

TEAM AMERICA: WORLD INTERVENTIONISTS?
HOW THE U.S. INVOLVMENT IN LIBYA IS LEGALLY LIMITED

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Setting the Stage

While Perezhilton.com is vehemently covering the conflict between Charlie Sheen and his own brain, every other news source is closely following the escalating situation in Libya. If Perez happens to be your only news source, let's get you up to speed.

Perhaps inspired by the recent overthrows in the neighboring countries of Tunisia and Egypt, Libya too has found itself in the midst of civil war. By the end of February, a [full-scale protest](#) had begun. Many Libyans are up in arms over leader Muammar el-Qaddafi's more than forty-year reign and are ready to pull the plug. Since the commencement of the rebellion, Qaddafi has used military force to suppress opposition to his regime. Qaddafi has ordered a multitude of [attacks on opposition-supporting towns and cities](#), producing the loss of [hundreds of civilian lives](#). Somehow in the crux of this turmoil, Qaddafi has become quite the media-junkie, using various news outlets to publicly threaten to "[crush](#)" the [rebellious](#) movement.

Qaddafi's media savvy certainly comes at a price, and the world is collectively responding to his actions. The UN and its allies have spoken out fervently against the inhumane treatment of Libyan citizens. The United Nations Human Rights Council has even gone so far as to [expel Libya from the Council](#). Many human rights organizations support the U.N. in promulgating its vivid message that those world leaders who "[commit crimes against humanity will be punished](#)". Aside from the UN's efforts, collective retaliation also involves the [United States](#), along with [Australia](#) and [Canada](#), all of whom have imposed economic sanctions against Libya.

As the protests continue in Libya, President Obama has inserted United States military forces directly into the country, characterizing U.S. intervention as a "[humanitarian mission](#)" to end social unrest in the country. The U.S. Constitution and international law doctrines, all of which proscribe legal limits on the President's military authority, govern the United State's participation in Libya. These doctrines are likely one of the many sources of controversy as the United States continues its involvement in Libya.

There is this Document... You Might Have Heard of It... The U.S. Constitution...

As the situation in Libya escalates, the United States must use its

discretion in determining the level of its involvement, so as to not run afoul of international governance and to stay in compliance with our own U.S. Constitution. Our "[law of the land](#)" describes the President as the Commander-in-Chief of the Army and Navy of the United States. This provision also confers to the President the [power to lead the military in war once Congress has declared it](#).

However, the President's powers are also constrained under the Constitution. [Nowhere in the document is the President given express powers to declare war](#). In fact, that power resides solely within the province of Congress. Because the President must overcome these Congressional hurdles in order to go to war, the United States has only formally declared war on another country [five times](#). You might ask: "What about our involvement in Iraq?" Fair enough. The War on Terrorism is considered an "[undeclared war](#)." Presidents have often sent the military into other countries under the guise of "undeclared wars" in order to avoid running afoul of the U.S. Constitution. Thus, a President who has reservations about Congress's support might refrain from entering a country with express intentions of war. A President might instead enter a country under the auspices of a [humanitarian mission](#) or an [intervention](#). (hint: the current president and the country this article is about).

I Do What I Want!

While the Constitution clearly – or not so clearly, depending on interpretation – enumerates the President can only *lead* a war, that belief has certainly gone to the wayside in the last fifty years. Since the end of World War II, there has been a steady shift in attitudes favoring the President's power to wage war. Experts in constitutional law have taken note that after WWII, Presidents continue to develop the notion that "[they can go to war whenever they want and ignore Congress](#)." Given this purported leeway, it may seem that President Obama could go to war anytime he sees fit. However, it's not quite that simple, Article 1 Section 8 of the Constitution still says that Congress holds the war powers and no one else. But if the Constitution is a living and breathing document, can't things be molded to fit different interpretations? Yes, to an extent.

There Are Rules to Be Followed

There is no question that times, views, and opinions have changed since 1789, when the framers of the Constitution [divided the war powers](#) between the President and Congress. Some say this division was created with the [intention that they would work together](#) on the matters of war and that no one branch [would have more power than another](#). [Others argue](#) that because the Constitution bestows the duty of Commander-in-Chief to the President, he would have the power to order the military to engage in hostile action, including war. Even if it is widely believed that the President can declare war unilaterally, it does not necessarily follow that the President will receive support for the war.

Congress ultimately has the [ability to defund](#) military operations ordered by the President. Thus, even though the President has already sent troops to Libya, Congress can jump in at any point and cut off funding.

The United Nations – of which the United States is a member – has initiated a no-fly zone in Libya and has “[stressed the need to intensify efforts to find a solution to the crisis](#)”. The UN Security Council has also authorized joint efforts that include the use of military force. However, the UN authorization does not supersede that of the United States Congress. Some citizens are questioning whether the UN’s authorization is enough to compel America to aid the efforts in Libya, let alone possibly engage in war. These critics contend that Congress – [as a more accurate voice of the people](#) – should have a say in when the U.S. is thinking about going to war.

President Obama has legally sent military forces to Libya under the War Powers Resolution (WPR). [The Resolution states](#) that “the President’s powers as Commander-in-Chief to introduce U.S. forces into hostilities or imminent hostilities, are exercised only pursuant to (1) a declaration of war; (2) specific statutory authorization; or (3) a national emergency created by an attack on the United States or its forces.” However, even under the WPR, [time is slipping away](#). Congress must either declare war or authorize military action within sixty-days of the commencement of the recent U.S. military action; otherwise the President’s actions will be a constitutional violation.

Why Libya? Why Now?

Some have also criticized the United States’ decision to engage in Libya, when there are many countries [facing similar social unrest](#). Some argue that there are alternative motives for the U.S.’s involvement in the Libyan revolution, while many echo the President’s rationale for supporting U.S. involvement in this foreign matter. Some argue along the lines of economic efficiency, urging that the U.S. only has so many resources and cannot be in every country at the same time. Others allege that the [U.S. is acting selfishly](#). For example, there have been [calls for the government to intervene in Yemen](#), where just last week, pro-Yemen governmental forces killed fifty protesters. Still, others speculate that the U.S. is hesitant to involve itself in these matters because Yemen and Bahrain are United States’ allies. [Yemen is a key player](#) in the war with al-Qaeda, and the fear is that the war on terrorism would be jeopardized by a U.S. intervention. Finally, some argue that the U.S. is keeping the involvement in Libya minimal because entering into a war with Libya would raise the U.S. tally of wars in the Middle East to three, which might objectively indicate that the United States has overreached itself in foreign affairs.

In an address to the nation, President Obama openly stated the U.S. involvement in Libya is for both “[strategic and moral](#)” reasons. The President stood firm, stating that the U.S. will only take a supporting role to the UN in the efforts in Libya. Similarly, President Obama believes that to take no action in

Libya would be a blatant disregard for the very [morals and traditions](#) the United States was built upon. But maybe some traditions should be changed? That is the sentiment from at least some Americans.

More Team America, Less World Police

Perhaps ironically, many of the critiques of U.S. involvement in Libya come from the same people who played a significant role in getting the President elected – the [Millennials](#). The Millennials are the generation born between the years 1980 – 2005 and will be the next leaders of the country. The Millennials, by in large, are against foreign involvement. According to a new study by the Brookings Institution, [the Millennials will likely be less "world power-ish"](#) than our current government leaders and will err on the side of isolationism instead of globalism. Many of the young people who were surveyed felt the U.S. is too heavily involved in foreign conflicts. Many expressed a desire to scale back the military reach of the United States.

It's possible the Millennial generation has taken notes from the history books and will not repeat the [mistakes](#) of its predecessors. Instead, it can be anticipated that the Millennials will look to the past to ensure that they intervene only where human rights are being [grossly violated](#) and where they are of the utmost concern. One thing we certainly know about this generation is that they are technologically savvy - just like Qaddafi. And whatever the future holds for Libya-like situations, you can be sure the Millennials will at least be [tweeting](#) about their generation's constitutional controversies.