

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

USING FORCE: STRATEGIC, POLITICAL AND LEGAL CONSIDERATIONS

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Good morning. Thank you, Chairman Corker, Ranking Member Cardin and Members of the Committee, for the opportunity to testify this morning.

It is an honor to appear before you today to discuss such a critical issue. The decision to use military force is one of the most consequential decisions our leaders can make, with implications not just for our military, but also for our diplomats and other civilians who work overseas, our allies and friends around the world, and of course the American public.

Since the September 11, 2001 attacks on the United States, we have used military force in many different places around the world, beginning with Operation Enduring Freedom in Afghanistan and then in Operation Iraqi Freedom, but more recently in Libya, Syria, Yemen, and Somalia just to name a few.

Throughout history, there are many examples of countries that decided to use force to address an immediate threat in the hopes of bringing about a clear resolution, only to find themselves still engaged militarily in the same place years, if not decades later. I suspect when President Truman made the decision to come to

South Korea's aid in 1950, he did not envision the possibility that the United States would still have large numbers of troops on the Korean peninsula in 2017.

Similarly, history is also full of examples of nations deciding to use force thinking they would prevail relatively quickly and easily only to find that wars can drag on longer and be far costlier than originally thought. Kaiser Wilhelm and his generals thought they could make quick work of France and Russia, and keep Britain out of the war altogether but were defeated in World War I four long and bloody years later. We in the United States have seen our own more recent wars defy their original timelines, whether in Vietnam, Iraq or Afghanistan.

Clausewitz reminds us that war is unpredictable. Because war rarely goes as planned and can be extremely costly in both blood and treasure, he cautions us that "no one starts a war –or rather, no one in his senses ought to do so – without first being clear in his mind what he intends to achieve by that war and how he intends to conduct it."¹

When deciding whether to use force, a nation and its leaders must think deeply about what national interests are at stake, whether the interests at stake are sufficiently vital as to merit using force and putting lives at risk, and whether there is a viable strategy to achieve the desired goal. In terms of strategy, there needs to

¹ Carl von Clausewitz, *On War*, edited and translated by Howard, Michael and Paret, Peter, Princeton University Press, 1989 p. 579

be a clear understanding of the strategy's objectives, a vision for how all instruments of power – military, diplomatic, economic and so on – will be used to achieve the objectives, and confidence that those instruments of power will be sufficiently resourced.

One only has to look at our ongoing operations in the Middle East and Afghanistan to realize that aligning each of these elements of strategy is much easier said than done, particularly in today's world which is much more complicated than the Westphalian world of Carl von Clausewitz. The United States still faces nation state adversaries such as North Korea and Iran, but we also find ourselves in hybrid wars against non-state actors like ISIS and we are dealing with gray zone tactics in Ukraine and places like the South China Sea.

In this complicated security environment, policy makers may find it tempting to reach for the most well-resourced tool in the U.S. foreign policy tool kit – the U.S. military. Our military is extraordinarily capable, and compared to State, USAID and other parts of our government, it is also well funded. But almost every current security challenge we face requires more than just kinetic action. For success to be sustainable, we need diplomats, development and economic experts, and civil society and judicial experts to work with countries on critical issues like reconstruction, fighting corruption, strengthening governance and so on. Force alone can't carry the day. I worry that the U.S. military has been carrying a heavy

burden for many years now, and that an imbalance has crept into how we address foreign policy challenges.

While we need to bring all of our instruments of national power to bear on the security challenges we face, there certainly will be times when our strategy calls for us to use force, and there are many examples of both Republican and Democratic presidents deciding to use force without prior approval from Congress. President Reagan did so in Libya in 1986, President Clinton did in Kosovo in 1999, President Obama authorized force in Libya in 2011, and President Trump authorized strikes in Syria earlier this year in response to its latest use of chemical weapons against its own people.

At the same time, in those cases where the President is contemplating a major use of force or one where there could be significant geopolitical consequences for the United States and its allies and friends, presidents have generally come to Congress in advance to seek its support. President Bush came to Congress before sending the military into Afghanistan and Iraq. President Obama sought Congressional support for strikes against Syria in 2013. In the context of heightened tension on the Korean peninsula today and North Korea's continued effort to develop the capability to strike the United States with a nuclear ICBM, military options to fully address that threat would likely rise to the level that has typically triggered Presidents to seek Congressional authorization.

There is no established rule or set of criteria that outline when a potential use of force crosses the threshold requiring the President to seek prior approval from Congress. The Constitution gives both branches of government important roles in decisions about use of force, to include giving Congress the power of the purse, but many different factors influence exactly how each branch carries out those roles at any given moment in time. Decisions about the use of force are also a heavy responsibility and usually are not easy or straightforward. In 2013, some of President Obama's advisors reportedly discouraged him from seeking Congressional approval for strikes in Syria precisely because they worried Congress would say no. Once the Obama Administration sought Congressional support and began making the case for the intervention here on Capitol Hill, members had to grapple with the challenges of sharing responsibility for the decision.

Despite the challenges, seeking Congressional support for major or prolonged uses of force with the potential for significant geopolitical consequences is sound.

Clausewitz comes to mind here as well, reminding us of the importance of public support, both when deciding to go to war as well as retaining public support over the longer term to be able to finish the job. Congress and the public are not one and the same, but Congress is an important proxy for the broader American public.

The debate about whether the 2001 AUMF should be replaced with a new authorization is not just about whether the original authorization can be credibly interpreted to encompass what the United States is doing today to fight ISIS and

other similar groups outside of Iraq and Afghanistan, but also is about whether Congress is adequately involved in current decisions to use force and is conducting sufficient oversight on behalf of the American people. I believe this is a healthy and very important debate, and I support this Committee's effort to craft a new AUMF that would clearly address the current challenges we face.

In today's environment, conflicts seem to be longer and less black and white than in the past. The fight against ISIS, Al Qaeda and others like them is trans-regional and likely generational. The bad guys often don't wear uniforms, advanced technology is more available than ever before, battlefields have become increasingly complex and information technology and social media have profoundly extended the reach of allies and adversaries alike. In this complex environment, it is more essential than ever that Americans understand and support our activities overseas. As Prime Minister during World War II, Winston Churchill frequently gave speeches to the British Parliament and the British public to explain what the Allies were doing and why. I believe our leaders, in the White House and here in Congress, need to do that more often today. Talking to Americans about what is at stake in the world, why the United States is doing what we are doing overseas and why it matters to Americans will help the public decide which engagements to support, with what resources and for how long. I think most Americans want our country to continue being a leader in the world, but in ways that are fair, make sense and don't get in the way of us being able to take care of important matters here at home. They aren't

going to give any President or Congress a blank check, nor should they, so our leaders need to make the case for what we are doing overseas clearly and regularly.

This hearing, and others this Committee has held recently are an important contribution to this needed dialogue between the American public and its leaders. I commend you for your leadership in this area, and for your broader focus on the role of Congress and the Executive branch in critical use of force decisions.