

Debate: Is Barack Obama overreaching with executive orders?

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President Obama says he plans to advance an ambitious policy agenda this year "with or without Congress." His latest decision: an executive order raising the minimum wage for federal contractors to \$10.10 an hour.

"I have got a pen and I have got a phone, and I can use that pen to sign executive orders," the president has said in recent weeks. He echoed the theme in his State of the Union address to Congress this week, saying if legislators refused to act, he would act alone.

Sen. Ted Cruz, R-Texas, denounced the president's approach, writing Wednesday in the Wall Street Journal, "When a president can pick and

choose which laws to follow and which to ignore, he is no longer a president."

Do President Obama's executive orders exceed his constitutional power? Or is he using all of the tools at his disposal in the face of congressional opposition? Ben Boychuk and Joel Mathis, the RedBlueAmerica columnists, weigh in.

JOEL MATHIS

Two words: "Unitary executive." You might not remember those words - Republicans in Congress certainly don't seem to. They were the name of a theory, advocated by Dick Cheney in particular, under which the George W. Bush administration unilaterally chose to ignore Congress and its legal obligations, pretty much whenever it chose.

A law against warrantless wiretapping? Ignore it.

Treaties against torture? Ignore them.

Don't like the new law Congress passed? Don't veto it - sign it, but add a "signing statement" explaining why you won't actually obey it.

All of this happened with the near-total acquiescence of congressional Republicans throughout the Bush administration. (Ron Paul, as always, was the exception.) Much like their love of fiscal austerity and the filibuster, the GOP rediscovered its fidelity to the rule of law with alacrity in 2009, when President Obama took office.

It's clear what's going on here: Republicans don't believe in a constrained, limited presidency. They believe in constraining and limiting Democrats. It's not the same thing, and observers can be forgiven for rolling their eyes at the crocodile tears of self-styled defenders of the Constitution.

This isn't to let Democrats off the hook. They spent the Bush years complaining about abuses of power, and now beg the president to bypass Congress wherever possible. Cynical power-grabbing is a bipartisan exercise.

And yes, the president is among the cynical power-grabbers: "Any President takes an oath to, 'preserve, protect and defend the Constitution

of the United States," he said when he first ran for president, suggesting he would rein in the excesses of the Bush administration. "The American people need to know where we stand on these issues before they entrust us with this responsibility - particularly at a time when our laws, our traditions, and our Constitution have been repeatedly challenged by this administration." So much for that.

No matter: That ship has sailed. The cat is out of the bag, the worms out of the can: If Republicans want to limit the presidency, let them prove it when one of their own is in the White House.

BEN BOYCHUK

Fact is, U.S. presidents do have vast powers under Article II of the Constitution, especially when it comes to waging war and protecting national security. But "vast" isn't the same as "unlimited."

Too many presidents - Republican and Democrat - have stretched the interpretation of their powers to the limit, and sometimes beyond. In that sense, President Obama is no different from past presidents. But in crucial ways, he has used and abused his powers in ways his predecessors could only fantasize about.

Unilaterally raising the federal minimum wage for government contractors may have Republicans in Congress pulling their hair out this week, but that's among the least of this president's usurpations of their lawmaking authority.

Committing American airpower in 2011 to help overthrow Libyan dictator Moammar Gadhafi without so much as consulting Congress was a milestone in presidential overreach. Obama called it "leading from behind." In the aftermath, four U.S. State Department employees were killed in Benghazi on September 11, 2012, and Libya is splitting along old tribal lines and descending further into chaos.

Obama decided in 2012 that Congress wasn't doing enough to reform U.S. immigration laws. So he signed an executive order barring the Immigration and Customs Enforcement service from deporting minors and relatives of U.S. service members living in the United States illegally.

The president's justification was at least somewhat plausible: "prosecutorial discretion" gives him some leeway on enforcement. But immigration enforcement officers complain, with justice, that Obama's orders have effectively tied their hands.

But when the president decided to delay his health care law's "employer mandate," he engaged in nothing less than wholesale lawlessness. The reason for the delay boils down to cynical political calculation: forcing employers with more than 50 workers to provide health insurance ahead of the 2014 midterm elections would likely disrupt the economy and be bad for Democrats. Nothing more to it than that.

Congress has for too long delegated far too much of its power to the executive branch. It's past time the legislative branch used its authority to hold this president to account, starting with enforcing his ill-conceived health care reform law.

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