



To: Interested Observers
From: Soren Dayton, Protect Democracy
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Re: Democratic Candidates' Plans to Restore National Security Checks and Balances

There's a broad and growing assessment that our current system of checks and balances is broken and that Presidents have too much power to act unilaterally on national security issues.

Recently, Democrats and Republicans have come together to reassert the role of Congress in war powers. The subject is one of the few points of consensus between key members of the pro-Trump Freedom Caucus (see recent *Washington Examiner* op-ed from Freedom Caucus Chairman Andy Biggs [here](#)) and progressive Democrats such as Rep. Ro Khanna (see [here](#)). And read this recent *Washington Post* op-ed "We differ in our politics. We agree on Congress's power to declare war," featuring a cross-ideological and bipartisan mix of seven Members of Congress (Reps. Amash, Buck, Golden, Perry, Phillips, Roy and Spanberger).

During this 116th Congress, bipartisan, bicameral majorities passed resolutions to end the war in Yemen, end the border emergency, and block arms sales to Saudi Arabia. The House recently voted to repeal the 2002 AUMF and to bar President Trump from spending federal funds to engage in further military action vs. Iran. And in the Senate, [a bill](#) reforming the National Emergencies Act passed out of committee by a bipartisan 12-2 margin and has 18 Republican cosponsors.

Despite the "strange bedfellows" points of consensus, however, there's an understandable sense of skepticism from many observers that our political system and the branches are ready to rebalance the congressional/presidential power dynamic. Thanks to the current partisan moment, the presidential veto pen, and the recognition that generations of presidential power grabs and congressional acquiescence have taken place under both parties, some of this skepticism is deserved.

That's why we need to explore more far-reaching structural reforms in order to restore the balance of national security powers between the President and Congress *and* why we need to engage the current presidential candidates on the subject to have them specify their beliefs in more detail.

On the Democratic presidential debate stage, reining in unaccountable presidential powers has been a unifying theme among the candidates, each of whom denounced President Trump's missile strike on Soleimani and his national emergency declaration to facilitate his border wall construction (see here for a relevant Charlie Savage [NYTimes candidate survey](#) on executive power). But the candidates have yet to add essential specifics that address the current moment and important nuances of the subject. Below, please find two key questions that the Democratic presidential contenders have yet to sufficiently detail:

1. Many of you on this stage have spoken about restoring the role of Congress when it comes to fighting wars and engaging in military action. Yet Presidents of both parties have argued that the current War Powers Act is unconstitutional or have alternately ignored or vetoed efforts to rein in presidential war powers. **Can you more concretely describe your view of when Congress would**



need to be consulted when it comes to fighting wars or engaging hostile actors and would you support reforms to the War Powers Act to ensure that it would apply to your successors?

2. All of you on this stage have condemned the President's national emergency declaration at the southern border, and all of you who are in Congress have voted against it. He said it was an emergency, that Congress didn't give him what he needed, and so he had to act. **Are there issues where you would be willing to assert emergency authorities to bypass Congress, and what restraints do you think that there should be on future Presidents to stop national emergency declarations that claim authorities beyond what Congress has granted?**

Additional Background Context

- **Why the checks on presidential war powers the founders put into the Constitution must be restored.** Even as we are apparently locked in to a war in Afghanistan that has gone on for nearly two decades with no end in sight, the president on his own, without prior consultation or authorization, launched a military strike that brought us to the brink of a new war against Iran. It can't be right that it's this easy for our government to start wars but practically impossible to end them. Meanwhile, the United States continues to sell offensive military weapons to some of the worst regimes in the world even when bipartisan majorities in both houses of Congress have voted to end them.
- **National emergency powers should be rare and temporary, but we have 33 separate ongoing national emergencies dating back to the Carter administration.** President Trump declared a national emergency to facilitate raiding billions from appropriated military funding all to facilitate his border wall. Despite strong majority votes in both chambers opposing the scheme, Trump's veto meant that Congress is virtually powerless to stop him. In fact, Congress has never ended a single national emergency declaration issued by any president. There can be no legitimate justification for the existence of 33 ongoing national emergencies granting the president extraordinary powers.

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Protect Democracy is a nonpartisan nonprofit organization dedicated to preventing American democracy from declining into a more authoritarian form of government.