

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

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"USING FORCE: STRATEGIC, POLITICAL AND LEGAL CONSIDERATIONS"

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Chairman Corker, Ranking Member Cardin, and other distinguished members of the Committee. Thank you for the opportunity to appear before you this morning on such an important subject.

The decision to use military force is perhaps the most consequential decision that this nation can make. It can have enormous consequences for our nation's security, prosperity, and role in the world. It can have enormous consequences for other countries and their peoples. But most of all, it has the most serious consequences for our country's most precious resource -- the lives of its citizens. The decision to use military force is the decision to put those Americans serving in our military in harm's way -- at risk of death and serious injury. Such a decision must be made with the greatest seriousness, consideration, and care.

It is a cautionary tale for any President who is considering the use of military force that since World War II the only war our nation has fought that was as popular with the American people at the end as it was at the beginning was the Gulf War of 1990-1991. This was because military force was used in that conflict in service of a

critical national purpose, the objective of the military operation was clear, the strategy to achieve that objective was sound, the military resources committed to the effort matched the strategy, a coalition of U.S. allies and affected regional states was involved, the objective was achieved in relatively short order, and the resulting peace was sustainable. Virtually every other major military operation has lacked one or more of these elements of success.

Perhaps the most challenging element from a policy perspective is developing a sound strategy that will achieve the objective. This was brought home to me in a conversation with President George W. Bush in January of 2007, just days before he was to announce the change of strategy and “surge” of additional forces into Iraq. After being assured once again that his national security team believed that the new strategy would achieve its objective, he had a simple request: “if you ever change your mind [on this point], you must let me know – for I cannot send men and women in uniform into war if we don’t have a strategy that will win.”

This is the mindset that the nation must have when it decides to use military force. It must have a strategy to succeed. If it doesn’t, then our military should not be sent to war. And if our military is sent into combat, then it should have the resources, rules of engagement, and support that will allow it to succeed. The military instrument is too precious to be used just to avoid the consequences of failure. It should only be used to achieve success and a military objective in service of a critical national purpose. Borrowing from the Star Wars movie “The Empire

Strikes Back,” when it comes to the use of military power, the Yoda rule applies: “Do or do not. There is no try.” The lives of our Americans in uniform are simply too precious.

And the same consideration should apply to Americans who risk their lives serving as the nation’s diplomats, intelligence officers, development professionals, and peace-builders. They too should be used in service of a critical national purpose, with clear objectives, a sound strategy to achieve those objectives, and with adequate resources matched to the strategy.

This is especially true because often their work is essential to consolidating the success achieved by our military. Many of the nation’s efforts overseas have failed on exactly this point. The military objective has been achieved. But we have failed in helping post-conflict societies consolidate the military victory and achieve a stable and sustainable peace. This is not U.S. nation-building. A nation can only be built by the people who live there. But it is helping those people create the institutions that will prevent their nation from being used to threaten the United States and its friends and allies.

Military planning needs to take this into account. John Allen, the retired Marine general officer who led U.S. forces in both Afghanistan and Iraq, has made this point in reflecting on lessons learned from these two conflicts. Planning for a military operation needs to begin from the desired end-state. In military parlance,

that means starting with Phase IV and working backwards to Phase I. Whatever is done militarily must contribute to the desired end state.

This planning effort must involve from the start the civilian elements of the U.S. government in developing an integrated strategy. A stable and sustainable peace that will not give rise to threats to American lives and interests often will require helping local actors develop institutions of good governance, economic development, and security. This is the work of civilian actors every bit as important as our military.

It is often said that military force should only be used as a last resort – after all other options have been tried, exhausted, and failed. The sentiment behind such statements is understandable, laudable, and worthy of respect. But it suggests a false “either/or” choice between military force and every other instrument of national power and influence. Yet we know from practical experience that sometimes only the coordinated use of all elements of national power – diplomatic, economic, and military – as part of an integrated strategy can achieve an important national objective. As many of our nation’s top diplomats have been quick to say, the threat or judicious use of military power is often an essential element of a successful diplomatic initiative.

Because of the importance of the decision – because it potentially involves the lives of American citizens – the use of military force needs the support of the

Congress and the American people. Congress is critical because it both reflects and shapes public opinion. Congress needs to decide what role it wants to have in the decision to use military power and reach a mutual understanding with the President whoever he or she may be.

It is now established practice that there is some level of use of military force that a President can take without prior Congressional approval. There are numerous precedents under both Democratic and Republican presidents. At the same time, it has been the practice of both Democratic and Republican presidents to bring major military operations to the Congress first. Problems arise when the line between these two alternatives is not clear or not observed.

For example, take the decision by President Obama in 2013 to seek Congressional approval before ordering a military strike in Syria over its use of chemical weapons. I supported President Obama's decision to use force and to bring the matter first to the Congress. But Jim Jeffrey, a distinguished retired U.S. ambassador, has argued that the planned military operation was of a scope and scale that many previous presidents had undertaken without prior Congressional approval. The last previous military operation brought to Congress for its prior approval had been President George W. Bush's decision to go into Iraq in 2003. Jim believes that many Americans assumed that because the Syrian action was being taken to Congress for prior approval, President Obama must have had in mind a military operation of similar scale and scope. President Obama clearly did not, but

the confusion may have produced a significant portion of the opposition to what President Obama proposed to do.

Congressional leadership and President Trump should come to an understanding of what is the line between what proposed military operations should be brought to the Congress for prior approval and what should not. Going into this conversation, Congressional leaders will have in mind preserving Congressional prerogatives and its role in the use of force. But it will also have to consider that in some cases it may prefer not to be implicated in the decision itself so as better to exercise disinterested after-the-fact oversight of the decision based on the results. The President will also be protective of his prerogatives as Commander in Chief and Chief Executive. But he will have to consider his need for Congressional funding for any military operation and the benefit of Congressional support in winning and maintaining the long-term support of the American people for the military effort.

My own view is that for a major military operation that carries a high risk of American military casualties, a high risk of civilian casualties especially among U.S. allies and friends, that has major geopolitical implications for American interests and position in the world, and in which American friends and allies have a major stake, prior Congressional approval would be the wiser course. And any such action should be legal under both domestic and international law.

In making a decision to use military force, the President and the Congress must of course give due regard to public sentiment. But the decision cannot be dictated by the most recent public opinion poll. The American people are not isolationist. But they rightly give priority to the work that needs to be done here at home to ensure security and prosperity. They will support a military operation overseas but only if their political leaders make the case: what critical national purpose is involved, why is military action necessary, what is the objective of the military action, what is the strategy for achieving that objective, what other countries are doing to help, and why it is critical that the operation succeed.

History shows that if the President is willing to lead, win the political and resource support from the Congress, and make the case for the military action, the American people generally will support it.

Maintaining public support will require constant attention. I once asked President George W. Bush why he insisted on giving so many speeches on the war on terror. He made the point that when our military is engaged, the President needs continually to explain what is at stake, what is the strategy, why it will succeed, and why this is critical to the well-being of our nation. In doing so, the President also shows both his commitment to the military effort and his confidence in it. This is something that our military personnel and their families need to hear, and that our friends, allies, and adversaries all need to hear. The longer the military effort will take, the more important is the communications effort.

But in the end the American people will judge the military effort by its success or lack thereof. Support is lost if the public does not see progress, loses confidence in the strategy, and/or doubts the President's ability to execute the strategy successfully. A seemingly endless military operation producing little in the way of success and a constant stream of casualties will, over time, cause the public to question the whole premise of the operation. That is why the oversight role of Congress is so important in holding the President's feet to the fire on the purpose, objective, strategy, and execution of any major military operation. The American people should expect no less.