

**The 2001 Authorization for Use of Military Force:  
A Comprehensive Look at Where and How it Has Been Used**

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**SUMMARY:** U.S. presidents have cited the 2001 Authorization for Use of Military Force (AUMF) to justify an unknown number of military operations, including airstrikes, combat, detention, and supporting partner militaries, in at least 22 countries. This paper provides a country-by-country overview of public information about the citations of the 2001 AUMF and details several instances of counterterrorism combat, airstrikes, and “imminent hostilities” that the executive branch did not report on to Congress or cite in relation to the AUMF. Presidents justified some of these operations through other authorities (see below).

**Airstrikes and operations:**

<b>Afghanistan (2001-2021)</b>
<b>Djibouti (2002-2010, 2015-2021)</b>
<b>Iraq (2004-2009, 2014-2021)</b>
<b>Libya (2013, 2015-2019)</b>
<b>Pakistan (2003)</b>
<b>Somalia (2007, 2012-2021)</b>
<b>Syria (2014-2019)</b>
<b>Yemen (2002-2006, 2012-2021)</b>

**Detention:**

<b>Cuba (2002-2021)</b>
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**“Support” for counterterrorism partners:**

<b>Cameroon (2017-2019)</b>
<b>Chad (2017-2019)</b>
<b>Eritrea (2004-2005)</b>
<b>Ethiopia (2004-2005)</b>
<b>Georgia (2002-2004)</b>
<b>Kenya (2004-2005, 2017-2021)</b>
<b>Kosovo (2007)</b>
<b>Jordan (2016-2021)</b>
<b>Lebanon (2017-2021)</b>
<b>Niger (2017-2021)</b>
<b>Nigeria (2017-2019)</b>
<b>Philippines (2002-2003, 2017-2021)</b>
<b>Turkey (2015-2021)</b>

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**Countries where the U.S. combatted militants, but the executive branch failed to report these actions to Congress or cite the 2001 AUMF:**

**Mali:** Investigative journalists revealed incidents in which U.S. forces engaged in active hostilities in 2015, 2017, and 2018, and imminent hostilities in 2019. (Two administrations did refer to providing “CT support” in the Sahel Region, where Mali is.)

**Tunisia:** Although evidence strongly suggests that the U.S. military engaged in ground combat against militants in Tunisia in 2017, the Trump administration never publicly cited the AUMF to justify operations in that country.

**Other authorities that presidents cited to justify military operations:**

**Joint Combined Exchange Trainings (JCETs):** Carried out under Title 10 of the U.S. Code (1991), JCETs officially involve partner government forces training U.S. special operations forces, but there is little government transparency about or oversight of this program, and experts suggest the program is also meant to allow the U.S. to assist foreign partners. JCETs are regularly conducted with foreign militaries implicated in widespread atrocities.

**127(e):** Also conducted under Title 10, this authority allows the U.S. military to use local troops as surrogates in raids and other attacks on militants. The executive branch has consistently failed to report on the introduction of U.S. service members into imminent hostilities in countries with active programs under 127e. Investigative journalists have documented 127e programs in Mali, Tunisia, Cameroon, Kenya, Libya, Niger, Nigeria, and Mauritania. Of these, Mauritania, like Mali and Tunisia, has never been mentioned in presidential AUMF citations. There is little government transparency about or oversight of this program; there are likely 127e programs in additional countries beyond those eight.

**Article II:** The executive branch in several instances relied on the “Commander-in-Chief” provision in Article II of the constitution to use force abroad without mentioning counterterrorism goals or referencing the 2001 AUMF.

**2002 AUMF:** Congress passed another Authorization for Use of Military Force in October 2002 to authorize then-President Bush to carry out the Iraq War. Since then, the executive branch has referenced the 2002 AUMF to authorize combat and airstrikes against militants in Iraq and Syria.

**Section 1202:** First introduced in the 2018 National Defense Authorization Act (NDAA), Section 1202 authority is “used to provide support to foreign forces, irregular forces, groups, or individuals.” This authority is most likely focused on peer competitors such as China and Russia and not on counterterrorism operations.

## Background

Just days after the 9/11 attacks on the United States, the U.S. Congress passed the 2001 Authorization for Use of Military Force (AUMF). Section 2(a) of the 2001 AUMF authorizes the President “to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States.” Under this AUMF, Congress relinquished its constitutionally assigned war powers in the fight against “terrorism,” ceding to the president its responsibility to decide whether, when, and where the United States chooses war.<sup>2</sup> The 2001 AUMF is still in effect today.

The president must report to Congress within 48 hours a situation in which U.S. forces are introduced into “hostilities” or “imminent hostilities.”<sup>3</sup> This is mandated by the 1973 War Powers Resolution, established by Congress in the final stages of the Vietnam War to forestall any president from taking the country to war without congressional authorization or awareness. Since the passing of the 2001 AUMF, the Bush, Obama, Trump, and Biden administrations have referenced this authorization in their reporting to Congress on U.S. military hostilities in a growing number of countries to fight a growing number of militant groups, including Al Qaeda and other groups that government officials subsequently identified as arising from it, including the Islamic State of Iraq and Syria (ISIS) and al-Shabaab in Somalia. All four administrations have cited the 2001 AUMF while using vague language to describe the locations of operations, failing to accurately describe the full scope of activities in many places, and in some cases simply failing to report on counterterrorism hostilities.

This paper draws on information from the Congressional Research Service, “Presidential References to the 2001 Authorization for Use of Military Force in Publicly Available Executive Actions and Reports to Congress,” updated through August 6, 2021. It also draws on the author’s research for the map, “[United States Counterterrorism Operations, 2018-2020](#),” as well as additional journalistic and government sources.<sup>4</sup> That map lists a total of at least 85 countries where the U.S. government undertook counterterrorism operations between 2018 and 2020. The majority of these 85 countries were recipients of U.S. “training” or “assistance” in counterterrorism, some of which is

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<sup>2</sup> For more see: Brandon-Smith, Heather. (2021, February 10). “The President’s War Powers: Article II War Powers and the Authorizations for Use of Military Force.” *FCNL*. <https://www.fcnl.org/warpowers>.

<sup>3</sup> The executive branch interprets “hostilities” narrowly, as exchanges of fire between U.S. and enemy forces. But according to the Congressional Research Service, “The legislative history of the War Powers Resolution refers to hostilities as also including ‘a state of confrontation in which no shots have been fired but where there is a clear and present danger of armed conflict,’ and that imminent hostilities means ‘a situation in which there is a clear potential either for such a state of confrontation or for actual armed conflict.’” See: *The War Powers Resolution: Concepts and Practice*. (2019, March 9). Congressional Research Service. <https://sgp.fas.org/crs/natsec/R42699.pdf>.

<sup>4</sup> Savell, Stephanie. 2020. United States Counterterrorism Operations, 2018-2020. Costs of War Project, Watson Institute for International and Public Affairs, Brown University. <https://watson.brown.edu/costsofwar/files/cow/imce/papers/2021/US%20Counterterrorism%20Operations%202018-2020%2C%20Costs%20of%20War.pdf>.

carried out by departments other than the defense department. Beyond AUMF notifications of “support” for partner militaries, additional training and assistance operations are therefore not covered in this paper. Also included in the 85 total but excluded from this paper are at least 41 countries where the U.S. carried out formal military exercises in the name of counterterrorism, since those do not require Congressional oversight. Where this paper overlaps with the map is in reporting on airstrikes and combat, which are hostilities that require executive branch reporting in compliance with the War Powers Resolution.

### **Military Activity Publicly Justified Under the 2001 AUMF: Countries and Operations**

This section fleshes out the table on page 1 of this paper with further detail on the 22 countries where publicly available executive actions and presidential reporting to Congress have referenced the 2001 AUMF in connection with initiating or continuing an unknown number of military operations such as airstrikes, combat, detentions, and supporting partner militaries. Cited language is from the most recent notification in 2021.

This section also lays out the inadequacies of those citations. Countries marked with an *asterix\** are those where U.S. executive branch citations of the 2001 AUMF have not fully reported on all U.S. operations. Explanations are found in the footnotes.

#### AUMF references to airstrikes and operations:

- Afghanistan (2001-2021): “Reorganizing U.S. capabilities to address threats from inside Afghanistan post-withdrawal.”<sup>5</sup>
- Djibouti (2002-2010; 2015-2021): “Coordinate CT operations in Horn of Africa and the Arabian Peninsula.”
- Iraq: (2004-2009, 2014-2021): “Airstrikes and other necessary actions against the Islamic State of Iraq and Syria (ISIS).”
- *Libya\** (2013, 2015-2019): “Airstrikes against ISIS.”<sup>6</sup>
- *Pakistan\** (2003): “Training missions and combat operations with Pakistani special forces are ongoing near the Afghan/Pakistan border.”<sup>7</sup>

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<sup>5</sup> In 2020 and prior years, the notification regarding Afghanistan read, “Conduct and support counterterrorism operations against Al Qaeda and others,” or something similar.

<sup>6</sup> In 2011 and 2012, the Obama administration argued that that U.S. combat and airstrikes that occurred in Libya did not constitute “hostilities” and thus did not require AUMF citation. In 2013, the Obama administration said that, “U.S. armed forces captured member of Al Qaeda in Libya,” but made no reference to airstrikes that same year. See *Use of military force authorization language in the 2001 AUMF*. (2018, February 16). Congressional Research Service. <https://sgp.fas.org/crs/natsec/pres-aumf.pdf>. For a record of these airstrikes, see: New America. (n.d.). *America’s counterterrorism wars*. <https://www.newamerica.org/international-security/reports/americas-counterterrorism-wars/the-war-in-libya>. Additionally, the Trump administration did not acknowledge the possibility of combat, or imminent hostilities, through an active 127e program beginning at least in 2017.

<sup>7</sup> Specific references to operations in Pakistan are a striking omission from most executive branch citations of the 2001 AUMF. The CRS document “Presidential References to the 2001 Authorization for Use of Military Force in Publicly Available Executive Actions and Reports to Congress,” failed to capture this reference to Pakistan by President Bush on March 20, 2003, which can be found here: *Letter to Congressional leaders reporting on United States efforts in the Global War on Terrorism*. The American Presidency Project. (2003,

- *Somalia\** (2007, 2012-2021): “U.S. military conducting strikes against al-Shabaab and prepared to strike ISIS in Somalia.”<sup>8</sup>
- Syria (2014-2019): “Airstrikes and other necessary actions against ISIS and against Al Qaeda.”
- *Yemen\** (2002-2006, 2012-2021): “Direct military action against Al Qaeda in the Arabian Peninsula and ISIS.”<sup>9</sup>

AUMF references to “detention”:

- Cuba (2002-2021): “Secure detention operations in Guantanamo Bay.”

AUMF references to “support” for counterterrorism (CT) operations:

- *Cameroon\** (2017-2019): “Support CT operations.”<sup>10</sup>

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March 20). <https://www.presidency.ucsb.edu/documents/letter-congressional-leaders-reporting-united-states-efforts-the-global-war-terrorism>. Though U.S. combat and/or airstrikes occurred in Pakistan every single year between 2002 and 2018, and government officials referred to Afghanistan and Pakistan as part of the same war theater (AfPak), the executive branch for the most part failed to report specifically on actions in Pakistan in citing the 2001 AUMF. Instead, the executive branch referred to regions which presumably include Pakistan. For example, between 2001-2003, the Bush administration notified Congress of “Central and Pacific Command deployments.” The Obama administration continued with this type of vague language, never mentioning Pakistan in particular but stating in 2012 that, “In furtherance of U.S. efforts against members of al-Qa’ida, the Taliban, and associated forces, the United States continues to work with partners around the globe, with a particular focus on the U.S. Central Command’s area of responsibility.” See: National Archives and Records Administration. (2012, June 15). *Letter from the President -- Concerning Niger*.

<https://obamawhitehouse.archives.gov/the-press-office/2013/02/22/letter-president-concerning-niger>.

<sup>8</sup> The Bush administration failed to cite the AUMF in reference to airstrikes and ground raids that took place in Somalia in 2003-2004 and 2008. See: <https://www.newamerica.org/international-security/reports/americas-counterterrorism-wars/the-war-in-somalia/>. The U.S. Department of State designated al-Shabaab a “Foreign Terrorist Organization” in 2008, but the Obama administration failed to cite the AUMF in reference to Somalia in 2009, when U.S. special operations forces conducted a raid and killed a militant leader there. See: Gettleman, J., & Schmitt, E. (2009, September 14). *U.S. kills Top Qaeda militant in southern Somalia*. The New York Times. <https://www.nytimes.com/2009/09/15/world/africa/15raid.html>. The Obama administration again failed to cite the AUMF in 2011, when U.S. forces captured another Somali militant and the U.S. conducted airstrikes on militant targets in Somalia. See: New America. (n.d.). *The War in Somalia*. <https://www.newamerica.org/international-security/reports/americas-counterterrorism-wars/the-war-in-somalia/>. In 2016, the Obama administration expanded the legal scope of the 2001 AUMF by stretching it to include al-Shabaab.

<sup>9</sup> The Obama administration failed to cite the AUMF in reference to U.S. airstrikes on militants in Yemen in 2009, 2010, and 2011. See: New America. (n.d.) *The War in Yemen*. <https://www.newamerica.org/international-security/reports/americas-counterterrorism-wars/the-war-in-yemen>. When the Obama administration did begin referencing Yemen in AUMF reporting to Congress in 2012, that administration used vague language, citing “cooperation with Yemeni government and direct military action in Yemen against Al Qaeda in the Arabian Peninsula (AQAP)” rather than specifically mentioning airstrikes or ground raids, though these were ongoing through the rest of that administration. *Use of military force authorization language in the 2001 AUMF*. (2018, February 16). Congressional Research Service. <https://sgp.fas.org/crs/natsec/pres-aumf.pdf>.

<sup>10</sup> The Trump administration acknowledged U.S. troop “deployments” in 2017-2019 in Cameroon to “support CT operations” but made no reference to imminent hostilities through an active 127e program beginning at least in 2017.

- Chad (2017-2019): “Support CT operations.”
- Eritrea (2004-2005): “Enhance counterterrorism capabilities.”
- Ethiopia (2004-2005): “Enhance counterterrorism capabilities.”
- Georgia (2002-2004): “Foreign military training and equipping.”
- *Kenya\** (2004-2005, 2017-2021): “Support CT operations for East Africa.”<sup>11</sup>
- Kosovo (2007): The Bush administration included a reference to the U.S. deployment under NATO’s Kosovo Force (KFOR) in the “anti-terror” section of the notification to Congress.
- Jordan (2016-2021): “Support counter-ISIS operations.”
- Lebanon (2017-2021): “Support Lebanese CT operations.”
- *Niger\** (2017-2021): “Troops deployed; providing intelligence, surveillance, and reconnaissance support to African and European partners conducting CT operations.”<sup>12</sup>
- *Nigeria\** (2017-2019): “Support CT operations.”<sup>13</sup>
- Philippines (2002-2003, 2017-2021): “Support Philippine CT operations.”
- Turkey (2015-2021): “Deployment of combat aircraft and personnel for anti-ISIS strikes.”<sup>14</sup>

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<sup>11</sup> The Trump and Biden administrations acknowledged U.S. troop “deployments” in 2017-2021 in Kenya to “support CT operations” but made no reference to imminent hostilities through an active 127e program beginning at least in 2017, nor to a combat incident in January 2020, when Al Shabaab militants attacked a U.S. military base in Manda Bay, Kenya and killed three Americans, one Army soldier and two Pentagon contractors. U.S. forces engaged in counterfire and killed five Al Shabaab attackers.

<sup>12</sup> The Trump and Biden administrations specified U.S. troop “deployments” in 2017-2021 in Niger for “intelligence, surveillance, and reconnaissance” and “CT support.” However, the Trump administration only cited the AUMF in relation to Niger retrospectively, to cover an attack on U.S. personnel in 2017 that killed four service members. The 2017 citation did not mention that the attack happened as a result of an intended U.S. raid. Furthermore, the executive branch has made no reference to imminent hostilities through active 127e programs beginning at least in 2017. For more on the questionable compliance of the Trump administration with War Powers Resolution reporting requirements in Niger, see: *The War Powers Resolution: Concepts and Practice*. (2019, March 8). Congressional Research Service. <https://sgp.fas.org/crs/natsec/R42699.pdf>. The Obama administration did notify Congress of troop deployments to Niger as early as 2013, but without citing the 2001 AUMF. President Obama specified this deployment was for “intelligence collection” and “intelligence sharing” and made no reference to counterterrorism or the 2001 AUMF. National Archives and Records Administration. (2012, June 15). *Letter from the President -- Concerning Niger*. <https://obamawhitehouse.archives.gov/the-press-office/2013/02/22/letter-president-concerning-niger>.

<sup>13</sup> The Trump administration acknowledged U.S. troop “deployments” to Nigeria in 2017-2019 to “support CT operations,” but failed to cite the AUMF in reference to Nigeria in 2020, when U.S. Special Forces, including Navy SEALs, rescued an American citizen, Philip Walton, who militants had abducted from his home in Niger and taken to neighboring Nigeria. Investigative reporters believe that U.S. troops engaged in combat and killed several of the captors who abducted Mr. Walton. *The Guardian* cited “a deepening security crisis” in Nigeria “as groups with links to al-Qaeda and the Islamic State carry out attacks on the army and civilians.” See: Guardian News and Media. (2020, October 31). *US Special Forces Rescue abducted American in Nigeria, officials say*. The Guardian. <https://www.theguardian.com/us-news/2020/oct/31/us-military-rescue-niger-nigeria>.

<sup>14</sup> Though the executive branch’s language is ambiguous, the U.S. has not conducted post-9/11 airstrikes against militants within Turkey itself, which is why this paper lists Turkey in the “support” category.

## **Inadequacies in 2001 AUMF Citations**

Executive branch reporting to Congress in reference to the 2001 AUMF often employs vague language and covers an unspecified number of operations in each country. In many cases the executive branch inadequately described the full scope of U.S. actions. For example, in 2013 the Obama administration reported that in Libya, “U.S. armed forces captured a member of Al Qaeda,” referring to accused al-Qaeda operative Abu Anas al-Libi, but made no reference to a continued U.S. airstrike campaign, even though the U.S. conducted three strikes against militants in Libya that same year, according to the watchdog group New America. See the footnotes above for further examples of such omissions in regards to many countries.

In other cases, the executive branch reported on “support for CT operations,” but did not acknowledge that troops were or could be involved in hostilities with militants. For example, in Niger in 2017, four U.S. service members were killed in an ambush as they attempted to carry out a raid on a militant compound, but President Trump cited the AUMF only after this incident came to light. Another example is the citation of “support” for CT operations in Kenya but failure to acknowledge a combat incident in January 2020, when Al Shabaab militants attacked a U.S. military base in Manda Bay and killed three Americans, including one Army soldier and two Pentagon contractors. U.S. forces engaged in counterfire and killed five Al Shabaab attackers. Some experts have argued that the executive branch’s failure to adequately warn Congress that the U.S. could be “sliding towards conflict in a number of African countries” is a failure of the executive branch to comply with the War Powers Resolution.<sup>15</sup>

It is important to note that much of the executive branch’s reporting lacks geographic specificity. The 2001 AUMF has often been used to justify operations in regions rather than countries, for example, “Maritime interception operations on the high seas in the areas of responsibility of all of the geographic combatant commanders.” Similarly, reporting has specified, “Deployments to enhance counterterrorism capabilities of ‘friends and allies,’” which could cover military training, arms sales, security sector assistance, intelligence operations, and/or other operations in any number of places.

## **Failures to Cite the 2001 AUMF**

In Mali and Tunisia, the U.S. has conducted air strikes and/or been involved in combat with militants, but the executive branch has not reported on these actions to Congress and failed to cite the 2001 AUMF. Each of these cases is described in depth below. Mali and Tunisia, along with other countries, are locations of authorized 127e programs. The executive branch has consistently failed to report on the introduction of U.S. service members into imminent hostilities in countries with active programs under 127e, a U.S. legal authority that allows special operations forces to plan and control missions,

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<sup>15</sup> Finucane, Brian. 2021, October 4. “Failure to Warn: War Powers Reporting and the ‘War on Terror’ in Africa.” *Just Security*. <https://www.justsecurity.org/78450/failure-to-warn-war-powers-reporting-and-the-war-on-terror-in-africa/>

remaining in charge of rather than at the side of the African counterparts they are ostensibly advising and assisting. In other words, rather than U.S. forces assisting these foreign military units with their own counterterrorism objectives, U.S. service members use them as surrogates: they lead these units, determine their goals, and participate in their raids against people they suspect of terrorist activity. Unofficially, U.S. officials have admitted that, “If you’re deployed under this combating terrorism authority, 127e, that’s probably combat.”<sup>16</sup>

In addition to Mali and Tunisia, investigative journalists have also documented 127e programs in Cameroon, Kenya, Libya, Niger, Nigeria, and Mauritania.<sup>17</sup> Of these, Mauritania, like Mali and Tunisia, has never been cited in reference to the 2001 AUMF. While it is unclear when the 127e program began in Mauritania, that country has since ended its partnership in the program, which was “longstanding.” According to retired Brig. Gen. Donald Bolduc, commander of numerous U.S. special operations forces in Africa through June 2017, “The host country has to understand what they signed up for, and Mauritania was never comfortable with what they signed up for. It just didn’t fit how they saw themselves, giving up authority over one of their units.”<sup>18</sup>

## Mali

No presidential administration has specifically cited Mali in reference to the 2001 AUMF.<sup>19</sup> The Trump and Biden administrations did make reference to providing “CT support to African and European partners” in the “Lake Chad Basin and Sahel Region,” where Mali is located. However, investigative journalists revealed incidents in which U.S. forces engaged not just in support activities in Mali, but in active hostilities in 2015, 2017, and 2018, as well as imminent hostilities via the 127e program in 2019.

In November 2015, gunmen associated with al-Qaeda in the Islamic Maghreb stormed the Radisson Blu hotel in Bamako, Mali and held nearly 170 people hostage. U.S. special operations forces stationed in Mali rushed to the location and exchanged fire with militants, rescuing many of the hostages.<sup>20</sup>

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<sup>16</sup> Morgan, W. (2018, July 2). *Behind the secret U.S. war in Africa*. POLITICO. <https://www.politico.com/story/2018/07/02/secret-war-africa-pentagon-664005>.

<sup>17</sup> Morgan, W. (2018, July). Behind the secret U.S. war in Africa. *Politico*. <https://www.politico.com/story/2018/07/02/secret-war-africa-pentagon-664005>

<sup>18</sup> Morgan, W. (2018, July 2). *Behind the secret U.S. war in Africa*. POLITICO. <https://www.politico.com/story/2018/07/02/secret-war-africa-pentagon-664005>.

<sup>19</sup> The Obama administration did mention a U.S. troop deployment for “intelligence sharing with French forces conducting operations in Mali” but not in reference to counterterrorism or the 2001 AUMF. Congressional Research Service. (2019, March 8). *The War Powers Resolution: Concepts and Practice*. <https://sgp.fas.org/crs/natsec/R42699.pdf>. P. 52.

<sup>20</sup> Snow, S. (2018, April 9). *Marine Raider receives Silver Star for actions during terror attack in Mali*. Marine Corps Times. <https://www.marinecorpstimes.com/news/your-marine-corps/2018/04/06/marine-raider-receives-silver-star-for-actions-during-terror-attack-in-mali/>; Finucane, Brian. 2021, October 4. “Failure to Warn: War Powers Reporting and the ‘War on Terror’ in Africa.” *Just Security*. <https://www.justsecurity.org/78450/failure-to-warn-war-powers-reporting-and-the-war-on-terror-in-africa/>

In 2017, after four U.S. soldiers were killed in Niger following a militant ambush, investigative journalists placed greater scrutiny on U.S. actions in the Sahel region. According to *The Washington Post*, Niger's defense minister and a Nigerien soldier who survived the ambush said that the goal of the mission was to gather information and to capture or kill militants inside Mali. A U.S. official stated that, "The unit was never inside Mali but was operating along the border [with Niger], essentially a line in the sand."<sup>21</sup>

In 2018, U.S. soldiers were part of a multinational force that repelled a militant attack involving rockets, mortars, and car bombs on a UN Super Camp in Timbuktu, Mali. Four U.S. service members armed with pistols protected a group of Malians in a bunker. Two U.S. service members were later awarded Purple Heart medals after being injured in the attack. *The Military Times* was the first to report, in 2020, that U.S. troops were present and injured during the raid. "The severity of this was so, so downplayed," said a U.S. service member who survived the attack. "They didn't want to highlight the fact that there were isolated American forces in the middle of all this who were injured."<sup>22</sup>

Investigative reporting in 2019 documented two named operations in Mali: Obsidian Mosaic, a "127e counterterrorism effort," and Operation Juniper Micron, which involved "airlifting French soldiers and supplies into that former French colony, flying refueling missions in support of French airpower, and assisting allied African forces."<sup>23</sup>

## Tunisia

Although evidence strongly suggests that U.S. service members engaged in combat against militants in Tunisia in 2017, the Trump administration never cited the AUMF in reference to that country. In 2017, a U.S. AFRICOM spokesperson confirmed that members of the U.S. Marine Corps were involved in a fierce ground and air battle against militants of al-Qaeda in the Islamic Maghreb (AQIM) in an undisclosed north African country. Subsequent investigative journalism by *Task & Purpose* provided strong evidence that the combat occurred at Mount Semmama in Tunisia.<sup>24</sup>

The U.S. has had a sustained military presence in Tunisia since at least 2014 and funded Tunisian counterterrorism efforts with millions of dollars in security assistance, making it likely that the events of Mount Semmama were not an isolated incident. The battle involving U.S. troops occurred amid an intense campaign by the Tunisian military aimed at dislodging militants from their mountain stronghold. Investigative reporting has

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<sup>21</sup> Raghavan, S. (2017, November 10). *U.S. soldier in Niger ambush was bound and apparently executed, villagers say*. The Washington Post. [https://www.washingtonpost.com/world/africa/us-soldier-in-niger-ambush-was-bound-and-apparently-executed-villagers-say/2017/11/10/3aebba3e-c442-11e7-9922-4151f5ca6168\\_story.html?utm\\_term=.5a4f07602542](https://www.washingtonpost.com/world/africa/us-soldier-in-niger-ambush-was-bound-and-apparently-executed-villagers-say/2017/11/10/3aebba3e-c442-11e7-9922-4151f5ca6168_story.html?utm_term=.5a4f07602542).

<sup>22</sup> Rempfer, K. (2021, July 10). *How US troops survived a little-known al-Qaeda raid in Mali two years ago*. Military Times. Retrieved December 7, 2021, from <https://www.militarytimes.com/news/your-army/2020/04/16/how-us-troops-survived-a-little-known-al-qaeda-raid-in-mali-two-years-ago/>.

<sup>23</sup> Turse, N. and Sean D. Naylor. (2019, April 17). *Revealed: The U.S. military's 36 code-named operations in Africa*. Yahoo! News. <https://news.yahoo.com/revealed-the-us-militarys-36-codenamed-operations-in-africa-090000841.html/>.

<sup>24</sup> Nsaibia, H. *US Special Operations Forces Are Quietly Expanding Their War In Tunisia*. (2018, September 20). Task & Purpose. <https://taskandpurpose.com/analysis/marine-special-operations-forces-tunisia/>

also documented Tunisia as one of eight countries involved in the 127e program since at least 2017.<sup>25</sup>

## Other Authorities Cited for U.S. Counterterrorism Abroad

Various administrations have used legal mechanisms beyond the 2001 AUMF to justify counterterrorism operations abroad. Here are some examples:

### Title 10 Authority

Title 10, U.S. Code (1991) authorizes U.S. armed forces to train and assist foreign militaries. The executive branch notifies Congress of Title 10 deployments, but Congress has little opportunity to authorize situations in which U.S. forces might need to use force during these deployments. After the incident in 2017 in which four U.S. service members were killed in an ambush in Niger, the Trump administration at first asserted that U.S. troops were operating under Title 10. Later, officials reversed course and referenced the 2001 AUMF in regards to the U.S. use of force in Niger. See *Congressional Research Service. (2019, March 8). The War Powers Resolution: Concepts and Practice, pp. 53 – 54. <https://sgp.fas.org/crs/natsec/R42699.pdf>.*

Under Title 10 authority, **Joint Combined Exchange Training (JCET)** allows partner government forces to train U.S. special operations forces. There is little government transparency about or oversight of this program, but experts suggest the program is also used to allow U.S. special operations forces to assist foreign partners. JCETs are regularly conducted with foreign militaries implicated in widespread atrocities. See *Turse, Nick. (2021, March 20). "Will the Biden Administration Shine Light on Shadowy Special Ops Programs?" The Intercept. <https://theintercept.com/2021/03/20/joe-biden-special-operations-forces/>.*

Also under Title 10 is the **section 127e authority** described above. This authority allows the U.S. military to use local troops as surrogates in raids and other attacks on militants. There is little government transparency about or oversight of this program, and there are likely 127e programs in additional countries beyond those documented by journalists: Mali, Tunisia, Cameroon, Kenya, Libya, Niger, Nigeria, and Mauritania. See *Turse, Nick. (2021, March 20). "Will the Biden Administration Shine Light on Shadowy Special Ops Programs?" The Intercept. <https://theintercept.com/2021/03/20/joe-biden-special-operations-forces/>.*

### Interpretations of the War Powers Resolution That Exclude Drone Strikes

According to publicly available legal interpretations, the Obama administration did not appear to believe that congressional authorization was necessary for the President to use Unmanned Aerial Vehicles (UAVs) in operations against militants abroad. Congress

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<sup>25</sup> Morgan, W. (2018, July). Behind the secret U.S. war in Africa. *Politico*. <https://www.politico.com/story/2018/07/02/secret-war-africa-pentagon-664005>

would need to amend the War Powers Resolution in order to require congressional authorization of the military use of UAVs for counterterrorism operations. See *Congressional Research Service. (2019, March 8). The War Powers Resolution: Concepts and Practice, p. 44.* <https://sgp.fas.org/crs/natsec/R42699.pdf>.

### Interpretations of Constitutional Authority

The Obama administration in several instances relied on the legal justification of President Obama's constitutional (Article II) authority as "Commander in Chief and Chief Executive" to use force abroad without mentioning counterterrorism goals or referencing the AUMF. For instance, Obama notified Congress on February 23, 2013 of a deployment of U.S. military personnel to Niger for "intelligence collection." See: National Archives and Records Administration. (2012, June 15). *Letter from the President -- Concerning Niger.* <https://obamawhitehouse.archives.gov/the-press-office/2013/02/22/letter-president-concerning-niger>.

Beginning around 2014, Obama changed course and began relying on existing authorizations, including the 2001 AUMF, for the expanding military campaign against militant groups. See *Congressional Research Service. (2019, March 8). The War Powers Resolution: Concepts and Practice, p. 48.* <https://sgp.fas.org/crs/natsec/R42699.pdf>.

### 2002 AUMF

Congress passed another Authorization for the Use of Military Force in October 2002 to authorize the president to use the U.S. armed forces to, "defend the national security of the United States against the continuing threat posed by Iraq." The executive branch initially relied on the 2002 AUMF to justify operations in the U.S. war in Iraq beginning in 2003. Even after the U.S. government officially concluded that war, the executive branch has continued to reference the 2002 AUMF to authorize combat and airstrikes against militants in Iraq and Syria.

### Section 1202 Authority ("Great Power" Competition)

Section 1202 Authority, first introduced in the 2018 National Defense Authorization Act (NDAA), is "used to provide support to foreign forces, irregular forces, groups, or individuals," most likely focused on peer competitors such as China and Russia. *Turse, Nick. (2021, March 20). "Will the Biden Administration Shine Light on Shadowy Special Ops Programs?" The Intercept.* <https://theintercept.com/2021/03/20/joe-biden-special-operations-forces/>.

## Further Reading:

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International Crisis Group. (2021, September 17). *Overkill: Reforming the Legal Basis for the U.S. War on Terror*. Report number 5/ United States. <https://www.crisisgroup.org/united-states/005-overkill-reforming-legal-basis-us-war-terror>.

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