

The Presidency in Domestic Affairs

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This chapter considers the roles the president plays in the American political system, the three types of power presidents claim, and the president's relationship with the public.

Learning Objectives: After reading this chapter, you should know the following:

1. The President's term of office and how long a President can serve.
2. The qualifications to be president.
3. The many roles the President plays.
4. What head of government and head of state mean, and how the roles conflict.
5. The significance of the President's Chief Diplomat role.
6. The President's legislative role and agenda-setting power.
7. The President's advantage communicating with the public.
8. Going public.
9. The standard trend in presidential approval ratings.

ROLES OF THE PRESIDENCY

The executive power shall be vested in a President of the United States of America...

[H]e shall take care that the laws be faithfully executed

(Article II, §1; §3)

The constitutionally mandated duties and authorities of the President of the United States are listed in Article II of the U.S. Constitution, but the Constitution does not provide a complete description of the roles the President plays in the U.S. political system. The public's understanding of what they want from the presidency has evolved since 1787, and while no constitutional amendments have added any formal responsibilities or powers to the presidency, *time* has made some informal additions. These changes have made the presidency

both more powerful than the Framers of the Constitution intended and a much more difficult job for any person to handle successfully.

The broad role of the President is to be the country's chief executive. To be an *executive* means *to execute*, a word that comes to us from Latin, and means to "follow after; carry out, accomplish."¹ And indeed the President's responsibility is carry out, or implement, the laws passed by Congress; to faithfully execute the law. But presidents have rarely settled for simply being directed by Congress, and have actively participated in the shaping of public policies, sometimes trying to influence Congress's decisions and sometimes acting on their own, trying to exercise as much independent policy-making authority as possible.

Below we consider some of the critical roles the President plays—and is expected by the public to play—in the U.S. political system.

Head of State and Head of Government:

The state and the government are two different concepts, so being the head of the state is different from being the head of the government. The state is the country, its people, institutions, policies, traditions, and economy. The government is the set of offices and institutions that manage the policies and governance of the state. To be the head of state is to represent all the people of that state, to be the embodiment of them as a collective, and to represent them in engagement with other states. To be head of government is to manage the operations of the state's governing bodies, responsible for trying to steer them toward good policies and for overseeing the execution of those policies.

As *head of state* the President represents the whole country, and tries to *unite*, rather than divide, the public. In a constitutional monarchy, the king or queen fulfills the role of head of state. In Great Britain, for example, Queen Elizabeth is the head of state. She tries to be a symbol of Great Britain but does not have day-to-day involvement with politics or running the government. In the U.S., the President plays the head of state role when he steps outside of everyday politics, to act in a way that represents the U.S. as a whole. Examples include when a president personally visits disaster-stricken areas, or meets with championship sports teams, or hosts the annual White House Easter egg hunt. For example, after the 9/11 terrorist attacks George W. Bush visited the site of the collapsed World Trade Center. There was no *policy* need for the President to go there and he did not go as a Republican or as a conservative, but as the representative of all Americans.

Americans expect their presidents to take such symbolic actions. When Hurricane Katrina flooded New Orleans, President Bush was criticized for simply observing the devastation from Air Force One (the presidential plane), rather than touring it on the ground. Bush himself has said this was a "big mistake," and that the photos of him looking out the window made him look "detached and uncaring."² The criticisms may be silly—not only is an aerial view a good

way to get perspective on a wide-ranging disaster, but there's no concrete action Bush could have taken that required him to set foot on the ground—but Presidents are constrained not by what makes sense, but by what the public demands. And if Bush had actually landed in New Orleans he could have benefited by having pictures taken of him consoling victims or praising relief workers, because for presidents it is not enough to care; the public demands a public display of caring.

As *head of government* the President is involved in the daily running of the government and making policy. In a parliamentary system this is the role of the Prime Minister. As head of government presidents promote policies they favor, pressuring Congress to pass legislation to their liking and trying to block legislation they dislike. The President also is the head of the executive branch agencies as they make decisions about the implementation of the country's laws. As we noted in the chapters on Congress, Congress often writes laws vaguely, allowing the executive agencies to write rules—called *federal regulations*—to fill in the details. For example, in filling in the details of the Clean Air Act, the Environmental Protection Agency has created rules governing plywood manufacturers that emit 10 tons or more each year of any designated hazardous air pollutant, or 25 tons of a combination of hazardous air pollutants. A president who supports stronger environmental protections might ask the EPA to reduce that to, say, 8 tons and 20 tons per year, to cover more plywood manufacturers, while a president who thinks environmental regulations are already too strict might ask the EPA to consider changing the rule to increase the allowable amounts of hazardous air pollutants emitted.

As head of government presidents are policy-makers, which often requires them to take positions supported by their party and opposed by the other party. For example Barack Obama pressed for the Affordable Care Act (Obamacare) with the support of Democrats over the opposition of Republicans. This means that the President is playing a *divisive role*, supporting the policy preferences of some Americans while angering others. Presidents cannot avoid this role, however. They seek the presidency by making policy promises to voters, and voters, journalists, and presidential scholars judge them not only by the policies they support but by their success or failure in implementing those policies.

These conflicting roles create one of the President's biggest challenges. While the head of state role asks the President to be a uniter of the public, the head of government role inevitably forces the President to be a divider of the public. The Queen of Great Britain can focus on being a symbol for the whole country because she isn't expected to get involved in politics, and British Prime Ministers can focus on passing their party's favored policies against other parties' opposition because they don't have to worry about uniting the whole public, just maintaining the support of a majority for the next election. But U.S. presidents are expected to be both a symbol of the country and a partisan political warrior, and few can handle such a challenging task well.

Chief Legislator

He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; (Article II, §3, U.S. Constitution).

Although the President is not part of the legislative branch, the Constitution gives clear guidance to be involved in the legislative process. As presidential scholar Richard Neustadt observed, the American system really is less one of separation of powers than one of separated institutions *sharing* powers. The role of *chief legislator* falls within the President's role as head of government.

Although the Constitution is vague about how often the President should give Congress information about the state of the union, and in what manner the information should be given, this duty has evolved into the annual State of the Union address—viewed by people around the world as well as in the U.S.—in which the President declares a set of policy goals for the coming year. Constitutionally, presidents could just send occasional notes to Congress giving them factual information, such as the unemployment rate and international threats to U.S. interests, without appearing before the public or making specific policy proposals, but the televised State of the Union Address, with lots of pomp and ceremony, is an important agenda-setting opportunity.

Thinking of politics in Harold Lasswell's understanding of it as who gets what, when, and how, agenda-setting power is one of the most important political tools a President has. No policy is ever enacted without first getting on the agenda, and space on the agenda is limited, so by putting his (and someday her) issues on the agenda, a President not only increases the prospects of accomplishing his goals, but also

Laundry Lists and Applause Lines in the State of the Union Address

The annual State of the Union address is typically an hour long speech that contains a multitude—a “laundry list”—of policy proposals. No president could possibly give enough attention to each of these ideas to push them through Congress, nor could Congress's working agenda normally manage to accommodate all of them.

So many of the proposals will be ones the President can enact without congressional approval, such as President Obama's effort to improve the energy efficiency of federal buildings, which are managed by the executive branch.

But other policy mentions in the speech will be intended primarily as applause lines and callouts to particular interests whose support the President wants to cultivate, but without intending to invest any substantial effort in making the policy happen.

Experienced political observers, in the U.S. and abroad, watch State of the Union addresses with an eye to distinguishing between policy mentions the President is serious about and has a real chance to accomplish, and those which will probably be forgotten shortly after the

takes up space that squeezes out alternative policy proposals that he opposes. Announcing a policy during the State of the Union address does not guarantee it will successfully find a space on the policy agenda, but the public attention given to the President's State of the Union speech, which cannot be matched by any other player in the political system, increases the chances for success.

The President may also submit bills to Congress—"recommend[ing] to their consideration such measures as he shall judge necessary and expedient." These bills are likely to be taken seriously by members of the President's party, but may face stiff opposition from the opposition party. Presidents can also get actively involved in the legislative process by having aides negotiate with congressmembers or even talking to them directly, sometimes by telephone, and sometimes by inviting them over to the Oval Office, to pressure them for support of his proposed policies. And of course the President also has the veto power, which means legislators must take account of the President when passing legislation, and which gives the President significant leverage in negotiations over the substance of bills.

A controversial way presidents act as legislators is through *signing statements*. When signing a bill into law, presidents normally make some commentary about the law, and what they see as its meaning and significance. In recent presidencies, most notably in the presidency of George W. Bush, the signing statement became a substitute for veto battles, as Bush signed the bills into law, but frequently announced that certain parts trespassed on executive authority, and therefore were unconstitutional (from his perspective) and would not be enforced. While presidents have always had a considerable amount of leeway in the implementation and enforcement of laws, this blunt statement that the President had authority to pick and choose which parts of the law he would enforce was a step beyond the traditional authority of the executive, and remains controversial.

Presidents also play a legislative role at the direct order of Congress, through the delegated authority and requirement to propose an annual budget for the United States. Ultimately Congress has the power of the purse, as Article I, §9 of the Constitution requires that

No money shall be drawn from the treasury, but in consequence of appropriations made by law.

But Congress often finds it hard to develop a budget on its own, and in 1921 passed the Budget and Accounting Act, requiring the president to submit a budget for their consideration. Often, especially when at least one chamber of Congress is controlled by the other party, the President's budget faces an uphill battle, and in all cases presidents have to bargain with Congress over how much to spend in different areas. But by being the first mover in the budget process, the President again gains agenda-setting power. It has been said that if you want to know any organization's real goals, you have to look not at what it says its goals are, but where it spends its money. The same is true of a country as big as the United States, so by making decisions about how much money to spend on what policies, budgeting is the most fundamentally important set of policy decisions the government makes. And by trying to

set the agenda on those decisions, and by wielding the veto at the back end of the budgeting process, a canny President can wield significant influence in shaping public policy.

A final way presidents are *de facto* legislators is through *executive orders*. Executive orders do not need approval of Congress because they refer only to the operations of the executive branch of government. For example, one of Barack Obama's first executive orders, issued on the second day of his presidency, repealed an executive order from the Bush administration allowing "enhanced interrogation techniques," widely considered to means of torture.³ The order applies to those executive branch agencies that might need to interrogate suspects, particularly terrorism suspects. As with all executive orders, it is in force until such time as Barack Obama or a future President decides to cancel it via another executive order. Executive orders have also been used for such purely domestic purposes as streamlining the executive branch's process for procuring office supplies⁴ and for foreign affairs purposes like prohibiting the importation of any goods from North Korea.⁵ While in most cases Congress has authority to override executive orders through legislation, in nearly all cases they see the orders as within the appropriate purview of the executive, and not pursuing policy ends which they are interested in obstructing.

Chief Law Enforcer

he shall take care that the laws be faithfully executed (Article II, §3, U.S. Constitution).

The President is the country's chief law enforcer. Of course the President does not do this work himself, but oversees the executive branch agencies that do so. This includes not only the traditional law enforcement agencies like the FBI and the U.S. Marshalls, but also the federal regulatory agencies such as the Food and Drug Administration, the Securities and Exchange Commission, the Environmental Protection Agency, and others.

The President also plays a *judicial* role at the end of the law enforcement process, through the power to pardon. The pardon power applies only in cases of people convicted of violating federal law (governors have an equivalent authority in regards to their own state's laws).

Defender of America

Although *defender of America* sounds like a superhero title, as the country's chief executive and commander-in-chief, the President, more than any other person in the county, is responsible for the national security of the U.S. And a President's effectiveness in this role, more than any other, will determine how they are viewed historically. The presidents normally listed as the country's greatest—such as Washington, Lincoln, and Roosevelt—are

nearly all associated with great victories in war. (An exception is Jefferson, whose presidential legacy rests primarily on the Louisiana Purchase, which doubled the size of the U.S.) Presidents perceived as weak in foreign affairs normally get low approval ratings from presidential historians and the public, such as Jimmy Carter, who was unable to rescue 52 American diplomats and citizens held hostage in Iran for over a year. The hostages were released immediately after Carter's successor, Ronald Reagan, was sworn into office, giving him an immediate bump in approval (as well as leading to suspicions that his political team had negotiated a secret deal with Iran *before* becoming official representatives of the U.S.)

This role often leads to conflict with constitutional protections of citizens' rights, such as when Lincoln suspended the writ of *habeus corpus* without congressional approval, or when George W. Bush tried to imprison an American citizen suspected of aiding terrorists without a trial or access to a lawyer, as well as claims that American citizens suspected of being in league with terrorists were tortured during interrogations.

Immigration also can thrust a president into this role. Some citizens see immigration as a threat to American workers and to the American identity. Although the history of the United States is a history of growth through immigration, at various times in the country's history various groups have been seen as dangerous and unwanted, from Irish and Eastern Europeans, to Chinese, to Latinos, and Middle Easterners. At present, contenders for the presidency find it difficult to express support for immigration without finding their electoral prospects dimming.

THE PRESIDENT AND THE PUBLIC

Presidents are elected (indirectly) by the public, and their influence in Congress is enhanced by having strong public support. Presidents have one particular advantage over Congress when it comes to influencing the public, but they face one particular disadvantage over the course of their time in office.

Going Public: The Presidential Advantage

The advantage presidents have over Congress is that they are the only political actor who can regularly command the whole public's attention. Only the President has the whole country for a constituency; only the president represents every citizen of the country. When the Speaker of the House talks, his or her constituents (generally just a portion of one state) listen, and engaged political observers listen. But the whole country doesn't listen because the Speaker doesn't represent them. The same is true for the Senate Majority Leader, who—despite being such a significant political figure—only represents one state.

This uniqueness of the President influences the media as well. There are too many members of Congress, most of them of only local relevance, for the media to try to cover. And the White House beat is the most prestigious media job in the Capital. When the President—or even the President’s Press Secretary—holds a press conference, the room is filled. When Congressmembers on Capital Hill give a press conference, the size of the audience depends on how interesting the media expects the event will be. And only the President can command national television time (but the networks only give up time if presidents don’t request time too often).

This ability of the President to reach citizens more effectively than anyone else in government has been termed “the bully pulpit” by Theodore Roosevelt, and “*going public*” by political scientists. Often the purpose is to move Congress on legislative issues by bypassing them and talking directly to their constituents. A presidential speech that receives a good response can lead legislators to agree to a President’s policy goals, because they don’t want to upset their own constituents.

However, going public does not ensure presidential success. Sometimes presidents are unable to persuade the public to support a policy, such as when George W. Bush tried to build support for privatizing Social Security. A series of town hall meetings designed to build grass roots support for the policy failed to move the public at all, and legislators, aware that their constituents overwhelmingly opposed the idea, were unwilling to push the policy forward. The public also seems to not like it if the President asks for their attention too often. In the 1970s, during the energy crisis, Jimmy Carter gave a series of speeches on the importance of saving energy. Each speech was much like the one that came before, and the public soon tuned him out. Even worse, he argued that conserving energy was the “moral equivalent of war,” and critics quickly realized that the phrase formed the acronym “meow,” which undermined the seriousness the Carter was trying to portray.

In brief, Presidents have greater ability to reach the whole of the American public than anyone else, but there is no guarantee of success in building public support.

Declining Support: The Presidential Disadvantage

Since pollsters began tracking the public’s approval ratings of presidents in the mid to late 20th century, a consistent pattern has appeared. Presidents usually come into office with fairly high approval ratings, generally higher than the percentage of the vote they received. This is the presidential “honeymoon.” The honeymoon doesn’t last long, though, and approval ratings soon decline from that initial high point, and bounce up and down depending on political events. A strong economy can boost a President’s approval rating, while a downturn in the economy tends to produce a similar downturn in approval, even though in either case the President probably has little to do with the state of the economy. Foreign policy events can play a big role—after successfully driving the Iraqi army out of Kuwait in 1991 in the first

Gulf War, George H. W. Bush's approval ratings reached 91%, a record high for any president since such tracking began. But the public's approval can be very ephemeral, and the following year Bush was defeated in his bid for re-election by Bill Clinton, largely because of a weak economy and his perceived ineffective response to it.

The final part of the trend—after the honeymoon bump and the up-and-down that follows—is a general decline in public approval. Presidents nearly always leave office less popular than when they entered it. This may reflect their declining effectiveness across the course of their presidency—especially if they have a second term, during which presidents rarely achieve the level of success of their first term—or it may be a cause of declining effectiveness, as they lose the ability to influence policy by influencing the public.

Whichever explanation has more power, few presidents escape this long-term decline in public approval. There are few trends in American politics more predictable than this one.

SUMMARY

Presidents have multiple roles they must fulfill, from defender of the America to chief legislator to chief law enforcement officer to chief diplomat. They must also balance being head of government with being head of state.

Their status, and the requirement that they provide information on the state of the union to Congress, give presidents a unique ability to command the attention of the American public, enhancing their agenda-setting power, which can give them an advantage over Congress in policy negotiations. But their public approval ratings inevitably decline over time, eroding their ability to successfully use this tool to achieve their policy goals.

¹ *Online Etymology Dictionary*. <http://www.etymonline.com/index.php?term=executive>.

² Brower, Kate Anderson, and Catherine Dodge. 2010. "Bush Says New Orleans Flyover After Katrina a "Huge Mistake." Bloomberg.com. Nov. 5. <http://www.bloomberg.com/news/2010-11-05/bush-calls-new-orleans-flyover-in-wake-of-hurricane-katrina-huge-mistake-.html>.

³ Executive Order 13491—Ensuring Lawful Interrogations. <http://www.whitehouse.gov/the-press-office/ensuring-lawful-interrogations>.

⁴ Executive Order 12352—Federal Procurement Reforms. <http://www.archives.gov/federal-register/codification/executive-order/12352.html>.

⁵ Executive Order 13570—Prohibiting Certain Transactions with Respect to North Korea. <http://www.whitehouse.gov/the-press-office/2011/04/18/executive-order-13570-prohibiting-certain-transactions-respect-north-kor>.