

# THE CONSTITUTION PROJECT



*Safeguarding Liberty, Justice & the Rule of Law*

## TCP War Powers Expert Disputes Obama Administration Justification for Libya Military Action

FOR IMMEDIATE RELEASE: June 28, 2011

CONTACT: Dallas Jamison, Senior Communications Director; direct: 202.580.6922;  
cell: 720.333.1494; [djamison@constitutionproject.org](mailto:djamison@constitutionproject.org)

WASHINGTON - Today, Louis Fisher, a member of The Constitution Project's (TCP) bipartisan War Powers Committee [testified](#) before the Senate Committee on Foreign Relations on the legal and constitutional justifications for U.S. military operations in Libya. He explained that under our Constitution, only Congress can authorize the use of force abroad and the President must seek such authorization in order to continue military operations in Libya. Mr. Fisher's testimony followed testimony by Harold Koh, Legal Adviser to the Department of State.

In his testimony, Mr. Fisher, one of the country's leading experts on the issue, strongly challenged the Obama administration's claims that the War Powers Resolution permits the President to obtain "authorization" for military action-not from Congress-but from the U.N. Security Council, and to rely on NATO for additional authorization. Mr. Fisher also disputed the Obama administration's position that military operations in Libya do not amount to war or constitute hostilities within the meaning of the War Powers Resolution.

"The decision to take the country from a state of peace to a state of war is reserved to the elected members of Congress," stated Mr. Fisher. In reviewing America's war-making history, Mr. Fisher noted that a pattern of 160 years in which all wars were authorized by Congress, was abruptly altered when President Harry Truman unilaterally took the country to war against North Korea, and that this trend has continued into the 21<sup>st</sup> century.

Mr. Fisher, along with the Co-Chairs of TCP's War Powers Committee, former Members of Congress Mickey Edwards (R-OK) and David Skaggs (D-CO), have urged President Obama to immediately seek congressional approval if he plans to continue America's military operations in Libya.

In its 2005 report entitled [Deciding to Use Force Abroad: War Powers in a System of Checks and Balances](#), TCP's War Powers Committee recommended improvements to war powers decision-making designed to restore the proper roles of all three branches of government.

### About The Constitution Project

Established in 1997, The Constitution Project (TCP) is known for its ability to bring together unlikely allies-experts and practitioners from across the political spectrum-in order to promote and safeguard America's founding charter. TCP is working to reform the nation's broken criminal justice system and to strengthen the rule of law by undertaking scholarship, consensus policy reforms, advocacy and public education. TCP was born out of the belief that we must cast aside the labels that divide us, in order to keep our Constitution and our democracy strong.