Is a Presidential Coup Under Way? by Jim Hightower

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Where is Congress? It's way past time for members to stand up. Historic matters are at stake. The Constitution is being trampled, the very form of our government is being perverted, and nothing less than American democracy itself is endangered -- a presidential coup is taking place. I think of Barbara Jordan, the late congresswoman from Houston. On July 25, 1974, this powerful thinker and member of the House Judiciary Committee took her turn to speak during the Nixon impeachment inquiry.

"My faith in the Constitution is whole; it is complete; it is total," she declared in her thundering voice. "And I am not going to sit here and be an idle spectator to the diminution, the subversion, the destruction, of the Constitution." Where are the likes of Barbara Jordan in today's Congress? While the Bush-Cheney regime continues to establish a supreme, arrogant, autocratic presidency in flagrant violation of the Constitution, members of Congress largely sit there as idle spectators -- or worse, as abettors of Bush's usurpation of their own congressional authority.

Why it matters

Separation of powers. Rule of law. Checks and balances. These may seem to us moderns to be little more than a set of dry, legal precepts that we had to memorize in high-school history class but need not concern us now. After all, the founders (bless their wigged heads!) established these principles for us back in 17-something-or-other, so we don't really have to worry about them in 2007. Think again. These are not merely arcane phrases of constitutional law, but the very keystones of our democracy, essential to sustaining our ideal of being a self-governing people, free of tyrants who would govern us on their own whim. The founders knew about tyranny. The monarch of the time, King George III, routinely denied colonists basic liberties, spied on them and entered their homes at will, seized their property, jailed anyone he wanted without charges, rounded up and killed dissidents, and generally ruled with an iron fist. He was both the law and above the law, operating on the twin doctrines of "the divine rule of kings" and "the king can do no wrong."

(Alert: Ready or not, the following is a high-school refresher course on American government. There will be a test.) At the front of the founders' minds was the necessity of breaking up the authority of their new government in order to avoid re-creating the autocracy they had just defeated. The genius of their structure was that legislating, administering, and judging were to be done by three separate but coequal branches, each with powers to check the other two, and none able to aggregate all three functions into its own hands (a result that James Madison called the very definition of tyranny). Just as important, to deter government by whim, all members of the three branches were to be subject to the laws of the land (starting with the Constitution and Bill of Rights), with no one above the law. As Thomas Paine said, "The law is king."
These were not legal niceties but core restraints designed to protect citizens from power grabs by ambitious autocrats. Such restrictions also make our country stronger by vetting policies through three entities rather than one. This balanced authority helps avoid many serious policy mistakes (or at least offers a chance to correct them later), and it is intended to prevent the one mistake that's fatal to democracy -- allowing one branch to seize the power to rule unilaterally.

Of course, sound schemes are oft screwed up by unsound leaders, and we've had some horrible hiccups over the years. John Adams went astray early in our democratic experiment by claiming the unilateral authority to imprison his political enemies; Abe Lincoln took it upon himself to suspend habeas corpus during the Civil War; Woodrow Wilson launched his notorious Palmer Raids; FDR rounded up and imprisoned Japanese-Americans; J. Edgar Hoover and the infamous COINTEL program spied on and arrested thousands in the Vietnam War years; and Ronnie Reagan ran his own illegal, secret war out of the White House basement.

In all these cases of executive excess and abuse, however, outrage flowed from the public, courts stood up to the White House, congressional investigations ensued, and the American system regained its balance relatively quickly. As Jefferson put it when he succeeded Adams and repealed the Alien and Sedition Acts, "Should we wander [from the essential principles of our government] in moments of error or alarm, let us hasten to retrace our steps and regain the road which alone leads to peace, liberty, and safety."

**This time is different**

Now, however, come two arrogant autocrats like we've never seen in the White House. George W and his snarling enabler, Dick Cheney, are making a power grab so unprecedented, so audacious, so broad and deep, so secretive, so stupifying, and so un-American that it has not yet been comprehended by the media, Congress, or the public. The dictionary defines "coup" not just as an armed takeover in some Third World country, but as "a sudden and decisive action in politics, especially one affecting a change of government illegally or by force."

Constantly waving the bloody flag of 9/11 and swaggering around in commander-in-chief garb, the Bush-Cheney duo are usurping authority from Congress, the courts, and the people, while also asserting arbitrary power that does not belong to the presidency. Their coup is changing our form of government, rewriting the genius of the founders by imposing a supreme executive that functions in secret and insists that it is above the law, unaccountable either to congressional oversight or to judicial review.

As Al Gore pointed out in a powerful speech he gave last year (read it [here](http://www.pbs.org/moyers/journal/10262007/hightower.html)), the BushCheney push for imperial power is much more dangerous and far-reaching than other presidential excesses for a couple of big reasons. First, the Bushites make no pretension that they want these powers only temporarily, instead contending that a super-powerful presidency is necessary to cope with a terrorist threat that they say will last "for the rest of our lives." Second, they are not merely pushing executive supremacy as a response to an outside threat, but as an ideological, right-wing theory of what they allege the Constitution actually meant to say.

Called the "unitary executive theory," this perverse, antidemocratic construct begs us to believe that the president has inherent executive powers that cannot be reviewed, questioned, or altered by the other branches. Bush himself has asserted that his executive power "must be unilateral and unchecked." Must? Extremist theorists aside, this effectively establishes an executive with arbitrary power over us. It creates the anti-America.

The list of Bushite excesses is long...and growing:

- **Their sweeping, secret program** of warrantless spying on Americans -- in direct violation of a long-standing federal law intended to forestall such flagrant intrusions into people's privacy.

- **The usurpation** of legislative authority by attaching "signing statements" to laws passed by Congress, openly asserting Bush's intention to disobey or simply ignore the laws. He has used this artifice to challenge over 1,150 laws, even though the Constitution and the founders never conceived of such a dodge (signing statements were concocted by Ed Meese, Reagan's attorney general, and were pushed at that time by a young Reaganite lawyer who is now ensconced for life on the Supreme Court, Sam Alito).

- **Suspension of habeas corpus** for anyone whom Bush deems to be an "enemy combatant"-allowing innocent people to be detained indefinitely in prison without...
charges or civil trial, subjected to abuse and even torture, and denied access to judicial review of their incarceration (thus usurping the power of the courts). The routine and illegal assertion of "executive privilege" to stonewall Congress's legitimate efforts to perform its constitutional obligation of executive oversight and to prevent the questioning of top officials engaged in outright violations of American law.

- **The assertion** of a "state secrets" doctrine to prevent citizens and judges from pursuing legitimate lawsuits on the spurious grounds that even to have the executive's actions brought before the court would endanger national security and infringe on executive authority.

- **An ever-expanding grab bag** of autocratic actions, including using "national security letters" to sidestep the courts and spy on American political groups and individuals with no connection at all to terrorism; censoring executive-branch employees and government information for political purposes and using federal officials and tax dollars to push the regime's political agenda; and, of course, outright lying to Congress and the public, including lying for the most despicable purpose of all -- putting our troops, our public treasury, and our nation's good name into a war based on nothing but hubris, oil, and ideological fantasies (including Bush's latest blatant lie that "progress" in Iraq warrants the killing and maiming of additional thousands of American troops -- none of whom comes from his family).

**Democratic capitulation**

What we have is a lawless presidency. But our problem is not Bush. He is who he is -- a bonehead. He won't change, and why should he? He's getting away with his power grab! So he has no reason to step back, and every reason to keep pushing and to keep trying to institutionalize his coup.

Rather, our problem is those weaselly, wimpy, feckless members of Congress who have failed to confront the runaway executive, who have sat silent or (astonishingly) cheered and assisted as their own constitutional powers have been taken and their once-proud, coequal branch has been made subservient to the executive.

In the first six years of BushCheney, the Republican Congress operated as no more than a rubber stamp for the accretion of presidential power, shamelessly surrendering its own autonomy in a burst of mindless partisan zeal. Too many Democrats just went along, either buying the lies or being cowed by the unrelenting politics of fear and intimidation whipped up by Bush and Cheney. (The Bushites are still using these bullying tactics, as when they demanded this past summer that Congress legalize their illegal domestic spy program and CIA chief Mike McConnell warned publicly that "Americans are going to die" if Democrats failed to pass it.)

Which brings us to the new Congress run by Democrats. Where are they? Yes, I know they have only slim majorities and that the GOP uses veto threats, filibusters, and demagogic lies to fight them -- but, come on, suck it up! At least stop voting for "the diminution, the subversion, the destruction, of the Constitution." For example, the party now in charge did indeed cave in to Bush's summer demand that it legalize his warrantless spying on Americans (a Lowdowner sent an email to me saying he hopes Bush gets caught smoking pot, because then the Democrats will immediately legalize it).

The founders would be stunned that Congress has failed to assert itself. They saw checks and balances not as an option but as an obligation, a fundamental responsibility that goes to the very heart of each lawmaker's oath faithfully to support and defend the Constitution.

It's important to note that Congress is not a weak institution. It has powerful muscles to flex, including control of the purse, which Congress used in 1973 to tell Nixon, "No, we will not provide money for you to extend the Vietnam War into Laos and Cambodia." Nixon had to back off. Legislators also have clear constitutional mandates to oversee, probe, and expose presidential actions (remember the extensive Fulbright hearings in the '60s and the Church investigations of the '70s, for example). Members of Congress have wide-ranging subpoena power, as well as something called "inherent contempt" power to make their own charges against outlaw executive officials and to hold their own trials. And, of course, they have impeachment power -- which the founders saw not only as a way to remove an outlaw president (or veep or cabinet officer), but also as a means to compel a recidivist constitutional violator to come before the bar of Congress and to be held accountable. The process itself, even if it does not lead to conviction in the Senate, is educational and chastening, putting the executive branch back in its place.
None of this is about making a partisan attack on BushCheney. It's really not about them at all. Rather, Congress must find its backbone because our democracy cannot function without a vigilant legislative branch. Outlaw presidents must finally leave office, but their precedents live beyond them if left unchecked. As historian Arthur Schlesinger wrote of the power-grabbing Nixon administration, "If the Nixon White House escaped the legal consequences of its illegal behavior, why would future presidents not suppose themselves entitled to do [the same]?"

**Bang pots and pans**

Sam Adams, the organizer of the Boston Tea Party, knew that it is the citizenry itself that ultimately has to do the heavy lifting of democracy building. "If ever a time should come when vain and aspiring men shall possess the highest seats of government," he declared, "our country will stand in need of its experienced patriots to prevent its ruin."

That's us. And now is that time.

What can we do? We can do what millions have been doing—only more of it, more insistently, more loudly, more creatively. Our friend Molly Ivins, just before she died this year, urged us to start "banging pots and pans" to make the bastards hear us. Raise a ruckus through street demonstrations, peace actions, visits (and/or confrontations) with lawmakers, political campaigns, alliances with military families, religious ceremonies, coalitions with constitutional conservatives, outreach to young people, and grassroots media action, including blogs, email blasts, call-in radio, letters to editors, op-eds, bumperstickers, and whatever you've got. Make a mighty noise.

Don't forget our friends in office. Such Democrats as John Conyers, Henry Waxman, Barbara Lee, Lynn Woolsey, Russ Feingold, Pat Leahy, and Dennis Kucinich are all over Bush and Cheney with investigations, subpoenas, censure motions, impeachment bills, and exposes -- not only on the war, but most emphatically on constitutional abuses. Thank them, find out what you can do to help them, demand that your own Congress critter join them.

And here's a creative idea from Garret Keizer. I have no idea who he is, but he wrote a punchy piece in the October issue of Harper's Magazine (read it here) that I like and that Lowdowners might want to embrace. He's calling for a general strike. Not by unions, but by us—you and me. As a symbolically appropriate day, he suggests the first Tuesday of November, the traditional date for our elections -- this year, Nov. 6. He dubs it "The Feast of the Hanging Chads."

A general strike means that We The People, as many of us as possible, would disobey the inept, corrupt, undemocratic (add your own adjective here) system by withholding our presence at for least one day. Don't go to work. Stay home. Better yet, take some political action. Also, don't go to the mall, the supermarket, or the bank; don't use your credit card or make any commercial transaction. This would be the ultimate affront to the corporate president who so pathetically told us after 9/11 that our highest patriotic response to the attack was to "go shopping." So don't fly, use your cell phone (hard, I know), watch TV, or otherwise participate. Sometimes, silence is the loudest sound of all. As Keizer says, "As long as we're willing to go on with our business, Bush and Cheney will feel free to go on with their coup."

On one level, the strike is against the war, against Bush thumbing his nose at the American majority that has already emphatically said -- OUT! -- and against the Democratic leadership that can't seem to muster the will to rein in the Bush administration. On another level, however, this is a strike for the Constitution, a strike against the betrayal of the rule of law and our democratic ideals. It's a strike for the America we thought this was. It's an affirmation that the people are the only "larger force" that can stop the BushCheney coup and make America whole again.

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