

CONGRESS AND FOREIGN POLICY: LITTLE INITIATIVE, MUCH REACTION

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DYNAMICS AND PARAMETERS OF INSTITUTIONAL CONFLICT

The American Congress competes with the Presidency and the Executive Branch for powers and prerogatives of foreign policy-making, and it persists in this despite a number of disadvantages imposed by recent historical trends. The President has traditionally held the upper hand in international matters because of the constitutional roles of Chief Executive, Chief Diplomat, and Commander-in-Chief of the military. These roles have been strengthened by television, the nuclear age, and a public which despairs of understanding the complexities of foreign affairs. By the large, the Executive Branch is given great leeway in foreign policy-making not only because of its traditional position of authority, but because present-day conditions often require quick and decisive responses. A parliamentary body like Congress is ill-equipped for these tasks.

Probably the most dramatic example of white House decision-making power in which it can be shown that the Congress played no role occurred during the Cuban missile crisis of 1962. For a period of two weeks, the American people knew that they were facing a threat of nuclear incineration, and all the policy making concerning this dire set of circumstances was taking place within a relatively small circle of Executive Branch officials. The Congress played virtually no role at all in this matter; its members like the rest of the American people, were on alert and wondering about their survival.¹

Congress, all the same, holds an important set of roles in foreign-policy making, based upon the Constitution and the laws and traditions which have grown up around this process. Article 1, Section 8 gives this body the power to declare war, to provide for the national defense, to regulate commerce with other nations, to define and punish treason, and to make all laws necessary for carrying out tasks. These functions often directly conflict with the powers of the President set out above and in Articles III, section 2. These constitutional arrangements have been characterised as an "Invitation to struggle."²

THE GUIDELINES OF INSTITUTIONAL CONFLICT

The guidelines for this struggle are in fact growing less and less clear. The war Powers Resolution of 1973 has never been involved in the face of presidential insistence that it is unconstitutional and even though many members of Congress,

perhaps even a majority, continue to claim that it is constitutional. Neither side seems to want to bring this issue to a show-down stage, at least for a moment. The Executive side can argue that the limitations on troop deployment set out in the Resolution tie the President's hands and reduce his authority; the Congress, on the other hand, argues that it is carrying out its functions of oversight and control over declarations of war. The Vietnam War brought this Resolution into being, of course, and there can be little question that this action of the Congress mirrored public dismay with the conflict. The Gulf War of 1992, on the other hand, seemed to have a broad public consensus behind it; and on this occasion, the Congress passed a resolution of support with few dissenters.³

The contrast in support for these wars, as well as the deployment of troops in recent decades in such places as Grenada, Panama, Somalia, Bosnia and Kosovo, have helped to provide clear demarcations for the White House in carrying out military actions. These strictures have told all recent presidents that military actions must be (1) of short duration, (2) clear in purpose, (3) most importantly, must carry a price of very few casualties.⁴ Whatever the legalities or constitutional rigor which surround troop deployments, then the presidents of recent years and decades know they cannot overstep these boundaries.

The formal guidelines on treaty-making, which surround the idea of executive action ratified by the Congress, are a continuing source of confusion and controversy. A president may offer a formal treaty for ratification, as in the recent and unsuccessful case of START II. There can be a Congressional-Executive international agreement which concerns changes in existing treaties; and the President may simply choose to enter into an executive agreement, which did not require support for Congress until a bill was passed setting up this requirement in 1972.⁵ The legalities and constitutional challenges which can be brought into play on these definitions are daunting; but, once again, the resolution of such issues will depend upon the political realities of the moment.

PARTISANSHIP, IDEOLOGY, AND INSTITUTIONAL CONFLICT

This point raises broad and interesting questions about partisanship, ideology, and the relative political advantages which may be realized from a foreign policy issue dispute. There can be little question that concerns about "the imperial presidency" or about too much interference in national security affairs by the Congress are not perennial with all actors on political stage. These concerns are likely to shift according to which party, interest or group is behind a foreign policy initiative. There is also, of course, some consistency practiced from time to time. Many of the same members of Congress and other practitioners of American politics who found the Vietnam War policies of Republican presidents such as Richard M. Nixon or Ronald Reagan.

President Reagan tested the farthest reaches of Executive Branch prerogative in the matter now broadly referred to as the Iran-Contra scandal. He be-

lieved that the Congress had no right to limit his actions against the Sandinistas and their revolutionary regime in Nicaragua, but he was blocked by the refusal to commit funds for this effort. Contemptuous of the Congress's limitations, he raised funds for this subversion by selling arms to Iran-which was also forbidden-and using the proceeds to help the anti-government "contras".⁶ This brought about an extensive investigation during which impeachment of President Reagan was advocated. It was charged that he had misappropriated public funds (the Iranian sales yielded funds, but these were public monies) and probably more importantly, he had sought to thwart the will of Congress. This severe and prolonged constitutional and legal controversy was finally ended when an official investigation, supplementing the lengthy one carried by the Congress, concluded the President simply did not realize what he was doing.⁷ The Iran-Contra matter, to a lesser extent than the Vietnam War, demonstrates that the Congress, when stirred by strong public opinion or by its own reaction to what it believes to be a circumvention of its will, can react strongly and decisively against the White House.

On the other hand, Congress does not always react to secret wars or policy innovations which take great steps against the generally-accepted traditions of international law or agreements. It never did much of anything about the protracted war in Laos, carried out for more than a decade during the Vietnam War era. It might be excused for believe that everyone on Capitol Hill was ignorant of this. The 1970 invasion of Cambodia, by contrast, was a public-reported matter. This action was significant departure from foreign policy norms because it was an incursion into a neutral country and it clearly extended the domain of the Vietnam War. It was nonetheless the case that President Nixon and his administration benefited from an "upward spike" of presidential support which was quickly manifested despite the highly dubious nature of this policy.⁸

INSTITUTIONALIZATION OF THE PROCESS-AND "LONE RANGERS"

Congress has institutionalized its foreign policy role in its committee structure. It debates and puts foreign policy into effect through the work of the Senate Foreign Relations Committee, the House Armed services Committees. The latter committees hold the purse strings which can decide upon which weapons system to support, what troop deployments will receive sanction, or whether foreign aid will be given or loaned to this or that country.

Despite this institutionalization, Congress has had a "lone ranger" phenomenon operating in the foreign policy sphere since the 1920's. Representative George Hansen of Idaho, to cite one example, took an independent trip to Iran in November, 1979, in order to try to negotiate the release of American hostages. The 1980's saw Senator Jesse Helms, Chairman of the Foreign Relations Committee, sending private emissaries to Zimbabwe and Nicaragua. He was also accused of leaking sensitive security information to the regime in Chile, and he openly associated with

Roberto D'Aubisson, a man who coveted government leadership roles in El Salvador and was considered to be an advocate and perpetrator of notorious "dead squads" atrocities. Members of Congress on the other side of these issues were also active, however: Joseph Moakley, a Democrat from Massachusetts, met with Salvadoran rebel groups in June, 1990, even though these forces were actively opposed by U.S. policy-makers. Senator Robert Dole of Kansas, who became the Republican's candidate for President in 1996, contacted the Embassy of Iraq in December, 1990, because he was trying to judge how much negotiating flexibility was on the agenda of that government.⁹ All of these efforts, and many others, demonstrate that members of Congress, even at the individual level, can have an effect on foreign policy-making efforts and on the administration of diplomacy. This is an irritant that a commented upon by national security officials and secretaries of state.¹⁰

INSTITUTIONAL CONFLICT AND INTERNATIONAL POLITICAL ECONOMY

The foregoing discussion has revolved around national securities issues and consideration; but the globalization era has brought in its wake a renewed interest in the Congress in issues such as trade, patent and copyright protection, and activities of international organizations partially financed by the U.S., such as the International Monetary Fund (IMF), the World Bank, and the World Trade Organization (WTO). The views of Congress and its individual members on these issues appear largely to reflect their own ideological stance and, to a considerable degree, what is perceived as the attitudes of the general public on these issues.

All illustrative case in point can be found in attitudes towards the International Monetary Fund, which is reviewed from time to time as Congress considers appropriating money for it. The IMF is currently in a position of great disadvantage because critics attack it from both the political left and political right. On the one hand, the IMF and its policies are decried by political liberals because it is seen as a rather imperialistic oppressor of the poor peoples and nations of the world. This is primarily because of the IMF monetary history of proposing austerity measures to promote economic recovery. The right believes that IMF activities interfere with free market forces, setting up expectations which are inimical to recovery. This point of view says that the recovery is actually slow rather than facilitated because of IMF meddling. Both camps seem to agree that the IMF is supportive of financial and political elites in such countries, and that these elites are now and then found to be corrupt.

The dynamics on other international economic phenomena may break down differently. Support of United Nations financing sets up a different alignment than that of the IMF, and yet another focus is set up by trade liberalization issues. Some member of Congress may be inconsistent on economic matters if they see the hopes or expectations of the other side materializing; this was the case with the North American Free Trade Agreement (NAFTA) and the Mexican financial crisis which

developed which developed shortly there after.¹¹

The effects of all of this conflict upon institutional relationships are broad and deep. The Executive Branch resents interference from the Legislative Branch on matters as important as UN or IMF financing; but it probably resents, even more, the need to fight for trade policy initiatives. The pattern on trade matters is one of a rather dramatic loss, in recent years, of presidential prerogative. Since the 1930's, the various Reciprocal Trade Acts have empowered the President with discretion to react directly, decisively and quickly to negotiate positions or respond to overt acts of trading partners. Now, with concerns about the loss of jobs to foreign countries as well the loss of certain kinds of trade advantages, the Congress is often fighting the President with considerable determination.

President Bill Clinton, who has borne much of the brunt of concerns about threats which come from globalization, has been successful on these issues, but he has had to fight hard to win on them. A good case in point is his hard-fought and narrowly-won victory awarding "most favored nation" trading status to China this year. Labor unions, human rights activists, and others who generally support the President opposed him stridently on this issue, forcing him to rely heavily upon republican members of Congress to win this measure.

THE FOREIGN POLICY-MAKING ATMOSPHERE IN AMERICA: THE BACKDROP OF CONFLICT

It should be pointed out, finally, that the foreign policy-making atmosphere in the United States today is one which allows a great deal of flexibility, prerogative, and policy choice both to the President and to the Congress. Public opinion is seldom animated by foreign policy issues. It is commonly held by political scientists, for example, that the country has only experienced two "foreign policy elections" since 1932, and these were years of unpopular wars-1952 and 1968. Opinion poll data largely verifies that all of the other presidential elections, including that of 2000, will see a greater focus upon the workings of the domestic economy than upon any other issue.¹² Foreign policy decisions which do not involve crisis nor troop commitment are often lost upon the public. This means that considerable freedom is afforded policy-makers and what popular parlance calls the "foreign policy establishment." There is particular strong deference given to the President in the interest of national unity and quite frequently, on the premise that he has knowledge of security data upon which he acts, data that are not available to ordinary observers or citizens.

This is reflected in the history of institutional conflict over foreign policy in America. Unless major crisis with whatever decisions are made. On such matters, institutional conflict, it can be noted, is minimal. It is when crisis are brought to bear upon policy that such conflicts are most likely to arise.

ENDNOTES

- ¹ Robert F. Kennedy, Jr. et al., *Thirteen Days: A Memoir of the Cuban missile Crisis* (New York: Mentor Books, 1995).
- ² Edward Corwin, *Invitation to Struggle: Congress, the President, and Foreign Policy* (fourth edition), (Washington: Congressional Quarterly Press 1992).
- ³ Bruce W. Jentelton, *American Foreign Policy: The Dynamics of Change in the Twenty first Century* (New York: Norton, 2000), 194-195.
- ⁴ Most American Government textbooks discuss these guidelines and point them out to students who take the introductory course in American politics; see, for example, Christian Barbour and Gerald C. Wright, "Keeping the Republic: Power and Citizenship in American Politics", (Boston: Houghton Mifflin, 2001), Chapter 18, especially p.764,769,771.
- ⁵ *The Powers of Congress*, Nancy Lemmers (ed.), (Washington: Congressional Quarterly Press, 1982, p. 178.
- ⁶ James M. Lindsey, *Congress and the Politics of U.S Foreign Policy* (Baltimore: John Hopkins University Press, 1994), p.180.
- ⁷ *The Tower Report* (U.S. Government Printing Office, 1988).
- ⁸ William Bundy, *A Tangled Web: The Making of Foreign Policy in the Nixon Presidency* (New York: Hill and Wang, 1998), p.82,155.
- ⁹ Lindsey, *Congress and the Politics of U.S. Foreign Policy*, p.12.
- ¹⁰ See, for example, the memoirs of two secretaries of state: Dean Acheson, *Present at the Creation: My Years In the State Department* (New York: Norton, 1969) and Henry Kissinger, *The White House Years* (Boston: Little Brown, 1979). "Lone Ranger" members of Congress were hardly the only complaint of these men, of course, about the legislative branch of the government.
- ¹¹ See the discussion in Paul Klugman, *The Return of Depression Economics* (New York: Norton, 2000), p.56-59.
- ¹² *International Herald Tribune*, September 4, 2000, p.3.