

THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

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Military Action in Iraq Exceeds Constitutional Authority, War Powers Experts Say

WASHINGTON, D.C. -- A group of war powers experts assembled by The Constitution Project says that the steady escalation of military intervention in Iraq has exceeded what President Obama can authorize on his own under the Constitution and urged him to recall Congress from summer recess to debate the issue.

In a [letter](#) sent to the White House earlier today, the experts say that the Constitution clearly makes Congress responsible for authorizing and funding offensive military actions such as those to contain Islamic State militants in Iraq, noting that it is "not a decision that the Executive may take unilaterally." They added that continued military action "without congressional approval is unlawful and violates the rule of law and democratic values."

While acknowledging that the president can use military force without prior congressional authorization in a limited set of circumstances, the group said the current U.S. military intervention "exceeds that narrow exception and lacks a discernible limit."

The letter notes that there are nearly 1000 military personnel on the ground in Iraq, and that U.S. warplanes have conducted at least 68 air strikes in the last two weeks, [most recently](#) to help Iraqi forces recapture the Mosul Dam. Obama himself [predicted](#) U.S. involvement in Iraq is likely to be a "long-term project."

The letter also notes the House of Representatives [resolved](#) on July 25, by an overwhelming bipartisan majority, that "The President shall not deploy or maintain United States Armed Forces in a sustained combat role in Iraq without specific statutory authorization for such use..."

"We have reached that point," the experts said.

The group sent a [similar letter](#) to Congressional leaders urging them to immediately reconvene to consider the matter.

The group of experts signing the letter includes: former Congressman Mickey Edwards (R-Okla.), who served as chair of the House Republican Policy Committee; former Congressman David Skaggs (D-Colo.), who served on the House Permanent Select Committee on Intelligence; Dr. Louis Fisher,

Scholar in Residence at The Constitution Project, who worked for the Library of Congress for four decades as a specialist in constitutional law and separation of powers, and who authored the 2013 book, *Presidential War Power*; and, Professor Peter Raven-Hansen, co-director of the National Security and U.S. Foreign Relations Law Program at George Washington University Law School. All four are members of TCP's [War Powers Committee](#).

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[About The Constitution Project](#)

Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project (TCP) brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time. TCP seeks to reform the nation's broken criminal justice system and to strengthen the rule of law through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.