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America's Addiction - Waging Illegal Wars

By Stephen Lendman

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With regard to war, international and constitutional laws are clear. Under the Constitution's Article I, Section 8, only Congress may declare war, not the president. That, in fact, last happened on December 8, 1941 after Japan attacked Pearl Harbor. As a result, all subsequent US wars have been illegal, including Obama's against Iraq, Afghanistan, Pakistan and Libya.

Moreover, the UN Charter explains under what conditions violence and coercion (by one state against another) are justified.

Article 2(3) and Article 33(1) require peaceful settlement of international disputes. Article 2(4) prohibits force or its threatened use. And Article 51 allows the "right of individual or collective self-defense if an armed attack occurs against a Member....until the Security Council has taken measures to maintain international peace and security."

In other words, justifiable self-defense is permissible. However, Charter Articles 2(3), 2(4), and 33 absolutely prohibit any unilateral threat or use of force not:

- specifically allowed under Article 51;
- authorized by the Security Council; or
- permitted by the US Constitution only amendments ratified by three-fourths of the states can change.

In addition, three General Assembly resolutions also prohibit non-consensual belligerent intervention, including:

- the 1965 Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty;

-- the 1970 Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations; and

-- the 1974 Definition of Aggression.

Nonetheless, Washington spurns international and US laws repeatedly, especially waging preemptive aggressive wars, what the Nuremberg Tribunal's Justice Robert Jackson called "the supreme international crime against peace," sentencing convicted Nazi war criminals to death for committing it.

The War Powers Resolution (WPR)

This resolution holds for legal wars. Applying it to Libya, however, is a red herring as America has no authority to attack another country illegally and may only do so in self-defense until the Security Council acts.

Despite questions about its constitutionality, on November 7, 1973, the WPR was passed over Nixon's veto, authorizing Congress and presidents jointly to decide whether to send US forces into conflict zones. As a result, section 4(a)(1) requires presidents to inform Congress within 48 hours about any introduced to areas with ongoing or imminent hostilities.

In it, he must explain:

-- why US forces are being sent;

-- the constitutional or legislative authority permitting him to do so;

-- the estimated extent and duration of involvement; and

-- whatever other information Congress requests.

Section 5(b) then mandates withdrawal within 60 days plus an additional 30 exit period unless Congress extends the time frame for another 30 days, declares war, or unavoidable circumstances require more time, not an unlimited amount.

On exception applies. As commander-in-chief, presidents may introduce US forces unilaterally into conflict areas in case of a national emergency if America, its territories, possessions, or military is attacked. Nonetheless, every possible effort must be made to keep Congress informed no matter the circumstances.

Since passed, however, presidents ignored WPR as well as constitutional and international law, including Obama's illegal wars with no congressional objection except some boilerplate political posturing.

Congressional Power to End Ongoing Wars

Congress, in fact, has power presidents lack - the power of the purse to authorize, refuse, or end funding at its discretion.

The Constitution's Article I, Section 7, Clause I says: "All bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other Bills."

Either House may originate an appropriations bill although the House claims sole authority. Either one may also amend bills, including revenue and appropriations ones. Although Congress rarely rescinds authorized funds, it can easily withhold future amounts without which wars end and troops are withdrawn.

Congressional appropriation power is key, in the House Appropriations Committee and Senate Committee on Appropriations, both authorized under the Constitution's Article 1, Section 9, Clause 7, saying:

"No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of receipts and expenditures of all public money shall be published from time to time."

In fact, only Congress has appropriations authority requiring passage in both Houses, including amounts for war, national defense, and other discretionary and mandatory categories.

As a result, ending wars and occupations is as simple as defunding them, Capitol Hill politics aside, it only happened once post-WW II. So ignore the political rhetoric, belying America's imperial agenda both parties endorse, eager to wage new wars when old ones end by creating enemies when none exist.

How Congress Ended the Vietnam War

An early critic, Senator Frank Church said sending troops there would be a "hopeless entanglement, the end of which is difficult to see." Others in Congress agreed but spoke privately, including William Fulbright, Albert Gore Sr. (the former vice-president's father), Stuart Symington and Majority Leader Mike Mansfield.

Even Lyndon Johnson was conflicted in taped May 1964 Oval Office conversations with his best Senate friend, Richard Russell, telling him he faced a Hobson's choice, saying:

"I'm damned if I do and damned if I don't," the former being impeachment for pulling out, the latter certain defeat that destroyed him.

Asking advice about the "Vietnam thing," Russell called it the "damn worse mess I ever saw," warning we weren't ready to send troops to fight a jungle war, and adding if the option was introducing Americans or get out, "I'd get out" (because) the territory wasn't a "damn bit" important.

Three months later the Gulf of Tonkin embroiled America for over a decade, despite Johnson's misgivings. As a result, it ruined his presidency, shortened his life after three heart attacks, ending it in disgrace, defeating a once bigger-than-life majority leader and President.

In 1965, in fact, Defense Secretary Robert McNamara told Johnson:

"I don't believe they're ever going to quit. And I don't see (that) we have any....plan for victory - militarily or diplomatically," spoken as he began escalating dramatically, knowing the futility and lawlessness.

As early as 1966, congressional opposition emerged. As a result, Congress reasserted appropriations power incrementally, rhetorically at first. However, by June 30, 1970, the Church-Cooper amendment (attached to a supplemental aid bill) stipulated no further spending for soldiers, combat assistance, advisors, or bombing operations in Cambodia.

It was the first attempted congressional war-making constraint. Nixon ignored it, but other measures followed, included the key Church-Clifford Case 1972 Senate amendment attached to foreign aid legislation to end all Southeast Asia military funding except for withdrawal, subject to releasing POWs.

It was the first time either House passed legislation to defund wars. Though defeated in the House, it showed anti-war forces strengthening that in time would prevail.

In June 1973, they did when Congress passed the Church-Case amendment ending all funding after August 15. In November, Congress then passed the War Powers Resolution overriding Nixon's veto, limiting presidential power as explained above. By April 30, 1975, America ended its involvement entirely with a humiliating Saigon embassy rooftop pullout.

It could happen now but doesn't because of America's war addiction, feeding its insatiable military/industrial complex appetite, far larger and more powerful than decades earlier. As a result, Congress and presidents go along, acceding to its authority over their own, pious rhetoric aside about pursuing peace, humanitarian concerns, and democratic values, causing millions of deaths, vast destruction, and immeasurable human misery in the last two decades alone.

Obama today wages illegal wars against four countries and numerous proxy ones for unchallengeable US dominance, at the same time spurning growing popular needs during a deepening Main Street depression.

Spending around \$1.5 trillion annually for militarism, as well as trillions more for Wall Street and other corporate favorites, he's heading America closer to tyranny and ruin. So far, however, public opposition is lacking, despite the urgency to act or face consequences too dire to imagine.

A Final Comment

A May 25 ACLU alert highlighted Section 1034 in HR 1540: National Defense Authorization Act for Fiscal Year 2012.

Titled: "AFFIRMATION OF ARMED CONFLICT WITH AL QAEDA, THE TALIBAN, AND ASSOCIATED FORCES," it authorizes military force anywhere against suspected terrorists, including domestically.

As a result, the ACLU warned:

"Congress may soon vote on a new declaration of worldwide war without end, and without clear enemies." If enacted by both Houses and signed by Obama, it'll be "the single biggest handover of unchecked war authority from Congress to the executive branch in modern American history."

On May 26, HR 1540 passed 322 - 96. On May 12, a companion Senate bill, S. 981, was introduced and referred to committee for consideration. So far, no further action was taken, nor is it clear whether Section 1034's language will be included unchanged or at all.

The situation bears watching at a time America heads closer to tyranny and out-of-control militarism, menacing peace and democratic values everywhere. Isn't that incentive enough for mass outrage to stop it!

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