

Lesson on THE WAR POWERS ACT

Grade Level: High School

Time: Three to four classroom periods.

Note: Obviously, only some applications of The War Powers Act or examples where it was not invoked, can be explored in this format.

Grading can be based on the student research, debate participation, and class participation.

Standards:

- National Curriculum Standards for Social Studies: Thematic Strand Index: (<http://www.socialstudies.org/standards/strands>)
 - Standard #2: Time, Continuity and Change
 - Standard #6: Power, Authority and Governance
 - Standard #9: Global Connections
- U.S. History Standards: Eras 1-10 (Foreign policy components), Era 9 Standard 2, and Era 10 Standard 1
- Common Core State Standards for English Lang. Arts & Literacy in History/Social Science, 6-12
- Key Ideas and Details
 - RH/SS.2—determine and summarize central ideas and themes
 - RH/SS.3—analyze text related individuals, events or ideas
 - Integration of Knowledge and Ideas
RH/SS.9—analyze and/or compare primary/secondary sources
Comprehension and Collaboration
 - SL.1—prepare and participate effectively in a range of conversations.
 - SL.2—integrate and evaluate information presented in diverse media and formats, including visually, quantitatively, and orally.
- Presentation of Knowledge and Ideas
 - SL.4—present information, findings, and supporting evidence such that listeners can follow the line of reasoning and the organization, development, and style are appropriate to task, purpose, and audience.

Objectives:

1. Analyze the factors leading to the creation of The War Powers Act.
2. Assess the strengths and weaknesses of The War Powers Act since 1973.
3. Evaluate the future role of The War Powers Act.

Procedures:

A WAR POWERS ACT DEBATE

POSSIBLE RESOLUTIONS:

- Resolved-- that there is no longer a need for The War Powers Act, since the President does what he pleases anyway.
 - Resolved—that The War Powers Act is a vital check on the power of the President by Congress.
 - Resolved—that the United States should require a Declaration of War by Congress in order for the United States to enter a war, with 48 hours of the outbreak of hostilities.
1. Ice Breaker/ Anticipatory Set: Ask students to name the declared wars in United States history. Make a list on the board. Then ask students to name any undeclared wars in which the United States has fought, and make a separate list.
 2. Background: Have your students carefully listen to Ron Granieri's FPRI Primer on The War Powers Act. The text is included below. Have the students read the other War Powers Act information below and investigate the websites listed in this lesson. Instruct the students to focus on its successes and failures.
 3. Divide the class into two groups: one in favor of the War Powers Act and one opposed to it. Have each team select a captain to divide the speaking areas and research. Use the lesson resources and other research to bolster arguments for and against the act.
 4. Ask each student to become "an expert" on the issue assigned by her or his team. This means knowing if the War Powers Act was invoked and if so, how effective it was.
 5. After students have completed their research either in class or at home (or both), arrange the classroom for a debate. Either the teacher or a pre-selected student, will serve as the moderator who will see that debate rules are followed. (Teachers can describe to the students the format to be followed.)_____

Questions to consider in preparing for the debate:

1. WHY WAS THE WAR POWERS ACT PASSED?
2. WHAT HAVE BEEN ITS GREATEST STRENGTHS?
3. WHAT HAVE BEEN ITS GREATEST WEAKNESSES?
4. HOW MUCH SUPPORT FOR THE WAR POWERS ACT EXISTS TODAY?
5. SHOULD THE ACT BE REVISED, ABOLISHED, OR LEFT AS IS?

Modifications:

Teachers can choose to limit the scope of this lesson. You can select a specific case where the War Powers Act was either used, or not used. Research can also be assigned entirely as homework and may be given over several days, thereby inserting other lessons in between the first day of the lesson and the remaining days.

Extensions:

The lesson can be expanded to include additional historical issues concerning the five actual declarations of war.

REFERENCES (Hot Links are Underlined):**An FPRI Primer...THE WAR POWERS ACT**

(To be read in conjunction with the video primer: [include link here])

Who has the power to declare war in the United States? That sounds like a simple question, but disagreement between Congress and the President about the answer has become a persistent problem throughout American History.

On the one hand, the Constitution is very clear: **Article I, section 8** grants Congress the power to declare war. That means the United States can only formally go to war—with all the legal and practical consequences that brings—if majorities in both houses agree to do so.

At the same time, however, **Article II, section 2** makes the President Commander in Chief of the armed forces, giving the President and his Cabinet the power not only to draw up the defense budget and appoint commanders, but also to station the armed forces and use them in an emergency. Congress approves the budget, ratifies treaty commitments, and provides oversight over the armed services, but day-to-day management of the military is in the hands of the Executive branch, working through the President and the **Department of Defense**. As if to make the relationship that much more fraught, the Secretary of Defense is appointed by the President, but, like all Cabinet members, must be confirmed by the Senate, and is required by law to report regularly to Congress on the Department's activities.

Believing that the Legislative and Executive branches would respect each other's role in "providing for the common defense," the Founders also assumed the President would not use his powers as Commander-in-Chief to involve the United States in an armed conflict without a formal declaration of war from Congress. And, for more than 150 years, American foreign and military policy was limited

enough to keep that balance in place while Congress pushed back against Presidential overreach. Even following World War I, the Senate rejected the **Treaty of Versailles** and the establishment of the **League of Nations**, because many Americans feared that **President Woodrow Wilson** had gone too far in committing the United States to possible conflicts, and that membership in the League would result in the United States being drawn into a war without Congressional input.

Although careful observers will note that even during those first centuries, the United States waged wars against Native Americans without formal Congressional declarations, and the absence of a declaration of war didn't make the Civil War any less of a war either, the United States has only formally declared war five times—on Britain in the **War of 1812**, on **Mexico in 1846**, on **Spain in 1898**, and in the two **World Wars**. Congress has not officially declared war on anyone since **June 1942**, when it declared war on Nazi Germany's allies Bulgaria, Hungary, and Romania.

Since the beginning of the 20th century, however, changes in American global commitments have increased the President's independent power over American armed forces, and fed tensions between the President and Congress. Whether dispatching occupying forces across the Caribbean in the 1910s and 1920s, sending peacekeepers to the Middle East, or even engaging in full-scale military operations in places as diverse as Korea, Vietnam, Grenada, Afghanistan, and Iraq, many Presidents have committed the United States to military action without formal declarations of war. Furthermore, during the Cold War, the need to be prepared to deal on short notice with a surprise nuclear attack inspired a system which gave the President the power to unleash perhaps the final war in human history without consulting Congress at all.

As a rule, Congress has been reluctant to insist on formal declarations of war, reserving that step for only the gravest national threats. At the same time, Congress has been equally reluctant to restrict the President's ability to act in an emergency, especially when the President's party also enjoys congressional majorities. Problems emerge in the gap between full-scale war and emergency actions, and those problems become as much a product of politics as of strategic calculation. When public outcry against a Presidential action becomes an issue, both houses have tried to control the expansion of Presidential military power through legislation and control of military budgets.

Congress's greatest success on that score came in 1973, with passage of the War Powers Act, which requires the President to notify Congress of any combat deployments within 48 hours and forbids any action for longer than 60 days without a specific Congressional authorization. This legislation was a direct result of the gradual escalation of the Vietnam War since 1964, during which Presidents Johnson and Nixon had used the very broadly worded Gulf of Tonkin Resolution to deepen the American commitment while avoiding a declaration of war. As an indication of how fraught the relationship between Congress and the

President remained, however, the War Powers Act only passed when Congress overrode a veto from President Nixon, who claimed the Act was an unconstitutional restriction on Presidential power as Commander-in-Chief.

Despite its controversial beginnings, the War Powers Act has established an uneasy truce in the struggle over war powers. In 1991, President George H.W. Bush relied on a congressional resolution for the First Gulf War, just as President Clinton relied on a similar resolution in 1999 to support American participation in the NATO operations in Kosovo. In our own time, George W. Bush and every President since has based the ongoing US “Global War Against Terror” on an open-ended [2001 Resolution](#) declaring “That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.”

Such resolutions satisfy political demands, but dodge important legal and practical questions—about war aims, timetables, how to measure success and failure, and the role of Congress in managing the fight.

Disagreements about the proper balance between Congressional and Presidential power have kept lawyers, politicians, and diplomats busy since the Founding. It is a conflict that is likely to persist as long as the Republic endures.

IS THE WAR POWERS ACT EFFECTIVE?

Ever since its passage in 1973, politicians have been divided on the War Powers Act's effectiveness. Supporters of the resolution maintain that it is a much-needed check on the president's ability to make war without Congressional approval.

Critics, meanwhile, argue the law has failed to create better coordination between the executive and legislative branches. Some believe the law is too restrictive on the president's ability to respond to foreign emergencies, while others contend that it gives the president free reign to commit troops overseas. Most experts tend to agree that the War Powers Act has rarely worked as intended. According to one study by the Congressional Research Service, presidents have traditionally avoided citing certain provisions of the resolution whenever they submit reports to Congress. As a result, the 60-day time limits of the law have rarely been triggered, and it has never been used to bring an end to a foreign military operation.

Because of the War Powers Act's contentious history, there have occasionally been calls for the resolution to be repealed or amended. One notable attempt came in 1995, when the [U.S. House of Representatives](#) voted on an amendment that would have repealed many of the Act's main components. The measure was narrowly defeated by a vote of 217-204.

More Research to Consider:

ORBIS—FPRI's Journal of Foreign Affairs. Numerous articles since 1973 concerning The War Powers Act.

The War Powers Act:

<https://www.history.com/topics/vietnam-war/war-powers-act>

War Powers. Columbia Law School Research.

<https://scholarship.law.columbia.edu/cgi/viewcontent>

Should Congress Repeal The War Powers Act?

<https://congress.debateus.org2015/05/23>

War Powers Act (1973; 93rd Congress HR 4858).
<http://www.govtrack.us/congress/bills>

War Powers Resolution. [The Cornell Law School Legal Information Institute.](#)

War Powers. [The Law Library of Congress.](#)

War Powers Resolution Revisited: Historic Accomplishment or
Surrender? [William and Mary Law Review.](#)

War Powers Resolution: Presidential Compliance. [Congressional Research
Service.](#)

The War Powers Resolution: Concepts and Practice. [Congressional Research
Service.](#)

[War Powers | Law Library of Congress](#)

<https://www.loc.gov › law › help › usconlaw › war-powers>

[A Bibliography for the War Powers Act](#) (Google)

[Law.Com on War Powers](#)

War Powers Act - 1973, Definition & Purpose - HISTORY

Bibliography: Should Congress repeal the War Powers ... (Debate.us)

[War Powers Act | Encyclopedia.com](#)

<https://www.encyclopedia.com › energy-government-and-defense-magazines>

[War Powers Resolution: A Brief Summary of Pro and Con ...](#)

<https://www.everycrsreport.com › reports>

[The War Powers Resolution: Intent Implementation and Impact](#)

<https://www.hsdl.org › view>