

Running Head: WAR POWERS ACT

War Powers Act

High School

Paper #3

Abstract

This research paper will give a reflection of the War Powers Resolution including background information, an explanation of powers granted by the Resolution to both Congress and the President, as well as situations following its passing where the President is in direct violation of the Act. A recommendation based off the information gathered on this subject is that of an amendment to the War Powers Resolution so presidents must provide clear facts to Congress and both must be in agreement as to troop placement. Furthermore, clear and steady updates are to be presented to Congress as time progresses of troop activities. Failure to do so will grant Congress the right to remove troops as necessary from places where they are not needed or are in present danger.

## War Powers Act

The War Powers Act distributes power to the President of the United States giving him the right to place troops in areas for a 90 day period of time. He does not need permission from any other source to do so unless he wishes them to remain for a longer length of time. To change this policy we should mandate that a two-thirds vote be taken between the eight leaders of Congress as well as the President himself (War Powers, 2002).

## Policy Identification

The War Powers Act gives the President of the United States the right to deploy troops overseas for approximately 90 days. Congress is in charge of raising the military, spending the money, and can declare war. They must be in agreement to deploy troops for a longer period of time, yet the President is the Commander in Chief. It is his responsibility and right to lead the troops in whatever way he deems proper and correct (Grimmett, 2004).

## History/Background

Under Constitutional law, Congress and the President have split control of issues dealing with war and subjects pertaining to it. Congress may declare war but the President is Commander in Chief of the U.S. Armed Forces (War Powers, 2002). With that title, he earns the right to use the Armed Forces to cease attacks directly against the United States. The Constitution does not, however, state that he has the right to deploy members of the military without a declaration of war. This has raised questions as to whether it should be his right to do so without approval from Congress. With equal

control, it seems only fair that Congress has some say in military activity within hostile territories overseas.

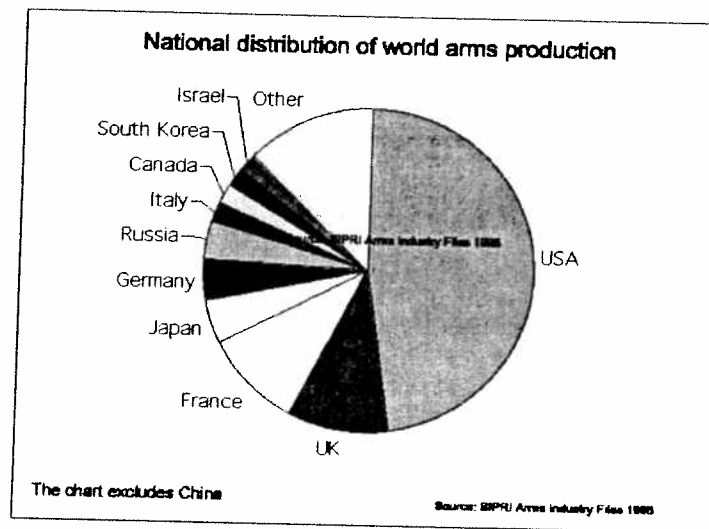
Congress wanted a way to help regulate troop activities and during the Vietnam War its need intensified (War Powers, 2002). A solution had to be reached; Congress wanted some type of authority over deployment of troops into hostile territories. They also wanted to know whether to become involved at all. The War Powers Act was passed November 7, 1973, even after first being vetoed by President Nixon. This granted Congress an equal share in matters involving troops in war. With its passing, Congress would now keep track of how troops were used in hostile zones or areas where potential for hostilities was present. Yet it provided enough room and slack for the President to respond to emergency situations and attacks in a timely and efficient manner. In times where drastic measures were needed, the Commander in Chief could still act (Grimmett, 2004).

First titled the War Powers Resolution, then eventually taking up the more common title War Powers Act, this policy granted Congress the right to know about presidential intentions of deploying troops. The President must inform the Eight Leaders of Congress known as the "Gang of Eight" as mainly a courtesy call. He need not ask permission as long as his reasoning is in response to one of three things: a declaration of war, authorization, or a national emergency created by an attack upon territories, possessions, or the military itself. If the president deploys the troops, then he must consult with Congress at every available time to keep them updated on all activities pertaining to them and any advances he intends to make. The Resolution also states that troops must be removed anywhere from 60 to 90 days if Congress does not authorize

placement or an extension (Grimmett, 2004). This seemed quite fair to both parties involved and granted equal power.

The War Power Resolution's effectiveness then relied solely on how the two branches of government interpreted and reacted to the separation of their powers. Congress believed that the president was in the position to lead the U.S. forces when the decision to wage war was made and he needed to defend the nation once under attack. However, they believed he should not have the right to commit troops to war. Their mindset when passing the War Powers Resolution was that the President had asserted too much power and that this was a situation in need of correcting (Provisions of War, 2004).

Table 1



([t21.ca/wars/tp.htm](http://t21.ca/wars/tp.htm))

Congress adopted this Resolution because there became this overwhelming sense that the President was abusing his power and sending troops at random into hostile territory (Grimmett, 2004). There was the belief that the founding fathers would not have wanted the Commander in Chief to use power that he really did not have under Constitutional Law. Seeing as the Constitution did not specifically state what powers

were divided between Congress and the president, it seemed essential that this Resolution come into effect. Nixon questioned the very necessity of the Act, arguing that the idea that Congress should have the power to withdraw troops was unconstitutional in itself. All presidents after Nixon have taken the same stance on the issue, believing it to be a direct violation of any and all rights that they obtain as Commander in Chief.

Throughout the years after the War Powers Act was thrown into action, there were numerous problems between the President and Congress. In 1982, Reagan submitted three reports to Congress but failed to cite Section 4 <sup>which imposes a</sup> and so did not have a time limit. During this time he sent a group of Marines to Lebanon in an attempt to ~~help~~ keep peace. The Marines then came under attack and the U.S. called for a withdrawal of those troops. Again in the year 1990 <sup>saw</sup> we see a President take advantage of this Act. President George H. W. Bush decided that he did not need the permission or authority of Congress to help remove Iraq from Kuwait. He later asked for support from Congress (War Powers, 2002).

One of the biggest examples of failure by a President to heed the motions set out by the War Powers Resolution happened with Clinton in the years 1993-1999. Clinton used the military in many situations, deploying them especially in Bosnia and Kosovo. He would report the intent, but never cited Section 4 (without citing this section the 60 day limit is never set into motion) and therefore never have the time limit. Congress was divided on stances as to what to do about this. Further problems were that Congress was unable to pass any form of legislation that challenged the presidents' actions. A suit was filed against him stating that he had violated the War Powers Resolution. More than 60 days had passed and Congress had not authorized an extension nor had they declared war.

Each suit or complaint filed lacked legal standing however, and the court ruled in favor of the president (War Powers, 2002) .

### Current Situation

After 35 years in action, controversy continues to rise (Amendments, 2002). Is the War Powers Resolution Effective? Is it appropriate? Should Congress have more say, or do they already have too much? There are three stances divided throughout. One belief is that it is an accurate form to help aid in communications between Congress and the President. In times of crisis it helps get them involved when they wish to do so. The second view is that the policy directly violates the President's rights and in effect Congress is assuming too much power and restraint upon his actions. The third is that the War Powers Resolution has not done its job. It did not accomplish much of anything as the Presidents continually ignore their obligations, introducing American troops into hostile areas without consulting Congress. This third party suggests a strengthened or reshaped War Powers Resolution (War Powers, 2002).

### Differing Viewpoints

A hotly debated issue between presidents and members of Congress, The War Powers resolution walks the line between what is considered a violation of presidential rights, and being an ineffective policy. Depending on whom is conversed with, the answer received will always be different. One side claims the Resolution is an attempt to restrict laws that are constitutionally protected. The other side claims almost the polar opposite, the main argument being it simply is not strong enough (Amendments, 2002).

Those who believe that this law was placed to destroy the president's right to protect our country would argue that we are simply bargaining with our own safety. Is

this really the case however? Looking back we would find that the Constitution does not state that the President is allowed to deploy his troops into hostile territories. In fact, the Constitution would seem rather vague in details pertaining to anything within this topic area. It states he is Commander in Chief, earning that right once sworn into the highest office in the nation, but not necessarily the duties involved with deployment (Grimmett, 2004). Without it specifically being written into the Constitution, is it really a violation of his rights? /o to 02

Having to report to Congress his intentions was argued most forcibly by past presidents that the War Powers Act was invading and even offending his duties and obligations to America. Nixon vetoed the bill, and stuck by the idea that he was being asked to report to Congress activities that only he really need be involved in. The president is the highest commander of the Armed Forces. Congress was then asking that he share all his motives involving troops that were under his command as stated by the Constitution. Not only this, but he would have to answer to them about their placement, movements, the longevity of their stay, and their duties/actions while being there. In addition, he would need congressional support in order for them to remain there for a long period of time. Through the years, every president since Nixon has stood by the opinion that this is a completely outrageous request, and a direct violation of everything the founding fathers would have wanted for their presidents concerning troops and their well-being (Grimmett, 2004).

On the other side it is argued that the War Powers Resolution really is ineffective overall. Is it the fault of Congress, or is this ineffectiveness attributed to the president himself? With repeated failures by past presidents to cite certain sections within the

Resolution, and their continual dismissal of the law, sending troops into war zones without express right, the basic idea of the Resolution fails miserably. Written to gain footing by Congress in matters where a president was taking over, the War Powers Resolution still remains last as a presidential priority.

Since 1973, repeat failures to cite section 4a of the Resolution have been made. Section 4a is what triggers the 60-day time period, and therefore give Congress the right to give extensions if need be, or remove troops that were stationed by the president (The War Powers <sup>Resolution</sup> Act, 1973). Reagan happened to be the only president to actually refer to this section once bringing his motives up with Congress. The presidents also repeatedly fail to give updates and report activities of troops to Congress, a right also given to them by the War Powers Resolution (War Powers, 2002). The failure of this is not really due to anyone but the president himself. But should the Act be strengthened? And if so, how?

#### Policy Recommendation

In light of the idea that the Resolution fails to complete the initial task of keeping Congress informed and involved in matters concerning war and troops, many amendments have been proposed throughout the years. Such things as shortening the time limit, using it only in emergency situations, and eliminating it all together have been proposed in hopes of removing the struggle for power between the President and Congress. (Grimmett, 2004).

Upon consideration, an amendment that required the president to report using clear facts to Congress about where, when, and why he was deploying members of the military could help to clear up any and all doubt Congress may have. Another part of this amendment would require both Congress and the President to agree on troop placement,

and clear and steady updates to be made to them as time progresses. Within these updates must be any advancements or withdrawals of the troops, as well as conditions, supplies, and conflicts. Any failure to do so and Congress can immediately remove those troops without any involvement of the president and at any time.

This amendment would remove the 60 to 90 day time period laid out in the original War Powers Resolution. It requires immediate action by the President to communicate with Congress, but allows them both a fair say in military action. It eliminates the communication problems both parties seem to be having with each other, requiring them to agree on placement and actions taken. Congress will be well informed as to the well-being of the United States Armed Forces involved and deployed about the world. Their actions will be recorded and doubts will be eliminated as to whether they are participating and being used properly. Their conditions and safety in all areas about the world will be common knowledge among members of Congress as well as the President. This way it can be more accurately judged as to whether they need to be removed from certain hostile situations, whether their services are still required in certain areas, or if they were rightly deployed in the first place.

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*Provisions of War ?  
Amendments, 2002?*

Senior Project Paper Rubric Paper						
#3	(10-9) Advanced	(8-7) Proficient	(6) Basic	(5) Below Basic (0 = missing criteria)	Points	
<b>Title Page and General Page Formatting:</b> -Title page in APA format includes correct information -1-inch margins on all sides -Paper is double-spaced -Pages numbered consecutively and include an abbreviated title	-0-1 errors	-No more than 2 errors or repeated patterns of errors	-3 or more errors or repeated patterns of errors	-Information and formatting requirements ignored or inaccurate	1 9	9
<b>Abstract:</b> -100 to 150 word summary of content	-Succinct and complete summary	-Completely summarizes content	-Incomplete or disorganized summary or exceeds word limit	-Summary does not reflect content	1 7.5	7.5
<b>Policy Identification</b> -Explains key points of the policy	-Engaging, precise explanation of current policy	-Competent explanation of current policy	-Incomplete or superficial explanation of current policy	-Unclear explanation of current policy	1 7.5	7.5
<b>History/Background:</b> -Explains why the policy exists -Explains the influence major political parties had on policy creation OR why the issue is non-partisan	-Thorough explanation of key factors of history/background	-Sufficient explanation of key factors of history/background	-Incomplete or superficial explanation of key factors of the history/background	-Little or unclear explanation of key factors of history/background policy	2 9	18
<b>Current Situation:</b> -Explains current policy situation including effects/outcomes -Identifies and analyzes factors that impact the policy -Analyzes and explains data used to support current situation	-Thorough explanation of current policy situation including effects/outcomes -Thorough explanation of changing factors -Thorough data analysis and explanation	-Sufficient explanation of current policy situation including effects/outcomes -Sufficient explanation of changing factors -Sufficient data analysis and explanation	-Insufficient explanation of current policy situation, the effects, and/or outcomes -Explanation of changing factors lacks development -Data analysis and explanation lack development	-Explanation of current policy situation is confusing or missing -Explanation of changing factors is confusing or missing -Data analysis and explanation is confusing or missing	2 6.25	12.5
<b>Differing Viewpoints:</b> -Explains and analyzes 2 or more viewpoints objectively -Compares and contrasts viewpoints	-Thorough, objective explanation and analysis of viewpoints -Well-developed and well-organized comparison/contrast	-Objective explanation and analysis of viewpoints -Sufficiently developed and organized comparison/contrast	-Explanation and analysis of viewpoints lacks objectivity or is superficial -Comparison/contrast is inconsistent, needing more development, or stronger organization	-Includes only 1 viewpoint -Explanation and analysis is insufficient or confusing -Comparison/contrast is insufficient, confusing or missing	2 8	16
<b>Policy Recommendation:</b> -Explains recommendation supported by valid research -Is politically feasible -Is economically feasible	-Thorough explanation of recommendation logically built upon valid research -Is both politically and economically feasible	-Sufficient explanation of recommendation built upon valid research -Is generally politically and economically feasible	-Insufficient explanation of recommendation built upon research -The political or economic feasibility is weak	-Explanation of recommendation is confusing, missing or built upon invalid research -Not politically or economically feasible	2 8	16
<b>Graphic Support:</b> -Contains complete and accurate information to support text -Is legible	-Thorough, clear, accurate integration of text and graphics -Graphic support is legible	-Sufficient integration of text and graphics -Graphic support is legible	-Insufficient integration of text and graphics -Graphic support is legible	-No integration of text and graphic -Graphic support is not legible	1 5.75	5.75
<b>Internal Citation:</b> -Accurate APA internal citation including graphical support Note: Papers with no internal citation cannot be scored.	-Accurate APA citation content/format	-Minimal errors in APA citation content/format	-Multiple errors in APA citation content/format	-Demonstrates little or no understanding of APA citation -Some citations are missing	1 9.5	9.5
<b>Reference Page:</b> -Correct APA formatting -Only sources cited in the paper are listed Note: Papers with no reference page cannot be scored	-Accurate APA format -Matches all internal citations	-Minimal errors in APA format (pattern of error) -Matches all internal citations	-Multiple errors in APA format -Matches some internal citations	-Demonstrates little or no understanding of APA format -Matches few internal citations	1 5.75	5.75
<b>Voice and Word Choice</b>	-Voice is consistently professional -Word choice is mature, precise, and appropriate to topic and audience	-Voice is consistently professional -Word choice is appropriate to topic and audience	-Inconsistent professional voice -Some inaccurate or inappropriate word choices	-Little or no professional voice -Multiple word choice errors that interfere with audience comprehension	1 9	9
<b>Sentence Fluency and Conventions</b>	-Masterful sentence structure and conventions enhance audience comprehension -Few, if any, sentence or convention errors	-Sentence structure and conventions occasionally enhance audience comprehension. -Sentence or convention errors rarely interfere with audience comprehension	-Sentence structure and use of conventions is inconsistent -Errors in sentence fluency and conventions occasionally interfere with audience comprehension	-Sentence structure and use of conventions are ineffective or confusing. -Errors in sentence fluency and conventions interfere with audience comprehension	1 9	9
<b>Total Score</b>					125.5 160 (78%)	

Comments:

- Policy identification is concise, but could be further developed by providing an example of how Bush has used such powers.
- The details in the History/Background section shows research is evident.
- Current Situation sections shows that writer has been thoughtfully engaged in the project.
- Policy Recommendation: Although the content touches on the political aspect of feasibility, it does not consider the economic impact.