

# **The war powers of the British parliament: What has been established, and what remains unclear?**

James Strong

## **Abstract**

Britain's parliament has historically lacked formal war powers. Since 2003, however, MPs have voted five times on military action, including famously vetoing intervention in Syria in 2013. A new convention developed that – regardless of the legal position – governments *should* permit the House of Commons the opportunity to veto certain military deployments. This article explores what we now know – and what we do not – about the British War Powers Convention. It identifies apparent exceptions, including non-combat, Special Forces and drone operations. It highlights areas lacking clarity: for example who decides what constitutes an 'emergency'? It argues that most governments probably will allow the House of Commons to have its say before using force abroad, that a government politically able to bypass MPs without punishment need not fear involving them, while one unable to win support will be punished for avoiding a vote. Finally, the article considers the implications, both positive and negative, of parliamentary war powers for Britain.

**Keywords:** UK, Parliament, War Powers, Convention, Military Action

As is common in Westminster-style democracies, Britain's parliament has historically lacked formal war powers (Wagner et al. 2010, Joseph 2013). Despite this ambiguity, British MPs approved the invasion of Iraq, intervention in Libya, two rounds of action against ISIS (the Islamic State in Iraq and Syria, otherwise known as Da'esh), and rejected intervention in Syria in 2013. Through these votes, a new political convention developed that – regardless of the legal position – governments should permit the House of Commons the opportunity to veto certain military deployments (Strong 2015a).

Although the notion that some sort of British War Powers Convention exists is reasonably well-established, much about it remains unclear. Strong (2015b) observed that the Syria veto depended on immediate political circumstances that might not recur. Kaarbo and Kenealy (2016, 2017) noted how analogies to Iraq coloured subsequent debates. Lagassé (2016) identified how institutional and contextual factors interact in the British case, while Mello (2017) showed that different types of deployment attract different levels of scrutiny. Each contribution added detail to our emerging understanding of what the British War Powers Convention means. Each acknowledged that uncertainty remains.

This article attempts to specify what we know, and what we do not, about the British parliament's involvement in military deployment decisions. It considers two dimensions addressed by this special issue: the opportunity structures for parliamentary involvement *in* security policy and the implications of parliamentary involvement *for* security policy (Mello and Peters 2018). It attempts to draw broader lessons relevant to other states, principally those rooted in the Westminster tradition, but potentially democracies more generally. It builds on existing literature by adopting a systematic approach and considering recent operations against Da'esh. It proposes four distinct political scenarios a future government contemplating the use of force might face, derived from the interaction of two variables: how

able the government believes itself to be to win a House of Commons vote, and how able it feels to bypass MPs. On the basis of this discussion, it concludes that future British governments will probably permit and win parliamentary votes before launching major combat operations, but that some uncertainty is unavoidable. Both conclusions have implications for Britain's broader security stance.

## **The constitutional position**

Westminster-style democracies – Britain, plus former British colonies – generally lack formal constitutions. Instead they distribute political power through an informal patchwork of written laws and unwritten conventions (Bagehot 2001, 178-199). Conventions, though not legally binding, nevertheless set clear limits on legitimate political conduct. They can and do constrain behaviour. Constitutional states like the US and Germany have supreme courts capable of adjudicating disputes. Conventional powers remain contestable, however widely-accepted they become (Bono 2005, Kaarbo and Kenealy 2016, Mello 2017). Because they are socially constructed rather than written down, conventions can change surprisingly quickly and easily compared to formal rules (Foley 2004, Heffernan 2005a, Select Committee on the Constitution 2006, Kaarbo and Kenealy 2017).

Britain's War Powers Convention is a good illustrative example. Successive governments granted MPs influence over military deployments without meaning to. A series of independent decisions collectively added up to fundamental change. British MPs had no say over military deployments before 2003 (Bowers 2003). Prime Minister Tony Blair granted them a vote on Iraq as a one-off concession – a 'remarkable exception' (Wagner et al., 2010, 100) – to shore up support amongst rebellious Labour MPs (Judge 2004, O'Malley 2007). Blair's move took on greater significance under Prime Minister David Cameron.

Cameron called a vote on Libya to differentiate himself from Blair's 'presidential' style. He was then trapped by his own rhetoric into permitting a further vote on Syria, and lost. In accepting defeat he further cemented the new convention.

These developments are reversible. Cameron's Cabinet Manual confirmed that 'the House of Commons should have an opportunity to debate the matter...before troops [are] committed' (Cabinet Office 2011, 44). Such documents can be rewritten, or ignored. Cameron himself called parliament's involvement in military deployments 'a good convention' (Cameron 2014, c1265). He is no longer Prime Minister, nor even an MP. Public opinion supports consulting MPs (YouGov 2013). Public opinion can shift. Most political elites seem to accept a Convention exists. But some – especially within the Conservative Party – think it places the government under intolerable constraint. Foreign Secretary Boris Johnson, for example, declared that the convention 'needs to be tested' during the June 2017 election campaign (Johnson 2017). Downing Street rejected Johnson's statement (MacAskill 2017). But then Prime Minister Theresa May lost her majority, raising questions about how long she would remain in office, and what views her successor might hold.

Britain's War Powers Convention developed against a backdrop of growing parliamentary influence. British governments have historically conducted international negotiations and called general elections as they saw fit. Theresa May, however, required parliamentary approval to begin the 'Brexit' process and to call the June 2017 election, though the bases for these shifts differed. MPs got to vote on 'Brexit' because the Supreme Court ruled that it meant abolishing statutory rights, something only parliament can do. The Court reaffirmed the government's right, in principle, to make and break treaties. May needed a two-thirds supermajority of MPs to approve the June 2017 election because that was the threshold laid down by the Fixed Term Parliaments Act. Parliament's power over elections is established by statute and enforceable by the courts. Its involvement in the Article

50 decision (to begin negotiations on UK withdrawal from the EU) was similarly subject to judicial enforcement, but it was also a one-off. Its say in military deployments is a general rather than a specific power, but it is not guaranteed by law.

This situation looks unlikely to change. Parliamentarians have unsuccessfully tried to pass a British War Powers Act. The problem is simple. Legislation would not necessarily improve, and might even weaken, parliament's position. Parliaments cannot bind their successors. Whatever legislation one parliament passed, a future parliament could repeal (Bagehot 2001, Taylor and Kelly 2008). A government powerful enough to ignore the War Powers Convention could probably undo a War Powers Act. The calculations involved would be the same.

Legislation could, furthermore, reduce MPs' freedom to pursue more or less influence over individual deployments. Parliamentary pressure forced Foreign Secretary William Hague to guarantee a vote before Britain supplied weapons to Syrian rebels, something he was under no legal obligation to do. An Act would implicitly limit parliament's power, making obtaining similar concessions difficult. Parliament decides for itself whether government actions comply with political conventions, and punishes non-compliance through political sanctions. Though party-political considerations limit MPs' willingness to coerce ministers, legislation would transfer both functions entirely to the courts.

No one seems to want judges revisiting decisions already made by MPs. Shadow Foreign Secretary Emily Thornberry complained that parliament's war powers lacked legal support, yet thought it would be 'entirely inappropriate' if 'a decision made in this House' had to 'be taken off to the courts' (Thornberry 2016, c332). Baroness Falkner insisted, in defending her draft War Powers Bill, that there was a difference between judicial oversight of the general application of a law, and specific decisions (Falkner 2016, cc2257-2262). She lost the argument, and her effort failed. The hysterical reaction to the Supreme Court's Article 50

decision (that Parliament must vote on triggering it) underlined the point. Most poll respondents thought neither the courts nor MPs should have been involved at all (YouGov 2017). Gina Miller, the activist who led the legal challenge, received death threats (Cumbo 2017). A *Daily Mail* front page labelled three judges who upheld Miller's arguments 'enemies of the people' (Slack 2016).

A fear of voter backlash meant most MPs voted to invoke Article 50 despite most having campaigned for Britain to stay in the EU. A fear of looking cowardly saw Labour support an early election in 2017 despite polls suggesting it would lose. On both occasions the fact MPs had the legal power to thwart government mattered little. What mattered was how willing (or otherwise) they were to use it. Most MPs believed that they already have the right to veto certain military deployments. That, in part, is why so few seem interested in enshrining it in law. It consequently remains a convention, subject to debate at every turn. A future government could ignore it without fear of a judicial response. Whether this result will actually occur, however, depends on the specific political circumstances. It is consequently impossible to understand Britain's parliamentary war powers from a purely constitutional perspective.

## **Politics**

Like all conventional powers, the way the British War Powers Convention works depends logically on three inter-related factors. Firstly, it depends on the Prime Minister. Individual and institutional characteristics together constitute power in Westminster-style democracies (Heffernan 2003, 2005b, Lagassé 2016). Different leaders hold different beliefs about whether they should consult others before using force abroad. They also interpret political intelligence differently in deciding whether or not they need a collegial approach (Foyle

1997). Leaders furthermore vary in terms of their psychological ability to understand nuanced arguments and willingness to share power, as Kaarbo (2018) argues elsewhere in this special issue.

How Britain's War Powers Convention works depends, secondly, on the type of deployment proposed. How salient a proposed operation appears to MPs, and how directly it echoes past precedents, will vary. Both affect how strongly they demand a vote, and what the outcome will be. Thirdly, the extent to which MPs will get a vote on future deployments depends on politics. Specifically, as this section demonstrates, it depends on a) whether the government feels able to win a vote, and b) whether it is willing to bear the costs of bypassing parliament. Future British governments probably will allow parliamentary votes before launching combat operations abroad, except under certain specific circumstances. A repeat of the Syria veto of 2013, meanwhile, looks unlikely. The following sections set out where uncertainty remains.

### *Ability to win*

Whether a future government feels able to win a vote on military action depends on the size of its majority, the coherence of its majority and the opposition's stance. British Prime Ministers typically enjoy the consistent support of a majority of MPs (King 1976, Wallace 1977). Back-bench MPs have grown more rebellious in recent years (Benedetto and Hix 2007, Stuart 2009). The Fixed Term Parliaments Act also had an effect, by removing the Prime Minister's historic right to designate any government motion a matter of confidence (Norton 2016) and so to discipline unruly MPs with the threat of fresh elections (Huber 1996, Diermeir and Feddersen 1998). Leaders can still threaten to resign, as Tony Blair (at least implicitly) did over Iraq (Phythian 2007). Forcing Labour MPs to choose between their most

successful leader ever and Saddam Hussein did seem to boost the pro-war vote (Strong 2017). But Blair's experience will likely remain a 'rare event' (Hill 2005, 399). Few governments are so committed to any aspect of security policy that raising the stakes so high makes sense.

All else being equal, a government with a large parliamentary majority will be more able than one with a smaller majority to win a vote on military action. The five votes between 2003 and 2015 suggest that MPs are especially willing to follow their own personal beliefs and rebel over military action. This point holds across party lines. Labour MPs rebelled over Iraq in 2003. Conservative and Liberal Democrat MPs rebelled over Syria in 2013. Labour failed even to agree a common position on ISIS/Da'esh in 2015. MPs will sometimes approve military action, as well as (more commonly) rejecting it, against their leaders' advice. Every government will likely face rebellions over the use of force. Those with larger majorities can absorb larger rebellions.

Across democratic states, right-leaning politicians tend to look more favourably than their left-leaning counterparts on the use of force, though Britain is something of an outlier because the Labour Party is unusually pro-use of force (Palmer, London and Regan 2004, Wagner, Herranz-Surralles, et al. 2017). A Conservative British government nevertheless looks more able than a Labour one to rely on its own MPs to support the use of force. A Conservative government is probably also less likely to be able to rely on opposition support than a Labour one. There is, in other words, no government more able to win a House of Commons vote on military action than a strong Labour one. Though Tony Blair faced the largest parliamentary rebellion in history over Iraq, he still won support from three-quarters of MPs, thanks to Conservative assistance and the sheer number of Labour MPs. There is, similarly, no government less able to win a vote on military action in the House of Commons than a weak Conservative one. Though the Conservative-led coalition enjoyed a decent



majority of 76 in 2013, it evaporated over Syria. It had to make substantive concessions to win Labour support over ISIS/Da'esh in 2014. Party politics and institutional pressures interacted to shape Britain's security stance (Mello 2012).

This pattern is not absolute. Labour has a strong tradition of what Toynbee (2001) has called 'hard liberalism'; being willing to use force to defend human rights. The Conservative Party similarly sometimes exhibits "soft realism"; an unwillingness to sacrifice for collective goods. Labour MPs are generally more pro-European than Atlanticist, while Conservatives are more Atlanticist than pro-European. Though Labour looks more sceptical of military action in general, the Conservative Party may be less willing to support operations lacking a clear national interest justification or a transatlantic dimension. The balance of opinion within each party also varies. Labour split over fighting ISIS/Da'esh in 2015, as Hilary Benn led an "internationalist" rebellion against Jeremy Corbyn's anti-interventionism. Labour's unexpectedly strong performance in the June 2017 election cemented Corbyn's position and made future splits less likely. All else being equal, then, a weak Conservative government looks more likely than any other sort to struggle. But considerable uncertainty remains.

### *Costs of bypassing parliament*

Whether a government feels it will face disproportionate political costs for ignoring the War Powers Convention depends on the nature of the possible political punishments it faces, how likely it is that MPs will actually punish it, and how risk-averse ministers are. MPs can censure a government in a variety of different ways. In extreme circumstances, they can pursue the 'nuclear option' of a confidence vote. Given that would mean at least some government back-benchers voting their own party out of office, it looks improbable. That the possibility exists probably affects ministers' calculations, but few will lose sleep over it.

More mildly, MPs can attempt to assert control of the parliamentary timetable. A number of days are reserved in each parliamentary session for debates on issues chosen by the opposition. These can be used to consider security policy, as for example happened in January 2014 when MPs debated the government's response to the Syrian refugee crisis. MPs can also organize special debates in Westminster Hall, though these do not involve formal votes. Most dramatically, during the summer of 2002 a group of back-benchers successfully forced the Blair government to recall parliament from its summer recess to debate Iraq by arranging an 'unofficial' Commons sitting that risked embarrassing ministers. Back-bench MPs can also launch party leadership challenges on the grounds of foreign policy disagreements. The internal coup against Margaret Thatcher was partly driven by divisions over Europe. They can publicly criticize the government, potentially damaging its ability to set the agenda for public debate, or threaten retribution in other policy areas.

Whether a government actually faces punishment for bypassing the War Powers Convention will depend on how salient the proposed deployment is to MPs. MPs are less likely to expend political capital in dealing with issues they consider less important. Whether a military operation looks salient depends in turn on the nature of the deployment proposed and on public opinion. If the public is highly polarized or mobilized – as it was over Iraq – it is more likely that MPs will want a say. Precedent matters too. MPs are more likely to care about losing powers they have previously held than gaining new powers. Newer MPs may not even realize that their war powers derive from convention, not legislation. How risk-averse a government will be depends in turn on individual-level factors. Tony Blair was more willing to risk losing office over Iraq than his own MPs were to risk losing him. Cameron delayed votes on ISIS/Da'esh because he did not think the risk of defeat worthwhile. Theresa May proved herself both loathe to share power and risk averse when she opposed

parliamentary involvement in the Article 50 decision. When she actually did take a risk, by calling the June 2017 election, she lost.

*Future governments will probably uphold the War Powers Convention*

Table 1 depicts four logically plausible scenarios a future government trying to decide whether to allow a vote on military action might face. It indicates that future governments will probably uphold the War Powers Convention.

*Table 1:* Plausible potential scenarios for future UK governments considering allowing a parliamentary vote on military action.

		Perceived ability to win a parliamentary vote	
		<i>High</i>	<i>Low</i>
<b>Perceived political costs of bypassing parliament</b>	<i>High</i>	Scenario 1: Costs of avoiding vote high. Government holds vote, e.g., Iraq 2003, Syria 2013, ISIS/Da'esh 2015.	Scenario 3. Costs of both holding and avoiding vote high. Government changes policy, e.g. ISIS/Da'esh 2014.
	<i>Low</i>	Scenario 2. Costs of holding vote low. Leadership personality and precedent decisive, e.g. Libya 2011.	Scenario 4. Costs of avoiding vote low. Outcome depends on deployment type, e.g. ISIS/Da'esh drone strikes 2015

In scenario 1 the government perceives that it can win a vote and that bypassing MPs would be disproportionately costly. Arguably, Blair’s Iraq vote fits here alongside Cameron’s votes on Syria in 2013 and ISIS/Da’esh in 2015. On each occasion the government judged that the costs of bypassing parliament were disproportionate, and that the prospects for success were sufficient to risk a veto. The inclusion of the Syrian case demonstrates how subjective these judgements are. Governments can read the political tea-leaves wrong. Cameron was probably right that he could not afford to intervene in Syria without parliamentary approval. His coalition with the Liberal Democrats would have collapsed. At the same time, he overestimated Conservative support for military action. He lost and learned from his mistake,

delaying the vote on action against ISIS/Da'esh from June to September 2014 to allow more time for consultations.

In scenario 2 the government perceives that it can win a parliamentary vote but also that it could bypass MPs without disproportionate political cost. Here both personality and precedent come into play. David Cameron apparently believed that MPs should have a say on military action when he called the Libya vote. At the same time, with clear evidence of a threat to civilian life from the Gaddafi regime's advance on Benghazi and UN Security Council approval, he knew he would win comfortably. He stood to gain legitimacy by allowing MPs to rubber-stamp a decision he already knew they would support. So Cameron did it, albeit after ordering the first strikes. In the process he set a precedent he felt compelled to follow. Future governments will face the greater weight of precedents that Cameron left behind, whether ministers believe in parliamentary power or not.

In scenario 3, the government feels unable to avoid a vote but also unable to win. A government facing scenario 3 is likely to change policy, either moving away from military action as the Cameron government did in Syria after the 2013 veto or, as when it restricted British operations against ISIS/Da'esh to Iraqi territory from September 2014 to December 2015, compromising with opposition parties in return for their support. Had Cameron accurately perceived the degree of opposition within his own party to intervention in Syria, that vote would also have fallen into this category.

Cameron did make concessions in 2013. He ruled out the use of force until after UN inspectors reported, and promised to hold a further vote. He failed to do enough. By forcing ministers to adapt their proposals ahead of a vote, as in scenario 3, the parliamentary prerogative in the UK mimics the effect of the War Powers Resolution in the US. What matters is not the veto power itself, but how governments design policies that anticipate legislators' attitudes (Auerswald and Cowhey 1997, Mello and Lagasse 2018).

In scenario 4, finally, the government believes it cannot win a vote, but that it can get away without holding one. This scenario might happen if MPs either do not know or do not care about a particular operation, if the government believes so strongly in the merits of its case that it is willing to risk defeat on a confidence motion, or if the government feels safe from significant retribution. In practice, it seems unlikely that MPs will lose interest in military deployments, and most of the deployment types discussed in the following section are hard to keep secret (drone strikes being a possible exception). It also seems unlikely that a government would risk losing office to pursue a particular foreign policy. But it could happen.

What we learn from all of this is that the question of whether MPs will have a vote on future military deployments depends on the political circumstances surrounding a proposed action. Given the subjective nature of the judgements described – a government’s ability to predict each of the key political variables will itself vary – that leaves a good deal of uncertainty. It seems likely that MPs will get a vote on future deployments – depending on their type. But it cannot be certain, and the prospect of recent precedents being entirely reversed remains. Compared to constitutional democracies, Britain’s war powers convention looks very weak. But depending on the circumstances, it can be strong enough to constrain executive action.

## **Deployment type**

One striking feature of the broader literature on parliamentary war powers is the range of different types of military deployment discussed. Germany’s *Bundestag*, for example, must approve any out-of-area military deployment, regardless of size or type (Schade 2018). But Germany is, for historical reasons, an unusual case. It is more common for a state’s war

powers law to specify circumstances under which governments can act without legislative approval, for example if the deployment proposed is small or short (Peters and Wagner 2011). Deployment type matters in Britain, too, but the absence of a War Powers Act means there are no hard and fast rules. Instead, what matters is whether a particular operation is politically contentious. What makes an operation contentious varies. Generally speaking, the War Powers Convention applies, as Defence Secretary Michael Fallon put it, ‘to conflict decisions rather than routine deployments’ (Fallon 2016, c10WS). British troops must expect to face or use deadly force – to have ‘skin in the game’ (McCormack 2016, 22). The campaign against ISIS/Da’esh was envisioned as a combat mission from the start, and subject to two House of Commons votes. No one expected Britain’s support for French intervention in Mali, participation in NATO exercises in the Baltic States or anti-piracy activities off the Horn of Africa to involve fighting, so there were no votes (Watt and Harding 2013).

Whether MPs will demand a say over more ambiguous situations remains unclear. They know and are exercised by the risks of ‘mission creep’. That makes sense. Britain has recent form when it comes to one type of deployment turning into another. Operation Palliser in 2000 initially involved evacuating European civilians from Sierra Leone. It escalated unexpectedly into a full-scale intervention in a nascent civil war (Ucko 2016). British ministers downplayed the first deployment of British troops to Helmand Province, Afghanistan. Defence Secretary John Reid told journalists in Kabul that they ‘would be perfectly happy to leave in three years and without firing one shot’ (BBC 2006). Things did not turn out that way. British forces fired forty-six million shots over the next eight years (Mail Online 2015).

How MPs understand ‘mission creep’ is, however, coloured by memories of Iraq (Strong 2015b, Kaarbo and Kenealy 2017). Viewing new proposed operations through the Iraq analogy leads them to worry more about the risk that military action will escalate in the

Middle East compared to elsewhere. They voted against a limited campaign of airstrikes in Syria in 2013, but did not demand a vote at all when the government put British ‘boots on the ground’ in Mali or the Baltic. It remains possible, furthermore, that an apparently routine future deployment could escalate, with MPs then having to decide whether to demand a retrospective vote. What exactly will happen then remains unclear. So far the British War Powers Convention lacks a retrospective component.

Some states automatically authorise ministers to uphold UN Security Council Resolutions using force, but require a parliamentary vote for non-UN operations. Others make Security Council approval a legal prerequisite for parliamentary support (Wagner et al. 2010). Britain’s War Powers Convention imposes no comparable requirements, but Security Council approval nevertheless matters. It affects how able the government is to win a vote, and whether MPs compare a proposed operation to Iraq (Oliver 2015, Kaarbo and Kenealy 2016, 2017). It also calms sceptics’ concerns. As Robin Cook observed during the invasion of Afghanistan, many of those MPs ‘who would normally have reservations about military action are also those who are most respectful of international cooperation’ (Cook 2003, 45-46). That the Libyan intervention enjoyed both UN approval and wide international support helps explain why just thirteen MPs voted against it (Fisher and Biggar 2011). Labour MPs who supported action against ISIS/Da’esh in December 2015 justified their stance by pointing to SCR 2249. Given governments are more likely to hold votes they think they can win, this implies they are more likely to hold votes on operations with Security Council approval. There is no firm requirement, however.

Special Forces operations do not fall under the British War Powers Convention, at least for now. When parliament endorsed Britain’s involvement in fighting ISIS/Da’esh in Syria, David Cameron promised that ‘the Government will not deploy UK ground troops in combat operations’ (Cameron 2015b, c323). In August 2016 the BBC published images of

British Special Forces soldiers in Syria helping to secure a rebel base against attack – a combat role (BBC 2016). Few MPs took notice, and there was no significant pressure for a vote. Most apparently accepted that Special Forces operations are exceptional. Whether they would continue to accept that if a future mission went wrong – leading to large-scale military or civilian casualties, for example, or if a future government significantly expanded the range and scope of Special Forces deployments – remains unclear.

Drone strikes, by contrast, fall under the Convention in theory, but are unlikely ever to come to a vote. In August 2015 – before MPs approved British action in Syria – an RAF drone strike near Raqqa killed Reyaad Khan and Junaid Hussain, two British citizens fighting with ISIS/Da'esh. Explaining his decision to authorize the strike, Cameron argued that he had in fact complied with the War Powers Convention. He maintained that he had always insisted that in the face of an urgent threat 'you could act immediately and explain to the House of Commons afterwards' (Cameron 2015a, c26). That applied to drone strikes as much as to any other time of military deployment.

Cameron's caveat opened up another area of uncertainty. British governments are under no legal obligation to permit MPs a vote before launching military action. They accept some degree of moral obligation, but also assert the right to act first and consult later when facing an imminent threat to national security or humanitarian catastrophe. It is unclear what constitutes 'imminence' in this context, what criteria identify someone or something as a threat to national security and what sort of humanitarian catastrophes are covered. In the absence of formal definitions, the government's powers will be up for debate in each new situation. It is impossible to predict what a future parliament will accept. Cameron got away with the 2015 drone strike. Several MPs and commentators expressed concern about what the Joint Committee on Human Rights (2016) called a 'new departure' for Britain's drone programme. But few claimed parliament should have voted on the operation first



(McCormack 2016). Indeed, the Committee explicitly accepted that Cameron acted in line with the War Powers Convention. To some extent he benefitted from the fact the operation was already over. MPs could hardly veto the killing of Khan and Hussain after the fact. Whether they would tolerate a series of drone operations without a vote remains unclear; the 2015 strike was a one-off.

Cameron, meanwhile, never really lived up to his promise to ‘explain’ his decision to MPs. Although the Intelligence and Security Committee (2017) concluded both Khan and Hussein were legitimate targets, it complained that the government withheld crucial legal advice from its investigation. Having been rushed out ahead of the June 2017 election, this report generated limited backlash. Cameron was out of office by then, anyway.

In sum, then, the extent and nature of Britain’s parliamentary war powers vary depending on the type of military operation proposed. MPs expect to vote on deployments likely to involve combat. Thanks to Iraq’s lingering shadow, they think ‘mission creep’ especially likely in the Middle East, meaning that they demand more oversight of operations there than elsewhere. They are more willing to approve deployments already supported by the UN Security Council. This willingness should make governments more willing to subject such deployments to a vote, but the relationship is indirect. Most MPs believe that Special Forces operations require secrecy, and so accept successive governments’ assertions that such deployments fall outside the War Powers Convention. Most also accept that governments sometimes have to act quickly in response to developments, seeking approval retrospectively.

Both these attitudes could change if tested, though MPs seem unlikely ever to vote against troops already in combat. Complaints made during the Libya debate, which took place shortly *after* the first shots were fired, led Foreign Secretary William Hague to promise to recall MPs to vote before any future deployment. That promise partly lay behind the ‘fiasco’ of the Syria vote, as MPs wondered what they had been recalled early for if not to

vote on the use of force (Gaskarth 2016). Cameron learned that delay was preferable to defeat. He got away with the August 2015 drone strike because it was, in fact, a one-off. MPs seem far less likely to accept repeated attempts to exclude deadly operations from parliamentary scrutiny.

Future governments can, legally, launch military operations without prior approval then claim retrospectively that they acted in an emergency. Whether parliament will accept such claims, and what will happen if it does not, will depend on the specific circumstances and is difficult to predict. When we consider the types of deployment likely to trigger parliamentary oversight in Britain, the relative paucity of cases means much remains unclear.

## **Implications**

It is important not to over-estimate how significant Britain's parliamentary war powers are. British MPs largely lack 'agenda control' – the capacity to decide what issues they debate (Auerswald and Cowhey 1997, Auerswald 1999, 2004) – meaning they cannot initiate policy proposals of their own. Most use political heuristics to guide their decisions about military action, meaning governments can generally rely on their own back-benchers. Though some MPs reject the use of force outright, the majority are willing to consider each case on its merits. This means that the House of Commons would probably approve military action in a genuine emergency, in the event of a direct threat to national security and in response to an attack on a NATO ally. No-one, meanwhile, has yet proposed extending parliament's role beyond the point of the initial decision to deploy troops. Once MPs have approved an operation, the government can largely do what it wants.

Despite these very real limitations, the British War Powers Convention still has significant implications – both positive and negative – for how Britain uses force, and so for

its broader security stance. Ministers who know they must justify a decision to take military action in public should do a better job than their predecessors of thinking through such decisions in private. MPs can and will veto deployments they think ill-conceived, as Cameron's experience over Syria showed. Though many are influenced by party politics, a significant minority will vote according to the quality of the government's case. If MPs blindly vote against the use of force at every opportunity, the government will be undesirably constrained. But if enough of them are willing to hear ministers' arguments out, future governments should be able to win support by presenting clear, well-developed and viable proposals. Parliamentary scrutiny could, in sum, improve the quality of Britain's military deployments.

Whether MPs actually make better decisions than ministers about the use of force remains unclear, however. They are often less well-informed, and so more likely to rely on ill-fitting heuristics. Judging the prospect of further military action through the Iraq analogy, for example, makes sense in terms of avoiding comparable errors of commission, but offers little protection from errors of omission. There was little similarity between the Iraq War and the intervention proposed for Syria in 2013. That is not to say MPs erred by vetoing the latter operation – it had both legal and strategic flaws – but rather that if they did it simply to avoid repeating Iraq, as many of them claimed, they acted irrationally. Unlike ministers, furthermore, MPs generally avoid being held accountable for unsuccessful deployments they approve. No-one today blames parliament for Iraq even though three-quarters of MPs voted for it. The Foreign Affairs Committee (2016) condemned Cameron for how British operations in Libya turned out, despite the fact eight of its eleven members supported intervention.

To understand how Britain's War Powers Convention affects its broader strategic stance we need to turn to the literature on inter-state bargaining. Though much of this focuses

empirically on the United States, its core conceptual propositions should apply just as well in a UK context, since they highlight the interplay between domestic and international bargaining games. One such proposition matters above all, for our purposes. The extent to which a state can make credible promises and threats to international bargaining partners depends on the ratification processes such commitments must pass through at home. It varies when they do. From this perspective, granting MPs a veto over the use of force inevitably changes Britain's nature as an ally and an enemy, with both positive and negative results.

On the positive side, obtaining parliamentary approval for a military deployment allows Britain to signal commitment to both its allies and its enemies. Winston Churchill – then Leader of the Opposition – requested a formal vote before the Korean War in 1950 to demonstrate that Britain was united behind the UN, despite objections from a vocal minority of MPs. In the process he also signalled that a future change of government would not mean a change of policy. Governments that seek and win parliamentary approval for military action as part of a policy of coercive diplomacy risk ‘audience costs’ – retrospective punishment for their inconstancy – should they fail to carry a public threat through (Fearon 1994).

From this perspective, a government forced to gain parliamentary approval for military action should be more credible as an adversary than one free to act as it sees fit (Partell and Palmer 1999). Governments can also use their need to win parliamentary approval as leverage in developing joint strategic positions with other states. Tony Blair convinced President Bush to let him seek a ‘second’ Security Council Resolution on Iraq in early 2003 by emphasizing his need to secure Labour Party approval in the House of Commons. In Putnam's (1988) terms, Blair reduced the size of his domestic ‘win-set’ by promising a parliamentary vote on Iraq, enabling him to extract concessions from Bush by credibly threatening that British support might be withdrawn (against his personal wishes) otherwise.

The picture is, however, qualified. Involving MPs in decisions about military action does not seem to legitimize the resulting operations – as Iraq showed (Strong 2017). The degree to which democracies make reliable allies, meanwhile, generally depends on how formalized their international commitments are (Gartzke and Gleditsch 2004). Legislators feel bound by treaties they have ratified (Leeds, Mattes and Vogel 2009, Tago 2009). Away from formal alliance agreements, however, democracies become more flighty. Those that grant greater power to legislatures (Reiter and Tillman 2002) or minority parties (Leblang and Chan 2003), or where the electoral incentives at work militate against long-term strategic thinking (Bueno de Mesquita, et al. 1999), find making lasting international commitments harder than those with less legislative control.

In the British case, the uncertainty surrounding the War Powers Convention complicates the picture further. Though it seems likely that MPs will get to vote on major military operations in future, they might not – meaning an ally trying to predict how loyal Britain will be must make the two related calculations discussed above. Though MPs probably would approve the use of force in response to an attack on a NATO member – member state elites take NATO commitments especially seriously (Kreps 2010) – they might not. We know for definite – the Syria vote proved it – that they are willing in principle to reverse an *ad hoc* government commitment to use force if they have problems with the operation proposed or if ministers get the politics wrong.

Britain's War Powers Convention has probably done more to undermine than to reinforce its credibility as an ally. President Obama did not wait for – or even request – British support before striking Da'esh in Iraq in June 2014. David Cameron took until September to win parliamentary support, and it was not until December 2015 that Britain extended its operations across the whole Da'esh theatre of activity. President Trump struck the Assad regime in April 2017 without seeking British assistance. Contrary to the 'audience

costs' model, British MPs are more concerned about the substance of a particular military proposal than about consistency (Thomson 2016). Ministers cannot force their hand by making public threats before proceeding to a vote, Syria proved as much.

Yet scope remains for parliament's involvement in military deployments to strengthen rather than weakening the government's hand in future. As we have seen, ministers can use the fact that they need to win MPs' approval to press more sensible military strategies onto reluctant allies. They can also use a House of Commons vote to lock in their political rivals, and so make more credible commitments and threats than would have been possible previously. Blair won Conservative support for action in Iraq. Cameron won Labour support for action in Libya, and for the first round of action against Da'esh. In the process, both men insulated themselves against future electoral retribution and made it less likely a change of government would mean a reversal of their stance.

Cameron's vote on the second round of action against Da'esh in 2015, which split the Labour Party, looks less helpful from this perspective. If governments want to secure the benefits of involving MPs in military deployment decisions, they should ideally ensure they win opposition support, even if they can win without it. They should also be careful not to promise or threaten too much without gaining parliamentary approval first. Cameron looked foolish over Syria because he made promises he ultimately could not keep. Future governments could both avoid Cameron's fate and gain the ability to make highly credible commitments by seeking parliamentary approval for military action *before* making explicit public threats, or at least as part of the process. So far no British government has tried this, but it is a logical implication of the War Powers Convention.

## Conclusion

Parliamentarians politicize security policy decisions. That has clearly been true in Britain. But the British case also suggests that the degree of legislative involvement in security matters is itself political, a point that might apply to other democracies – evidence from Finland (Raunio 2018) and Germany (Hegemann 2018) suggests it does. Absent a formal written constitution, or strong judicial oversight of the balance between executive and legislative power, parliamentary war powers in Westminster-style states remain subject to consensus, compromise and elite debate. Even absent legislation guaranteeing their involvement, MPs can demand a say over military deployment decisions. They can get it by wielding both carrots and sticks; by threatening retribution while proffering support. Some of this applies also in states with more formal constitutional rules. Formal rules affect how able governments are to bypass parliaments, but do not affect their ability to win a vote, nor parliamentarians' ability to demand influence over matters beyond their formal remit.

Precedents, meanwhile, are sticky. British MPs are likely in future to have the chance to veto military combat deployments, if for no other reason than because allowing a vote has become the default. Conventions can be challenged, or changed. Without legislation, there is no guarantee that a future House of Commons will demand a vote on military action. Indeed, there is no guarantee that legislation would constrain government action. Yet the prospect of parliamentary censure probably does shape ministerial calculations. Though much remains unclear, it is at this stage quite well established that Britain's parliament should in future have a meaningful say over major military combat deployments. Similar developments could follow in comparable states, like Canada (Lagassé and Mello 2018).

Britain's setup has implications for its ability, and for the ability of similar states, to make credible international alliances and threats. Westminster-style parliaments cannot bind

their successors. They cannot prejudge what future generations will accept. Whether MPs will demand and get a say over a particular military operation is difficult to predict far in advance. How they will actually vote is also uncertain. Future governments, learning the lesson of Cameron in 2013, will likely be more cautious about what they ask MPs to approve. But it remains possible that they might commit to military action, then seek parliamentary approval and lose. Britain is no longer as reliable an ally, nor as credible an adversary, as it was before 2003. It will probably, but not definitely, stay that way.

## References

- Auerswald D (1999) Inward bound: Domestic institutions and military conflicts. *International Organization* 53(3): 469-504.
- Auerswald D (2004) Explaining wars of choice: An integrated decision model of NATO policy in Kosovo. *International Studies Quarterly* 48(4): 631-662.
- Auerswald D and Cowhey P (1997) Ballotbox diplomacy: The War Powers Resolution and the use of force. *International Studies Quarterly* 41(3): 505-528.
- Bagehot W (2001) *The English Constitution*. Oxford: Oxford World's Classics.
- BBC (2006) UK troops 'to target terrorists'. Available at: [http://news.bbc.co.uk/1/hi/uk\\_politics/4935532.stm](http://news.bbc.co.uk/1/hi/uk_politics/4935532.stm) (accessed 12 September 2016).
- BBC (2016) UK special forces pictured on the ground in Syria. Available at: <http://www.bbc.co.uk/news/uk-37015915> (accessed 7 September 2016).
- Benedetto G and Hix S (2007) The rejected, the ejected, and the dejected: Explaining government rebels in the 2001-2005 British House of Commons. *Comparative Political Studies* 40(4): 755-781.
- Bono G (2005) National parliaments and EU external military operations: Is there any parliamentary control? *European Security* 14(2): 203-229.
- Bowers P (2003) *Parliament and the use of force: Standard Note SN/IA/1218*. London: House of Commons Library.
- Bueno de Mesquita B, Morrow J, Siverson R and Smith A (1999) An institutional explanation of the democratic peace. *American Political Science Review* 93(4): 791-807.
- Cabinet Office (2011) *The Cabinet Manual: A Guide to Laws, Conventions and Rules on the Operation of Government*. London: HMSO.



- Cameron D (2014) Hansard House of Commons Debates, Vol. 585. 26 September.
- Cameron D (2015a) Hansard House of Commons Debates, Vol. 599. 7 September.
- Cameron D (2015b) Hansard House of Commons Debates, Vol. 603. 2 December.
- Cook R (2003) *The Point of Departure*. London: Simon and Schuster.
- Cumbo J (2017) Gina Miller: Brexit challenger who faced threats and abuse. *Financial Times*, 24 January.
- Diermeir D and Feddersen T (1998) Cohesion in legislatures and the vote of confidence procedure. *American Political Science Review* 92(3): 611-621.
- Falkner L (2016) Hansard House of Lords Debates, Volume 773. 8 July.
- Fallon M (2016) Hansard House of Commons Debates, Volume 608. 18 April.
- Fearon J (1994) Domestic political audiences and the escalation of international disputes. *American Political Science Review* 88(3): 577-592.
- Fisher D and Biggar N (2011) Was Iraq an unjust war? A debate on the Iraq war and reflections on Libya. *International Affairs* 87(3): 687-707.
- Foley M (2004) Presidential attribution as an agency of prime ministerial critique in a parliamentary democracy: The case of Tony Blair. *British Journal of Politics and International Relations* 6(3): 292-311.
- Foreign Affairs Committee (2016) Libya: Examination of intervention and collapse and the UK's future policy options. London: House of Commons.
- Foyle D (1997) Public opinion and foreign policy: Elite beliefs as a mediating variable. *International Studies Quarterly* 41(1): 141-169.
- Gartzke E and Skrede Gleditsch K (2004) Why democracies may actually be less reliable allies. *American Journal of Political Science* 48(4): 775-795.
- Gaskarth J (2016) The fiasco of the 2013 Syria votes: Decline and denial in British foreign policy. *Journal of European Public Policy* 23(5): 718-734.
- Hegemann H (2018) Towards 'normal' politics? Security politics and intelligence oversight in the German Bundestag. *British Journal of Politics and International Relations* (forthcoming).
- Heffernan R (2003) Prime ministerial predominance? Core executive politics in the UK. *British Journal of Politics and International Relations* 5(3): 347-372.
- Heffernan R (2005a) Why the Prime Minister cannot be a President: Comparing institutional imperatives in Britain and America. *Parliamentary Affairs* 58(1): 53-70.
- Heffernan R (2005b) Exploring (and explaining) the British Prime Minister. *British Journal of Politics and International Relations* 7(4): 605-620.

- Hill C (2005) Putting the world to rights: Tony Blair's foreign policy mission. In: Seldon A and Kavanagh D (eds) *The Blair Effect 2001-2005*. Cambridge: Cambridge University Press, pp.384-409
- Huber J (1996) The vote of confidence in parliamentary democracies. *American Political Science Review* 90(2): 269-282.
- Intelligence and Security Committee (2017) Press statement. 26 April. Available at: <http://isc.independent.gov.uk/news-archive/27april2017> (accessed 11 May 2017).
- Johnson B (2017) Interview by John Humphrys, BBC Radio 4 Today. 27 April.
- Joint Committee on Human Rights (2016) The Government's policy on the use of drones for targeted Killing. London: House of Commons.
- Joseph R (2013) *The War Prerogative: History, Reform and Constitutional Design*. Oxford: Oxford University Press.
- Judge D (2004) Whatever happened to parliamentary democracy in the United Kingdom? *Parliamentary Affairs* 57(3): 682-701.
- Kaarbo J (2018) Prime Minister leadership style and the role of parliament in security policy. *British Journal of Politics and International Relations* (forthcoming).
- Kaarbo J and Kenealy D (2016) No, prime minister: Explaining the House of Commons' vote on intervention in Syria. *European Security* 25(1): 28-48.
- Kaarbo J and Kenealy D (2017) Precedents, parliaments, and foreign policy: Historical analogy in the House of Commons vote on Syria. *West European Politics* 40(1): 62-79.
- King A (1976) Modes of executive-legislative relations: Great Britain, France, and West Germany. *Legislative Studies Quarterly* 1(1): 11-36.
- Kreps S (2010) Elite consensus as a determinant of alliance cohesion: Why public opinion hardly matters for NATO-led operations in Afghanistan. *Foreign Policy Analysis* 6(3): 191-215.
- Lagassé P (2016) Parliament and the war prerogative in the United Kingdom and Canada: Explaining variations in institutional change and legislative control. *Parliamentary Affairs*. Epub ahead of print 13 September 2016. DOI: 10.1093/pa/gsw029.
- Lagassé P and Mello P (2018) The Unintended Consequences of Parliamentary War Powers: A comparative analysis of Canada and Germany. *British Journal of Politics and International Relations* (forthcoming).
- Leblang D and Chan S (2003) Explaining wars fought by established democracies: Do institutional constraints matter? *Political Research Quarterly* 56(4): 358-400.
- Leeds BA, Mattes M and Vogel J (2009) Interests, institutions and the reliability of international commitments. *American Journal of Political Science* 53(2): 461-476.

- MacAskill E (2017) Conservatives may push for fresh Commons vote on Syria airstrikes after election. *The Guardian*, 4 May.
- Mail Online (2015) British forces fired 10,000 rounds every day during eight year conflict with the Taliban. 8 April. Available at: <http://www.dailymail.co.uk/news/article-3029794/British-forces-fired-46-MILLION-bullets-Taliban-10-000-rounds-shot-day-eight-year-conflict-cost-200million-taxpayer.html> (accessed 12 September 2016).
- McCormack T (2016) The emerging parliamentary convention on British military action and warfare by remote control. *RUSI Journal* 161(2): 22-29.
- Mello P (2012) Parliamentary peace or partisan politics? Democracies' participation in the Iraq War. *Journal of International Relations and Development* 15(3): 420-453.
- Mello P (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.
- Mello P and Peters D (2018) Introduction: Parliaments and security policy: Involvement, politicization, and influence. *British Journal of Politics and International Relations* (forthcoming).
- Mello P and Lagassé P (2018) The unintended consequences of parliamentary war powers: A comparative analysis of Canada and Germany. *British Journal of Politics and International Relations* (forthcoming).
- Norton P (2016) The Fixed-term Parliaments Act and votes of confidence. *Parliamentary Affairs* 69(1): 3-18.
- Oliver T (2015) Interventionism by design or failure: The coalition and humanitarian intervention. *The Political Quarterly* 86(1): 110-117.
- O'Malley E (2007) Setting choices, controlling outcomes: The operation of Prime Ministerial influence and the UK's decision to invade Iraq. *British Journal of Politics and International Relations* 9(1): 1-19.
- Palmer G, London T and Regan P (2004) What's stopping you? The sources of political constraints on international conflict behavior in parliamentary democracies. *International Interactions* 30(1): 1-24.
- Partell P and Palmer G (1999) Audience costs and interstate crises: An empirical assessment of Fearon's model of dispute outcomes. *International Studies Quarterly* 43(2): 389-405.
- Peters D and Wagner W (2011) Between military efficiency and democratic legitimacy: Mapping parliamentary war powers in contemporary democracies, 1989-2004. *Parliamentary Affairs* 64(1): 175-192.
- Phythian M (2007) *The Labour Party, War, and International Relations, 1945-2006*. London: Routledge.

- Putnam R (1988) Diplomacy and domestic politics: the logic of two-level games. *International Organization* 42(3): 427-460.
- Raunio T (2018) Parliament as an arena for politicization: The Finnish Eduskunta and crisis management operations. *British Journal of Politics and International Relations* (forthcoming).
- Reiter D and Tillman E (2002) Public, legislative and executive constraints on the democratic initiation of conflict. *Journal of Politics* 64(3): 810-826.
- Schade D (2018) Limiting or liberating? The influence of parliaments on military deployments in multinational settings. *British Journal of Politics and International Relations* (forthcoming).
- Select Committee on the Constitution (2006) *Waging war: Parliament's role and responsibility: 15th report of session 2005-06: HL Paper 236-I*. London: The Stationery Office Limited.
- Slack J (2016) Enemies of the people. *Daily Mail*, 4 November.
- Strong J (2015a) Why parliament now decides on war: Tracing the growth of the parliamentary prerogative through Syria, Libya and Iraq. *British Journal of Politics and International Relations* 17(4): 604-622.
- Strong J (2015b) Interpreting the Syria vote: Parliament and British foreign policy. *International Affairs* 91(5): 1123-1139.
- Strong J (2017) *Public Opinion, Legitimacy and Tony Blair's War in Iraq*. London: Routledge.
- Stuart M (2009) The role of parliament under Blair. In: Casey T (ed) *The Blair Legacy: Politics, Policy, Governance, and Foreign Affairs*. Basingstoke: Palgrave MacMillan, pp.178-189.
- Tago A (2009) When are democratic friends unreliable? The unilateral withdrawal of troops from the 'coalition of the willing'. *Journal of Peace Research* 46(2): 219-234.
- Taylor C and Kelly R (2008) *Parliamentary Approval for Deploying the Armed Forces: An Introduction to the Issues: Research Paper 08/88*. London: House of Commons Library.
- Thomson C (2016) Public support for economic and military coercion and audience costs. *British Journal of Politics and International Relations* 18(2): 407-421.
- Thornberry E (2016) Hansard House of Commons Debates, Volume 613. 13 July.
- Toynbee P (2001) Limp liberals fail to protect their most profound values. *The Guardian*, 9 October.
- Ucko D (2016) Can limited intervention work? Lessons from Britain's success story in Sierra Leone. *Journal of Strategic Studies* 39(5-6): 847-877.

- Wagner W, Herranz-Surralles A, Kaarbo J and Ostermann F (2017) The party politics of legislative-executive relations in security and defence policy. *West European Politics* 40(1): 20-41.
- Wagner W, Peters D and Glahn C (2010) *Parliamentary war powers around the world, 1989-2004. A new dataset: Occasional Paper no.22*. Geneva: Centre for the Democratic Control of Armed Forces (DCAF).
- Wallace W (1977) *The Foreign Policy Process in Britain*. London: Royal Institute of International Affairs.
- Watt N and Harding L (2013) Mali: Britain prepared to send 'sizeable amount' of troops to support French. *The Guardian*, 29 January.
- YouGov (2013) More parliamentary oversight of foreign policy. 12 September. Available at: <https://yougov.co.uk/news/2013/09/12/more-parliamentary-oversight-foreign-policy/> (accessed 12 September 2016).
- YouGov (2017) Article 50 Survey. 4 January. Available at: [https://d25d2506sfb94s.cloudfront.net/cumulus\\_uploads/document/9txnep3pz5/InternalResults\\_170104\\_Article50\\_W.pdf](https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/9txnep3pz5/InternalResults_170104_Article50_W.pdf) (accessed 9 May 2017).