

By Jim Lobe

From [Responsible Statecraft](#) | Original Article

A new report finds that DOD uses ‘security cooperation’ programs for ‘secret wars,’ recommends that Congress rein them in. [Read the full report here.](#)

U.S. military forces have been engaged in unauthorized hostilities in many more countries than the Pentagon has disclosed to Congress, let alone the public, according to a [major new report](#) released late last week by New York University School of Law’s Brennan Center for Justice.

“Afghanistan, Iraq, maybe Libya. If you asked the average American where the United States has been at war in the past two decades, you would likely get this short list,” according to the report, *Secret War: How the U.S. Uses Partnerships and Proxy Forces to Wage War Under the Radar*. “But this list is wrong – off by at least 17 countries in which the United States has engaged in armed conflict through ground forces, proxy forces, or air strikes.”

“This proliferation of secret war is a relatively recent phenomenon, and it is undemocratic and dangerous,” the report’s author, Katherine Yon Ebright, wrote in the introduction. “The conduct of undisclosed hostilities in unreported countries contravenes our constitutional design. It invites military escalation that is unforeseeable to the public, to Congress, and even to the diplomats charged with managing U.S. foreign relations.”

The 39-page report focuses on so-called “security cooperation” programs authorized by Congress pursuant to the 2001 Authorization for Use of Military Force, or AUMF, against certain terrorist groups. One such program, known as Section 127e, authorized the Defense Department to “provide support to foreign forces, irregular forces, groups or individuals engaged in supporting or facilitating authorized ongoing military operations by United States special operations forces to combat terrorism.”

According to the report, that “support” has been broadly — or, more accurately, too broadly — interpreted by the Pentagon. In practice, it has enabled the U.S. military to “develop and control proxy forces that fight on behalf of and sometimes alongside U.S. forces” and to use armed force to defend its local partners against adversaries (in what the Pentagon calls “collective self-defense”) regardless of whether those adversaries pose any threat to U.S. territory or persons, and, in some cases, whether or not the adversaries have been officially designated as legitimate targets under the 2001 AUMF.

In Somalia in 2016, for example, U.S. forces invoked “collective self-defense” to launch a strike against a rival militia of the Puntland Security Force, an elite brigade that had originally been recruited, trained, and equipped by the CIA and subsequently taken over by the Pentagon in 2011.

Moreover, the Pentagon deployed the PSF, which was largely independent of the Somali government, to fight al-Shabab and the Islamic State of Somalia, sometimes alongside U.S. forces, for several years before the executive branch designated al-Shabab as legitimate targets. It has never so designated the ISS.

Similarly, in Cameroon, U.S. forces accompanying a partner force on an “advise and assist” mission ended up shooting and killing an adversary. The Pentagon has used a Section 127 program there to pursue leaders of Boko Haram, a terrorist group that has “never been publicly identified as an associated force of Al-Qaeda, and thus a lawful target, under the 2001 AUMF,” according to the report.

Congress rarely hears of these incidents because, according to the report, DOD insists they are too minor or “episodic” to rise to the level of “hostilities” that would trigger reporting requirements under the 1973 War Powers Resolution.

An exception, however, came in October 2017 when four U.S. soldiers, who were deployed to Niger under a related “security cooperation” program known as Section 333, which authorizes the Pentagon to “train and equip” foreign forces anywhere in the world. Their presence in the field, however, was authorized under a standing executive order, or EXORD, that permits U.S. forces to engage in combat under particular circumstances, a parallel authority of which Congress had not been previously informed. The incident shocked lawmakers who were unaware that U.S. troops were operating in the field in Niger.

“I’ve got guys in Kenya, Chad, Cameroon, Niger [and] Tunisia who are doing the same kind of things as the guys in Somalia, exposing themselves to the same kind of danger and not just on 127 echoes,” [bragged](#) Brigadier Gen. Donald Bolduc (ret.), who commanded U.S. special forces in Africa until 2017 and is currently running as a Republican for the U.S. Senate in New Hampshire. “We’ve had guys wounded in all the types of missions that we do.”

The report, which relies on published work by investigative reporters, interviews with knowledgeable officials and congressional staff, official documents and records, as well as the author’s legal analysis, identifies 13 countries with Section 127e programs in addition to Somalia and Cameroon. They include Afghanistan, Egypt, Iraq, Kenya, Lebanon, Libya, Mali, Mauritania, Niger, Niger, Nigeria, Syria, Tunisia, and Yemen. But it stressed that the list is almost certainly not exhaustive.

Fifty countries, from Mexico to Peru in the west to Indonesia and the Philippines (where U.S. forces are known to have taken part in combat operation) in the east, and covering 22 countries in North and sub-Saharan Africa alone (not to mention Ukraine) had Section 333 programs in place as of mid-2018, according to the report.

Perhaps even more dangerous than the Section 127e counterterrorism programs, according to the report, are security cooperation programs undertaken pursuant to Section 1202 of the National Defense Authorization Act of 2018. Using language that mirrors Section 127e, that provision goes beyond the counterterrorism purposes of Section 1273e by authorizing “support” to partner forces “engaged in supporting or facilitating irregular warfare operations by the United States Special Operations Forces.”

“Irregular warfare” is defined by DOD as “competition ...short of traditional armed conflict” or “all-out war.” Pentagon officials have described Section 1202 as “a highly useful tool for enabling irregular warfare operations...to deter and defeat ...revisionist powers and rogue regimes.” They have also insisted that “irregular warfare is likely to be increasingly relied on as DOD begins to “prioritize great power competition.”

“Broadly speaking, the purpose of the [Section] 1202 authority is to take the department’s [Section] 127e approach of creating and controlling partner forces and wield it against countries like China, Russia, Iran, and North Korea,” according to the report. “Section 1202, in short,

raises the same potential as § 127e for hostilities that Congress has not authorized, but with far graver consequences because the enemy could be a powerful, nuclear-armed state.”

Given the increased risks, simply repealing or reforming “outdated and overstretched AUMFs ...[is] insufficient,” the report concludes. “Congress should repeal or reform the Department of Defense’s security cooperation authorities. Until it does so, the nation will continue to be at war – without, in some cases, the consent or even knowledge of its people.”