The Post's View

Congress should not abdicate its duty on war

By Editorial Board  April 24

AFTER HOUSE Republican leaders announced last week that they would not act on President Obama’s request for an authorization of military force against the Islamic State, critics asked a fair question: How come legislators who insisted on congressional review of the pending nuclear accord with Iran see no need to vote on the military campaign now underway in Iraq and Syria?

The obvious answer is that Republican leaders are eager to go on record opposing the deal with Tehran but have little incentive either to reject or explicitly support Mr. Obama’s strategy for combating the Islamic State. But the problem is more complex than that. Mr. Obama has muddied the issue by simultaneously claiming broad powers to wage the war under existing law and submitting legislation that would limit not just his own authority but that of his successor. Congressional Democrats seek still tougher restrictions, so those who favor robust military action — perhaps after Mr. Obama leaves office — may be best served by congressional inaction.

It’s nevertheless a political abdication for lawmakers not to vote on a war that could go on for many years and extend to countries other than Iraq and Syria. As Benjamin Wittes of the Brookings Institution has observed, by failing to act Congress will essentially confirm Mr. Obama’s aggressive interpretation of his authority under present law, and thereby weaken its already-eroded capacity to check presidential war powers.

The White House says that the 2001 Authorization for the Use of Military Force against al-Qaeda covers the Islamic State, since it is an offshoot of the group that staged the Sept. 11, 2001, attacks. Defense Department General Counsel Stephen W. Preston recently asserted that the 2001 bill legalizes U.S. military action in six countries, including Yemen, Somalia and Libya. Many independent legal experts, as well as Democratic senators such as Timothy M. Kaine (Va.) and Benjamin L. Cardin (Md.), see that as a dangerous stretch of a law approved by a Congress that could not have foreseen the emergence of jihadist groups far from Afghanistan. Sen. Bob Corker (R-Tenn.), the chairman of the Foreign Relations Committee, says the administration’s legal interpretation is “on the fringes.”

Since Mr. Obama is not proposing the repeal of the 2001 law, Republicans suspect his main purpose in a new authorization is to constrain the next president. The White House draft would ban “enduring offensive ground combat operations” during its three-year term. It would not allow military action to defend forces trained by the United States to fight the Islamic State in Syria in the likely event they were attacked by the Syrian government.
Corker notes that Mr. Obama’s draft has no support from Democrats, many of whom want a stricter ban on ground forces and a repeal of the 2001 law.

Mr. Corker told us he nevertheless intends to “explore whether there is a constructive pathway forward” on the military authorization. We believe there is room for a bipartisan compromise on a simple bill: Congress could, for example, amend the 2001 law to explicitly include the Islamic State, remedying the administration’s legal overstretch. Mr. Kaine has other ideas but is right on the basic point: “The worst thing we can do,” he says, “is not to do anything.”

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