

POLITICS

The Obama Legacy Deserves To Be Destroyed

Smash the rickety legacy of executive abuse!

David Harsanyi

By David Harsanyi

It's strange that a president who had such a transformative effect on our national discourse will leave such a negligible policy legacy. But Barack Obama, whose imperial term changed the way Americans interact and in some ways paved the way for the Trump presidency, is now watching his much-celebrated and **mythologized** two-term legacy be systematically demolished. This, in many ways, tells us that American governance still works.

When Donald Trump announced that the United States would withdraw from the Iran deal, he could do so without much difficulty because the agreement **hinged on presidential fiat** rather than national consensus. But Obama's appeasement of Iran was only one in a string of unilateral norm-busting projects that deserve to be dismantled.

You'll remember the panic-stricken coverage we endured when the United States withdrew from the faux international Paris climate agreement last year. It's true that the deal was oversold as a matter of policy (by both parties for political reasons), but it was

symbolic of how the Obama administration concerned itself more with international consensus than domestic compromise. We know this because the president would never have won ratification for a deal remotely similar to the one he entered — nor did he attempt to. Obama, despite the hagiographic framing of his **scandal-ridden** presidency, had about as much interest in genuine concession as his political adversaries did.

Obama allies at home incessantly pointed to poll numbers as a justification for his executive abuse, mostly because the only polls that really mattered, congressional elections, continued to soundly reject his agenda. The defense rested on the idea that the Republican-led Congress had failed to “do its job” and act on issues Democrats had deemed vital. But Congress, of course, “acted” all the time by checking the president’s ambitions. This was not only well within its purview, but in many ways the reason the electorate handed the GOP Congress in the first place.

Even if you substantively supported Obama’s actions — as I do on legalizing the children of illegal immigrants, for instance — the reasoning that girded these supposedly temporary executive decisions was soon revealed to be abusive. In 2012, Obama told the nation that Deferred Action for Childhood Arrivals, which by any standard was a stand-in for legislation, was merely “**a temporary stopgap measure.**” By the time Trump overturned it, the measure represented “**who we are as a people.**” That’s because by “temporary” Obama always meant “until Democrats can make it permanent through the courts or electoral victories.”

Even when implementing laws Congress could pass, Obama and his allies relied on coercing participation through mandates. But when it became inconvenient, they began arbitrarily implementing parts laws. Administrative discretion became administrative abuse. When the president decided the **Obamacare’s employment mandate** was politically inconvenient, for example, he simply skipped it for expediency.

The Constitution doesn’t say “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law unless liberals tell us it’s super important.” Yet, shortly after the passage of the Affordable Care Act, the Obama administration realized it would need more subsidies and asked for an appropriation from Congress.

When Congress, then teeming with politicians elected on the promise of overturning Obamacare, refused, Obama Treasury Secretary Jack Lew ordered the administration to begin making “cost-sharing reduction” payments anyway without any public legal justification. Obama created a \$7 billion per year appropriation for insurance companies participating in the supposedly self-sufficient and competitive state health-care exchanges. Not a single liberal pundit that I know of concerned himself with this norm-breaking.

One federal court found the Obamacare subsidy **unconstitutional**, and the case is working towards the Supreme Court. But, then again, no administration in memory **was stopped more often by courts**, often by unanimous SCOTUS decisions. Whether it was ignoring the Senate in making appointments or claiming to rewrite employment law, Obama tried to function without constitutional restraints.

None of this even breaches the unprecedented **regulatory regime** Obama built to circumvent the legislative branch. Even *The New York Times* characterized his governing as “**bureaucratic bulldozing, rather than legislative transparency.**”

Fortunately, it is also unsustainable. As we now see, this kind of governance not only corrodes constitutional order but undermines stability as new presidents busy themselves overturning the executive actions and international agreements enacted by the previous administration. While most Americans aren’t sticklers for process, it seems they are content with destroying

legacies built on the rickety foundation of unilateralism for political reasons.

That’s fine, too. It means that if Trump engages in similar legislative efforts through the executive office, his agenda will also be dismantled one day. That’s as it should be.

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