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An Appeal to General Dempsey on Syria

By [Veteran Intelligence Professionals for Sanity](#)
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Gen. Martin Dempsey, Joint Chiefs of Staff chairman, has spoken soberly about the dangers from any military strike on Syria, but press reports indicate President Obama is still set on launching cruise missiles in the coming days, an action that former U.S. intelligence professionals say should prompt Dempsey's resignation.

MEMORANDUM FOR: General Martin Dempsey, Chairman, Joint Chiefs of Staff

FROM: Veteran Intelligence Professionals for Sanity

SUBJECT: Syria and Our Oath to Defend the Constitution

Dear Gen. Dempsey:

Summary: We refer to your acknowledgment, in your letter of July 19 to Sen. Carl Levin on Syria, that a “decision to use force is not one that any of us takes lightly. It is no less than an act of war.” It appears that the President may order such an act of war without proper Congressional authorization.

As seasoned intelligence and military professionals solemnly sworn to support and defend the Constitution of the United States, we have long been aware that – from private to general – it is one’s duty not to obey an illegal order. If such were given, the honorable thing would be to resign, rather than be complicit.



In responding to questions on military options voiced at your re-nomination hearing on July 18, your letter to the chair of the Committee on Armed Services reflects that you acknowledge Congress’s Constitutional role with respect to U.S. “acts of war.” Equally important, you addressed these words to Sen. Levin: “You deserve my best military advice on how military force could be used in order to decide whether it should be used.” (*emphasis in your letter*).

The options your letter addressed regarding potential use of military force included five being considered at the time: (1) Train, Advise, Assist the Opposition; (2) Conduct Limited Stand-off Strikes; (3) Establish a No-Fly Zone; (4) Establish Buffer Zones; (5) Control Chemical Weapons. You were quite candid about the risks and costs attached to each of the five options, and stressed the difficulty of staying out of the Syrian civil war, once the U.S. launched military action.

‘Tailored, Limited’ Strike Option

Presumably, there has not been enough time to give Sen. Levin’s committee an equivalent assessment of the implications of the new option described by the President Wednesday evening as a “tailored, limited” response to the chemical weapons attack on August 21 that he has been told was carried out by Syrian government forces. President Obama said, without elaboration, that a retaliatory strike is “needed ... to protect U.S. security.”

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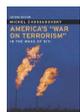
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It is precisely this kind of unsupported claim (so embarrassingly reminiscent of the spurious ones used more than a decade ago to "justify" attacks on Iraq) that needs to be subjected to rigorous analysis by both the Pentagon and Congress BEFORE the President orders military action. For some unexplained reason of urgency, that order may come within the next day or two. With no wish to prejudice the results of analysis presumably under way, we feel it our responsibility to tell you now that, speaking out of several hundred years of collective experience in intelligence and national security matters, we strongly believe that the President's reference to a military strike on Syria being "needed to protect U.S. security" cannot bear close scrutiny.

In all candor, the credibility of his chief national security advisers – and his own credibility – have been seriously damaged in recent months, giving all the more urgency and importance to the need for Congress to exercise its Constitutional role regarding war. And, as usual, there are serious problems with the provenance and nature of the "intelligence" that is being used to support the need for military action.

In your July 19 letter to Sen. Levin you emphasized: "As we weigh our options, we should be able to conclude with some confidence that the use of force will move us toward the intended outcome. ... Once we take action, we should be prepared for what comes next. Deeper involvement is hard to avoid. **We should act in accordance with the law, and to the extent possible, in concert with our allies and partners.**" (emphasis supplied)

This last sentence raises, first and foremost, the question of what the Constitution says of the role of Congress in authorizing a military attack that, in your words, "is no less than an act of war" (further discussed below).

It also raises the important issue of how seriously we should take the result of democratic Parliamentary procedures among our allies. Although not legally required to do so, British Prime Minister David Cameron on Thursday sought Parliamentary approval for military action against Syria and was rebuffed. With as much grace as he could summon, Cameron said the British people had expressed their will and he would not flout it (even though he could do so, legally in the British system):

"It is clear to me that the British Parliament, reflecting the views of the British people, does not want to see British military action. I get that, and the government will act accordingly," a tense-looking Cameron said immediately after the vote.

French President Francois Hollande has said his country may still strike Syria to "punish" it for allegedly using chemical weapons, despite the British Parliament's failure to endorse military action. If Fiji can be lined up again, that would make a coalition of at least three.

The Fundamentals: Congress's Role

Before the President spoke on Wednesday, the ranking member on the House Judiciary Subcommittee on the Constitution and Civil Justice, Jerrold Nadler issued a formal statement titled: **Constitution Requires Congressional Authorization on Use of Force Against Syria**. Nadler wrote:

"The Constitution requires that, barring an attack on the United States or an imminent threat to the U.S., any decision to use military force can only be made by Congress – not by the President. The decision to go to war – and we should be clear, launching a military strike on another country, justified or not, is an act of war – is reserved by the Constitution to the American people acting through their elected representatives in Congress.

"Since there is no imminent threat to the United States, there is no legal justification for bypassing the Constitutionally-required Congressional authorization. 'Consultation' with Congress is not sufficient. The Constitution requires Congressional authorization.

"The American people deserve to have this decision debated and made in the open, with all the facts and arguments laid out for public review and debate, followed by a Congressional vote. If the President believes that military action against Syria is necessary, he should immediately call Congress back into session and seek the Constitutionally-required authorization."

As of Thursday, more than a third of the House of Representatives have spoken out against being marginalized, as they were before Libya, many insisting that there be Congressional debate and a vote before any military strike on Syria.

In addition, Republican House Speaker John Boehner sent Obama a letter Wednesday urging him to "make the case to the American people and Congress for how potential military action will secure American national security interests, preserve America's credibility, deter the future use of chemical weapons, and, critically, be a part of our broader policy and strategy."

The President called Boehner on Thursday to brief him "on the status of deliberations over Syria," according to a Boehner spokesman, who added that, "during the call, the speaker sought answers to concerns outlined in his letter, including the legal justification for any military strike." After the call, Boehner reportedly complained that his questions had not been answered.

Holding Congress in Contempt

Elementary school children learn that, in view of the Founders' experience with English kings, it



was not by chance that, in crafting the Constitution, they took care to give to our elected representatives in Congress the exclusive “Power To declare War [and] To raise and support Armies.” (Article 1, Section 8). The somber historical consequences of letting this key power of Congress fall into disuse after WWII – in effect, allowing Presidents to act like Kings – speak eloquently to the folly of ignoring Article 1, Section 8.

And yet, there is no sign that President Barack Obama intends to request Congressional authorization (as opposed to “consultation” with chosen Members) before he orders military action against Syria. Indeed, he and his top appointees have been openly contemptuous of the Constitutional role of Congress in such matters.

Obama’s former Defense Secretary Leon Panetta was smoother and more wise-old-handish than his predecessors in emasculating Congressional power. Thanks to Panetta, we have direct insight into how the Obama administration may strike Syria with very little consultation (not to mention authorization) from Congress.

Several of us remember watching you in some distress sitting next to your then-boss Panetta as he tried to put Sen. Jeff Sessions (R-Alabama) in his place, at a hearing of the Senate Armed Services Committee on March 7, 2012. Chafing belatedly over the unauthorized nature of the war in Libya, Sessions asked repeatedly what “legal basis” would the Obama administration rely on to do in Syria what it did in Libya.

Panetta stonewalled time after time, making it abundantly clear that the Obama administration does not believe it needs Congressional approval for wars like the one in Libya. “I am really baffled,” said Sessions. “The only legal authority that’s required to deploy the U.S. military [in combat] is the Congress and the President and the law and the Constitution.”

Panetta’s response did nothing to relieve Sessions’s bafflement: “Let me just for the record be clear again, Senator, so there is no misunderstanding. When it comes to national defense, the President has the authority under the Constitution to act to defend this country, and we will, Sir.”

You will remember Panetta’s attitude, which Sen. Sessions called “breathtaking.” You said nothing then, and we can understand that. But, frankly, we are hoping that you had that awkward experience in mind when you reminded Sen. Levin that, “We should act in accordance with the law.”

Clearly, there is an important Constitutional issue here. The question is whether you will again choose to be silent, or whether you will give Secretary Chuck Hagel and the President notice that your oath to support and defend the Constitution precludes complicity in end-running Congress on Syria.

If, Resign

We do not understand why the White House has so far been unwilling to await the results of the UN inspection in Damascus, but we are all too familiar with what happens once the juggernaut starts rolling to war. However, if despite Thursday’s vote in the British Parliament and the increased opposition in Congress to war without the authorization of Congress, the President decides to order an attack on Syria, we urge you to act in accordance with your solemn oath to support and defend the Constitution, as well as your own conscience.

In such circumstances, we believe strongly that you should resign and explain your reasons at once to the American people.

Very Respectfully,

For the Steering Group, Veteran Intelligence Professionals for Sanity

William Binney, Senior Scientist, NSA (ret.)

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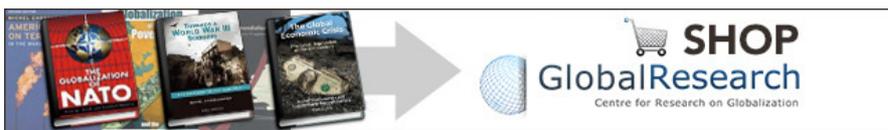
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