The Lost Logic of ‘Perpetual War’

President Obama’s plan to bomb Islamic State targets inside Syria amounts to an expansion of America’s “perpetual war” without either a clear legal basis or a likely expectation of success, as Nat Parry explains.

By Nat Parry

Officials in Washington are inadvertently providing some insight into the strange logic of their nebulous war against the Islamic State, also known as ISIS and ISIL, in contradictory and puerile statements about whether the military action should be called a war, or perhaps something else.

Backtracking on an earlier statement that the action against ISIS is simply a “counterterrorism operation,” Secretary of State John Kerry clarified in an interview on Sunday that it is, in fact, a “war.”

“In terms of al-Qaeda, which we have used the word ‘war’ with, yeah, we are at war with al-Qaeda and its affiliates,” Kerry said on CBS’s “Face the Nation.”

“And in the same context if you want to use it, yes, we are at war with ISIL in that sense. But I think it’s a waste of time to focus on that,” Kerry said, adding that there’s “kind of tortured debate going on about terminology.”

On one hand, Kerry may be right that these semantic arguments are something of a distraction, since the debate should be more properly focused on whether the policies of airstrikes are effective, legal, moral and justified, not whether they are called a “war” or a “counterterrorism operation.”

On the other hand, the very fact that we are having this public dispute about which of our military actions qualify as “wars,” which ones are “counterterrorism operations,” and which ones are just run-of-the-mill bombing campaigns should sound the alarm that our political culture of perpetual war is out of control, having reached a bizarre and perilous point about which Americans are increasingly confused and the Constitution is ill-equipped to handle.

Indicative of this strange new normal was a poll released Sept. 4 revealing that few Americans actually know which countries the U.S. is currently bombing. Only about one-third of Americans, according to the YouGov survey, knew that the U.S. has not yet conducted strikes in Syria, while 30 percent thought that it has, and the remainder admitted they were unsure. At the same time, just a quarter of Americans knew that the U.S. military has carried out strikes in Somalia and Pakistan during the past six months, and only 16 percent were aware of strikes
in Yemen.

It’s hard to imagine another country on earth in which the citizens could be so confused about which countries were currently being bombed by their government, but then again, no other country on earth is bombing so many other countries so regularly.

When it comes to the strikes targeting ISIS, when administration officials are not arguing about what to call the operation, they seem to be crafting flimsy legal foundations for the strikes by dusting off the 2001 and 2002 Authorizations for the Use of Military Force.

These rationales have not been terribly convincing, with the New York Times pointing out that the 2001 law applied specifically to the perpetrators of the 9/11 attacks and al-Qaeda more broadly, but since ISIS is not affiliated with al-Qaeda, the law clearly doesn’t apply to the current situation.

“The fact that al-Qaeda has disavowed ISIS, deeming it too radical, does not seem to prevent the administration from ignoring the logic of the law,” the Times noted.

Meanwhile, the U.S. government has not even bothered to provide a justification for the strikes under international law. It has instead asserted without elaboration that borders present no constraints to U.S. military action.

“We are lifting the restrictions on our air campaigns,” a senior administration official told reporters during a recent background briefing. “We are dealing with an organization that operates freely across a border, and we will not be constrained by that border.”

Under international law, however, borders most certainly do pose constraints. The sanctity of borders is enshrined in the UN Charter in fact, which states, “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”

One reason for the administration’s silence regarding the international legal basis for the possible use of force against ISIS in Syria is that none exists, since the Bashar al-Assad regime has not consented to the use of force in its territory.

As John Bellinger writes at Lawfare, “This will leave the administration to cobble together a variety of international legal rationales.” Some of these might include the argument that ISIS is part of al-Qaeda and therefore part of
the U.S. armed conflict, or perhaps some sort of co-belligerency theory, or perhaps collective self-defense.

“Ultimately,” Bellinger speculates, “the administration may choose not to articulate an international legal basis at all, and instead to cite a variety of factual ‘factors’ that ‘justify’ the use of force, as the Clinton administration did for the Kosovo war. But it would be much preferable for the administration to provide legal reasons.”

This is especially true considering the fact that the administration has recently been waving around “international law” as a rallying cry to confront and isolate Russia over its alleged meddling in eastern Ukraine in recent months. As Secretary of State John Kerry said following the Russian annexation of Crimea last spring, “What has already happened is a brazen act of aggression, in violation of international law and violation of the UN Charter.”

President Obama touted principles of international law in a speech last May at West Point at which he emphasized the importance of the U.S. setting the standard for upholding legal principles and international norms. “American influence is always stronger when we lead by example,” he said. “We cannot exempt ourselves from the rules that apply to everyone else.”

Now that international law is being cast aside by the United States, it is Russia who is emerging as one of the strongest critics of the threatened actions against the territorial integrity of Syria. Moscow said Thursday that air strikes against militants in Syria without a UN Security Council mandate would be an act of aggression.

“The U.S. president has spoken directly about the possibility of strikes by the U.S. armed forces against [ISIS] positions in Syria without the consent of the legitimate government,” Foreign Ministry spokesman Alexander Lukashevich said. “This step, in the absence of a UN Security Council decision, would be an act of aggression, a gross violation of international law.”

Then there is the fundamental issue of whether the war or counterterrorism operation would even achieve its stated goals of degrading ISIS and eliminating the threat that it allegedly poses to U.S. security. The morning after President Obama made his case to the American people as to why the nation’s security depends on decisive military action against ISIS, the New York Times again called into question the administration’s strange logic with a front-page story announcing that “American intelligence agencies have concluded that [ISIS] poses no immediate threat to the United States,” but that attacking the group could lead to substantial blowback.
“Some American officials,” according to the Times, “warn of the potential danger of a prolonged military campaign in the Middle East, led by the United States, and say there are risks that escalating airstrikes could do the opposite of what they are intended to do and fan the threat of terrorism on American soil.”

As Andrew Liepman, a former deputy director at the National Counterterrorism Center who is now a senior policy analyst at the RAND Corporation, explained: “It’s pretty clear that upping our involvement in Iraq and Syria makes it more likely that we will be targeted by the people we are attacking.”

So, on just about every front, the case for war seems to defy all logic. But at the same time, so too does the entire premise of perpetual war. Perhaps that is what the administration hopes we forget as we debate the proper terminology for this particular operation.

Nat Parry is the co-author of Neck Deep: The Disastrous Presidency of George W. Bush. [This article originally appeared at Essential Opinion.]