

Speak Plainly: This is War!

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20

President Obama, Wednesday night, provided further details on his plans to meet the challenge of ISIS, relying on a broad coalition of partners to degrade and destroy the Islamic State. He said he would rely on U.S. airstrikes, not combat troops, and would work with other nations to cut off ISIS funding. He warned there would be no safe haven for any organization that threatened America, implying that military operations in Iraq could spread to Syria and perhaps to neighboring countries, including Turkey and Jordan.

What President Obama did not acknowledge is that what began several months ago as “targeted” airstrikes “limited in scope” had developed into a commitment that could last several years, stretching into the next administration. There is no reason to believe that an effective operation against ISIS can be restricted to airstrikes. U.S. troops are already on the ground and he will add “an additional 475 service members to Iraq.” It does not matter whether we call them “boots on the ground.” U.S. military efforts will combine air and ground forces.

The objective, Obama said, is to attract a broad coalition, including Arab nations. Thus far, there have been some commitments from allies to provide humanitarian aid and military equipment but not military forces. If this turns into an essentially U.S. effort, jihadists can claim that the battle is essentially the United States against Islam, even if many Moslems find ISIS thoroughly repugnant. By providing the leadership he has, Obama risks taking ownership of another war that has no clear end, breadth, or cost.

President Obama’s track record of estimating the scope of military operations is not reassuring. In 2011, he predicted his military actions in Libya would be a matter of days, not weeks. It lasted seven months. What began as a humanitarian mission – to protect innocent civilians – soon morphed into siding with rebel forces and regime change, leading to the removal of Muammar Qaddafi. Instead of assisting Libya, it is now a broken country: politically, legally, and economically. Fractious militias are engaged in a bitter civil war, sliding toward Islamist extremism and helping to destabilize North Africa. About a third of the country has fled to Tunisia.

In an interview with Thomas Friedman of the *New York Times* on August 8, President Obama admitted that he and his European partners ignored what would happen with Qaddafi gone. No thought was given to how to rebuild a country capable of governing itself. As he told Friedman: “So that’s a lesson that I now apply every time I ask the question, ‘Should we intervene, militarily? Do we have an answer [for] the day after?’” As with many U.S. military interventions, the emphasis was on force, not constructive change. Given that history, there is little reason to trust the judgment of the Obama administration in far more complex conditions in Iraq and Syria.

Military action in Libya also underscored the capacity of the Obama administration to play word games instead of talking straight. On April 1, 2011, the Office of Legal Counsel issued a memo stating that “a planned military engagement that constitutes a ‘war’ within the meaning of the Declaration of War Clause may require prior congressional authorization.” But it then decided that meeting the standard of war is satisfied “only by prolonged and substantial military engagements, typically involving exposure of U.S. military personnel to significant risk over a significant period.” OLC reasoned that if U.S. casualties can be kept low, regardless of the destruction and loss of life suffered by other nations, war would not exist within the meaning of the Constitution. Under this definition, a powerful nation could pulverize another country and there would be no war if the aggressor state did not suffer significant casualties. As military activities continued in Libya, the Obama administration even announced there were no “hostilities” in Libya. The purpose of that legal deceit was to sidestep the 60-90 day clock of the War Powers Resolution.

When President Truman ordered U.S. troops to Korea in June 1950, he told the public it was not “war” but rather a UN “police action.” He spoke falsely and became the first President to take the country to war without first seeking authority from Congress. On July 27, 1945, he had publicly pledged to seek legislative authority for any UN military action. The UN Participation Act of December 20, 1945, plainly stated that presidential efforts to engage U.S. forces in a UN military action “shall be subject to the approval of the Congress by appropriate Act or joint resolution.” Truman signed the bill without making any objections. That statute, still on the books, defines the constitutional processes of the United States. President Obama should not follow an unconstitutional course by claiming independent power to take the nation to war.

Louis Fisher provided professional analysis to Congress from 1970 to 2010 in separation of powers and constitutional law. He is author of



(AP Photo/Charles Dharapak)

Presidential War Power (3d ed. 2013).

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