign.

At the same time, Congress must avoid the mistakes of the past and pass an authorization that clearly defines the scope and limits of anti-ISIS action. Third Way recommends that Congress focus on the following parameters:

- Specificity: The authorization should be limited to ISIS and should not be used to justify going after a wider range of terrorist groups.

- Geographic limits: The authorization should be limited to areas where there are active ISIS-involved armed conflicts. Congress should not authorize military action everywhere, but only where necessary to defeat ISIS on the battlefield.

- Avoiding a ground war: The authorization should specify that no ground troops are to be used in direct combat operations. If a President were to deem it necessary to send ground troops, the Administration should be required to return to Congress for further authorization.

- Reporting requirements: At regular intervals, the Administration should be required to report to Congress on the broader political, military and humanitarian plan for the military campaign, including the legal rationale for such action.

- Expiration: The authorization should expire so that each session of Congress would vote on authorizing continued action—every 18 months or two years.

When drafting a new AUMF, lawmakers should be cognizant of some thorny questions, foremost among them, "What should be the scope and end goal of U.S. involvement in Syria?" Because the United States has the consent of the Iraqi government, strikes in that country are clearly in keeping with international law. But in Syria, strikes or support of opposition forces against ISIS could metastasize into conflict with Russia, Iran, the Assad regime, or anti-Western forces battling Assad. Therefore, before giving the Administration the go-ahead to continue intervening in Syria, Congress should press the President to clearly define a long-term strategy for U.S. military involvement. Specifically, Congress should condition a Syria-oriented AUMF on the Administration articulating its stance on whether Assad should remain in power, whether it envisions a partitioned Syria, and

how it proposes to manage tensions between Syria's multiple ethnic groups and between Syrian Kurds and Turkey.

Conclusion

ISIS is a barbaric terrorist group. Its growth and recent actions have made it a paramount threat to our allies, our people in the region, and the U.S. homeland. President Obama was right to strike ISIS and then present a plan to combat them, and President Trump is right to continue Obama's campaign against the group. However, before immersing U.S. troops further in the conflict, Congress should pass legislation further specifying and defining the goals and extent of continued military action.

All too often since the invasion of Iraq, U.S. policy has been shaped by a pursuit of means, not ends. This lack of clearly defined objectives—regional, national, and local—has hamstrung the effective implementation of policies in the Middle East. Given this history, future military action must come in the context of a broader political strategy that addresses the underlying drivers behind the growth of ISIS. Lawmakers should work to clearly define such strategic ends and political objectives while providing a tailored authorization for military force.