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Our Unbalanced Democracy

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New Haven

OUR nation isn't facing just a debt crisis; it's facing a democracy crisis. For weeks, the federal government has been hurtling toward two unsavory options: a crippling default brought on by Congressional gridlock, or — as key Democrats have advocated — a unilateral increase in the debt ceiling by an unchecked president. Even if the last-minute deal announced on Sunday night holds together, it's become clear that the balance at the heart of the Constitution is under threat.

The debate has threatened to play out as a destructive but all too familiar two-step, revealing how dysfunctional the relationship between Congress and the president has become.

The two-step begins with a Congress that is hamstrung and incapable of effective action. The president then decides he has little alternative but to strike out on his own, regardless of what the Constitution says.

Congress, unable or unwilling to defend its role, resorts instead to carping at "his" program, "his" war or "his" economy — while denying any responsibility for the mess it helped create. The president, on the defensive, digs in further.

Take recent events in Libya. The president didn't try very hard to get Congress to agree to the intervention, some say, because he didn't think he had the votes. Congress, for its part, has been unwilling or unable to defend its constitutional and statutory power to authorize a war.

In a single day, the House voted down a resolution that would have approved the war and then, just hours later, voted down a bill that would have denied the president the power to spend any new money on the war. Not surprisingly, the war continues without a single Congressional vote to support it, and Congress's power to authorize military action has taken a hit from which it may never recover.

The problem is not limited to war. For decades, presidents have been making more frequent use of executive orders, signing statements and agency regulations, as well as sole executive agreements with other nations (instead of treaties or Congressionally authorized international agreements).

Earlier this year, the Environmental Protection Agency began regulating greenhouse-gas emissions at some energy plants and factories after efforts to address the problem through legislation stalled.

Members of Congress were angry about the end run, but, predictably, they failed to do anything about it.

The ultimate consequence in each case is the same: Congress is saved from its inability to govern by being cut out of the process. Senators and representatives avoid taking responsibility for the most important decisions, and thus can't easily be held accountable for poor choices.

Meanwhile, the president gets a poisoned chalice: increasing unilateral power, but reduced ability to share responsibility — or blame. Whether President Obama or members of Congress would bear the greater pain if the economy imploded because of a default is unclear. Either way, 535 legislators would have essentially gone AWOL.

It doesn't have to be this way. It is time to pursue reforms that allow Congress to act effectively. While it's easy to assume that more checks are always desirable — that the harder it is to make policy decisions, the better they will be — the debt crisis shows this isn't true.

Failing to raise the debt ceiling stops money already approved by Congress from being spent. If lawmakers see the debt ceiling as real, they will exercise less judgment in the ordinary budget process, on the reckless belief that fiscal restraint can somehow be imposed down the road.

Legislative obstacles like the debt ceiling are a source of mischief, not precaution. They aren't found in the Constitution; they were put in place by previous Congresses seeking to tie the hands of their successors. Far from encouraging more responsible governance, they often have the opposite effect.

Unnecessary supermajority requirements are another culprit — the Senate filibuster chief among them. It has been transformed over the last generation from an extraordinary step taken by disgruntled minorities into a hard-and-fast “rule of 60” that makes compromise extraordinarily difficult. And when Congress fails to meet this extra-constitutional threshold, it is no surprise that the president tries to work around it.

Fast-track procedures that limit amendments and require an up-or-down vote may appear to limit Congress's power, but could actually strengthen it by discouraging the executive from going it alone. If prior debt-ceiling legislation had included a fast-track provision, with an automatic increase that would go into effect in the case of inaction, much of the acrimony and brinkmanship of the past few months could have been avoided.

After the debt crisis ends, the democracy crisis must be tackled. Nobody wins when our constitutional system falters: not the president, who gains unilateral power but loses a governing partner; not Congress, which gets to blame the president but risks irrelevance; and certainly not the American people, who have to bear the resulting dysfunction.

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