



Cato Institute Foreign Policy Briefing No. 5: Time for Congress to Vote on the Issue of War in the Gulf

December 14, 1990

Christopher Layne, Ted Galen Carpenter

Christopher Layne is an adjunct scholar, and Ted Galen Carpenter is director of foreign policy studies at the Cato Institute in Washington, D.C.

Executive Summary

Despite President Bush's offer to hold direct talks with Iraqi president Saddam Hussein to resolve the Persian Gulf crisis, the momentum toward war remains very strong. Even if the president's proposal is sincere and not merely a diplomatic charade to quiet domestic and international critics, it comes after a rather long series of ominous declarations. Bush repeatedly rejected a compromise solution to the crisis, explicitly compared Saddam with Adolf Hitler, and offered dark hints of demands for reparations and Nuremberg-style war crimes trials. CIA Director William Webster and other administration officials implied that the U.S. objective of achieving stability in the Persian Gulf requires Saddam's overthrow and the destruction of Iraq's military capabilities. After deliberately downplaying the hostage issue since the onset of the crisis, the president and Secretary of State James A. Baker III elevated the plight of the Americans being held in Iraq and Kuwait to the level of a possible *casus belli*. Most ominous of all, the United States announced the dispatch of an additional 150,000 to 200,000 troops to the gulf for the explicit purpose of having an "offensive capability" and obtained a UN resolution authorizing the use of force if the ongoing economic blockade fails to dislodge Iraqi forces from Kuwait. The rationale for the U.S. military presence in the gulf has clearly grown far beyond the original, limited justification of deterring an Iraqi invasion of Saudi Arabia.

The United States is again sliding inexorably into a war that Congress has not sanctioned. Since 1945 American presidents have committed U.S. troops to two major wars (Korea and Vietnam) and a host of lesser conflicts (most recently Panama, Grenada, and Lebanon) without asking Congress to declare war. Dusting off the imperial presidency's supposed constitutional prerogatives, President Bush has asserted that although he intends to "consult" selected congressional leaders, he feels no obligation to seek authorization from Congress before initiating hostilities against Iraq. That high-handed assertion of executive-branch supremacy should be worrisome even to Americans who might be inclined to support a decision to employ military force in the gulf. Congress should act now--before it is too late-- to prohibit the use of U.S. forces in offensive actions against Iraq without explicit congressional approval.

By making the president commander in chief while reserving to Congress the power to declare war and ratify treaties, the Framers issued--in constitutional scholar Edward Corwin's oft-quoted observation--an invitation for the two branches to struggle for supremacy in conducting foreign policy.[1] But until the onset of the cold war, that struggle took place within fairly well defined limits. The authority of the president to respond to sudden attacks on U.S. territory without congressional authorization was never seriously disputed, and Congress generally tolerated presidential initiation of small-scale military operations for other reasons. (The vast majority of the pre-World War II incidents that proponents of the imperial presidency habitually cite as precedents for unilateral presidential war-making were of the latter sort.)[2] Conversely, until the end of World War II, it was understood that a president could not commit U.S. forces to a major conflict or provide security guarantees to other nations without the consent of Congress.

The exigencies of the cold war upset the delicate constitutional balance. To meet the perceived communist threat in a world that was viewed as bipolar both geopolitically and ideologically, the United States became a national security state--permanently mobilized to contain communism worldwide. Executive-branch authority increased dramatically, and congressional power eroded--and, to a large degree, was abdicated voluntarily. In a world bristling with nuclear weapons, it was said, the president needed a free hand to respond quickly to global crises. Because any communist victory would supposedly have been catastrophic for U.S. credibility and interests, every postwar administration routinely by-passed the treaty-making process with its constitutional provision for Senate ratification and entered into overseas defense commitments by executive agreement. And because communist aggression was often indirect--relying on "wars of national liberation" and subversion rather than cross-border military invasions--defenders of the imperial presidency contended that political, strategic, and crisis-management imperatives required U.S. presidents to be able to act without congressional interference.

World politics is turbulent, complex, and unpredictable. Thus it is impossible to definitively resolve the tension between congressional and presidential foreign-policy-making powers. In the Persian Gulf crisis, however, there are no compelling arguments for allowing the administration to initiate military action against Iraq without first obtaining a declaration of war. The asserted U.S. obligations to Saudi Arabia and Kuwait are not enshrined in treaties, and hence the implications of such commitments have not been examined by Congress. In any event, defending Saudi Arabia is no longer the real issue.

Washington's policy objectives in the Persian Gulf crisis have become far bolder and more expansive. The point of contention now is the administration's claim that it alone can commit the United States to war not merely to repel an invasion of Saudi Arabia but to drive Iraq out of Kuwait, get rid of Saddam, and crush Iraqi power. It is increasingly evident that Congress and the American people have become the victims of a bait-and-switch tactic.

More disturbing than the present Persian Gulf crisis is the insistence of administration leaders that because the United States is the sole remaining superpower, it must act to establish a new world order based on the principles of the freedom of nations, the rule of law, and justice.[3] For such an ideal world order to be viable, they contend, the United States must squelch aggression--and evil dictators--everywhere. Whether the United States can or should pursue such limitless and potentially dangerous ambitions is a question that ought to be debated publicly.

Congress is the appropriate forum for that debate. There is no reason key issues should not be thrashed out before the United States goes to war. Americans have time to conduct that debate, which is too important to be left to street demonstrations staged by aging 1960s' radicals. The Persian Gulf crisis is not a cold-war superpower confrontation, with all the possibilities for sudden escalation to nuclear engagement that such a clash might have entailed. There is no imminent danger to America's territorial integrity, to its physical and economic security, or even to the global balance of power. In short, none of the conditions that were cited throughout the cold war as imperative reasons for untrammelled presidential authority to use the military apply in this case.

The crisis has continued for nearly four months, offering more than enough time for a congressional debate. Even at this late date there may still be an opportunity to reflect before making the fateful decision to go to war in the gulf--a conflict that, contrary to the confident assurances of Pentagon leaders, may not end quickly and will assuredly cost many American lives.

A sober assessment of both short- and long-term U.S. policy objectives in the gulf is needed. Will vanquishing Iraq really bring stability to that perennially volatile region? Will the anti-Iraq coalition hold together--especially if the United States strikes Iraq first? What impact will an American-initiated war have on moderate Arab governments--and on Arab populations? How will Washington's policy, particularly the need to reward Egypt, Syria, and other Arab countries that have supported Washington's actions, affect U.S.-Israeli relations?[4]

It is essential that Congress reach an official decision on U.S. policy in the Persian Gulf. It is not enough merely to hold committee hearings on the issues or for members of Congress to debate them without an eventual resolution. Nor is it acceptable for Congress to pass a blank-check resolution endorsing whatever action the president might deem necessary. Such a broad delegation of authority to the executive (as exemplified by the 1957 "Eisenhower Doctrine" resolution and the 1964 Gulf of Tonkin resolution) is an abdication, not an exercise, of congressional responsibility.

Congress must decide whether America's vital interests justify fighting a war with Iraq. In doing so, the members need to distinguish the administration's often implausible official justifications for U.S. action from the real issues and their implications.

Contrary to what Secretary of State Baker has said, the gulf crisis is not about jobs. The current recession ("significant downturn") was widely forecast last spring, and it is dishonest to blame its onset on Saddam Hussein. The crisis is not about oil, because Iraq (including Kuwait)--which controls only 7 percent of current world oil production--lacks the market power to put a stranglehold on the global economy. Oil prices are up because of fears of a major war, not because Iraq dominates the international oil market. The crisis is not about Iraqi nuclear weapons, because it will be a long time before Iraq has an operational, deliverable nuclear capability and longer still (if ever) before it has the ability to strike the United States directly. And the crisis is not about hostages. Many are already being released (admittedly to further Saddam's cynical diplomacy), and all would be freed if the current military confrontation came to an end.

The principal issue facing Congress, then, is whether to authorize offensive U.S. military action in order to liberate Kuwait and restore that microstate's previous autocratic regime. President Bush insists that expelling Iraq from Kuwait is a matter of upholding "principles of worldwide importance." Americans--and Congress--have heard that kind of talk before. In its most crucial respect, the Persian Gulf crisis is exactly like the intervention in Vietnam; the administration has embarked the United States on another quixotic crusade. Bush's concept of a "new" world order (which is identical to the vision of world order that led U.S. policymakers into Vietnam) threatens to plunge the United States into another war in which its vital interests are not engaged. There is no justification for risking American lives to restore a corrupt, semifeudal Middle Eastern potentate to his throne.

Congress should live up to its moral and constitutional responsibilities and say "no" to war. It especially must not allow the administration to impose its view that the Constitution and democratic debate can be disregarded as an inconvenience. The basis for an appropriate U.S. gulf policy already is emerging from congressional hearings. Washington should deescalate the crisis by immediately shifting to a defensive military posture (as recommended by former Navy secretary James Webb) and gradually start withdrawing U.S. forces from the gulf. The job of containing Saddam, or overthrowing him, should fall to the regional powers most directly threatened by Iraq. The United States should take no action to break the UN embargo of Iraq, but neither should it help to enforce that measure. Patient containment by Iraq's regional opponents and intensified diplomacy offer a reasonable alternative to war, but only Congress can prevent President Bush from transgressing the Constitution and single-handedly plunging the United States into a needless conflict.

In addition to the issues pertinent to the immediate crisis, President Bush's notion of a "new world order" needs to be scrutinized. In the post-cold-war era, it is highly questionable that America must remain the world's policeman, or that it can afford to do so. The Persian Gulf crisis provides the opportunity for a new, full-scale "Great Debate" about America's purposes and world role. We have not had such a comprehensive evaluation of aims and capabilities since the original Great Debate in 1950-51 concerning the U.S. troop commitment to NATO, during the initial years of the cold war. Even the Vietnam debacle did not produce the kind of searching policy reassessment that might have been expected and was badly needed. Such a debate is especially appropriate as we enter the uncharted waters of the post-cold-war era.

It is exceedingly difficult for the United States to prevail in war unless the conflict is supported by Congress and the American people. There may be support for defending Saudi Arabia (although public sentiment for even that objective appears to be eroding), but opinion polls indicate that a large minority, perhaps even a majority, of Americans oppose going to war to free Kuwait or crush Saddam.[5] Surely, constitutional responsibilities aside, the Bush administration's political interests counsel against fighting a war that lacks adequate public support and constitutional legitimacy.

Wars are easy to start but often difficult to end. Thus the hard questions--about the nature of America's security interests, the feasibility of objectives, and the relationship of ends to means--must be asked before the shooting starts. In its historic 1966 hearings, the Senate Foreign Relations Committee asked the right questions about U.S. policy in Vietnam. But it was too late to halt the march of folly in Southeast Asia, because vast numbers of American troops had already been committed to combat. It is imperative that Congress not make that mistake again.

The power of one individual and his coterie of appointed advisers to take a nation to war is the hallmark of an absolute monarchy or a dictatorship, not a democratic republic. The consequences of such centralized decisionmaking were expressed well by Secretary of Defense Caspar Weinberger in 1984.

Who among the Soviets voted that they should invade Afghanistan? Maybe one, maybe five men in the Kremlin. Who has the ability to change that and bring them home? Maybe one, maybe five men in the Kremlin. Nobody else. And that is, I think, the height of immorality.[6]

One hopes that future historians will not have cause to articulate the same indictment of a U.S. decision to go to war in the Persian Gulf.

Administration officials have sought the approval of allied governments (including several autocratic regimes) for possible military action against Iraq. They engaged in painstaking diplomacy to secure a UN resolution authorizing the use of force. Yet the president and his advisers arrogantly spurn suggestions that the elected representatives of the American people should make the decision for war or peace. Such usurpation of congressional authority must not go unchallenged. Morally and constitutionally, it is time for Congress to assert its foreign policy prerogatives---especially the power to declare war.

Notes

[1] Edward S. Corwin, *The President: Office and Powers* (New York: New York University Press, 1957).

[2] Arthur Schlesinger, Jr., "Iraq, War and the Constitution," *Wall Street Journal*, November 12, 1990, p. A14. For a more comprehensive discussion, see Francis D. Wormuth and Edwin B. Firmage, *To Chain the Dog of War: The War Power of Congress in History and Law* (Dallas: Southern Methodist University Press, 1986), pp. 133-50.

[3] See, for example, George Bush, "Toward a New World Order," address before a joint session of Congress, September 11, 1990, *U.S. Department of State Dispatch*, September 17, 1990, pp. 91-94; George Bush, "Aggression in the Gulf: A Partnership of Nations," address before the United Nations General Assembly, October 1, 1990, *Vital Speeches*, 15, 1990, pp. 2-4.

[4] For a discussion of those issues, see Christopher Layne and Ted Galen Carpenter, "Arabian Nightmares: Washington's Persian Gulf Entanglement," *Cato Institute Policy Analysis* no. 142, November 9, 1990.

[5] A poll conducted by *USA Today* found that 38 percent of respondents opposed the deployment of additional U.S. forces to the gulf that was announced on November 8. Debbie Howlett, "Poll: Bush Support Slim," *USA Today*, November 13, 1990, p. 1A. A *Washington Post*/ABC News poll revealed that 32 percent opposed going to war to force Iraq out of Kuwait. Richard Morin, "Public Supports Move for Talks," *Washington Post*, December 4, 1990, p. A27. A *Los Angeles Times* poll found that 53 percent opposed going to war against Iraq. Moreover, no more than one-third of respondents favored going to war to achieve any of the administration's stated objectives. Ronald Brownstein, "Americans More Wary about Prospect of War," *Los Angeles Times*, November 16, 1990, p. A-1.

[6] Remarks by Caspar W. Weinberger at the Oxford Union Debate, London, England, news release, Office of the Assistant Secretary of Defense (Public Affairs), February 27, 1984, pp. 4-5.