

Presidential Power

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Abstract

For the better part of 40 years, the study of presidential power was understood within a strictly bargaining framework—one that emphasized presidential dependence on other political actors to do things that the president cannot accomplish on his own, and that recognized personal reputation and prestige as the keystones of presidential success. But in the past 15–20 years, the presidency field as a whole has undergone significant change. Scholars have begun to investigate a broader array of actions that presidents can take, many independently, to affect public policy; and the foundations for these actions do not depend, at least exclusively, on the particular endowments of the individual presidents who stand in office. In this short essay, I recognize a sampling of the most significant advancement in three areas of the study of presidential power: unilateral powers, the political control of the bureaucracy, and public appeals. I then underscore the importance of continued investments in theory building for the study of presidential power.

INTRODUCTION

When presidents exercise power, they materially alter the doings of government. Sometimes they do so by advancing policies that would otherwise be stymied. Other times they do so by blocking actions that, left unperturbed, would themselves change how policy is written or implemented. Other times presidents exercise power by revising policies destined to pass but not in the form others (legislators, judges, bureaucrats, the public) would have preferred. But in every instance, the same comparison demarks just how much power is exercised: that between the state of the world with the president in it and the one that would exist if he (someday she) were not.

Such is what presidential power is. But how presidential power is wielded, the constellation of formal and information endowments that augment any individual president's power, and the conditions under which all presidents wield more or less power, these are matters of some dispute. Fortunately, in the past 15–20 years, scholars have made real strides investigating the various sources, manifestations, and contributors of presidential power—drawing on new methods of inquiry, to be sure, but also discerning new ways in

which presidents interact with those political actors who would intermittently check or enhance their power. After surveying the core arguments that defined the field for nearly 40 years, I survey recent areas of scholarly research that, to my mind, have contributed most to our understanding of presidential power.

FOUNDATIONAL RESEARCH

During the latter half of the twentieth century, no scholar dominated the study of the American presidency generally—and the issue of presidential power especially—as did Richard Neustadt. In his 1960 classic, subsequently updated and expanded twice (most recently in 1991), Neustadt set the terms by which subsequent generations of scholars thought about the nation's highest office: the distinct challenge that the president faces; the possibility, if only fleeting, for exercising power; and the means by which to do so.

For Neustadt, the modern American presidency is born of a basic contradiction. On the one hand, presidents must attend to an extraordinary tide of public expectations. Indeed, “attend to” does not even begin to capture the prerequisites of executive leadership since Franklin Delano Roosevelt held office. Presidents must define and offer solutions to every conceivable issue that is the legitimate subject of government action, from thwarting security threats abroad to offering solace to grieving citizens at home to pushing for gun control legislation to reforming the nation's health care systems to embodying the aspirations, hopes, and moral character of the country. Nothing is beyond the president's purview. And no single act, no collection of reforms, can possibly sate the public's appetite for presidential leadership.

The trouble, however, is that presidents are not endowed with nearly the formal powers required to meet these expectations. Only fledgling and conditional powers—for example, that of appointing judges and bureaucrats, subject to the Senate's consent, or meeting foreign dignitaries—are explicitly enumerated in Article II of the Constitution. Meanwhile, those provisions that would seem to confer more substantial authority—for example, the take care clause—are deeply ambiguous.

What, then, is a president to do? For Neustadt, the answer is clear. He must persuade those political actors who have genuine power—legislators, who write the laws; bureaucrats, who implement them; and judges, who interpret them—to do things that the president cannot accomplish on his own. Indeed, for Neustadt, persuasion is not merely a means by which power might be exercised. Persuasion is synonymous with power. “Presidential power is the power to persuade,” he tells us. Power is about cajoling, pleading, beseeching, and ultimately convincing others that their interests and the president's interests are one and the same. It is about enlisting others to do the president's

bidding, to take actions and render changes that are beyond the president's purview.

How does the president persuade? Here again, Neustadt offers clear counsel. Presidents must draw upon the individual skills, experiences, and insights that they bring with them into office in order to enhance their public prestige and reputation. Having cast the president's predicament in institutional terms, Neustadt delivers absolution in personal terms. The presidents must cultivate an instinct for influence just as they project a sense of mastery and control. For so doing, persuasive appeal will take hold, legislators and bureaucrats will see fit to follow directions, and executive power will, against all odds, be exercised.

The most immediate sign of Neustadt's influence on the field of presidency studies was in its invocation to join the larger behavioral revolution that was sweeping the discipline. In the decades that followed, scholars posited skill, personality, style, and reputation as the essential ingredients of persuasion and thus the keystones of presidential power (Barber, 1972; George, 1974; Greenstein, 2000; Hargrove, 1966). An exalted reputation within the Washington community and prestige among the general public became the signature markers of presidential success. Power was contingent upon persuasion; persuasion was a function of all the personal qualities individual presidents bore; and so, the argument ran, what the presidency was at any moment critically depended on who filled the office.

To be sure, scholarly attention did not remain permanently fixed on the psychological and personal dimensions of presidential power. How could it, when the most salient features of the modern presidency—the expanding size of the executive branch, the proliferation of statutory law that intermittently constrained and expanded presidential authority, the formalization of the president's efforts to control the bureaucracy—were institutional in nature? And so, by the century's end, political scientists were once again writing as much about the American presidency as about individual presidents. Rather than fixate on the idiosyncratic personal qualities of the men who occupied the White House, scholars returned to the formal sources of authority that preoccupied the generation of presidency scholars—men like Edward Corwin and Clinton Rossiter—who preceded Richard Neustadt.

Still, even as the purely behavioral tendencies of presidency scholarship waned, Neustadt's influence could still be felt. Almost uniformly, empirically oriented institutional studies assessed presidents' power by their ability to drive through Congress a legislative agenda (Bond & Fleisher, 1990, 2000; Goldsmith, 1974; Light, 1999; Peterson, 1990; Spitzer, 1993; Wayne, 1978). The signature of strong presidents was a high legislative success rate in Congress, of weak presidents, the sight of legislative proposals repeatedly dying in committees and on floors.

Like Neustadt, institutionally oriented scholars in the 1980s and 1990s persistently equated presidential power if not exactly as persuasion then at least as the ability to redirect political affairs in other stations of the federal government. Scholars equated presidential power with an ability to bargain, negotiate, change minds, turn votes, and drive legislative agendas through Congress. The president, as such, continued to play second fiddle to the people who make real policy decisions: committee members writing bills, congressional representatives offering amendments, bureaucrats enforcing laws, judges deciding cases.

When assessing the American presidency, Neustadt famously argued that “weak” is the word with which to begin. And the growing body of institutional scholarship on the topic offered little reason to believe otherwise. In this scholarship, presidents appear remarkable only because they are so feeble. As represented in both the empirical and theoretical work on vetoes (Cameron, 2000; McCarty, 1997), for example, presidents appear only slightly more important than members of Congress who can credibly threaten to filibuster a bill. Rather than having to assemble a supermajority of 60 in the Senate, enacting coalitions now must occasionally win the votes of 67. The technical impact of the president within these models of lawmaking is to replace the three-fifths cloture point with the two-thirds veto override player as the veto pivot—not exactly the stuff of a modern, ascendant presidency.

AREAS OF CUTTING-EDGE RESEARCH

Of late, the study of the American presidency has undergone tremendous change. By Terry Moe’s account, nothing less than a “revolution” has taken hold. As he puts it, “In just a few short years, a field mired in isolation and traditionalism has been catapulted into a new scientific realm through a seismic shift in the scope, power, and analytical rigor of its theories—a shift that has put an end to the era of inferiority, modernized and invigorated the way the presidency is thought about, and integrated the field much more fully and productively into the mainstream of political science” (2009, p. 702). As Moe notes, much of the change involves matters of method, as the norms and technologies of modern social scientific research take hold in a subfield long versed on historical narratives and anecdote. More substantively, however, the new wave of presidency research breaks from the Neustadtian tradition by emphasizing the independent actions that presidents can take, by exploring the formal ways in which they can remake their political and policy universes, and by exercising power without obviously persuading those political elites who stand in their way. More foundationally still, these burgeoning literatures on unilateral action, public appeals, and bureaucratic design—each described later—do not merely take the existence of Congress

or the courts as given and then counsel presidents to turn inward and elicit whatever skills and experiences might make them more persuasive. Rather, in both the theory and empirical tests that these literatures advance, dynamics between the various branches of government stand at the very center of the analysis. And in this sense, the study of presidential power becomes, quite appropriately, the study of political power writ large.

POLICY INFLUENCE BEYOND LEGISLATION

Recently, scholars have begun to take systematic account of the powers that presidents wield outside of the legislative arena. Building on the insights of legal scholars and political scientists who first recognized and wrote about the president's "unilateral" or "prerogative" powers (e.g., Fleishman & Aufses, 1976; Pious, 1991), scholars recently have built well-defined theories of unilateral action and then assembled original data sets of executive orders, executive agreements, proclamations, and other sorts of directives to test them. In the past several years, fully six books have focused exclusively on the president's unilateral powers (Cooper, 2002; Howell, 2003; Krutz & Peake, 2011; Mayer, 2001; Shull, 2006; Warber, 2006), complemented by a bevy of articles focusing on policymaking in both the United States (e.g., Fine & Warber, 2012; Gordon, 2007; Howell, 2005; Howell & Lewis, 2002; Krause & Cohen, 2000; Krutz & Peake, 2006; Lewis, 2005; Marshall & Pacelle, 2005; Pious, 2007; Rudalevige, 2012) and Latin America (Morgenstern, Polga-Hecimovich, & Shair-Rosenfield, 2013; Negretto, 2004; Pereira, Power, & Rennó, 2005).

Collectively, the emerging literature on unilateral powers makes two main contributions to our substantive understanding of presidential power. First, and most obviously, it expands the scope of scholarly inquiry to account for the broader array of mechanisms that presidents utilize to influence the content of public policy. Rather than struggling to convince individual members of Congress to publicly endorse a bill and then cast sympathetic votes, presidents often can seize the initiative, issue new policies by fiat, and leave it to others to revise the new political landscape. Rather than dally at the margins of the policy-making process, presidents regularly issue directives that Congress, left to its own devices, would not enact. So doing, they manage to leave a plain, although too often ignored, imprint on the corpus of law.

In addition, the literature highlights the ways in which adjoining branches of government effectively check presidential power. After all, should the president proceed without statutory or constitutional authority, the courts stand to overturn his actions, just as Congress can amend them, cut funding for their operations, or eliminate them outright. And in this regard, the president's relationship with Congress and the courts is very different from the one described in the existing quantitative literature on the legislative

process. When unilateral powers are exercised, legislators, judges, and the president do not work cooperatively to effect meaningful policy change. Opportunities for change, in this instance, do not depend on the willingness and capacity of different branches of government to coordinate with one another. Instead, when presidents issue unilateral directives, they struggle to protect the integrity of orders given and to undermine the efforts of adjoining branches of government to amend or overturn actions already taken.

Some of the more innovative quantitative work conducted on unilateral powers highlights the differences between policies issued as laws versus executive orders. In his study of administrative design, for instance, David Lewis shows that modern agencies created through legislation tend to live longer than those created by executive decree (Lewis, 2003). But what presidents lose in terms of longevity they tend to gain back in terms of control. By Lewis's calculations, between 1946 and 1997, fully 67% of administrative agencies created by executive order and 84% created by departmental order were placed either within the Executive Office of the President or the cabinet, as compared to only 57% of agencies created legislatively. Independent boards and commissions, which further dilute presidential control, governed only 13% of agencies created unilaterally, as compared to 44% of those created through legislation. And 40% of agencies created through legislation had some form of restrictions on the kinds of appointments presidents can make, as compared to only 8% of agencies created unilaterally.

In another study of the trade-offs between legislative and unilateral strategies, I show that the institutional configurations that promote the enactment of laws impede the production of executive orders, and vice versa (Howell, 2003). Just as large and cohesive legislative majorities within Congress facilitate the enactment of legislation, they create disincentives for presidents to issue executive orders. Meanwhile, when gridlock prevails in Congress, presidents have strong incentives to deploy their unilateral powers, not least because their chance of building the coalitions needed to pass laws is relatively small. The trade-offs observed between unilateral and legislative policy making are hardly coincidental, for ultimately, it is the checks that Congress and the courts place on the president that define his capacity to change public policy by fiat.

Quantitative work on the president's unilateral powers is beginning to take systematic account for unilateral directives other than executive orders and departmental reorganizations—most importantly, perhaps, those regarding military operations conducted abroad. Just as previous scholarship examined how different institutional configurations (divided government, the partisan composition of Congress) affected the number of executive orders issued in

any given quarter or year, this research examines how such factors influence the number of military deployments that presidents initiate, the timing of these deployments, and their duration (Howell & Pevehouse, 2005, 2007; Kriner, 2009). Although still in its infancy, this research challenges presidency scholars to take an even more expansive view of presidential power, while also bridging long-needed connections with scholars in other fields who have much to say about how, and when, heads of state wield authority.

PUBLIC APPEALS

Although presidents rely upon their unilateral powers as never before, on many matters, they have no choice but to engage Congress. When doing so, however, they need not bargain with individual legislators in the quiet removes of the White House. Increasingly, in fact, the lines of communication between the two branches of government proceed rather circuitously through, first, an increasingly fragmented media market, and then the larger public, which may or may not relay the message to its intended target. Success, in this arrangement, may require persuasion. But neither the setting in which persuasion now occurs nor the content of its constituent appeals are especially well-documented in Neustadt's rendering of executive politics.

In a hugely influential 1997 book, *Going Public: New Strategies of Presidential Leadership*, Samuel Kernell offered the first, full-throated explanation of contemporary presidential appeals. To explain why presidents "go public," Kernell emphasized the transformation of the nation's polity, beginning in the early 1970s, from a system of "institutionalized" to "individualized" pluralism. Under institutional pluralism, Kernell (1997) explained, "political elites, and for the most part only elites, matter[ed]" (p. 12). Insulated from public opinion, presidents had only to negotiate with a handful of "protocoalition" leaders in Congress. But under the new individualized pluralist system, opportunities for bargaining dwindled. The devolution of power to subcommittees, the weakening of parties, and the profusion of interest groups greatly expanded the number of political actors with whom presidents would have to negotiate; and compounded with the rise of divided government, such developments made compromise virtually impossible. Facing an increasingly volatile and divisive political terrain, Kernell argued, presidents have clear incentives to circumvent formal political channels and speak directly to the people.

During the past decade a number of scholars, very much including Kernell himself, have extended the analyses and insights found in *Going Public*. Two areas of research have been especially prodigious. The first examines how changes in the media environment, especially the rise of cable television, have complicated the president's efforts to reach his constituents (Baum &

Kernell, 1999; Cohen, 2008; Groeling & Kernell, 1998). While presidents once could count on the few existing television networks to broadcast their public appeals to a broad cross-section of the American public, now they must navigate a highly competitive and diffuse media environment, one that caters to the individual interests of an increasingly fickle citizenry. Hence, while structural changes to the American polity in the 1970s may have encouraged presidents to go public with greater frequency, more recent changes to the media environment have limited the president's ability to rally the public behind a chosen cause.

It should not come as much of a surprise, then, that public appeals do not always change the content of public opinion, which constitutes the second body of quantitative research spawned by Kernell's work (Barrett, 2004; Cohen, 1998; Edwards, 2003). Although it may raise the salience of particular issues, presidential speeches typically do not materially alter citizens' views about particular policies, especially those that involve domestic issues. Either because an increasingly narrow portion of the American public actually receives presidential appeals, or because these appeals are transmitted by an increasingly critical and politicized media, or both, presidential endorsements of specific policies fail to resonate broadly.

Still, notes Brandice Canes-Wrone (2005), public appeals constitute a good deal more than political theater. By increasing the salience of policies that already enjoy broad-based support, Canes-Wrone argues, plebiscitary presidents can pressure members of Congress to respond to the (otherwise latent) preferences of their constituents. Further recognizing the limited attention spans of average citizens and the diminishing returns of public appeals, Canes-Wrone argues that presidents will only go public when there are clear policy rewards associated with doing so. Then, by linking presidential appeals to budgetary outlays over the past several decades, Canes-Wrone shows how such appeals, under well-specified conditions, augment presidential influence over public policy.

Finally, there is B. Dan Wood's (2007) recent work, which illuminates the cascading effects of presidential appeals. How presidents talk about certain issues, Wood argues, does not only affect public and, by extension, congressional opinion about the issue. Presidential rhetoric also bears on the decisions that everyday citizens make in their lives. Focusing on issues of economic leadership, Wood examines how presidential optimism and confidence about the economy affect economic actors' attitudes toward taking risks. He shows that presidents, through economic rhetoric, can produce tangible effects on consumer spending, business investment, and interest rates. Presidents can also strengthen their own public approval ratings by projecting strong images of economic leadership.

POLITICAL CONTROL OF THE BUREAUCRACY

Beginning with a series of articles written by Terry Moe in the 1980s and early 1990s (Moe, 1985, 1987, 1990; Moe & Wilson, 1994), scholars have recast their attention to the ways in which presidents exercise influence not only through appeals but also through administrative design. Moe observed that in an increasingly volatile political world, one wherein opportunities to effect change are fleeting, power is always contested, and opposing factions stand mobilized at every turn, presidents and their immediate advisers have a strong incentive to hunker down, formulate policy themselves, and fill administrative agencies with people who can be counted on to do their bidding faithfully. Neutral competence and bureaucratic independence, Moe observed, does not always suit the president's political needs. Rather than rely on the expertise of a distant cadre of civil servants, presidents, for reasons built into the design of a political system of separated powers, have considerable cause to surround themselves with individuals who are responsive, loyal, and like-minded.

In the years since, a number of influential books have built on Moe's insights. Andrew Rudalevige's (2002) book, *Managing the President's program*, systematically investigated the regularity with which presidents centralized the policy-making process within the Executive Office of the Presidency. Positing a "contingent theory of centralization," Rudalevige identified the basic trade-off that all presidents face when constructing a legislative agenda: By relying on their closest advisers and staff, they can be sure that policy will reflect their most important goals and principles; but when policy is especially complex, the costs of assembling the needed information to formulate policy can be astronomical. To demonstrate as much, Rudalevige estimated a series of statistical models that predicted where within the executive branch presidents turned to formulate different policies. His findings are fascinating. Policies that involved multiple issues, that presented new policy innovations, and that required the reorganization of existing bureaucratic structures were more likely to be centralized; while those that involved complex issues were less likely to be. For the most part, the partisan leanings of an agency, divided government, and temporal indicators appeared unrelated to the location of policy formation. Whether presidents centralized, it would seem, varied from issue to issue, justifying Rudalevige's emphasis on "contingency."

In addition to shifting responsibilities about the executive branch, presidents also can influence the bureaucracy by appointing individuals with shared political convictions. The most significant empirical investigation of this particular strategy lies with David Lewis's (2008) book, *The Politics of Presidential Appointments: Political Control and Bureaucratic Performance*. The

core of Lewis's book is devoted to examining the particular conditions under which politicization increases and decreases in different agencies, and the consequences this has for their performance. Lewis shows that the number of political appointees reliably increases when the presidency switches parties; and that certain kinds of political appointees tend to rise as the preferences of members of Congress and the president converge. In addition, Lewis demonstrates that agencies with higher numbers of political appointees consistently receive performance evaluations, a finding that would appear to confirm the longstanding concerns raised by public administration scholars about the rise in politicization.

Finally, there is Sean Gailmard and John Patty's (2012) book, *Learning while Governing: Expertise and Accountability in the Executive Branch*. Although not expressly about the president, *per se*, this book offers crucial insights into a facet of presidential power that scholars have long assumed but only intermittently explained: policy expertise. Across three game theoretic models, Gailmard and Patty identify three basic problems associated with information acquisition: the extraction of reliable information from an interest group; the reliable transmittal of information from an executive agency to Congress via the president; and the development of expertise within an agency. As Gailmard and Patty demonstrate, however, the solution to any one of these problems exacerbates the other two problems. Hence, for example, the creation of a civil service system that encourages bureaucrats to invest in expertise reduces the probability that the president will turn to this agency for advice and the ability of this agency to extract information from a private actor. As a result, they demonstrate, "learning while governing" is unavoidably haphazard and incomplete.

GOING FORWARD

I am reticent to say very much about future directions that presidency studies might take. With so much new and innovative work under way, disciplinary prognostications should cede way to disciplinary research. Progress should materialize through actual research, not via central planning.

With some hesitation, then, I offer just one suggestion. Scholars who are interested in making sense of executive power—indeed, of executive politics—should invest just as many resources into the building of theory as in the construction of data. Indeed, when first trying to make sense of an emergent facet of presidential power, the need for theory may even take precedent.

To see as much, consider the nascent empirical literature on signing statements, which presidents periodically issue to signal their views about a bill they just signed into law. Much of this research relates trends in the issuance

of signing statements with a familiar assembly of political covariates, for example, divided government, public support for the president, and the like. This is fine and well, as far as it goes. But it could go a good deal further. It is not especially illuminating to assess the relative probabilities that presidents will issue a signing statement during divided rather than unified government—at least not without some underlying theory about what presidents are trying to accomplish, and what constraints they face in the endeavor, when they issue them. What we need, but still do not have, is a robust body of theory that explains why a law that is accompanied by a signing statement will be evaluated differently by either a bureaucrat charged with implementing it or a judge charged with interpreting it. And the reason we lack such theory, I worry, is partially due to a tendency among presidency scholars—and here I very much include myself—to prioritize issues of measurement over theory in the scholarly enterprise.

To make sense of signing statements, indeed, to make sense of executive politics more generally, we need theory. And a lot more than is currently on offer. We need models—formal and otherwise—that embed the president in the larger system of separated and federated powers within which he must work, that recognize the constraints presidents operate under and identify ways in which presidents can manage them. To the graduate student thinking about writing on some facet of presidential power, I say this: Your first move should not involve pulling up a spreadsheet and documenting patterns in presidential actions; rather, it should involve a lot of critical thinking, theorizing, about what presidents stand to benefit from their usage at all.

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William G. Howell is the Sydney Stein Professor in American Politics at Chicago Harris, a professor in the Department of Political Science and the College, and a codirector of the Program on Political Institutions. He has written widely on separation-of-powers issues and American political institutions, especially the presidency. He currently is working on research projects on Obama's education initiatives, distributive politics, and the normative foundations of executive power.

William recently published two books, one with coauthors Saul Jackman and Jon Rogowski entitled *The Wartime President: Executive Influence and the Nationalizing Politics of Threat* (University of Chicago Press, 2013); and the other, with David Brent, entitled *Thinking about the Presidency: The Primacy of Power* (Princeton University Press, 2013). He also is the coauthor (with Jon Pevehouse) of *While Dangers Gather: Congressional Checks on Presidential War Powers* (Princeton University Press, 2007); author of *Power without Persuasion:*

The Politics of Direct Presidential Action (Princeton University Press, 2003); coauthor (with Paul Peterson) of *The Education Gap: Vouchers and Urban Schools* (Brookings Institution Press, 2002); coauthor (with John Coleman and Ken Goldstein) of an introductory American politics textbook series; and editor of additional volumes on the presidency and school boards. His research also has appeared in numerous professional journals and edited volumes.

Before coming to the University of Chicago, William taught in the government department at Harvard University and the political science department at the University of Wisconsin. In 2000, he received a PhD in political science from Stanford University.

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