# Obama Faces His Watergate

by Jeffrey Steinberg and
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June 20—Talk of Watergate and impeachment is again in the air in Washington, triggered by President Barack Obama's blatant and willful violation of the War Powers Resolution, and of the U.S. Constitution itself, with his Libyan War adventure. As Lyndon LaRouche has put it, Watergate II is in process.

It's not only Libya. Another potentially major vulnerability for Obama, is the disclosure that the Democratic National Committee held a meeting with top Wall Street campaign donors in the White House March 7, in possible violation of the prohibition against using government facilities for campaign fundraising. And, as *EIR* has reported ("Obama: Worse than Bush and Cheney," *EIR*, May 27, 2011), in addition to Obama's flaunting of the War Powers Resolution, he has also exceeded the abuses of the Bush-Cheney regime in the sphere of domestic surveillance targeting U.S. citizens, and in the arbitrary use of executive power.

Compounding the danger for the nation is the fact that over recent days, Senate Majority Leader Harry Reid, Sen. Barbara Boxer, and House Minority Leader Nancy Pelosi have all *defended* the President's unconstitutional behavior on Libya. In effect, they have made themselves complicit in Obama's offenses, which go to the heart of the nature of our republic. (See editorial.)

**The Beginning of the End…**

On June 16, LaRouche observed that the bipartisan Congressional revolt against Obama's flagrant violation of the U.S. Constitution and the War Powers Act is just like the early moments of the Watergating of President Richard Nixon. "It is just the beginning, but the parallels to Watergate are unmistakable," LaRouche commented.

A senior U.S. intelligence source with close ties to the Obama White House was blunt: "President Obama is in violation of the War Powers Act and the Federal

Constitution. His argument that the U.S. military involvement in Libya is a 'humanitarian intervention' is an evasion. The United States, as of last week, had spent $718 million on the Libya military operation. By next week, the amount will have passed $1 billion." He added that, without direct U.S. military involvement, NATO would be unable to carry out the Libya operations. "Seventy-five percent of all NATO operations involve U.S. capabilities. Without the U.S., the NATO military operation cannot be sustained."

The source emphasized that the Obama White House arrogantly misread the situation in Congress, anticipating that a bipartisan non-binding resolution by Senators John McCain (R-Ariz.) and John Kerry (D-Mass.) would allow the President to bypass the War Powers Act requirements. But a June 5 *Washington Post* op-ed by Sen. Richard Lugar (R-Ind.), the ranking Republican on the Senate Foreign Relations Committee, put the fundamental Constitutional issues so squarely on the table, that McCain and Kerry withdrew their draft resolution of support for the Libya mission. That helped spark the bipartisan revolt that is now evident, seen in the passage of Rep. Brad Sherman's (D-Calif.) amendment barring any funding of the Lib ya mission, and in the bipartisan Federal lawsuit against Obama, filed on June 15, to bar the President from continuing the Libya War, on the grounds that it violates Article I, Section 8 of the Constitution, which grants to Congress the sole authority to declare war.

LaRouche noted the irony that, while this was happening, the nation was marking the 40th anniversary of the leaking of the Pentagon Papers, revealing the extent of American involvement in Vietnam. "The Pentagon Papers were part of the early mosaic of Watergate, and Daniel Ellsberg was correct in saying that Nixon would have been jealous of President Obama's seeming ability to get away with serious violations of the Constitution. But now, we have bipartisan action in the Congress to restore Constitutional rule. And that is, I believe, the beginning of the end for the Obama Presidency."

Staff Sgt. Joy Pariante

*President Obama's Libyan War adventure, in flagrant violation of the War Powers Act and the U.S. Constitution, has Washington buzzing about a new Watergate and impeachment. Obama is shown here in a photo-op with U.S. troops in Iraq.*

## Obama Gets the Go-Ahead

Under the U.S. Constitution, the President is Commander-in-Chief of the armed forces, but only Congress can declare war. In the climate of Watergate, and in the wake of Nixon's secret bombing of Cambodia, Congress passed the War Powers Resolution (WPR) in 1973, which requires the President to report to Congress within 48 hours upon the introduction of U.S. military forces into "hostilities," and then requires the President to obtain Congressional authorization within 60 days, or else he must withdraw U.S. forces within 30 days after that.

Obama ordered U.S. forces into action, including airstrikes against Libyan targets, on March 19, and Obama submitted a report to Congress on March 21, explicitly pursuant to the WPR—which constitutes his admission of its relevance to the Libya operations.

On April 1, the Justice Department's Office of Legal Counsel (OLC)—charged with advising the President on the legality and constitutionality of proposed Executive actions—submitted a Memorandum Opinion entitled, "Authority to Use Military Force in Libya."

The OLC opinion concluded that Obama was not required to seek prior Congressional approval of the Libya operation under the Constitution or the Resolu-

tion, while noting that the President had notified Congress within 48 hours as stipulated by the WPR. Coming as it did within two weeks of the commencement of military operations, the OLC memo did not address the question of the 60-day requirement for obtaining Congressional authorization to continue military involvement; notably, the memo was based on the premise that airstrikes would be limited in scope and duration, and on the understanding that "regime change is not an objective of the coalition's military operations"—although since then, NATO's repeated targeting of Qaddafi's compound, and Obama's explicit statements, have demonstrated that regime change, particularly through the killing of Qaddafi, is a central U.S. and NATO objective.

The OLC has traditionally taken a narrow view of the WPR, and an expansive view of Presidential power, and this opinion was no exception. The memo was signed by Caroline Klass, a career DoJ attorney who had served in the OLC during the Bush Administration, and who had received the Attorney General's Award for Excellence in 2007 for her work on national security. All of which made it all the more surprising, when Klass and the OLC *later* advised Obama that he was indeed obligated under the WPR to seek Congressional authorization.

## Institutional Shift

But as May 21, the 60-day deadline approached, the White House made it clear that Obama would not seek Congressional approval, using the sophistical arguments that NATO had taken over command of the operation, that the U.S. role was "limited," and that the use of airstrikes without "boots on the ground" meant that U.S. forces were not involved in "hostilities." A number of commentators noted that, by refusing to seek Congressional authorization, he was going further than any other President in defying the WPR. Although all previous Presidents had questioned the constitutionality of the WPR, all had, in fact, sought Congressional approval or authorization for significant military actions—exactly what Obama was refusing to do.

Obama drastically miscalculated. As the 60-day deadline came and went, resolutions were filed in Congress to cut off funding for the Libya War, and institutional voices—such as that of Senator Lugar—criticized Obama for not seeking Congressional authorization for the Libya operation.

Lugar, in an June 5 *Washington Post* op-ed, titled, "The Obama Administration's Dangerous Course on Libya," warned Obama that he was in violation of the U.S. Constitution.

"The House of Representatives sent the Obama Administration a strong, bipartisan rebuke on Friday [June 3] for failing to make the case for war in Libya or seeking congressional authorization for military action," Lugar wrote. "It is critical that the Administration understand the significance of this vote, abandon its plans for a nonbinding resolution in the Senate and proceed to seek the requisite debate and authorization for the use of military force, as I have advocated for nearly three months.

"The Founding Fathers gave Congress the power to declare war for good reason: It forces the President to present his case in detail to the American public, allows for a robust debate to examine that case and helps build broad political support to commit American blood and treasure overseas. Little of that has happened here," Lugar continued. "Waging war is the most serious business our nation does. Obtaining Congressional approval for war is not simple. But because getting out of wars is so difficult, the Founders did not intend that getting into them should be easy. The President should take the lesson from the House vote, retract his endorsement of the Senate resolution and propose a joint resolution with the force of law. . . ."

A well-informed Washington intelligence source said that Lugar's intervention was very important, and led to the shift of about 40 votes in the Republican Party on June 13 to support and pass Sherman's amendment in the House, forbiding the use of funds for military actions "in violation of the War Powers Act."

The White House is afraid to go to Congress for authorization, the source emphasized, because Obama doesn't want Administration officials to be "grilled" about the Libya operation, since he knows that many Democrats do not support his policy.

## Senate Hearings Planned

On June 17, Lugar issued a statement saying: "I have asked Foreign Relations Committee Chairman John Kerry to hold a hearing at which Administration officials will testify on the Constitutional basis on which the President is conducting military operations and the relationship of these operations to the requirements of the War Powers Resolution. Senator Kerry has agreed to hold such a hearing on June 28. In the meantime, I strongly urge the President to seek Congressional au-

thorization for the continuation of U.S. military operations in Libya."

"The Administration's position is both legally dubious and unwise," Lugar also stated. "The United States is playing a central and indispensable role in military operations that have no end in sight. The Administration estimates that the cost of these operations will exceed $1 billion by September."

Sen. Bob Corker (R-Tenn.) also had written to Kerry calling for hearings to "examine divergent definitions for 'hostilities' and how this term is used in the legal analysis for continued involvement in the military operations [in Libya] absent specific authorization from Congress." Corker is co-author of a Joint Resolution with Sen. Jim Webb (D-Va.), which seeks from the Administration a detailed justification for the U.S. military activities in Libya, prohibits the introduction of U.S. ground forces there, and calls on Obama to request explicit authorization from Congress.

In introducing S.J. Res. 18, Webb emphasized that what is at stake, is "whether a President—any President—can unilaterally begin, and continue, a military campaign for reasons that he alone defines as meeting the demanding standards worthy of risking American lives and expending billions of dollars of our taxpayers' money."

In an interview with MSNBC June 9, Webb warned of the dangers of allowing the precedent to be set, in which a President can use the argument of "humanitarian crises" to justify military interventions. That is not how the U.S. government is supposed to work, he said. This sets "a very broad standard as a precedent, when we're looking to the future of a President making a unilateral decision to use military force, and then not seeking at the appropriate time the approval of the Congress."

## Obama's Bogus 'NATO' Claim

Meanwhile, in a slap in the face to Congress, the White House submitted a 32-page memorandum to House Speaker John Boehner on June 15, filled with details about the alleged "humanitarian" reasons for the Libya intervention. Reference to the WPR is made only once, in which it is asserted that Obama does not need Congressional authorization under the Resolution because the action was taken under the authorization of a UN Security Council resolution which limits the scope of military operations, and that the U.S. is only playing a "supporting" role in the NATO coalition.

Obama's claim that transfer of command of the Libya operation to NATO eliminated the applicability of the requirements of the War Powers Resolution, is a dishonest evasion, if not an outright lie. The way that transfer was done, in fact, makes the U.S. responsible for the entire NATO operation and all allied forces.

Section 8(c) of the WPR, codified as 50 U.S.C. 1547(c), provides: "For purposes of this joint resolution, the term 'introduction of United States Armed Forces' includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities."

As Jack Goldsmith, OLC chief under the Bush Administration in 2003-04, has pointed out: "NATO's Supreme Allied Commander … is Admiral James G. Stavridis of the U.S. Navy. In other words, the officer in formal command of NATO military actions is a member of the U.S. Armed Forces. Other members of the U.S. Armed Forces presumably work up and down NATOs chain of command.… Basically the U.S. Armed Forces are doing most of the heavy lifting in the conflict short of pulling all the triggers, and the triggers that are being pulled by non-U.S. military forces are technically the responsibility of a member of the U.S. Armed Forces. In this light, it is quite natural to conclude that the transfer of authority to NATO brings members of the U.S. armed forces into responsibility for all NATO attacks on Libya, not just the ones fired by U.S. Forces."

## Obama Overrides His Own Lawyers

On June 17, the *New York Times* made the bombshell disclosure that Obama had overridden the advice of the OLC—which was supported by Attorney General Eric Holder—and also the recommendation of the Pentagon's top lawyer, DoD General Counsel Jeh Johnson.

"Presidents have the legal authority to override the legal conclusions of the Office of Legal Counsel and to act in a manner that is contrary to its advice, but it is extraordinarily rare for that to happen," wrote the *Times*' Charlie Savage. "Under normal circumstances, the office's interpretation of the law is legally binding on the executive branch."

But not for this President. Instead of heeding the authoritative views of the OLC, Obama chose to accept

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*LaRouche compared the bipartisan Congressional revolt against Obama's high-handed dismissal of Congressional authority, to early moments of the Watergating of President Richard Nixon (shown here leaving the White House after resigning as President).*

the "advice" of his political crony, White House Counsel Robert Bauer, and of the State Department Legal Advisor Harold Koh—a leading proponent of "humanitarian intervention" and the "responsibility to protect," a position also strongly held by two other top Obama insiders, advisor Samantha Power and Ambassador to the UN Susan Rice.

Obama's disregard of the OLC's legal advice, confirmed the report from intelligence sources, with which LaRouche concurs, that Obama's violation of the requirements of the WPR and the Constitution itself was intentional and willful, not simply an amateurish blunder.

The question remains: Why would Obama pursue such a risky course of action? Yes, of course, there is his arrogance and his unbridled narcissism. But something more is also at play here: the British Empire-promoted push for "humanitarian interventions" in violation of the right of national sovereignty. As *EIR* exposed in its May 6 issue, "The British Empire Is Using 'R2P' To Destroy the U.S.," the doctrine of "Responsibility to Protect," or "R2P," is nothing other than the promotion of perpetual warfare.

Soon after the release of the *Times* article, former OLC head Goldsmith wrote that he was not surprised about Bauer, since neither Bauer nor his office are expert in war powers, that he would not have expected this from Koh, since, for a quarter-century, Koh has been the leading and most vocal critic of Presidential unilateralism in war. What happened? Goldsmith suggests two possibilities: first, that he is just faithfully serving his client Obama; or, more likely, that "Koh's commitments to humanitarian intervention and the 'responsibility to protect' outweigh his commitment to his academic vision of presidential war powers."

But ultimately, it is not Koh, nor Rice, nor Powers, who is responsible for this unconstitutional travesty. It is Obama himself who must be held to account, and removed from a position where he can do grave damage to the Constitution and the nation.

## The Watergate Parallel

The parallels of the case of Obama, to the Watergate process, are obvious. Nixon was accused, in all three counts of the bill of impeachment brought against him, of acting "in a manner contrary to his trust as President and subversive of constitutional government, to the great prejudice of the cause of law and justice and to the manifest injury of the people of the United States." Specifically, he was accused of obstruction of justice, abuse of powers of his office, and violation of the Separation of Powers provision of the Constitution. Although with different overt acts, Barack Obama is guilty of all those abuses—and more.

Alexander Hamilton, in *Federalist* No. 65, explained the applicability in the following statement regarding impeachment in the Constitution: "The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated *political,* as they relate chiefly to injuries done immediately to the society itself."

Of course, Nixon resigned in order to prevent the impeachment process from going ahead. He could see that the Establishment had made a decision. As the process proceeds, Obama could well do the same—or be submitted to a measure which was not available in Nixon's time, Section 4 of the 25th Amendment.

But there is no denying that Watergate is in the air.