

# AMERICAN JOURNAL OF INTERNATIONAL LAW

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## **Agora: Reflections on President Obama's War Powers Legacy**

President Obama's War Powers Legacy	<i>Curtis A. Bradley</i>	625
Obama's AUMF Legacy	<i>Curtis A. Bradley and Jack L. Goldsmith</i>	628

The 2001 Authorization for Use of Military Force (AUMF) remains the principal legal foundation under U.S. domestic law for the president to use force against and detain members of terrorist organizations. This essay explains how the Obama administration established the AUMF as the legal foundation for indefinite conflict against Al Qaeda, associated groups, and the Islamic State. It also shows that the administration's claim that international law operated as an important constraint on its actions under the AUMF was belied, on a range of issues, by its interpretations of international law that supported presidential discretion and flexibility.

## The Obama Administration, International Law, and Executive Minimalism

*Ashley S. Deeks* 646

The Bush administration took a maximalist approach to the *jus ad bellum* and *jus in bello*, staking out broad claims about what international law permitted in resorting to force and detaining and interrogating Al Qaeda members. In contrast, the Obama administration established more minimalist policies, which authorized a narrower scope of action than what international law permits. The Obama approach improved relations with allies and deferred difficult inter-agency debates. But it also incurred costs by slowing the development of international law and making it more difficult for other states to interpret the precedential value of U.S. actions.

## The Obama Administration and Targeting "War-Sustaining" Objects in Noninternational Armed Conflict

*Ryan Goodman* 663

President Barack Obama embraced what many in the international law community long regarded as off-limits: targeting war-sustaining capabilities, like economic infrastructure used to generate revenue for an enemy's armed forces. Scholarly opinion generally maintains that such objects are not legitimate military targets, but the academic literature is highly deficient. Scholars have not grappled with the strongest and clearest evidence supporting the U.S. view. Indeed, intellectual resources may be better spent not on the question whether such objects are legitimate military targets, but on second-order questions including how to apply proportionality analysis and identify limiting principles to guard against slippery slopes.

The Obama War Powers Legacy and the Internal Forces That Entrench Executive Power	<i>Rebecca Ingber</i>	680
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In exploring the Obama war powers legacy, this essay examines the systemic forces inside the executive branch that influence modern presidential decision making and, barring a total reimagining of the executive branch, will operate on administrations to come. These mechanisms and norms fall broadly within two categories: (1) features that favor continuity and hinder presidents from effecting change, including both novel assertions of executive power and attempts to dial back that power; and (2) features that incrementally aggrandize such power claims. Together, these two sets of forces operate as a one-way ratchet, slowly expanding and ultimately entrenching executive branch power.

Constitutional War Initiation and the Obama Presidency	<i>Michael D. Ramsey</i>	701
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This essay assesses the constitutionality of President Barack Obama's uses of military force. It uses two baselines: the Constitution's original meaning, and the practice of U.S. presidents between the end of the Vietnam War and the beginning of the Obama presidency. Although Obama has been criticized for expanding the president's unilateral powers to use military force, this essay concludes that these claims may overstate. Taken as a whole, the legacy of the Obama administration may be to decrease, rather than expand, the war initiation powers of the presidency.

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