

The Government needs to legislate to confirm Parliament's role in conflict decisions

By Democratic Audit

*Parliament's rejection of proposed British military intervention in Syria represented a constitutional landmark. Although Parliament lacks any formal role in the decision, the Prime Minister pledged to abide by MPs' will. **Graham Allen MP**, chair of the Commons Political and Constitutional Reform Committee argues here that these events provide the opportunity to clarify Parliament's war powers. This is something the Government has promised, but previously failed, to do.*

The failure to have the prerequisite of all true democracies – the formal separation of powers between legislature and executive – lies at the heart of all the problems of UK politics. As one current example of this events in Syria have brought to the fore the question of Parliament's role in decisions to commit British forces to armed conflict overseas. Currently this is an executive power quaintly hidden in true British style behind the phrase “[Royal prerogative power](#)” that can be exercised by the Government.



Should Parliament decide whether Britain goes to war? Credit: Catherine Bebbington (Parliamentary copyright)

There is allegedly a convention that Parliament should be consulted, though this did not operate without considerable parliamentary pressure before the Iraq war. Odd that conventions always seem to operate in favour of the executive! Current rules prevent even an [Early Day Motion](#) calling for a parliamentary debate to be accepted while the House of Commons is not sitting. Faced with the most important national event—taking military action—Parliament cannot participate and react in the same way as, or with the comparable flexibility of, the media or the Government it is meant to hold to account.

While obviously I am pleased that on this occasion the Government did recall Parliament to consult on this decision, and has stated its intention of respecting the will of Parliament, the principle of consulting Parliament before taking this heaviest of decisions cannot be left to the very Government that is meant to be held to account by Parliament. It must be a requirement, enshrined in law. The Political and Constitutional Reform Committee, which I chair, has decided to conduct a new inquiry to investigate how progress can be made. (You can submit your own evidence by [emailing the committee](#).)

Our original inquiry on this subject in 2011 concluded that the Government needed to honour the Foreign Secretary's welcome undertaking to the House of Commons to 'enshrine in law for the future the necessity of consulting Parliament on military action'. The Foreign Secretary's statement was made in March 2011, but after much foot dragging the necessity of consulting Parliament still isn't enshrined in law. It is a matter of some urgency that it should be, so that in future there is no question about the necessity of involving Parliament before making conflict decisions.

In the May 2011 [report](#) of that inquiry, *Parliament's Role in Conflict Decisions*, we noted the Government's position on this issue:

the Government believes that it is apparent that since the events leading up to the deployment of troops in Iraq, a convention exists that Parliament will be given the opportunity to debate the decision to commit troops to armed conflict and, except in emergency situations, that debate would take place before they are committed.

In a nation without a written constitution there was and is a need for greater clarity about Parliament's role in decisions to commit British forces to armed conflict abroad. We called on the Government, as a first step, to bring forward a draft parliamentary resolution for consultation with us among others, and for debate and decision by the end of 2011.

The Government's [response](#) to our report, published in September 2011, neither agreed with nor addressed in any detail our recommendations. In particular, it stated that the Government could not commit to following the Committee's suggested approach or to meeting the timetable we had proposed. Instead, it stated that the Government hoped 'to make progress on this matter in a timely and appropriate manner'. Well, here is their opportunity!

The Government did accept the recommendation which called for the Government's [Cabinet Manual](#) to be amended to include the convention that Parliament should have the opportunity to debate decisions to commit troops to armed conflict, and that the debate should take place before the troops are committed, except in emergency situations. The Cabinet Manual now summarises previous parliamentary involvement in relation to military action and states that:

In 2011, the Government acknowledged that a convention had developed in Parliament that before troops were committed the House of Commons should have an opportunity to debate the matter and said that it proposed to observe that convention except when there was an emergency and such action would not be appropriate.

However, in the period since the publication of the Government's response to our report no draft parliamentary resolution has been forthcoming. This is despite the fact that much of the necessary preparatory work in this respect had already been completed: the previous Government had proposed a draft parliamentary resolution on war powers in a Green Paper in 2007 and a White Paper in 2008 which were subject to extensive Parliamentary scrutiny. However, the House did not have an opportunity to consider such a motion before the general election in May 2010.

We wrote to the Foreign Secretary on 10 January 2013 asking for an update on the Government's position and information on what deliberations had taken place within Government. In response, the Foreign Secretary repeated his previous position:

wherever possible, Parliament should have the opportunity to debate, in advance, the commitment of UK forces to military action overseas, unless there is an emergency where such action would not be appropriate. Since my statement, we have declared and formalised this understanding within the Cabinet Manual.

I have discussed these issues with my Ministerial colleagues. Given the complexities involved we have commissioned work from a number of Departments to help reach agreement on the way ahead. Once this has concluded, the Government will update Parliament on next steps.

Where Government wishes to consult Parliament before action then drafting is straightforward. However, the task of enshrining Parliament's role in law, while still enabling Government to act quickly and then report afterwards, requires careful drafting and my select committee enquiry will undertake such drafting in order to stimulate and guide governments own efforts. The absence of any apparent urgency on the Government's part to move forward on the matter more generally since 2011, when it made a commitment to "enshrine in law for the future the necessity of consulting Parliament on military action", has given us cause for concern. With the exception of changes to the Cabinet Manual, little, if any, formal progress appears to have been made by the Government in advancing action on this important issue. And now current events have illustrated once again that now is the moment to deliver on the commitment.

We have no view on the rights and wrongs of particular decisions, including the recent one on Syria; we are concerned with democratic process only. These events, and the Government's response, have served to highlight the important role of Parliament in conflict decisions, and also showed how the de facto situation on conflict decisions appears to have outpaced the legal position. And so we are now launching a new inquiry: since the Government has a clear, positive position on this we do not envisage it should take long. We have asked the Government provide a comprehensive, updated statement of its position on the role of Parliament in conflict decisions and what progress had been made. We also recommend that it precisely details the specific steps which will be taken – now – to fulfil the strong public commitment to enshrine in law the necessity of consulting Parliament on military action. A modern mature democracy should expect nothing less.

Note: this posts represents the views of the author, and not those of Democratic Audit or the London School of Economics. Please read our comments policy before commenting. Parliamentary copyright images are reproduced with the permission of Parliament.

Graham Allen MP is chair of the Political and Constitutional Reform Select Committee, and the Labour Member of Parliament for Nottingham North. Further information about this inquiry can be found [here](#).

