

Strategic Insight

The RMA and War Powers

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This *Strategic Insight* explores the impact of the Revolution in Military Affairs (RMA) on the roles played by Congress and the President when it comes to decisions for war and peace, and the way the RMA is changing the distribution of war-making powers between the two branches of government. While the information-driven RMA is changing the character of wars fought by the United States, it also seems to be shifting the war powers "balance" in favor of the executive branch. The RMA appears to be strengthening *virtual* Presidential war powers, while weakening the position of Congress.

War Powers in Theory and Practice

According to the *war clause* of the Constitution, "The Congress shall have power ... to declare war (...)." [1] There can be no doubt that the intention of the Founding Fathers was to give the legislature an authority to initiate war. Constitutionally, any use of armed forces abroad requires an explicit Congressional authorization. This, however, is not necessary in case of an attack on the United States, because such an act of aggression would mean that war had already been initiated. [2] The President not only has the power but the duty to repel any sudden attack despite a lack of Congressional authorization. The executive branch was given narrow war powers. They are limited to the Constitution's *commander in chief clause*, which says, "The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States." [3] Alexander Hamilton explained the essence of this clause in the following way: "when war is 'authorized or begun' the president is to command the military operations of American forces." [4] The legal powers of war and peace also were included in the *checks and balance* system that is reflected in the organizing principle of the separation of powers. Richard Neustadt characterized this model as "separated institutions sharing powers." [5] Nevertheless, as historical practice shows, this model represents only the Weberian ideal type. Unilateral presidential actions in foreign affairs resulted in a "revision" of these constitutional principles.

The shift in war-making authority from the legislative to the executive occurred over time. The turning point in this process was the Korean War and President Truman's unilateral decision of June 1950 to engage the U.S. armed forces in hostilities on the peninsula. This war, which was described by the administration as a "police operation" rather than a war, set a precedent as a "presidential war" waged without any authorization from Congress. [6] Truman's successors followed suit. The rise of the executive at the expense of Congressional prerogatives led Arthur M. Schlesinger, Jr. to talk about the "imperial presidency." Such a "shift in the constitutional balance," wrote Schlesinger, "received its decisive impetus ... from foreign policy; above all, from the capture by the President of the most vital of national decisions, the decision to go to war." [7] Thus, the constitutional presidency was transformed into the so-called "imperial presidency."

In the face of a serious weakening of the presidency that was a result of the Vietnam War and the Watergate affair, Congress attempted to recover its constitutional war powers by passing *The War*

Powers Resolution (WPR) of 1973.^[8] Its aim was to retrieve and formalize Congressional control over Presidential military actions. The WPR can be summed up in four clauses:

1. A consultation requirement stipulates "The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances..." (Section 3).
2. A reporting requirement obliges the president to report to Congress when U.S. armed forces have been engaged in hostilities "in the absence of a declaration of war" (Section 4).
3. A "sixty-day clock" gives the president two months for concluding a military action plus an extra 30 days under a Congressional extension (Section 4[a][1]).
4. Congress can direct the removal of U.S. forces by passing a concurrent resolution (Section 5[c]).

Although the goal of the WPR was to stimulate a genuine dialogue between the legislative and the executive branches on issues of war and peace and to revive the constitutional war powers ascribed to Congress, it had the reverse effect.^[9] The Resolution enhanced Presidential war powers. As a result, "The presidency is understood to be proactive in the exercise of the war power, while Congress, for the most part, is understood to be reactive." The contemporary American RMA has further strengthened this model.

The RMA and the "Imperial Presidency"

A President who launches a military operation without a congressional authorization will attempt to make the use of force short and decisive. It is desirable to terminate an engagement within the 60 to 90 day limit imposed by the War Powers Resolution. Since long and large-scale interventions may lead to a political conflict between the Presidency and Congress, this threat undoubtedly has an impact on Presidents' conduct of foreign affairs. Such political conflict might weaken and undermine a President's position as a Commander in Chief or as a leader of an international coalition. A short and decisive war, however, does not pose a threat of a constitutional conflict between the President and Congress.

The RMA facilitates fighting these quick wars. It reflects "the Napoleonic concept of war" which is typical of the American war culture, namely "that only decisive results are worth having."^[11] Information dominance and supremacy in high-tech conventional weapons are supposed to enable the United States to win wars quickly. Rapid and precise air strikes paralyze an opponent's military and civilian infrastructures. This, in turn, makes ensuing land operation faster, more predictable and less costly.

The United States has conducted several "RMA wars": the Persian Gulf War in 1991, the Kosovo war in 1999, and the war with Iraq in 2003. The RMA allows various administrations to conduct "Presidential wars" (with no Congressional authorization) within the time limit set by the War Powers Resolution. In October 2002, for example, Congress passed joint resolution 114 authorizing President George W. Bush to "use the Armed Forces of the United States as he determines to be necessary and appropriate in order to (1) defend the national security interests of the United States against the continuing threat posed by Iraq and (2) to enforce all relevant United Nations Security Council resolutions regarding Iraq."^[12] Congress thus made irrelevant its prerogative to declare war. A Republican Representative, Ron Paul summed up the behavior of the legislature in the following words: "Congress would rather give up its most important authorized power to the President and the UN than risk losing an election if the war goes badly."^[13]

Avoiding Casualties

If a U.S. administration suffers far greater casualties than expected in a given conflict, then it is likely that the Vietnam syndrome might reemerge in American politics. Congressional opposition to the conflict would grow. As a result, the President's position would be weakened and his options for action narrowed. This could be seriously damaging particularly given the congressional threat of demand for force withdrawal (Section 5[c] of the WPR). The RMA, however, helps to avert this scenario by minimizing

casualties among combatant and noncombatants on both sides of the conflict. Thus, the socio-psychological dimension of the RMA reflects Western trends toward the humanization of warfare. Precision munitions, long-range missiles and unmanned vehicles move soldiers away from the battlefield, while information superiority facilitates highly effective operations that minimizes losses on both sides and reduce the likelihood that attritional engagements will take place. Indeed, a paradox of this post-heroic warfare is that more casualties are caused by friendly fire and accidents on the side possessing information superiority than are caused by enemy action.

The RMA helps Presidents keep public support for military actions while avoiding conflict with Congress, thereby strengthening the executive vs. the legislative branch of the U.S. government in terms of war powers. This situation has been sanctioned by the practice of several administrations and a passive Congress. The RMA is making longer wars that might trigger the War Powers Act less likely, establishing de facto authority for Presidents to make war.

Asymmetric Warfare

The RMA is that is a double-edged sword. According to James Adams, "The countries that have the most effective IW [Information Warfare] capabilities are also the most vulnerable to attack—uniquely in the history of the world, a single individual armed with just a computer and a modem can literally hold America to ransom."^[14] The accidental power failure that affected up to 50 million Americans in August 2003 should be a warning that reveals an Achilles heel of the information-based society. An asymmetric adversary does not have to target the military to paralyze a state's infrastructure. In fact, because the U.S. military dominates the high-tech conventional battlefield, a determined adversary will be drawn to launch asymmetric attacks against a relatively vulnerable American civil society to undermine the American effort to keep war short with few casualties.

Asymmetric war thus poses a great challenge to the new Presidential-style of war that has emerged in the United States. If asymmetric conflict turns long and bloody, Congress might become more vigorous in asserting its constitutional prerogatives when it comes to issues of war and peace. Adversaries might try to use asymmetric attacks to engage the "sixty-day clock" of the War Powers Act by extending the conflict or avoiding decisive engagements, increasing the chances for a conflict between Congress and the President.

Democratization vs. Centralization

There is a paradox inherent to the relationship between the RMA and war powers. On the one hand, the RMA is a strong democratizing factor within military organizations. The need of "jointness" (inter-service cooperation replacing traditional service-oriented structures) and the ability to communicate around traditional hierarchies, will over time force militaries to adopt more horizontal, decentralized and flatter command structures. The RMA requires military organizations to adopt the net-like structures that already dominate the most effective corporations. The "real-time knowledge" and "situational awareness" make traditional decision-making processes and procedures archaic. Military operations can no longer be pre-planned since the intelligence information is constantly changing. As a result, many decisions, which were previously taken on a higher and centralized level, have to be made *ad hoc* by lower unit-levels. In short, the RMA undermines traditional and hierarchic military organizations and favors decentralized and horizontal structures.

On the other hand, the shift in war powers from the legislative to the executive and the establishment of the "presidential war powers" represent the opposite process. It is characterized by centralized, hierarchical and unilateral decision-making. "Imperial presidency" is the antithesis of the intent of the Framers, who, as James Wilson put it, did not want "one man to hurry us into war."^[15] The original idea was that there should be a genuine debate in Congress (the democratic representation of the nation) before the United States became involved in a war. In fact, the shift of power from Congress to the

President as far as decisions on war and peace are concerned reflect a drift toward less democratic procedures. This paradox is of a significant importance for the analysis of the contemporary American way of warfare and its transformation. The decision-making process of going to war has become more centralized and less democratic. At the same time decisions regarding the conduct of war are becoming less centralized and more democratic.

Conclusion

Will war powers within the U.S. government be a subject of increased academic interest and debate? The answer is yes. If the 21st century turns out to be another "American Century," then the information revolution and the RMA may facilitate the return of an "imperial presidency," and the traditional, Constitutional vision of war powers may become obsolete.

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References

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15. Quoted in Adler, p. 36.