An "Invitation to Struggle": Congress' Leading Role in US Foreign Policy

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In this paper, I put forward the claim that Congress plays an active role in US foreign policy through the increasing need for congressional support and the power of the purse; while it plays a leading role in shaping foreign policy through its legislative powers, emphasising the degree of influence it has over presidential actions and the course of foreign policy. The difference between its active and leading role is established in the way it can influence foreign policy-making. It plays an active role in relation to the presidency, in the sense that it has the ability to indirectly change the President's course of action to a more preferred one by imposing political and constitutional restrictions. On the other hand, it plays a leading role for the reason that it directly controls foreign policy objectives by passing legislation.

Firstly, I will start the discussion by demonstrating that the domestic outlook of Congress and intensified partisanship has increased the extent to which US foreign policy requires congressional support, suggesting politics does not stop at the water's edge. Secondly, I will show that Congress uses its budgetary devices to limit and alter presidential actions with regard to foreign policy. Finally, I will argue that the combination of the need for congressional support, the power of the purse and the power of oversight and investigation within Congress' legislative powers is the most powerful way in which Congress can both restrict the President's powers and initiate new policy objectives.

Constitutionally, the legislative branch supposedly has more authority over the executive regarding war powers; however, politically, historical events have led to the "supposed need for instant response to constant crisis", allowing the President to gain a considerable amount of power in American foreign policy.[1] On these grounds, the President appears to be the most dominant in foreign policy decision-making. Nonetheless, it is crucial to understand that he still needs congressional support when he wishes to deploy the military of the US abroad. The limits on the national treasury make the competition between domestic and foreign policy an even more important one. Hence, the domestic outlook of Congress gives it an active role in the making of US foreign policy as it has the power to direct it towards preferred policies. For example, presidents are more likely to acquire congressional support on defence policy issues than on foreign policy issues, like foreign aid.[2] This is because the former has more direct benefits to national security and mostly involves domestic expenditures, while the latter is "viewed as more indirectly related to the mission of advancing US national security interests".[3]

However, the nature of foreign policy is not the only factor that will influence the level of congressional support for the President. Support for a president and his foreign policy, especially if he considers a major use of force abroad, will also depend on the level of partisan support within Congress.[4] Although this is not what this essay will focus on, it needs to be acknowledged that Democrats' and Republicans' disagreements are rooted in deep ideological differences. As previously mentioned in the introduction, this can be used as evidence proving that politics does not stop at the water's edge, showing that this is more of a political debate than it is a constitutional one. Therefore, having a major opposition in Congress can "make it difficult to provide a unifying rational willingness for a military campaign".[5] This is what Howell and Pevehouse call "Conveying Political Resolve," one of the three ways, they argue, in which Congress can interfere with presidential military deployment abroad.[6]

Having said that, many political scientists disagree and rest on the assumption that there is a limited effect of party

identification on foreign policy opinions.[7] In addition, in 2012 the Chicago Council on Global Affairs found that "Democrats and Republicans are very similar in their views on foreign policy".[8] Despite this, there have been studies showing a clear relationship between ideology and foreign policy preferences in the Senate.[9]

This paper will draw on the era of liberal internationalism in the United States as an example reflecting not only a link between partisanship and foreign policy, but more importantly the evident increasing role of Congress in foreign policy in a partisan era. Due to several domestic social and economic factors in the US, the post-World War II electoral landscape became considerably less polarized than before. Whilst the US grew to be a superpower, the narrowing of ideological differences gave rise to an era of bipartisan consensus.[10] As the US engaged more often in world affairs, the executive needed congressional support in "the maintenance of a large military establishment, a sizable defence budget and the potential sacrifice of US lives in distant missions".[11] The presence of powerful aggressor states and the need for instant response to crises encouraged a bipartisan consensus. However, the bipartisan consensus crumbled as "liberal internationalism […] never fully recovered from the political divides produced by the Vietnam War".[12] With no more centrist coalitions, congressional support became an even more influential element in the conduct of foreign policy. Opposition in Congress indicates an increasing need for the President to anticipate the mood of the legislative branch, facilitating Congress' participation in the process of foreign policy-making. This in turn gives Congress the power to set certain parameters within which the President is allowed to act. Especially when policy preferences are not shared between the two, the need for congressional support gives Congress the ability to compel the President in pursuing specific policies.[13] In fact, as seen, much of this is anticipatory warning. By generating anticipated reactions, Congress has the capacity to make presidents revise and modify proposals they were going to put forward, consequently changing the direction in which the President is pushing foreign policy. This demonstrates that the need for congressional support functions as a negative power as it has the ability to stop certain presidential activities. Although the need for congressional support is an indirect means of influence, it surely should not be discredited.

Like it has been stated already, there are limits to the national treasury, which means that the power of the purse provides Congress with better control of the President's war powers. Congress uses this power in two ways. Firstly, as Schlesinger argues, it is able to shape foreign policy through appropriations, suggesting that the presidency lost power to Congress in this sector.[14] For instance, in 1948 it forced an additional $400 million aid to China and in 1950 it imposed a mandatory loan to Spain.[15] Secondly, Congress also uses its budgetary powers as a threat, limiting the scope and durations of military deployment abroad.[16] In reality, much of this is once again anticipatory warning. By placing budgetary limitations, just like when facing congressional opposition, the President is dissuaded from initiating a military campaign.[17] Although this power is often used as a threat to avoid the involvement of American forces abroad, it is important to stress the fact that Congress is still able to pass such budgetary constraints. The Clark amendment in 1976 prohibited the conduction of military or paramilitary operations in Angola by cutting assistance funds.[18] In other words, Congress is not only able to bring an end to American military involvement abroad but is also able to prevent it by using its budgetary devices to enact new amendments. Then again, Auerswald points out that the problem with Congress imposing sanctions through the power of the purse is that it requires veto-proof majorities in both the House and Senate.[19] So when imposing sanctions is too much of a politically high risk, Congress turns to its legislative powers.

Congress' legislative powers are what make its active role in US foreign policy become a leading one. Foley's "challenge of co-equality" demonstrates that Congress will act compliant or assertive depending on the situation.[20] Following a period of compliance and support for the President, the 1970s saw a very assertive Congress.[21] Scholars mostly agree that this was a reaction to the Johnson administration's excesses during the Vietnam War, and the abuse of power which some interpret as a constitutional imbalance.[22] Congress responded by "imposing restrictions on presidential action and initiating new policy objectives".[23] The most significant congressional innovation was the War Powers Act of 1973. The Act requires the President to consult with Congress before introducing US armed forces into hostilities or situations where hostilities are imminent, provide a report within 48 hours of deployment of military forces, and that "the President shall terminate any use of US Armed Forces" within sixty days of the submission of the report unless Congress declares war or authorises the use of American forces.[24] The Act not only reflects the ways in which Congress is capable of restricting the President's war powers, but it also reflects its own power of oversight and investigation. Lindsay explains that the requirement of the executive

branch to inform Congress about agency actions and decisions makes the legislative branch capable of mobilizing against policies they oppose on more occasions.[25] The implication of this is that reporting requirements give Congress better control not only over foreign policy, but also over foreign policy decision-making. Furthermore, what makes this the most effective power is that unlike the power of the purse, it needs a simple majority of Congress to halt the President's use of military force.[26]

Congress plays a leading role in US foreign policy through its legislative powers because it is an amalgam of a number of other congressional influential factors shaping foreign policy. This has, for instance, already been demonstrated in the paragraph above showing how Congress combined the use of its power of oversight and investigation within its legislative powers, giving it stronger control over foreign policy. Similarly, the passing of legislation often works in tandem with the power of the purse, imposing both budgetary and political constraints to the President's powers. In 1971 the Senate passed the Cooper-Church Amendment, the first ever limitation concerning the President's powers as Commander-in-Chief, banning funds for the reintroduction of American forces in Cambodia, for American advisers for the Cambodian forces and for aerial warfare.[27] By combining its legislative and budgetary powers, two ways in which it can exert influence on foreign policy, Congress increased its degree of effectiveness over policy control. A further point emphasising the importance of legislation is that unlike the need for congressional support and the power of the purse, law can set specific boundaries around the President to lead them towards preferred policy options through both negative and positive powers. Passing legislation is the only power which actually gives Congress the ability to initiate activity like imposing new policy objectives. This positive power shows that Congress' role in US foreign policy is not only active in the sense that it can indirectly set preferred parameters around the executive to generate desired reactions, but it is indeed leading in the sense that it can directly "enact its policy preferences into law".[28]

In conclusion, it has been shown that each congressional power has an effect in the shaping of foreign policy, making Congress play either an active or leading role in US foreign policy. It was demonstrated that the increasing need for congressional support in a partisan era and the power of the purse make Congress play an active role in US foreign policy for the reason that these powers can indirectly influence it by setting parameters the President needs to respect, hence preventing an abuse of power. It has also been conveyed that what raises Congress' active role to a leading one is its ability to directly impact foreign policy by enacting laws and new policy objectives. The incorporation of the need for congressional support, the power of the purse and the power of oversight and investigation makes legislation the most powerful tool Congress has to shape foreign policy in its preferred way. It not only gives Congress more centralised control over US foreign policy, but it also serves as a check on any possible abuse of power by the President.

Notes

[1] On the Constitution see Yale Law School, 'The Federalist Papers: No.69', http://avalon.law.yale.edu/18th_century/fed69.asp, (accessed 9th November 2018); on situations of crisis see Arthur Schlesinger, 'Congress and the Making of American Foreign Policy', Council on Foreign Relations, 51(1972), p.99.

[2] James Meernik and Elizabeth Oldmixon, 'The President, the Senate, and the costs of Internationalism', Foreign Policy Analysis, 4(2008), p.190.

[3] Ibid., p.190.

[4] William G. Howell and Jon C. Pevehouse, 'Presidents, Congress and the Use of Force', International Organization, (2005), p.228; Peter Hays Gries, 'Conclusion: Ideology – Why Politics Does Not End at the Water's Edge', in The Politics of American Foreign Policy: How Ideology Divides Liberals and Conservatives over Foreign Affairs, (Stanford University press, 2014), p.264

[5] William G. Howell and Jon C. Pevehouse, 'Presidents, Congress and the Use of Force', p.213.

[6] Ibid., p.213.

[7] Benjamin I. Page and Marshall M. Bouton, 'Friends and Foes in the World', in The Foreign Policy Disconnect: What Americans Want from Our Leaders but Don't Get, (The Chicago University press, 2006), p.95-96.

[8] Chicago Council, 'Foreign Policy in the new millennium', Chicago Council on Global Affairs, (2012), p.41.

[9] Patrick Cronin and Benjamin Fordham, 'Timeless Principles or Today's Fashion? Testing

the Stability of the Linkage Between Ideology and Foreign Policy in the Senate', The Journal of Politics,

61(1999), p.983.

[10] Peter L. Trubowitz and Charles A. Kupchan, 'The Demise of Liberal Internationalism in the United States', International Security, 32(2007), p.19.

[11] Ibid., p.14.

[12] Ibid., p.23.

[13] James M. Lindsay and Randall B. Ripley, 'How Congress Influences Foreign and Defense Policy', Bulletin of the American Academy of Arts and Sciences, 47(1994), p.21.

[14] Arthur Schlesinger, 'Congress and the Making of American Foreign Policy', p.96

[15] Ibid., p.96.

[16] William G. Howell and Jon C. Pevehouse, 'Presidents, Congress and the Use of Force', p.209.

[17] Ibid., p.213.

[18] David Leyton Brown, 'The Role of Congress in the Making of Foreign Policy', International Journal, 38(1982/1983); p.61.

[19] David P. Auerswald and Peter F. Cowhey, 'Ballotbox diplomacy: The War Powers Resolution and the Use of Force', International Studies Quarterly, 41(1997), p.509.

[20] Micheal Foley, 'The foreign policy process: executive, congress, intelligence' in US Foreign Policy, ed. Micheal Cox and Doug Stokes, 2(2012), p.116-117.

[21]Ibid., p.116-117.

[22] David P. Auerswald and Peter F. Cowhey, 'Ballotbox diplomacy', p.505; Micheal Foley, 'The foreign policy process', p.118; Raffaella Baritono, '" An Invitation to Struggle?" Congress and US Foreign Policy', ISPI, (2014), p.3; Peter L. Trubowitz and Charles A. Kupchan, p.22; David Leyton Brown, 'The Role of Congress in the Making of Foreign Policy', p.59.

[23] David Leyton Brown, 'The Role of Congress in the Making of Foreign Policy', p.59.

[24] Library of Congress, 'War Powers', https://www.loc.gov/law/help/war-powers.php (accessed 9th November 2018).

[25] James M. Lindsay, 'Congress, Foreign Policy, and the New Institutionalist', International Studies Quarterly,

38(1994), p.287.

[26] David P. Auerswald and Peter F. Cowhey, 'Ballotbox diplomacy", p.514.

[27] David Leyton Brown, 'The Role of Congress in the Making of Foreign Policy', p.60.

[28] James M. Lindsay and Randall B. Ripley, 'How Congress Influences Foreign and Defense Policy', p.14.

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