

Curbing the Royal Prerogative to Use Military Force: The British House of Commons and the Conflicts in Libya and Syria

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Preprint version of:

Mello, P. A. (2017). Curbing the royal prerogative to use military force: the British House of Commons and the conflicts in Libya and Syria. *West European Politics*, 40(1), 80–100.
<https://doi.org/10.1080/01402382.2016.1240410>

Keywords

constitutional convention, legislative-executive relations,
military intervention, parliamentary war powers, prerogative powers

Abstract

To which extent does political practice under the Conservative-Liberal Democrat coalition (2010-2015) reflect a ‘parliamentary prerogative’? From a formal-institutional point of view one should not expect substantial parliamentary influence in Britain. Yet, recent developments suggest the emergence of a new convention. Examining parliamentary debates during the run-up to the votes on Libya and Syria, this contribution shows that the *scope* and *contents* of this convention remain contested. Specifically, there is disagreement about (1) the kind of operations that ought to be exempt from the rule, (2) questions of parliamentary procedure that favour the executive and, crucially, (3) the proper timing of substantive votes. Nonetheless, parliament has emerged from the vote on Syria as an informal veto player on decisions regarding war involvement. However, whether MPs will exercise their veto power in prospective cases will depend on the preference distribution in the legislature and the nature of the proposed deployment.

The orthodox view of British foreign and security policy holds that parliament wields little power over the use of the armed forces. However, this perspective has been disturbed by the House of Commons' vote before the Iraq war in 2003 and shattered by the legislative veto against military action in Syria in 2013. While the Iraq vote set a precedent for parliamentary approval before military action, the division on Syria marked a watershed for legislative-executive relations as parliament rejected a military strike against the Syrian regime using 'a veto power that it formally does not enjoy' (Mello, 2014: 194). Some commentators pointed out that despite the votes on Iraq and Syria, 'nothing has changed legally or constitutionally' (Kaarbo and Kenealy, 2014: 16; 2016), and that the government remains under 'no constitutional obligation' to heed parliament's view (Bolt, 2015). Yet other observers perceived these votes as 'an assertion of Parliamentary sovereignty, on issues of war and peace, without modern precedent' (Chalmers, 2013). Moreover, it has been argued that a 'parliamentary prerogative' on the use of military force has arisen, which indicates that despite its lack of formal powers, 'Parliament now decides when Britain goes to war' (Strong, 2015b: 2).

This contribution focuses on the United Kingdom as a 'most-likely case' for executive dominance in foreign and security policy.¹ From a formal-institutional point of view, given traditional weakness of the British Parliament in terms of war powers, one should not expect substantial influence on decision-making in the area of military deployment policy. However, recent developments, which culminated in the vote on Syria in 2013, suggest that a new convention has emerged prescribing parliamentary approval of military deployments. During its five years in office (2010-2015), the Conservative-Liberal Democrat coalition considered sending the armed forces to new deployments in four conflicts: Libya, Mali, Syria, and Iraq.² In Mali, the Cameron government decided to provide logistical, non-combat support to French forces without asking for parliamentary approval. The other three decisions were put to a parliamentary vote.³

In line with the aims outlined by Raunio and Wagner (2017) in the introduction to the present collection, this contribution identifies which political forces inside parliament 'act as engines for tighter oversight'. Specifically, I investigate parliamentary involvement during the decision-making on Libya and Syria, two 'influential cases' for legislative-executive relations during the coalition government. As Gerring states, 'The influential case is a case that appears at first glance to invalidate a theory, or at least to cast doubt upon a theory. Possibly, upon closer inspection, it does not. Indeed, it may end up confirming that theory – perhaps in some

slightly altered form' (2007: 108). The Syria vote casts doubt on the formal-institutional argument that parliamentary influence necessitates institutional empowerment by showing that parliament can be an informal veto player in the absence of legal authority. Libya on the other hand, poses a challenge for those who suggest a parliamentary prerogative, because parliament merely served as a rubber stamp for an executive decision. While this case does not invalidate the emergence of a new convention, the Libya vote illuminates its boundaries and areas of contention.

The origins of the new convention can be traced back to what was widely perceived as executive failure in the run-up to the Iraq war of 2003 – which triggered various legislative attempts to re-seize control from the executive. Yet, due to peculiarities of the Westminster system, these did not result in a formal deployment law as in some other countries. Instead, we observe what Raunio and Wagner describe as 'a continuous process of (re-)calibration of powers and competences' in legislative-executive relations. This explains why the new convention remains unspecific and open to executive attempts to renege at previous commitments, as witnessed over Libya.

Recent work on British war powers explains the outcome of the Syria vote (Kaarbo and Kenealy, 2016) and interprets its wider significance for British foreign policy (Strong, 2015a). In their contribution to this collection, Kaarbo and Kenealy further investigate the role of historical analogy in parliamentary debates on Syria. Strong (2015b) makes the case that Iraq set a precedent which eventually led to a 'parliamentary prerogative' of mandatory legislative approval before military deployments, albeit this convention remains fraught with ambiguity (Strong, 2015a). Joseph (2013) provides an analysis of the historical evolution of the war prerogative that challenges the orthodox view of parliamentary weakness in war matters, whereas Bolt (2015) and Lagassé (2016) contrast the development of British and Canadian war powers. This paper contributes to this literature by showing that although the notion of a new convention is widely shared among political actors, its *scope* and *contents* remain contested. Specifically, there is disagreement about (1) the kind of operations that ought to be exempt from the rule that parliament should be asked before military deployments, (2) questions of parliamentary procedure that favour the executive and, crucially, (3) the proper timing of substantive votes before the initiation of military operations.

The paper proceeds with a review of the traditional understanding of parliament's role in foreign and security policy. This is trailed by a discussion of the emergence of a new convention and the preconditions for the development of constitutional conventions. The

ensuing case studies on Libya and Syria examine to which extent parliamentary practise reflects a new convention, drawing on in-depth analyses of several months of parliamentary debates (see appendix). The paper concludes with a summary of its findings and their wider implications.

The Royal Prerogative to Use Military Force

British foreign and security policy falls largely under the prerogative power of the Crown, exercised by the government of the day. In formal terms, the armed forces are accountable to parliament, since both Houses have to authorize the yearly defence budget and every five years they are asked to renew the legal basis for the military through the Armed Forces Bill (Wilks-Heeg et al., 2012: 252). Apart from these functions, however, Parliament has little influence over security policy. Due to the ‘royal prerogative’, the executive gets to decide on the deployment of the armed forces whenever the government deems military action necessary – irrespective of whether a parliamentary debate is held or whether MPs approve of a government motion on the issue. Moreover, the courts have no jurisdiction to challenge any such decision (White, 2003: 300-301).

According to a widely-held view, the British Parliament is characterized by an ‘extreme institutional dominance by the executive’ (Qvortrup, 2011: 78). Due to the imbalance in favour of the cabinet and the prime minister, commentators such as the late Lord Hailsham have called the political system an ‘elective dictatorship’ and, more recently, former Foreign Secretary Jack Straw used the term ‘executive democracy’ to describe the lopsided power relations between parliament and the government (Byrne and Weir, 2004: 454). Nonetheless, it should be noted that recent studies cast doubt on the orthodox view of British parliamentary weakness, indicating to the contrary that Westminster ‘has significant influence, at all stages of the policy process’ (Russell and Cowley, 2015: 12; Russell et al., 2015).

This qualification notwithstanding, when compared to other democracies, ‘the UK parliament has long stood out [...] as a legislature with extraordinarily weak powers with respect to either determining military policy, or otherwise circumscribing the war-making capabilities of the executive’ (Wilks-Heeg, et al., 2012: 252). In a survey of 25 EU member states, the UK was joined only by Cyprus, France, and Greece as countries with ‘very weak’ parliamentary war powers (Dieterich et al., 2010: 72). Examining 49 countries, Peters and Wagner found that ‘a considerable minority of parliaments’ holds ex ante veto power over

military deployments. However, almost all Commonwealth members, including the UK, lack such powers (Peters and Wagner, 2011: 179-80; see also Wagner et al., 2010).⁴

Even though there is no formal part for parliament in the conduct of British security policy, in *practice* many decisions on the use of force have been subjected to a parliamentary exchange. Whenever governments have gone beyond a mere announcement of the start of hostilities, ‘adjournment motions’ have been the most-often used device to discuss decisions on the use of military force. These are literally motions for the adjournment of the House. Unlike substantive motions, adjournment motions cannot be amended, which gives the executive further control over the debate (White, 2003: 301).⁵ Examples of this practice include the Falklands war during the premiership of Margaret Thatcher, the decision by John Major to deploy forces to Bosnia, including substantial reinforcements, and the engagement of British forces in Kosovo, during Tony Blair’s time in office.⁶ None of these conflicts saw a vote before military action, but each time parliament was informed about the commencement of operations.

This established practice came under scrutiny after the Kosovo war, when a report by the Foreign Affairs Select Committee noted: ‘it has become normal for Governments to rely on motions for the adjournment to debate the United Kingdom’s involvement in a conflict’, adding that this was a ‘means of preventing an alternative proposition to that of the Government being offered to the House’ (HC, 2000a: 166). To strengthen parliamentary influence and to ‘give extra democratic legitimacy to military action’ the report recommended ‘that the Government should table a substantive motion in the House of Commons at the earliest opportunity after the commitment of troops to armed conflict allowing the House to express its view, and allowing Members to table amendments’ (HC, 2000a: 166).

Although the suggested changes were modest when compared to regulations in other NATO countries, calling for debate and vote *after* the deployment of troops, then Foreign Secretary Robin Cook replied on behalf of the Blair cabinet that the ‘Government considers that existing mechanisms for Parliamentary consideration of operations are adequate’ (HC, 2000b: 10). Previous governments have taken similar positions. For instance, Prime Minister Thatcher stated, after being urged by opposition leader Michael Foot to give the House an opportunity to ‘make a judgment’ on the Falklands conflict: ‘it is an inherent jurisdiction of the government to negotiate and reach decisions. Afterwards the House of Commons can pass judgment on the government’ (HC Deb., 11 May 1982, col. 597). In the Falklands war, parliament was recalled from recess to meet on a Saturday to be informed about the

Government's course of action, but there was no vote on the matter (HC Deb., 3 April 1982, col. 633).

Curbing the Royal Prerogative

Given traditional conceptions of British legislative-executive relations and wider notions of 'executive dominance' outlined by Raunio and Wagner, the decision to put British involvement in the Iraq war of 2003 to a vote was a remarkable exception. It was also an exception for the Blair premiership, since neither Kosovo, Sierra Leone, nor Afghanistan – as the three other major deployments initiated during the Labour government – had seen a substantive vote in Parliament.⁷ After the Commons' debate on Iraq, 'de facto authority passed irreversibly to Parliament', as Byrne and Weir argued (2004: 455). Wilson suggested that the precedent of Iraq 'will almost certainly have to be followed in similar circumstances in the future' (2004: 414). Similarly, Lüddecke held that there now existed an 'informal requirement of parliamentary approval' (2010: 325). To the former Foreign Secretary Cook, who had resigned as Leader of the House of Commons to be able to vote against the government, the occasion marked a watershed event for parliamentary empowerment: 'For the first time in the history of Parliament, the Commons formally took the decision to commit Britain to conflict. Now that the Commons has established its right to vote on the commitment of British troops to action, no future government will find it easy to take it away again' (Cook, 2003: 190).

However, it must be remembered that the Iraq vote was held the *night before* the invasion, with about 46.000 British troops already in the Gulf region. Moreover, there was severe pressure on dissenters to either abstain or vote in favour of the government. As Labour MP Paul Flynn recalled, 'I have been here for 26 years and it was the strongest Whip I have ever encountered [...] The threat was there that we would lose our seats and that the Prime Minister would resign' (HC Deb., 13 June 2003, col. 568). Given these circumstances it should not surprise that the former Prime Minister remembers winning the vote 'handsomely in the end, by 412 to 149' (Blair, 2011: 439). Furthermore, it is open to question whether Blair submitted a substantive motion because he thought it appropriate or whether he simply wanted to gain legitimacy in the face of hostile public opinion – knowing that he could rely on the expressed support of the Conservative opposition (cf. Blair, 2011: 429), which reflected the British tradition of bipartisanship in foreign policy (Gaskarth, 2013).⁸

In the wake of Iraq several legislative committees investigated parliament's role in decisions on armed conflict – an area that is perceived 'to be the most significant of the prerogative powers' (HC, 2004: 9). Similar to deployment laws in several European countries (cf. Wagner, et al., 2010), the House of Commons Public Administration Select Committee recommended the introduction of appropriate legislation, arguing that 'In these most serious of cases, the decision whether or not to consult Parliament should never be dependent on the generosity or good will of government. *A mere convention is not enough* when lives are at stake.' (HC, 2004: 16, emphasis added). By contrast, the House of Lords Constitution Committee emphasized the disadvantages of formal requirements and thus advised that, rather than legislation, '*there should be a parliamentary convention* determining the role Parliament should play in making decisions to deploy force' (HL, 2006: 42, emphasis added). Irrespective of these differences, the Commons eventually resolved 'That this House welcomes the precedents set by the Government in 2002 and 2003 in seeking and obtaining the approval of the House for its decisions in respect of military action against Iraq; is of the view that it is inconceivable that any Government would in practice depart from this precedent' (HC Deb., 15 May 2007, col. 582).

After succeeding Blair as Prime Minister, one of the first acts of Gordon Brown was the publication of a Green Paper on constitutional reform. That document prominently included recommendations on curbing the royal prerogative: 'The Government will propose that the House of Commons develop a parliamentary convention that could be formalised by a resolution' (MoJ, 2007: 19). The subsequent White Paper further stated: 'While not ruling out legislation in the future, the Government believes that a detailed resolution is the best way forward. This will take the form of a House of Commons resolution which sets out in detail the processes Parliament should follow in order to approve any commitment of Armed Forces into armed conflict' (MoJ, 2008: 50). Despite these declarations of intent, however, 'no such resolution was in fact brought forward' (Turpin and Tomkins, 2012: 193).

The Green and White Papers published under the Brown government have been variously understood as an attempt to declare a new constitutional convention or, more precisely, as 'confirmation of an *existing* convention', if the Commons' resolution from 15 May 2007 is seen as having established such a convention (McHarg, 2008: 861-62, 876). This prompts the question of the definition of a constitutional convention and its preconditions. In his classic definition, Dicey referred to 'conventions of the constitution' as the 'customs, practices, maxims, or precepts which are not enforced or recognised by the Courts, make up a

body not of laws, but of constitutional or political ethics' (1915: 244). Jaconelli perceives them as 'social rules [of a constitutional character] which govern the relations between the political parties or the institutions of government' (1999: 24). Besides, it is important to note that conventions 'are non-legal but nonetheless binding rules of constitutional behavior. Their enforcement is political rather than legal and is the responsibility of political bodies such as the House of Commons', as Turpin and Tomkins point out (2012: 183). Given these definitions, it remains to determine the preconditions for the emergence of a constitutional convention. Jennings offered a three-fold test:

'We have to ask ourselves three questions: first, what are the precedents; secondly, did the actors in the precedents believe that they were bound by a rule; and thirdly, is there a reason for the rule? A single precedent with a good reason may be enough to establish the rule. A whole string of precedents without such a reason will be of no avail, unless it is perfectly certain that the persons concerned regarded them[selves] as bound by it' (Jennings, 1959: 136).

While McHarg discusses the difficulties that come with Jennings' test, she emphasizes rightly that 'it is subsequent practice, rather than the initial statement' which determines the scope and status of a constitutional norm (2008: 859). Likewise, Turpin and Tomkins highlight that conventions are the 'result of a gradual hardening of usage over a period of years or generations' (2012: 190). Furthermore, 'for a constitutional convention to have been established, it is not enough that a repeated course of behavior has occurred. It is necessary, in addition, that such behavior must be expected to continue to recur' (Turpin and Tomkins, 2012: 190).

Libya, March 2011: Parliament as Rubber Stamp

'Will the Leader of the House guarantee that if a no-fly zone is to be imposed, there will be a vote in the House of Commons? Such action would definitely be military action and not risk-free [...] May we definitely have a vote before there is any military action? – *Edward Leigh, Conservative, Gainsborough* (HC Deb., 10 March 2011, col. 1066)

'A convention has developed in the House that before troops are committed, the House should have an opportunity to debate the matter. We propose to observe that convention except when there is an emergency and such action would not be appropriate. As with the Iraq war and other events, we propose to give the House the opportunity to debate the matter before troops are committed.' – *Leader of the House of Commons Sir George Young* (ibid.)

On Monday, 21 March 2011, the House of Commons convened to debate and vote on a government motion authorizing the use of military force in Libya, 'to enforce the No Fly Zone, including the use of UK armed forces in accordance with UNSCR 1973', as Prime Minister Cameron said (HC Deb., 21 March 2011, col. 700). With 557 votes in favour and 13

votes against the motion, parliament showed unequivocal support for the government position. Moreover, the debate documented that Conservative, Liberal Democrat, and Labour MPs seemed to be in agreement on the main issues related to the conflict and that they stood firmly behind the decision to use force in Libya. The dissenting votes included nine Labour delegates and one Conservative MP.

However, while parliament discussed the authorization of a military intervention, ‘Operation Ellamy’ had been going on for nearly three days. British and French forces had joined the US in an *ad hoc* coalition comprised of various combat and reconnaissance aircraft, command ships and attack submarines off the coast of Libya. When the House voted on the issue on Monday at 9.58 pm, British forces had already fired about 12 Tomahawk missiles from the Royal Navy submarine HMS Triumph and conducted two rounds of strikes with Tornado GR4 attack aircraft against Libyan targets (Gertler, 2011: 18). Hence, rather than having a vote on the matter *before* the initiation of military action, parliamentary involvement amounted to no more than *ex post* approval of an executive decision, while the armed forces had already been set in motion.

The British decision to intervene had been preceded by an increasingly violent conflict between regime forces and various groups of insurgents. Large-scale demonstrations first took place on 15 February 2011, when the arrest of a human rights activist in Benghazi sparked nation-wide protests (Blight et al., 2012). On 26 February, the UN Security Council unanimously adopted Resolution 1970, explicitly mentioning the ‘Libyan authorities’ responsibility to protect its population’ and referring the case to the International Criminal Court. Moreover, the document established an arms embargo, travel ban, and asset freeze against members of the regime. Parliament first discussed the issue on 28 February, when Cameron informed the House about ongoing military operations to evacuate British nationals from Libya. He further stated unmistakably, that ‘Gaddafi’s regime must end’ and that he was not ruling out ‘the use of military assets’, while specifically working on ‘plans for a no-fly zone’, as he laid out in his opening speech (HC Debs., 28 February 2011, col. 24-25).

In the weeks following Resolution 1970, the situation became increasingly hazardous for rebel groups and civilians as the regime aggressively fought against uprisings and used its air force to bomb cities taken by insurgents (BBC, 2011). These developments led to the passing of Resolution 1973 on 17 March, with 10 votes in favour and abstentions coming from Brazil, China, Germany, India, and Russia. The resolution established a no-fly zone, strengthened enforcement measures for the previously introduced arms embargo, and

authorized member states ‘acting nationally or through regional organizations [...] to take all necessary measures [...] to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory’ (UNSCR 1973, 17 March 2011). Resolution 1973 thus provided the legal basis for the ad hoc coalition and the subsequent NATO operation in Libya.

With regard to parliamentary involvement in the decision-making on Libya, three findings are particularly noteworthy. First, although a substantive motion was submitted to parliament, the vote took place when the decision to deploy forces had already been made. The military operation had been ongoing for nearly three days, making a potential withdrawal highly unlikely given the logistical and reputational costs involved in such a decision. If one adheres to the argument that the political circumstances of the Iraq war helped establish a new convention of a ‘parliamentary prerogative’, then it strikes one as odd that parliament did not get to vote on the issue before the military was sent into combat.

Granted, some might argue that Libya constituted an ‘emergency case’, where the new convention did not apply because the Government had to act swiftly without regard for parliamentary procedure, as maintained by the Leader of the House (HC Deb., 18 March 2011, col. 634). However, planning for a no-fly zone, and thus military action, had been on the agenda since Cameron’s very first address on the crisis in Libya. Starting with that debate, parliament met fifteen times over the course of three weeks, including nine occasions on which Libya was a major topic, before the matter was eventually voted upon (see Table A.1 for an overview). In this light, the emergency argument appears rather unconvincing. Others might object that the vote took place at the earliest time possible given the dynamic development of events. On Friday, 18 March, parliament met for the last time before Operation Ellamy was initiated, while the Government promised a substantive motion for the following Monday. This was presented by Cameron as the ‘best approach’ to have a ‘proper debate’ and to allow for potential amendments (HC Deb., 18 March 2011, col. 627). Yet, history shows that parliament can convene at short notice, and even over the weekend if necessary, as during the Falkland conflict in 1982, when both Houses met on a Saturday to debate the crisis (HC Deb., 3 April 1982, col. 633). Indeed, several Conservative and Labour MPs stressed that over Libya a vote on Saturday would have been both preferable and possible (HC Deb., 21 March 2011, col. 699, 749, 752, 771). While Foreign Secretary Hague defended the government’s timing of the vote, he also stated that ‘in future instances, it can be

considered' to have a parliamentary session on a Saturday (HC Deb. 21 March 2011, col. 799).

Second, it is remarkable that the opposition leader did not mention a substantive vote as one of Labour's requirements for a proper decision on military action. Furthermore, parliament did not request a substantive vote until 10 March, when the Conservative MP Edward Leigh raised the issue as a procedural point with the Leader of the House.⁹ Given the topic's salience and ongoing debates about the status of parliament's war powers, this is quite surprising. Against the backdrop of earlier statements by various Labour leaders and the initiative for parliamentary war powers under the Brown government, a stronger stand for proper procedure would have been expected. On 18 March, Miliband expressed his full support of the government position, explaining that the intervention fulfilled all 'necessary preconditions', namely that it received international support, had a legal mandate, and that it recognized the UK's 'responsibility to protect the Libyan people' (HC Deb., 18 March 2011, col. 614). On 21 March, when it was decided that there would be a vote, Miliband expressly welcomed 'that the Government have decided to have a substantive motion and, indeed, vote in this House, because it is right that the decision to commit our forces is made in this House' (HC Deb., 21 March 2011, col. 714). However, in none of the previous debates had Miliband mentioned the need for a vote. On the same day, the Labour leader declared his support for 'British intervention in Libya' on Twitter, but did not mention the substantive motion. Arguably, the Labour leadership's failure to call for a vote could be explained by the nature of the planned military intervention – which was politically uncontroversial at the time, limited in scope because ground forces were ruled out explicitly, and authorized by the UN Security Council.¹⁰ As indicated above, however, there were also good reasons for the opposition to press for a vote before military action.

Finally, regarding one of the prerequisites for a constitutional convention, that actors 'believe that they were bound by a rule' (Jennings, 1959: 136), some statements suggest that the Government felt little obligation to arrange for a timely debate and vote. For instance, on 14 March, when a vote on Libya was requested by Yasmin Qureshi – the only Labour MP to do so – the Prime Minister gave a rather cavalier reply, referring Qureshi to the Backbench Business Committee, 'which can arrange for days of debate and substantive motions, so if the Government are not fast enough for the hon. Lady, there are other options' (HC Deb., 14 March 2011, col. 38). This committee was established in June 2010 to give backbenchers an opportunity to raise issues for debate that might otherwise not be discussed in parliament

(Norton, 2013: 32). However, while this committee can set its own agenda, it is dependent on the Government allocating time for its selected topics. When Cameron mentioned the Backbench Business Committee as an alternative forum for debate, it was certainly too late to place a debate on the calendar – only the Government would have been able to schedule a substantive vote in time before the deployment of military forces. The Prime Minister's comment thus casts doubt on Jennings' requirement for a convention, indicating that the Government had a narrow understanding of the new convention that did not resonate with the wider debate. By contrast, Foreign Secretary Hague made a strong statement in favour of parliamentary approval, promising that the Government 'will also enshrine in law for the future the necessity of consulting Parliament on military action' (HC Debs., 21 March 2011, col. 799). However, this pledge did not lead to the promised legislation during the coalition government, a shortcoming that has been pointed out repeatedly by the House of Commons' Political and Constitutional Reform Committee (HC, 2014: 5).

Syria, August 2013: Parliament as Informal Veto Player

'There having been no motion passed by this House tonight, will the Prime Minister confirm to the House that, given the will of the House that has been expressed tonight, he will not use the royal prerogative to order the UK to be part of military action before there has been another vote in the House of Commons?' – *Leader of the Opposition Edward Miliband* (HC Deb., 29 August 2013, col. 1555)

'I can give that assurance. [...] It is very clear tonight that, while the House has not passed a motion, the British Parliament, reflecting the views of the British people, does not want to see British military action. I get that, and the Government will act accordingly.' – *Prime Minister David Cameron* (ibid.)

On 29 August 2013, the Cameron Government submitted a motion to the House of Commons that aimed to provide the ground for a military strike against Syria. In his opening address the Prime Minister emphasized the limited nature of the planned operation: 'it is not about invading, it is not about regime change [...] it is about the large-scale use of chemical weapons and our response to a war crime – nothing else' (ibid., col. 1426). The motion underlined that the plan was aimed only 'to alleviate humanitarian suffering by deterring use of chemical weapons' (ibid.). Critically, the Government motion had been revised before the debate to include the requirement of a second vote, as demanded by the opposition: 'before any direct British involvement in such action *a further vote* of the House of Commons will take place' (ibid., emphasis added). Nonetheless, Labour leader Miliband insisted on introducing an amendment that further emphasized the role of the UN Security Council but

which was very close to the Government motion in substantive terms, also requiring a second vote (*ibid.*, col. 1440).

Both proposals were defeated in successive votes. The Labour amendment received 220 to 332 votes. The Government motion ended up with 272 to 285 votes, as 40 members of the coalition voted against their own government (*ibid.*, col. 1547-55).¹¹ While Cameron did not have to resign because of the vote, the occasion still marked the first parliamentary defeat of a prime minister on a question of war involvement since 1782 (Kaarbo and Kenealy, 2016).

The vote foreclosed any further consideration of a British military response to the grave situation in Syria. In March 2011, large-scale demonstrations erupted in various parts of the country. By June 2011, reports indicated that regime forces had ‘killed hundreds of protesters and arbitrarily arrested thousands, subjecting many of them to brutal torture in detention’ (HRW, 2011: 1). Responding to these developments, the EU implemented an arms embargo on 9 May 2011. Yet, because member states disagreed over whether Syrian opposition forces should be exempt from sanctions, large parts of the embargo were effectively lifted on 1 June 2013 (EC, 2013). As France and Britain pushed for supplying the Syrian opposition with weapons, effectively vetoing the prolonging of the sanctions regime, most other EU member states were sceptical about the wisdom of this decision (Traynor, 2013). Meanwhile, due to an impasse at the Security Council, three draft resolutions were vetoed by China and the Russian Federation. These resolutions sought to condemn the atrocities conducted by government forces and armed opposition groups and to impose sanctions in case the spiral of violence could not be stopped.

Despite earlier diplomatic initiatives by the Arab League and UN Special Envoy Kofi Annan, atrocities continued in Syria as regime forces initiated violent attacks on cities and towns controlled by the opposition. US President Obama warned the Assad regime on 20 August 2012 that with regards to chemical weapons: ‘that’s a red line for us and that there would be enormous consequences if we start seeing movement on the chemical weapons front or the use of chemical weapons. That would change my calculations significantly’ (WH, 2012). While unconfirmed reports spoke of earlier, small-scale usage of chemical weapons, the Syrian regime did eventually use these weapons against rebel groups and the civilian population in the opposition-controlled suburbs of Damascus on 21 August 2013, as was later confirmed by a UN mission (UN, 2013).

On 3 June 2013, Cameron defended in parliament the Anglo-French effort to lift the arms embargo, saying that ‘the EU arms embargo served the extremists on both sides [...] It

just sent a signal that for all its words, the EU had no real ability to support the reasonable opposition that could be the basis of an inclusive transition' (HC Deb., 3 June 2013, col. 1233). Yet Cameron made clear that no final decision on sending arms had been made, but that the lifting of the embargo gave his government 'the flexibility to respond if the situation continues to deteriorate' (ibid., col. 1234). However, fearing 'further escalation', Miliband requested an assurance from the Prime Minister that 'he will come back to the House before any decision is made [...] to arm the opposition in Syria' (ibid., col. 1236). Similar requests came from several other Labour and Conservative MPs (ibid., col. 1241-43, 1249).

The build-up to the vote of 29 August was marked by a string of events that showed that many MPs felt sidelined by the government, demanding more parliamentary involvement (see Table A.2 for an overview). On 6 June, Andrew Bridgen and John Baron, both Conservative MPs, presented a letter to the Prime Minister signed by 81 Conservatives who demanded a debate and vote before arms would be given to the Syrian opposition (HC Deb., 6 June 2013, col. 1678). On 13 June, parliament had a debate on the occasion of the 10th anniversary of the Iraq war, organized by the Backbench Business Committee. During this session, several MPs emphasized the role of parliament on questions of war involvement and some demanded a constitutional convention of mandatory parliamentary approval and votes of conscience rather than whipped votes on such issues (HC Deb., 13 June 2013, col. 529). Finally, on 11 July, backbenchers organized a debate on arming the Syrian opposition. Baron introduced a motion 'That this House believes no lethal support should be provided to anti-government forces in Syria without the explicit prior consent of Parliament'. Although mainly symbolic, the motion was accepted with 114 votes to one vote (HC Deb., 11 July 2013, col. 587, 627).

In terms of legislative-executive relations, three findings can be derived from the parliamentary exchange in the run-up to the decision on Syria. First, from an institutional point of view it is remarkable that the British parliament successfully used a veto power that it formally does not enjoy. This occasion marked a powerful precedent for any future Government. It also qualifies the understanding of parliamentary war powers in Britain. While the legal position of the House of Commons has not changed, the emerging convention of parliamentary approval has been strengthened throughout the three months of parliamentary debate and deliberation (see Table A.2). Hence, parliament can now be considered an *informal veto player* over decisions on war involvement. However, whether MPs use their informal veto power in future cases will depend on a range of factors, including the preference distribution in parliament (Mello, 2012) and the nature of the proposed

deployment. This being said, the Syria vote occurred under peculiar circumstances, which necessarily had an effect on the eventual outcome. To begin with, it was a vote at short notice – Cameron recalled parliament from recess two days before the vote – which gave party leaders little time to whip their members in line. Moreover, unlike for Libya, the debate took place *before* any military action had been commenced, although French, British, and US naval forces were in position to engage with Syrian forces. The vote also came before Britain's senior ally the US had made its decision on Syria.¹² Finally, there was no consensus among UN, NATO, or EU member states at the time. Crucially, the UN Security Council had not passed a resolution that could have served as a legal basis for military action in Syria.

Second, parliament was remarkably more assertive in 2013 than during the decision-making on Libya two years earlier. This was reflected in the sheer number of requests for parliamentary debate and vote, from all the main parties, starting with the first debate on the matter after the lifting of the arms embargo, on 3 June, to the final debate nearly three months later. As mentioned, there were two important parliamentary exchanges that preceded the decision: the 10th anniversary of the Iraq war debate and the substantive debate and motion on arming the Syrian rebels, both sponsored by the Backbench Business Committee. There was also a public letter signed by Conservatives who demanded a motion to precede any decision on giving lethal aid to the Syrian opposition. Furthermore, it was apparent that both critical debates were initiated by backbenchers – indicating that the party leadership was perceived as far removed from the party base. It is also striking that the Labour opposition took an entirely different stand on Syria than it had during the conflict in Libya, where it had supported government policy almost without reservations.

Finally, the parliamentary exchange over Syria between June and August 2013 showed that the Government, by and large, behaved as if 'bound by a rule', as a necessary condition for a constitutional convention (Jennings, 1959: 136). Throughout the three months of debate and deliberation over Syria, various cabinet members repeatedly acknowledged the existence of a convention on parliamentary approval (cf. Table A.2). This culminated in the Prime Minister's assurance on 29 August to not use his prerogative power to order the armed forces to conduct a military strike in Syria without prior parliamentary approval. However, the debates also showed that the Government considered certain decisions to fall under executive discretion. For instance, Foreign Secretary Hague merely informed the House via written statement that a decision had been made to provide non-lethal support to the 'moderate armed opposition' in Syria, adding that, due to urgency, parliamentary routine could not be followed

(HC Deb., 16 July 2013, col. 81WS). Another point concerns parliamentary procedure, which conflicts with the new convention of parliamentary approval because the right to recall parliament from recess (still) lies exclusively with the cabinet. This issue raised the concern of several MPs as ‘unsatisfactory and a constraint on Parliament’ (HC Deb, 4 June 2013, col. 1385-6).

Conclusion

This contribution examined to which extent British legislative-executive relations under the Conservative-Liberal Democrat coalition (2010-2015) reflect the emergence of a new convention of parliamentary approval. While the traditional view of British politics holds that parliament has little influence over foreign and security policy, this assumption has been called into question throughout the past decade, where we have seen a thorough re-evaluation of parliament’s role in decisions on war involvement.

With regard to the aims of this collection of contributions, the British case shows that, due to the emergence of a new convention, parliament can under certain preconditions exercise influence over the executive beyond its formal-institutional position. Yet, the case studies yield conflicting findings. For Libya, the fact that parliament did not get to vote *before* the use of military force sits uncomfortably with the argument regarding a ‘parliamentary prerogative’ (Strong, 2015a). As the first new deployment of the coalition government, a closer observance of parliamentary procedure would have been expected, especially given an earlier cross-party consensus on the outlines of a new convention. Furthermore, notwithstanding a few exceptions, it was remarkable that parliamentarians were rather acquiescent in their attitude toward executive policy regarding the Libyan conflict. Finally, the executive showed that it was inclined to renege on previous commitments, specifically on the arrangement of a timely debate and vote on military action.

By contrast, legislative-executive relations during the run-up to the decision on Syria were characterized by an assertive parliament that constantly scrutinized the government and sought to bind its decisions, which eventually led to a veto against military action. Moreover, during the build-up to the Syria decision, the executive acted as if bound by the rule of a parliamentary prerogative. Part of this can be ascribed to MPs’ concerns about the flawed parliamentary vote on Libya and what was by then perceived as a disillusioning outcome of the military intervention in that country. While the legal position remains unchanged, it was

argued that parliament could now be considered an informal veto player in military deployment policy. However, whether MPs will exercise their veto power in prospective cases will depend on the preference distribution in the legislature and the nature of the proposed deployment.

Recent developments indicate that the majority Conservative government continues to observe the new convention, as shown by its decision to hold a parliamentary vote on the extension of the fight against ISIL to Syria in December 2015, beyond operations in Iraq that were voted upon in September 2014 under the coalition government. However, this happened despite the initial indication by Cameron that he would be willing to sidestep the new convention if the UK ‘were judged to be at risk’ (Norton, 2015: 179). Nonetheless, as a result of the ‘repeated course of behaviour’ of parliamentary votes before military action (Turpin and Tomkins, 2012: 190), the new convention has been further strengthened and it appears unlikely that any future government, much less a government led by Labour, could bypass the House of Commons on war matters. That being said, despite a wide-ranging consensus on the general need for parliamentary approval, the case studies show that parts of the convention remain indeterminate and thus open to contestation. Crucially, this concerns the timing of substantive votes, the kind of military operations that fall under the purview of parliamentary approval, and questions of parliamentary procedure, such as the right to recall from recess, which currently favours the executive.

Acknowledgements

I would like to thank the editors of this collection, Tapio Raunio and Wolfgang Wagner, and the two anonymous reviewers for their constructive comments throughout the development of this paper. For valuable suggestions, I am also grateful to Eugénia da Conceição-Heldt, Daniel Kenealy, Juliet Kaarbo, and Philippe Lagassé, as well as participants of the workshop on ‘Legislative-Executive Relations in Foreign and Security Policy’ (May 2015, VU University Amsterdam), and those who attended the first presentation of this paper at TU Dresden.

Notes

¹ In Eckstein’s definition, ‘most-likely cases’ are anticipated to confirm a theory, ‘if any cases can be expected to do so’ (1975: 118).

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- ² This count excludes naval deployments and the renewal of ongoing military operations.
 - ³ On 2 December 2015, the majority Conservative government held a parliamentary vote to extend the fight against ISIL to Syria. Following a contentious debate, the motion was accepted with 397 to 223 votes.
 - ⁴ For a comparative overview on parliaments in foreign affairs and war powers in particular, see Raunio (2014: 546-9).
 - ⁵ Adjournment motions can only be moved by government ministers and are ‘one of the key ways in which the Executive controls Parliament [...] by awarding itself a monopoly over procedural motions’, as Cook recollects, adding that ‘the Adjournment Debate is a device to enable the Commons to hold debate without any risk of a serious division at the end of it’ (2003: 187).
 - ⁶ See HC Deb., 3 April 1982, col. 633; HC Deb., 31 May 1995, col. 999; HC Deb., 25 March 1999, col. 536.
 - ⁷ See HC Deb., 24 March 1999, col. 483; HC Deb., 8 May 2000, col. 518; HC Deb., 4 October 2001, col. 673. The House of Commons eventually saw a debate and vote on the continued commitment of ‘UK Armed Forces in Afghanistan’, organized by the Backbench Business Committee with bi-partisan support (HC Deb., 9 September 2010, col. 494).
 - ⁸ In line with Britain’s bipartisan tradition in foreign policy, Wagner et al. (2017) find the ‘party-political cleavage’ on the issue of parliamentary war powers to be ‘relatively weak’ when compared to other European countries.
 - ⁹ The statement by the Leader of the House was later referenced in the *Cabinet Manual* to acknowledge the development of a convention that before the deployment of troops, Parliament should have an opportunity to debate the matter (UK, 2011: 44).
 - ¹⁰ I thank one of the anonymous reviewers for raising this key point.
 - ¹¹ This number excludes ‘technical abstentions’, as in MPs who voted in both lobbies.
 - ¹² On 4 September 2013, Cabinet Minister Ken Clarke referred to this when he spoke on TV about the reasons for the negative vote on Syria: ‘The Americans wanted us to make this vote very quickly’, <http://www.channel4.com/news/ken-clarke-cameron-us-obama-syria-military-action>

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Appendix

Table A.1: Parliamentary Debates and External Events until the Vote on Libya

Date	Event
February 15	Large-scale protests against regime violence erupt in Libya
17	Hague makes statement on situation in Bahrain, Libya is not discussed
18-27	Parliament in recess
26	UN Security Council adopts Resolution 1970, explicitly mentioning 'Libyan authorities' responsibility to protect its population'
28	Cameron discusses military operations to evacuate British nationals from Libya, indicates that government 'plans for a no-fly zone'
March 1-8	Several brief debates on Libya, no mention of substantive motion or vote (six parliamentary sessions)
9	Cameron confirms plans for a no-fly zone, seeks UN Security Council resolution
10	Conservative MP Edward Leigh requests ex ante vote on no-fly zone Leader of the House George Young acknowledges parliamentary convention
14	Labour MP Yasmin Qureshi requests debate and vote before no-fly zone is imposed, Cameron promises 'further debate later this week' Defence Secretary Fox mentions NATO contingency planning
15	Hague discusses legal basis for operations in Libya, no mention of a vote
16	Cameron answers questions on Libya, no discussion of a vote
17	UN Security Council adopts Resolution 1973, authorizing member states to use 'all necessary measures' to protect the civilian population in Libya Hague discusses North Africa and the Middle East, no mention of a vote
18	Cameron speaks on Libya and Resolution 1973, declares that 'the UK will play its part' and that preparation for military action has started, debate and vote on substantive motion scheduled for Monday, 21 March Opposition Leader Ed Miliband expresses full support, no mention of vote Conservative MP Peter Bone requests vote before troops are submitted Young states that Libya constitutes an 'emergency case' where the Government feels unrestrained to proceed without a vote in Parliament
19	Operation Ellamy is launched, missile and air strikes against Libyan targets
21	Government motion authorizing the use of force is agreed to (557 to 13) Hague promises Government will 'enshrine in law for the future the necessity of consulting Parliament on military action'

Sources: Hansard daily records (17 February - 21 March 2011), various news sources.

Table A.2: Parliamentary Debates and External Events until the Vote on Syria

Date	Event
June	1 EU arms embargo against Syria is lifted in large part
	3 Cameron defends lifting of arms embargo, several Labour and Tory MPs request vote before arming Syrian rebels, Cameron: 'Parliament has that opportunity [to vote] whenever it wants to'
	4 MPs request procedural clarification regarding a possible vote during recess, Speaker explains that recall can only be made by cabinet
	6 MPs Bridgen and Baron present letter from 81 Conservatives calling for debate and vote before arming Syrian rebels, Leader of the House Andrew Lansley promises accordingly
	12 Miliband requests vote, Cameron replies that giving Parliament 'a say on all these issues [...] was right when it came to Iraq [...] Libya, and it would be right [...] in the future as well. Let me stress again, however, that we have made no decision to arm the rebels in Syria.'
	13 Backbench Business Committee debate on 10th Anniversary of the Iraq War, several MPs demand parliamentary approval convention and free votes on war issues
	18 Labour MP Peter Hain asks for confirmation of a quote from 'a senior Tory source' in <i>The Sunday Times</i> that 'we will avoid at all costs a vote as we don't think we can win it'. Hague says 'we have made it clear that there would be a vote. I have also made it clear that we would expect it to be before any such decision was put into action'
	19 Several MPs request vote, Cameron says 'we will not take any major actions without first coming to this House', adding that 'obviously Governments have to reserve the ability to take action swiftly on this or other issues'
July	10 Hague mentions unconfirmed reports of chemical weapons usage in Homs, says no decision has been made on arming or intervening, 'any decision would be put to the House'
	11 Backbench Business Committee debates arming Syrian rebels, Baron introduces motion 'That this House believes no lethal support should be provided to anti-government forces in Syria without the explicit prior consent of Parliament', motion is agreed to (114 to 1) <i>Reuters</i> news agency reports that 'ministers expect the 650 member lower house to vote against sending arms if the issue arises, said one government source'
	16 Hague submits statement on giving 'moderate armed opposition' equipment against chemical and biological weapons; due to urgency the usual parliamentary procedure cannot be followed
	18 Deputy Leader of the House Tom Brake confirms convention: 'Parliament would be engaged before any such decision was put into action, with a vote in the House of Commons' Parliament in recess (18 July - 2 September)
August	21 Confirmed large-scale use of chemical weapons in the Ghouta area of Damascus
	24 Cameron and Obama declare that 'use of chemical weapons would merit a serious response'
	25 Syria agrees to let UN inspect chemical weapons attack sites UK, US, France and others prepare for missile strikes, 'military action [...] could begin within next week', meeting of top generals in Jordan, chaired by US Joint Chiefs Chairman Dempsey
	26 UN inspectors under sniper fire on way to chemical weapons attack sites Hague raises possibility of acting without SC resolution: 'Is it possible to act [...] without complete unity on the UNSC? I would argue, yes it is'
	27 Cameron recalls Parliament for vote on substantive motion
	28 UK discusses draft resolution with permanent members of the Security Council Miliband says Labour will table amendment on Syria, insisting PM 'must return to the Commons after the UN weapons inspectors have reported' Miliband informs Cameron that Labour would not support motion unless there is a second vote before force is authorized (5.15pm) Cameron announces amended government motion, requiring a second vote (6.55pm)
	29 Cameron introduces amended motion to House of Commons Miliband demands 'compelling evidence of the perpetrator and a vote in the UN Security Council after the weapons inspectors have reported', introduces own amendment Amendment defeated (220-332), government motion defeated (272-285) Cameron gives assurance to not use the royal prerogative on military action in Syria

Sources: Hansard daily records (1 June - 29 August 2013), various news sources.