



American ideals. Universal values.

January 21, 2015

The Honorable Barack Obama
President of the United States
White House
1600 Pennsylvania Ave., N.W.
Washington, D.C. 20500

Dear President Obama:

We welcome your decision to work with Congress on a new Authorization for the Use of Military Force (AUMF) to address the threat posed by the Islamic State of Iraq and the Levant (ISIL). We urge you to use this opportunity to “lead wisely”¹ and tailor war-making authorities to the threats our country currently faces. As you have noted, security threats have evolved since 9/11, and “[u]nless we discipline our thinking and our actions, we may be drawn into more wars we don’t need to fight, or continue to grant Presidents unbound powers more suited for traditional armed conflicts between nation states.”² When the United States must go to war, it should be clear with whom, why, and to what end. The current conflict with ISIL provides the opportunity to take two important steps to move in this direction: (1) secure an AUMF specific to the threat posed by and the armed conflict with ISIL and (2) establish a sunset date for the 2001 AUMF against al Qaeda.

Specifically, we recommend that any new AUMF should:

Be ISIL-specific and not extend to unknown or unnamed organizations. Other groups claiming affiliation or allegiance to ISIL should only be included if they are engaged in the armed conflict. Failure to limit war authorities in this way reinforces the “global war on terror” frame that has served as a useful recruiting narrative for terrorist groups. If there is an imminent threat posed by persons or groups not covered by the AUMF, you have the authority under international law and Article II of the Constitution to use force in self-defense.

Include mission objectives and a sunset date. The 2001 AUMF failed to include mission objectives or a sunset date, and policymakers and legal experts from both sides of the aisle agree that it has been stretched well beyond its original purpose, which was to authorize force against those responsible for the 9/11 attacks. Including objectives in an ISIL-specific AUMF would ensure that the executive and legislative branches are in agreement on the circumstances under which the authorization expires – when the objectives have been met. A sunset date would

¹ President Barack Obama, Remarks by the President in State of the Union Address (January 20, 2015), *available at* <http://www.whitehouse.gov/the-press-office/2015/01/20/remarks-president-state-union-address-january-20-2015>.

² President Barack Obama, Remarks by the President at the Nat’l Def. Univ. (May 23, 2013), *available at* <http://www.whitehouse.gov/the-press-office/2013/05/23/remarks-president-national-defense-university>.

ensure that Congress remains engaged to review the scope and terms of the AUMF should it need to be renewed.

Require regular reports on civilian casualties, the groups and entities covered under the AUMF, and the legality of sensitive uses of force such as targeted killing operations. Such reporting would ensure transparency with the American people and encourage healthy debate on how best to meet current security challenges. It would also communicate to the world the priority the United States places on protection of civilians in armed conflict and respect for human rights.

Sunset the 2001 AUMF. Continued reliance on the 2001 AUMF for a wide range of operations has fostered confusion and the impression that the United States is engaged in a “global war on terror.” Sunsetting the 2001 AUMF would ensure that Congress and the administration eventually come together to debate and agree on the appropriate scope of war authorities to fight core al Qaeda and its so-called “associated forces.” Depending on the facts on the ground at the sunset date, the executive and legislative branches may let the 2001 AUMF expire, or may modify it to meet the existing threat. We urge you to seize the opportunity presented by an ISIL AUMF to take this important step towards your goal of moving the nation away from a permanent war footing.

These principles reflect a consensus that has emerged among top national security law experts with substantial government experience in both Democratic and Republican administrations.³ They are also reflected in the ISIL AUMF passed by the Senate Foreign Relations Committee in December 2014.⁴ Requesting an authorization from Congress along these lines would not only provide a framework for the United States to successfully counter the threat posed by ISIL, but would also reinforce human rights and the rule of law, strengthening U.S. global legitimacy and leadership.

Thank you for your consideration of these recommendations. We would be pleased to meet with you or your staff to discuss this issue.

Respectfully,



Elisa Massimino
President and CEO

³ Harold Koh, et. al., Principles to Guide Congressional Authorization of the Continued Use of Force Against ISIL (Nov. 10, 2014) available at <http://justsecurity.org/17257/aumf-principles/>; Jack Goldsmith, Ryan Goodman, & Steve Vladeck, Five principles that should govern any U.S. authorization of force, *Washington Post* (November 14, 2014) available at http://www.washingtonpost.com/opinions/five-principles-that-should-govern-any-us-authorization-of-force/2014/11/14/6e278a2c-6c07-11e4-a31c-77759fc1eacc_story.html.

⁴ Authorization for the Use of Military Force against the Islamic State of Iraq and the Levant, S.J. Res. __, 113th Cong. (2014) available at <http://www.lawfareblog.com/wp-content/uploads/2014/12/ISIL-AUMF-As-Reported.pdf>.

CC: The Honorable John Kerry, Secretary of State
The Honorable Chuck Hagel, Secretary of Defense
The Honorable Eric H. Holder Jr., Attorney General of the United States
The Honorable James R. Clapper, Director of National Intelligence
The Honorable John O. Brennan, Director, Central Intelligence Agency
Ambassador Susan E. Rice, National Security Advisor to the President
The Honorable Lisa O. Monaco, Assistant to the President for Homeland Security and Counterterrorism
Mr. Stephen Pomper, Senior Director for Multilateral Affairs and Human Rights,
National Security Council