Unit 6: The Presidency

The President of the United States heads the executive branch of the federal government. The President serves a four-year term in office. George Washington established the norm of serving no more than two terms. Franklin Roosevelt – elected in 1932, 1936, 1940, and 1944 – was the first and only President to break with this tradition. In response, the Twenty Second Amendment (ratified in 1951) prohibits any person from being elected President more than twice. Given the size of the U.S. economy and military, the President is among the most powerful people in the world.

1. The Creation of the Presidency

Fearing an undue concentration of power in the hands of one person, some delegates to the Constitutional Convention favored lodging executive power in a multi-member executive council. Delegate George Mason warned “if strong and extensive powers are vested in the Executive, and that Executive consists only of one person; the Government will of course degenerate into a Monarchy.” The view that ultimately prevailed was that a single executive would be better able to provide energetic, decisive, and accountable leadership. Thus, we see Americans have debated the question of presidential power from the very outset.

Most state governors of founding era were political pipsqueaks, serving terms of only two years and lacking significant powers such as the veto. Some governors were even selected by the state legislature rather than the people. And as we know, there was no executive under the Articles of Confederation. In this light, we can better appreciate that the framers created a President that was quite powerful for its time. Although the framers assumed that Congress would be the dominant force in American government, they designed the executive as an independent branch of government with meaningful political power.

2. Constitutional Powers and Duties

The major powers and duties of the President are set forth in Article II of the Constitution:

Administrator in Chief. The President is the administrative head of the executive branch. Article II specifies that “the executive Power of shall be vested in a President…” and that “he shall take Care that the Laws be faithfully executed.” This broad language confers upon the President the authority to direct and supervise federal agencies as they administer the laws and programs enacted by Congress.

Commander in Chief. The framers of the Constitution designated the President as the top commander of U.S. armed forces during times of military conflict. Although Congress was given the power to declare war, recent Presidents unilaterally have used military force without congressional authorization.

Appointment Power. The President appoints executive officials and federal judges, subject to Senate confirmation by majority vote.
Treaty Making and Power to Receive Ambassadors. With the approval of at least two-thirds of the Senate, Presidents can make treaties with other nations. Presidents also “receive ambassadors,” which means they have the authority to formally recognize other nations. Together, these two powers enable the President to act as the nation’s “chief diplomat,” representing and speaking for the United States in the international community.

Veto Power. Presidents can veto bills presented to him by Congress, preventing them from becoming law. Congress can override the veto with a two-thirds vote in each house, enacting legislation over the President’s objection.

3. The Expansion of Presidential Power

Compared to today, the pre-1930s presidency was much smaller, had far fewer responsibilities, and received less attention from the public. Some Presidents viewed themselves as constitutional officers or administrators and had no intention of enacting bold or ambitious programs of their own. The legislative branch, not the executive, often dominated politics and policy-making. With that said, some Presidents – e.g. Andrew Jackson (1837-1841), Abraham Lincoln (1861-1865), Theodore Roosevelt (1901-1909), and Woodrow Wilson (1913-1921) – did exert forceful and ambitious leadership. But, generally speaking, earlier Presidents tended to play a smaller role on the national stage compared to their modern successors.

Modern American government is president-centered: political elites and the general public expect Presidents to shape the nation’s political agenda and exert strong policy leadership. Since the 1930s, the presidency has grown in size and power to become the dominant branch in the American political system. There are several explanations for the growth of presidential power, including: (a) Congress has delegated authority to the executive branch; (b) the institution of the presidency has increased in size, with significant staff assistance and expertise housed in the executive branch; and (c) the United States has emerged as a global power, giving Presidents greater opportunity to flex their significant military and diplomatic muscles. Let’s examine each of these three points in turn.

Delegation: Executive Orders/Proclamations.

Many laws enacted by Congress delegate rule-making authority to federal agencies such as the Environmental Protection Agency; we will examine administrative rule-making in the next unit.

Delegated power may also enable the President to issue executive orders and proclamations. Executive orders and proclamations are unilateral directives or actions taken by the President. They have the force of law when they are issued on the basis of the President’s statutory or constitutional authority. (To clarify, statutory authority refers to authority delegated to the President by a statute, or law.)

Sometimes the exercise of unilateral executive power is not particularly controversial. For example, Congress delegates the authority to the President to declare major disasters and direct assistance to state and local governments. Few people would object to Congress enabling the executive branch to aid communities in the wake of a destructive hurricane or earthquake.
Unilateral executive action is more controversial when President’s stretch their delegated powers beyond what Congress probably intended. Bill Clinton, for example, unilaterally designated 1.9 million acres of federal land in Utah as a national monument, thereby protecting the land from development (see case study on page xx for details). In these cases, critics may charge that the President is acting more like a legislator than an executive by effectively creating new law on his own accord. The President’s allies, on the other hand, may view such actions as strong and effective leadership.

If the President’s authority to issue an executive order or proclamation derives from a federal statute, Congress has the power to overturn the order by enacting a new law. However, as we saw in the last chapter, passing legislation is a very difficult and time-consuming process, and the President could exercise the veto to block the effort to override his order or proclamation. Thus, it is rare for Congress to overturn unilateral executive actions by enacting new laws.

It is important to note that the President may also issue executive orders or proclamations based on his constitutional authority as chief executive or commander-in-chief (as opposed to delegated authority from Congress). For example, after World War II President Harry Truman began the process of desegregating the U.S. military without congressional authorization on the basis of his authority as commander-in-chief.

In a nutshell, Congress has significantly enlarged the powers and responsibilities of the President by delegating power to the executive branch.

*The Institutional Presidency*

Although people naturally associate the presidency with the individual incumbent, the presidency has grown into a large institution. The Executive Office of the Presidency (EOP), created in 1939, has approximately 2,000 advisors and staffers working in various units. Three of the most important units are the Office of Management and Budget (OMB), responsible for the President’s budget proposal and reviewing regulatory proposals, the National Security Council (NSC), responsible for coordinating foreign policy analysis and decision-making, and the White House Office (WHO), which houses the President’s top advisors, including the Chief of Staff. All recent Presidents have employed a Chief of Staff, who (among other responsibilities) acts as a “gatekeeper” by managing the flow of people and paper into the Oval Office.

The heads of major departments in the executive branch (Secretary of State, Energy, Transportation, etc.) are collectively referred to as the President’s cabinet. Long ago, the cabinet served as an advisory and decision-making body, but this function has been taken over by the EOP. Generally speaking, since the 1960s influence over policy and politics has gravitated to the President’s top advisors in the EOP and away from the cabinet.

In a nutshell, the staff assistance and expertise housed in the executive branch has increased dramatically since the 1930s, which better enables the President to assert influence over public policy, especially as it relates to the federal budget and foreign affairs.

*The Rise of the United States as a Global Power*
After World War II, the United States emerged as the world’s foremost military and economic power. This has enabled Presidents to capitalize on their constitutional status as Commander-in-Chief and “chief diplomat” and assert themselves on the world stage by, for example, leading multinational efforts to promote free trade, brokering peace agreements, and using military force.

Presidents have interpreted their foreign policy powers expansively. Although Congress is given the power to declare war, and the framers did not want the decision to go to war to rest in the hands of one person, modern Presidents have asserted that as Commander-in-Chief they may use military force unilaterally, without congressional authorization. Although Congress has authorized major conflicts in the post-World War II era (with the exception of the Korean War), Presidents have used military force unilaterally in smaller conflicts (e.g. Grenada in 1983, Panama in 1989, Kosovo in 1999, and Libya in 2011).

With respect to diplomacy, modern Presidents frequently enter into executive agreements with the heads of other nations. These agreements – which do not require consent from two thirds of the Senate, as do treaties – commit the United States to deals involving issues such as shipping lanes and open air space, environmental standards, and international trade. Although most of these agreements concern highly specific and often technical matters, some involve major foreign policies (e.g., the Obama Administration’s 2015 nuclear deal with Iran). And their overall number is quite large. The Reagan Administration, for example, entered into 2,840 executive agreements compared to only 125 treaties. [Wayne 422]

5. Constraints on Presidential Leadership

The expansion of presidential powers and responsibilities does not guarantee effective leadership, nor does a gigantic EOP automatically translate into actual influence. Presidents still govern within the separation of powers established by the Constitution. They cannot raise or lower taxes, eliminate existing programs or agencies, or enact large-scale policy reform in areas such as health care, immigration, or Social Security. Most of the time, particularly in the domestic sphere, significant policy success – “doing great things” – requires congressional action and approval. Moreover, many problems (e.g. low economic growth) are not readily susceptible to government control. Many political scientists contend that a gap exists between the public’s expectations of the presidential performance and the President’s actual capacity to solve problems and exert leadership. In sum, for all the President’s power, successful leadership is not a given but sporadic and contingent.

6. The Power to Persuade

Given the aforementioned constraints and expectation-capability gap, how can Presidents succeed in office? What distinguishes effective from ineffective Presidents? One of the most influential statements on the American presidency comes from political science professor Richard Neustadt (1960): “Presidential power is the power to persuade.” According to Neustadt, Presidents cannot rely on issuing orders or commands on the basis of their formal, legal authority. Rather, they must persuade others to do what the President wants them to do. Persuasion ultimately comes down to bargaining: Presidents must use the resources at their
disposal to bargain and cut deals with other actors. From this perspective, governing success boils down to the individual President’s political skill set.

7. Political Context

Another view of presidential power downplays the significance of individual skills and political strategy. Rather, effective presidential leadership is viewed primarily as a function of the broader political environment in which the President governs. Two of the most important “contextual” factors are party control of Congress and the economy. When the President’s party controls both houses of Congress, the White House can rely on fellow partisans to help advance the President’s legislative agenda. Not surprisingly, presidential success rates in Congress are mightily influenced by whether the President’s party is in control; this context is far more important than individual skill or strategy. It is also not surprising that a healthy economy translates into higher approval ratings and favorable election outcomes. The dilemma for Presidents is that they cannot “manage” the economy, particularly in the short-run; economic conditions are beyond control of the White House. Nor, obviously, can President select the majority party in Congress.

When Presidents are faced with a difficult governing environment (such as a hostile opposition party in Congress), they naturally rely on the unilateral tools at their disposal – executive orders and proclamations – to accomplish what they can.

8. The Political Dimension: Public Opinion and Party Leadership

One constant thread that runs throughout the presidency is that all Presidents are motivated to win reelection, maintain high public approval ratings, and to support and enhance the electoral prospects of their fellow partisans. These motivations are a driving force behind much presidential behavior. Specifically, Presidents engage in the following activities: (a) giving hundreds of speeches and public remarks per year, including a smaller number of major televised speeches; (b) fundraising and campaigning, for themselves and members of their party; (c) cultivating a positive public image and favorable media coverage; (d) employing White House staff to conduct outreach to specific constituencies (women, Christians, Hispanics, etc.) to bolster support among these groups; and (e) above all, making political and policy decisions with an eye toward elevating the President’s public standing, especially with important groups within his party’s political coalition.

Despite all these activities, the President’s ability to influence public opinion is limited. Economic conditions and unexpected events may complicate efforts of the White House to convey its desired message or image, many citizens will automatically oppose the President because of ideology or party, and – perhaps most significantly – the American people have limited interest in politics and will not listen to what the President has to say.