



Written by [Dave Bohon](#) on March 21, 2011

UN Trumps Constitution, Congress, in President's Undeclared War on Libya

In all the major media coverage of the UN-sanctioned assault on Libya beginning March 19, one thing was conspicuously missing: questions as to why the U.S. had insinuated itself in the fight, and by what authority it had done so. The answer to the second question was clear to literally everyone writing and talking about the assault: Members of the UN Security Council had signed off on a plan to bomb Gaddafi's defenses and installations for the stated purpose of protecting Libya's citizens, as well as the rebel forces opposing the ruthless dictator.



As a UN member nation, as the tactical and strategic leader in all things military, and as the world's undisputed spendthrift nation, the United States was the clear choice for taking a lead role in the mission.

[Speaking to the American people](#) on March 18, a day before the U.S. joined Britain and France in unleashing their combined military fury on Gaddafi's forces, President Obama ignored Congress as well as the Constitution he was sworn to uphold, offering no other authority for his nation's actions than that given him by the United Nations.

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With the deterioration of order and the uprising of independence-minded Libyans causing Gaddafi to lose "the confidence of his own people and the legitimacy to lead," instead of quietly laying leadership of the country he had controlled for the past 41 years, the dictator turned to the violence and oppression that had always served him well in the past, the President said. "Innocent civilians were beaten, imprisoned, and in some cases killed," Obama continued. "Peaceful protests were forcefully put down. Hospitals were attacked and patients disappeared. A campaign of intimidation and repression began."

When UN sanctions proved futile and Gaddafi ignored the "international accountability" demanded of him, turning instead to an all-out military assault on his people, it was clearly time for the "international community" to act, explained the President. With no thought of needed congressional approval, or of his lack of constitutional authority to move ahead, the President pointed to a resolution by the UN Security Council authorizing "the use of force with an explicit commitment to pursue all necessary measures to stop the killing, to include the enforcement of a no-fly zone over Libya."

With Defense Secretary Robert Gates heading up a military plan of attack and Secretary of State Hillary Clinton dispatched to Paris to strategize with other members of the UN-authorized "coalition," the military assault against America's most recent enemy commenced almost immediately.

As reports of the assault reached the American public, many of the right people began asking tough



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questions and offering sharp criticism of the President's actions. Unfortunately, they were mostly the wrong questions and the criticism was misdirected.

For example, ignoring that the United States had neither been attacked by nor was in danger from Libya and so had no constitutional reason for an assault, [House Speaker John Boehner](#) instead insisted that the U.S. had "a moral obligation to stand with those who seek freedom from oppression and self-government for their people."

In a statement released after the U.S. had begun its military assault on Libya, Boehner declared that it was "unacceptable and outrageous for Gaddafi to attack his own people, and the violence must stop." However, instead of calling Obama to task for his decision to take action against Libya independent of Congress, Boehner instead insisted that the President had a responsibility to "define for the American people, the Congress, and our troops what the mission in Libya is, better explain what America's role is in achieving that mission, and make clear how it will be accomplished."

Intoned the Speaker gravely, "Before any further military commitments are made, the Administration must do a better job of communicating to the American people and to Congress about our mission in Libya and how it will be achieved."

Likewise in the Senate, [John McCain](#) side-stepped constitutional issues at the core of the President's actions, instead criticizing President Obama for not moving more quickly in his UN-permitted action against the Libyan dictator. "He waited too long, there is no doubt in my mind about it," said McCain, offering a hint of how he himself might respond as Commander in Chief. "If we had taken ... this step a couple of weeks ago, a no-fly zone would probably have been enough," advised McCain, who is the ranking Republican on the Senate Armed Services Committee. "Now a no-fly zone is not enough. There needs to be other efforts made." Nonetheless, advised the senator, "we need, now, to support him and the efforts that our military are going to make. And I regret that we didn't act much more quickly, and we could have."

As for the bulk of Republican presidential hopefuls, they were mostly silent on the issue. As reported by James Holman on [Politico.com](#), Mitt Romney, Rudy Giuliani, Tim Pawlenty, Mitch Daniels, Mike Huckabee, Michele Bachmann, and Haley Barbour all refused to comment on the President's actions, although, like McCain, several of them had earlier opined that he should have acted more quickly. "Perhaps these seven really are quietly rallying behind the commander-in-chief in a time of war," speculated Hohmann, "but a more likely explanation is that these potential candidates are waiting to see how the fluid situation develops and watching for what their main rivals say first."

Predictably, one of the very few individuals willing to put principle above politics was [Representative Ron Paul](#), who spoke as the missile assault against Libya was in progress. Noting that he had anticipated days earlier that the President would go to the UN for his marching orders against Libya, Congressman Paul said he had suggested that "the President's obligation was to come to the Congress," pointing out to the Commander-in-Chief that "putting a no-fly zone over Libya would be an act of war."

Continued the congressman, "It is rather insulting to the American people that this authority [to wage undeclared war] comes from the United Nations and not the Congress. The hype is that a lot of people are being killed over there and we have to go in for humanitarian reasons." Citing the oppression and killing waged by the Saudi government on Bahrain and the recent killing of civilians by the military in Yemen, the conservative congressman challenged the notion that it is the responsibility of the U.S. government to insert itself into another regional conflict merely on humanitarian grounds.



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“Of course, we can hide behind the UN resolution and get support from other countries,” he said, “but we have the military might and nothing would happen without us. We bear the financial burden, and if it gets out of hand we will be blamed and also be forced to continue the process” — a process that could well include inserting ground troops, despite the President’s promise to the contrary.

Congressman Paul noted that there is little demand, even among supposedly conservative legislators, that the President live up to the Constitution, even while hundreds of billions of dollars continue to be spent on dubious military adventures. “This will cost money, as all these wars do,” Paul warned. “We are financially broke, and our national debt is going up right now at \$2 trillion per year, and it is obviously unsustainable.”

For the Congress to be derelict in its duty in demanding the President to follow the Constitution before pursuing military action ought to cause the American people to rise up in loud protest, Paul said.

“Congress has said nothing,” he said. “There have been just a few of us who have mentioned that what the President is doing is not right and violates the Constitution.”

Recalling that the remaking of the Middle East began when the U.S. insinuated itself in the region over twenty years ago, Congressman Paul concluded his comments with the pointed question, “When will it ever end?” and provided the answer: “It will end when the prevailing attitude in this country — especially in the Congress — is that we ought to obey the Constitution.”

As reported by [Michael Tennant](#) on this site, Congressman Paul had earlier commented on how casually the President discusses the possibility of initiating war “as though Article 1 Section 8 of the Constitution does not exist. The congressman pointed out that “it is not up to the President whether or not we intervene in Libya” — that is, “not if we follow the Constitution.”

Continued Paul, “Even by the loose standards of the War Powers Resolution, which cedes far too much power to the president, he would have no authority to engage in hostilities because we have not been attacked.... If the administration wants to make it our fight, let them make their case before Congress and put it to a vote. I would strongly oppose such a measure, but that is the proper way to proceed.”

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Photo: This March 19, 2011 photo provided by the U.S. Navy shows the Arleigh Burke-class guided-missile destroyer USS Barry (DDG 52) as it launches a Tomahawk missile in support of Operation Odyssey Dawn from the Mediterranean Sea: AP Images



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