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Intelligence Squared Debate: The president has exceeded his constitutional authority by waging war without congressional authorization

By Nicholas Quinn Rosenkranz

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Intelligence Squared, in partnership with the Richman Center at Columbia and the National Constitution Center, presented an excellent debate last week at Columbia Law School. “Resolved: The President has exceeded his constitutional authority by waging war without congressional authorization.”

Arguing for the motion were Gene Healy, vice president of the Cato Institute, and Deborah Pearlstein, assistant professor of law at Cardozo. Arguing against the motion were Akhil Reed Amar, Sterling Professor of Law at Yale, and Philip Bobbitt, Herbert Wechsler Professor of Law at Columbia.

Interestingly both sides seemed to agree that the president requires congressional authorization for the war against the Islamic State. They disagreed primarily about whether the 2001 Authorization to Use Military Force (AUMF) suffices. That AUMF, enacted one week after 9/11, provides “[t]hat the President is authorized 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 by such nations, organizations or persons.”

Amar and Bobbitt emphasized that this AUMF is a broad grant of authority to the president: to target not just al-Qaeda but any individuals or organizations that “aided” in the 9/11 attacks or “harbored” the attackers – and to “determine” just who fills that bill. Healy and Pearlstein countered that the AUMF, however broad, still requires a real nexus to 9/11; the Islamic State, they pointed out, did not even exist on 9/11, and al-Qaeda apparently views the Islamic State not as an ally but as an enemy.

Both sides were very ably presented, and the debate was first-rate. Details, results, podcast, video, etc., are all available [here](#).

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