



Thanks, Liberals! You Applauded Obama's Imperial Presidency, and Now We've Got Trump Rex

Nick Gillespie

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On Jan. 20, Donald Trump will become the 45th president of the United States. Along with the nation's nuclear codes, he will be gifted presidential powers that have been vastly increased by Barack Obama.

Thanks a lot, liberals. It's all well and good that Joe Biden is now lecturing us that "the worst sin of all is the abuse of power," but where the hell was he—and where were you—for the past eight years, when the president was starting wars without Congressional authorization, passing major legislation with zero votes from the opposing party, and ruling almost exclusively through executive orders and actions?

Mostly exhorting Obama to act "unilaterally" and "without Congress" on terrorism, immigration, guns, and whatever because you couldn't dream of a day when an unrestrained billionaire reality-TV celebrity would wield those same powers toward very different ends. Hell, in the early months of Obama's presidency, *The New York Times*'s Thomas Friedman held up China's "one-party autocracy" as the model to emulate.

There's an old libertarian saw that holds "any government powerful enough to give you everything is also powerful enough to take everything away." The same is even more true for the president, the single most-powerful actor in the government. Faced with recalcitrant Republicans and flagging public support, champions of Obama's policy agenda voiced few qualms about a power grab that created an imperial presidency on steroids. "We're not just going to be waiting for legislation," Obama crowed in 2014, proclaiming a "year of action." "I've got a pen... and I can use that pen to sign executive orders and take executive actions and administrative actions."

Consider his willingness to wage war. As The Cato Institute's Gene Healy writes in the latest issue of *Reason*, Obama didn't just commit the U.S. military to action in Libya without *any* sort of Congressional authorization, he did so after campaigning on the statement that "the president does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation." But when it came time under the War Powers Act to either seek retroactive buy-in from Congress or pull out,

Obama simply asked around the executive branch until he found a State Department lawyer who, unlike his attorney general and others, said dropping bombs on Libya didn't require authorization.

If and when Donald Trump makes good on his promise to “bomb the shit out” of ISIS—and god knows who else—without even getting token approval from Congress, we'll know where he got the idea. Ditto for “secret kill lists” and drone strikes in countries with whom we're not at war.

And still, Obama has the temerity to counsel the president-elect not to overdo it with executive orders and actions, telling NPR recently that “going through the legislative process is always better in part because it's harder to undo.” Unless, of course, actually working to build consensus keeps you from getting what you want. In fact, it *is* vastly easier to undo unilateral action, as Obama himself could tell you. His executive expansion of the Deferred Action for Childhood Arrivals (DACA) program, which shielded the deportation of about 3.6 million young illegal immigrants, ended up in court, where it lost. His abuse of “recess appointments,” which can only be made when Congress is out of session, also ended up in court, with the Supremes ruling 9-0 against three appointments he made to the National Labor Relations Board.

Live by the pen, die by the pen. Newt Gingrich, who haunts Fox News like Banquo's ghost haunting a Golden Corral buffet, estimates that Trump will “repeal 60 to 70 percent of Obama's legacy by simply vetoing out all of the various executive orders that Obama used because he couldn't get anything through Congress.” The Trump administration is already promising to repeal various aspects of Obamacare via executive action “within hours of being sworn in,” according to spokesman Sean Spicer and Vice President-elect Mike Pence.

Although Obamacare was passed as legislation, it's more vulnerable than most laws because it was muscled through Congress back when the Democrats had a filibuster-proof majority in the Senate. That may well have been the only way that Obamacare would have ever become law, but it also means that there isn't broad-based support for the plan, in Congress or among voters (in fact, Obamacare has never had majority support from voters).

Where other major laws—such as the Civil Rights Act of 1964, the creation of Medicare, and The Patriot Act—had significant bipartisan support, Obamacare is virtually alone in being a one-party affair. As my colleague Peter Suderman argues, that not only makes the design of the law more insular and thus less likely to succeed, it means everyone will run for the lifeboats the second the ship starts taking on water.

But, but, but..., I can hear you saying, ...*the Republicans pledged from the outset that their main priority was to make Obama “a one-term president,” as Mitch McConnell said in 2010. “Waiting for the Republicans to act on immigration is pointless!”* right? Or on guns, overtime pay, air and water regulations, or anything else. *He had to act unilaterally.*

That may all be true, but it doesn't change the fact that Obama Rex presents the worst-possible presidential precedent for his successor, a man who enters office with seemingly no ability to check his own ego, limits, and tweets.

What, if anything, can be done, especially since you can already hear Republicans and conservatives who castigated Obama's power grab starting to whistle a different tune. A first step is to acknowledge what all of us—liberal, conservative, and libertarian alike—have known

in our heart of hearts for the entirety of the 21st century: The president, whether named George W. Bush or Barack Obama, has amassed too much power.

The second step is to get serious not about short-term partisan gain but about first principles, especially the idea that a commitment to limited government means just that. No one in America really wants to live in a country where the government has first claim on your life, liberty, and pursuit of happiness. We need to recognize that means the president doesn't actually have vast and ever-increasing powers, even when our guy is in power.

In recommitting to principles over party, liberals and Democrats will find allies among libertarians skeeved out by Trump's proclamations about sealing the nation's borders, slapping massive tariffs on companies that dare to move where labor is cheaper, and reinstating the indiscriminate torture of suspected terrorists. And they will find allies among small-government Republicans such as Sens. Rand Paul, Mike Lee, and Jeff Flake and Reps. Justin Amash and Thomas Massie, all of whom want Congress to do what it's supposed to do: pass budgets and laws that get sent to the president's desk.

In *Our Lost Constitution: The Willful Subversion of America's Founding Document*, Utah's Lee makes exactly that case. "A government," Lee told me in an [interview last year](#), "that is big enough and powerful enough to spy on you, to lie to you, to target you, is a government that we ought not have in the first place."

That's more than enough common ground to start a real conversation about whittling the imperial presidency down to size once and for all, and not just for the next four or eight years.