

EDITORIAL

# Libya and the War Powers Act

Published: June 16, 2011

It would be hugely costly for this country's credibility, for the future of NATO and for the people of Libya if Congress were to force President Obama to abandon military operations over Libya. However, Mr. Obama cannot evade his responsibility, under the War Powers Act, to seek Congressional approval to continue the operation.

The White House's argument for not doing so borders on sophistry that "U.S. operations do not involve sustained fighting or active exchanges of fire with hostile forces, nor do they involve the presence of U.S. ground troops," and thus are not the sort of "hostilities" covered by the act.

This country's involvement in the air campaign is undeniably limited. Since the United States handed off command to the Europeans in early April, the Pentagon has provided refueling and surveillance for NATO planes, hit air defenses and sent in armed, remotely piloted drones.

But the 1973 act does not apply solely to boots-on-the-ground, full-out shooting wars. It says that 60 or 90 days after notifying Congress of the introduction of armed forces "into hostilities or into situations where imminent involvement in hostilities is clearly indicated" the president must receive Congressional authorization or terminate the mission.

No word games can get him off the hook.

We support the Libya campaign, although like many Americans we are frustrated that it has dragged on this long. We are eager to hear from the president about what additional nonmilitary pressures he is rallying to finally end Col. Muammar el-Qaddafi's murderous reign.

Still, we have no doubt that if NATO had not intervened, thousands more Libyan civilians would have been slaughtered. The operation also had a unique, international mandate from a United Nations Security Council resolution and an Arab League request to act.

If Washington were to cut off its support now, the NATO campaign would unravel. The cost to relations with Europe and the unity of the military alliance would be enormous — likely felt all the way to Afghanistan.

No matter how one sees this mission, the War Powers Act is an essential balance to the White House, any White House power to wage war. Carving out an exception for drones or airstrikes would be a dangerous precedent, especially in an era when so much fighting can be done from the air and by remote control.

We are deeply skeptical of the motivations of at least some of the politicians suddenly championing the War Powers Act, beginning with House Speaker John Boehner.

As Politico reported, Mr. Boehner voted to repeal the law in 1995, and in a 1999 press release during the debate over Kosovo, he called the act “constitutionally suspect” and warned against tying the hands of future presidents. Asked about the shift, a spokesman for Mr. Boehner said that “regardless of his personal views, ... the speaker has an institutional obligation to enforce the laws of the land.”

Perhaps. But this looks a lot like every other maneuver by Republicans determined to block Mr. Obama at every turn, no matter the cost.

These are the same folks eager to play chicken with the debt limit even if it risks bringing the financial markets crashing down. Would they really cut off American support to the NATO mission in Libya, even if it risks bringing the alliance crashing down? We shudder to think.

Partisan brinkmanship or not, Mr. Obama doesn't have a choice. He needs to go to Congress and make his case. Congress then needs to authorize continued American support for NATO's air campaign over Libya.

**A version of this editorial appeared in print on June 17, 2011, on page A34 of the New York edition with the headline: Libya and the War Powers Act: The law does apply to the NATO campaign, but that is no excuse to end it prematurely.**