

# Obama's Fateful Abuse of War Powers: Violated Constitution and 1973 War Powers Resolution

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*The acts of war ordered by President Barack Obama against the government of Libya violated provisions of the U.S. Constitution and the War Powers Resolution of 1973. He also exceeded his authority by pledging U.S. combat support to the United Nations Security Council and to NATO for military measures against Libya. The United States may soon find itself entrapped in a costly civil war in that North African nation.*

Congress is complicit in creating this mess, because it failed to demand presidential compliance with the Constitution and public law and neglected its own explicit constitutional duty in the exercise of war powers.

The War Powers Resolution was enacted in the wake of the Vietnam ordeal by Members of Congress, myself included, who considered that war unauthorized by Congress and a gross abuse of Constitutional war powers. Our goal was to prevent future unauthorized presidential wars. I joined other Members of Congress in overriding President Richard Nixon's veto, and during my remaining years on Capitol Hill I maintained close vigilance on presidential compliance. Compliance was satisfactory by Presidents Ford and Carter, as well as both Presidents Bush. In recent years I find no sign of vigilance or compliance. It is a sad, dangerous state of affairs.

Mandated presidential reports are a major feature of the resolution. In the absence of a war declaration, a written presidential report must be delivered to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within 24 hours of each order that moves substantial U.S. military forces into hostile areas. It must list reasons for the decision, military forces to be committed, and the expected duration of war measures.

It cites a constitutional way for Congress to overturn any such presidential decision. Any Member of Congress can challenge the president's decision by introducing a bill called a concurrent resolution of disapproval. If approved by both House and Senate, this legislation requires the president to rescind his war decision. The War Powers Resolution even authorizes expedited parliamentary procedures when a disapproval resolution is introduced in either chamber of Congress.

These provisions were intended to bring Congress close to the president as he ponders war-making decisions, a role clearly intended by the authors of the U.S. Constitution. The resolution limits the time for delivery of presidential reports to 24 hours, hoping the quick deadline will cause the president to give close attention to the likely reaction of Congress.

We believed it could be an important, timely restraint on a president whose decision at the moment must be reflective and wise. It would also be a strong reminder that Congress has the power to overturn the president's decision quickly by enacting a concurrent resolution of disapproval.

In assaulting Libya, President Obama acted as if the War Powers Resolution did not exist. Instead of sending a written report to congressional leaders within 24 hours, as required by law, he did not write until five days after the assault began. The five-day lapse was a violation of law but, in a sense, it was delivered in blinding speed. In recent years, reports mandated by the War Powers Resolution for delivery within 24 hours of presidential decisions, are usually bundled and delivered semi-annually. Yes, semi-annually.

Obama had ample time to consult with congressional leaders during the weeks preceding the assault on Libya, which meant consultations were legally mandated by the War Powers Resolution. None occurred.

From the start, Obama proceeded in a cavalier, almost casual manner. In announcing war measures in Libya, he mentioned neither Congress nor the U.S. Constitution. He did not even return to Washington from a visit in South America to make the announcement. He acted as if war-making is a routine privilege a president may undertake entirely at his option, like shaving or adjusting his necktie, without even a wink or nod toward the people's branch of government. To this day Congress has not authorized acts of war in Libya.

We must face reality: The War Powers Resolution will work only if Congress is vigilant and demands full compliance by the president. Today's Members of Congress, like those in the recent past, unwisely see decisions on war as a prickly nettle they are content to leave to the president. They need to be reminded that war is the worst burden government can place on citizens. It becomes heavier with the emergence of massive new high-tech war instruments, each of which magnifies, rather than reduces, the necessity of congressional restraint on presidential war-making. No citizen, not even the president, should have the authority to initiate war measures.

Obama's abuse of war powers stands the Constitution on its head. He should be ashamed, and so should our complacent Congress for letting it happen.

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