



Other View: Perils of presidential power

August 30, 2016

Democrats spent eight years watching in dismay as President **George W. Bush** expanded the limits of presidential power, claiming his right to do so in time of war. "The biggest problems we're facing right now have to do with George Bush trying to bring more and more power into the executive branch, and not go through **Congress** at all," **Barack Obama** said in 2008. "That's what I intend to reverse when I'm president of the United States of America."

But wholesome intentions, sincere or not, are no guarantee of performance. As it happens, Obama has been different from Bush. While Bush asserted broad authority in the realm of war and national security, Obama has also done it in domestic affairs. What he has not done is look for ways to curtail the options available to him or his successors.

He intervened in Libya without asking Congress for permission and insisted the War Powers Resolution didn't apply to the U.S. bombing campaign. He effectively granted permission for children of foreigners who live in the U.S. illegally, and parents of American citizens who live in the U.S. illegally, to stay in this country. He issued executive orders requiring federal contractors to pay a higher minimum wage and accept various workplace requirements. He did all these things despite persuasive arguments that he was overstepping his bounds.

Even Obama himself once took that more limiting view — notably in 2010, as he was being criticized by Hispanic groups for not acting to protect immigrants who are in the U.S. without legal permission. "The main thing we have to do to stop deportations is to change the laws," he told Univision. "I'm president, I'm not king."

Yet he wound up behaving as if he had a scepter and throne. A federal appeals court ruled against him on his immigration measures, and the Supreme Court left that ruling in place.

Those workplace regulations? In his first term, his own lawyers said they were beyond his authority. In his second term, his lawyers found a way.

Obama's appetite for control is typical of recent presidents. In 2001, **Elena Kagan**, now on the Supreme Court, noted that Ronald Reagan started something when he claimed and exercised new powers over federal regulatory agencies. "By the close of (Bill) Clinton's presidency, a fundamental — and, I suspect, lasting — transformation had occurred in the institutional relationship between the administrative agencies and the Executive Office of the President," Kagan wrote.

What Democrats of the Clinton era realized is what Republicans would realize under Bush: When you're out of power, you want a weak presidency, and when you're in power, you want a strong one.

Obama and his recent predecessors deserve only part of the blame. The rest lies with Congress, which has the means to curb an overambitious president any time it wants but which has generally been content to impersonate a wax dummy.

When Congress shirks responsibility, or when it resists any cooperation with the White House on matters of great importance — immigration being a prime example — it practically dares the president to act unilaterally. Doing their jobs should not be optional for elected lawmakers.

But regardless of where the fault lies, in the long run, the steady accumulation of power in the Oval Office undermines the design of the Constitution, which relies on checks and balances to restrain government action. It also assures that if an especially dangerous person wins the presidency — say, Donald Trump — he will have an array of weapons at hand to make his malignant vision a reality.

Thanks to Obama, Cato Institute analyst Gene Healy says, "the most powerful office in the world is even more powerful now." In the next four years, whatever the outcome of the election, that trend is sure to continue. And Republicans and Democrats — not to mention the American people — will sooner or later come to regret it.