

# THE CONSTITUTION PROJECT



*Safeguarding Liberty, Justice & the Rule of Law*

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May 18, 2011

The Honorable Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear President Obama:

We, the undersigned members of The Constitution Project's bipartisan War Powers Committee, are writing to express our grave concerns over your decision to conduct military action in Libya without prior congressional approval and to urge you to seek such approval in the event you plan to continue military operations there.

The War Powers Committee of The Constitution Project was convened to study how the United States should exercise its constitutional authority under Article I Section 8 to make decisions about the use of force abroad. In our 2005 report entitled [Deciding to Use Force Abroad: War Powers in a System of Checks and Balances](#), we recommended improvements to war powers decision-making designed to restore the proper roles of all three branches of government. In the Report, we noted that the Framers of the Constitution sought to guard against the nation being thrust into war based on the judgment of a single individual. Rather, they gave Congress, a body representative of the people, the power to declare war, and gave the President the power to direct our armed forces in the field as Commander in Chief.

The Constitution requires the President to obtain the authorization of Congress prior to initiating the use of force abroad except for a limited range of defensive purposes. None of these purposes was present in the reasons you gave for your unilateral determination to use force in Libya.

While we appreciate that United Nations Security Council and NATO approvals may have significance under international law, they have no bearing on the legality of the use of force under the Constitution of the United States. Such approvals cannot substitute for congressional authorization.

The 60-day clock provided under the War Powers Resolution will run out tomorrow, May 19, 2011. Even if the War Powers Resolution is construed to authorize operations for 60 days, you have no authority beyond that date. To continue military operations in Libya beyond this date, you must obtain congressional authorization.

We thank you for your consideration of this vital constitutional issue.

Sincerely,

**Mickey Edwards (co-chair)**, Vice President, Aspen Institute; former member of Congress (R-OK) and chairman of the House Republican Policy Committee

**David Skaggs (co-chair)**, former Member of Congress (D-CO): Member of the Appropriations Committee and Permanent Select Committee on Intelligence

**Louis Fisher**, Specialist in Constitutional Law, Law Library of Congress (ret.); Scholar in Residence, The Constitution Project

**Michael J. Glennon**, Professor of International Law, Fletcher School of Law & Diplomacy, Tufts University; author of Constitutional Diplomacy and co-author of Foreign Relations and National Security Law; former Legal Counsel, U.S. Senate Committee on Foreign Relations

**Dr. Morton H. Halperin**, Senior Advisor, Open Society Institute and Open Society Policy Center; Director of the Policy Planning Staff, Department of State, Clinton Administration

**Peter Raven-Hansen**, Glen Earl Weston Research Professor, George Washington University Law School

**Don Wallace, Jr.**, Professor, Georgetown University Law Center; Chairman, International Law Institute