

## **Obama vs. The Constitution**

The Constitution was written by our Founding Fathers with the purpose of limiting government's power. They had just thrown off the yoke of the British crown and did not want to create another government that could exert excessive control over the people. In their wisdom, the Founders created a system of checks and balances that makes America unique by dispersing power. Throughout America's history, politicians of both parties have recognized the genius of this system and respected its boundaries.

What about Barack Obama?

- **The Constitution as "fundamentally flawed"** -- During a 2001 interview with *WBEZ*, a Chicago public radio station, Obama made some shocking statements about the Constitution and his view of government. Specifically Obama suggested that the Constitution reflects the "fundamental flaw" of this country -- slavery and racism -- and added that this flaw "continues to this day."<sup>1</sup> Obama continued:

*"Generally, the Constitution is a charter of negative liberties. Says what the states can't do to you. Says what the federal government can't do to you, but doesn't say what the federal government or state government must do on your behalf."*<sup>2</sup>

That is because the Founding Fathers were trying to protect the people from the creation of an authoritarian state. They did not want to create a government big enough to give you everything you want, because, as the saying goes, such a government would be big enough to take everything you have.

What is Obama's solution for solving America's "fundamental flaw"? Socialism and government-imposed redistribution of wealth. Obama goes on to fault the civil rights movement for not sufficiently engaging in "community organizing:"

*"One of the, I think, the tragedies of the civil-rights movement was ... that there was a tendency to lose track of the political and community organizing and activities on the ground that are able to put together the actual coalitions of power through which you bring about **redistributive change**."*<sup>3</sup>

That is Obama's philosophy: America and our Constitution are "fundamentally flawed" and socialism is the solution. From his first day in office, Obama has governed as if the Constitution were an impediment to his efforts to "fundamentally transform" America.

- **Frustrated by Checks and Balances** -- In fact, Obama told *NBC's* Matt Lauer that our system of checks and balances has frustrated his efforts to "force" Congress to impose his agenda. In a February 2012 interview, Obama said:

*"What's frustrated people is that I've not been able to force Congress to implement every aspect of what I said in 2008. Well, you know, it turns out our Founders designed a system that makes it more difficult to bring about change than I would like sometimes."*<sup>4</sup>

Frustrated that he couldn't force Congress to implement every aspect of his agenda, Obama launched a campaign to circumvent Congress as often as possible with his "We Can't Wait" initiatives.<sup>5</sup>

- **Czars Threaten Checks and Balances** -- Obama began his presidency by appointing dozens of "czars" -- administration officials who directed public policy, many of whom were not subject to Senate confirmation, thereby avoiding our system of checks and balances. By one estimate, Obama has appointed 45 czars.<sup>6</sup> Obama's appointments of czars disturbed even some liberal Democrats like former Sen. Russ Feingold (D-WI).<sup>7</sup> The late Senator Robert Byrd (D-WV) warned that Obama's use of czars "can threaten the Constitutional system of checks and balances."<sup>8</sup>
- **Abusing Recess Appointments** -- In addition to czars, Obama has abused his power of recess appointments. Recess appointments are legal and permissible, so that the president can keep the executive branch functioning at all times. Presidents of both parties have used recess appointments to temporarily avoid controversial confirmation battles. However, Obama disregarded the Constitution and the separation of powers when he made a series of recess appointments in early January when the Senate was not technically in recess.<sup>9</sup>

In addition to pushing the limits of his authority, Obama has blatantly disregarded, circumvented and, perhaps, even broken the law on several occasions.

- **Libya and the War Powers Resolution** -- When Barack Obama decided to commit U.S. forces to the overthrow of former Libyan leader Muammar Gaddafi, he triggered a law known as the War Powers Resolution. Passed over Richard Nixon's veto in 1973, the War Powers Resolution was intended to serve as a check on the president's authority to commit U.S. forces to hostilities without congressional approval. It specifies that U.S. forces can be engaged for no more than 90 days without congressional authorization. Ignoring the legal opinions of top lawyers at the Justice Department and the Pentagon, Obama redefined "hostilities," decided that the War Powers Resolution did not apply and thus did not seek Congress' approval when he committed U.S. forces to the NATO effort in Libya.<sup>10</sup>
- **Redefining Marriage** -- As head of the executive branch of government, the president is entrusted with the responsibility to enforce the laws passed by Congress. The Defense of Marriage Act, which defines marriage in federal law as the union of one man and one woman, overwhelmingly passed Congress in 1996 -- 342-to-67 in the House and 85-to-14 in the Senate. It was signed into law by Bill Clinton.<sup>11</sup> Since then, the voters of 31 states have passed constitutional amendments protecting traditional marriage.

Yet in February 2011, Barack Obama ignored Congress and the voters, assumed the powers of the Supreme Court and ordered his Justice Department to cease defending the Defense of Marriage Act.<sup>12</sup>

- **Assaulting Religious Liberty** -- In January 2012, the Obama Administration finalized an Obamacare mandate requiring almost all employers, including religious institutions and charities, to cover contraception, sterilization and other products or services that many faith-based organizations find morally objectionable.<sup>13</sup> For the first time in our nation's history, the government was claiming the authority to narrowly define religious institutions, as well as the authority to compel them to violate their core values. In response, Archbishop Timothy Dolan said:

*"To force American citizens to choose between violating their consciences and forgoing their healthcare is literally unconscionable. ...The government should not force Americans to act as if pregnancy is a disease to be prevented at all costs."<sup>14</sup>*

Dolan was joined in his criticism of the mandate by the leaders of evangelical, Protestant and Jewish organizations. Below are excerpts of statements by other religious organizations:

The Lutheran Church Missouri Synod:

*"This action by HHS will have the effect of forcing many religious organizations to choose between following the letter of the law and operating within the framework of their religious tenets."<sup>15</sup>*

The Union of Orthodox Jewish Congregations of America:

*"In declining to expand the religious exemption within the healthcare reform law, the Obama Administration has disappointingly failed to respect the needs of religious organizations such as hospitals, social welfare organizations and more."<sup>16</sup>*

The National Association of Evangelicals:

*"No government has the right to compel its citizens to violate their conscience. The HHS rules trample on our most cherished freedoms and set a dangerous precedent."<sup>17</sup>*

An open letter from leaders of the Southern Baptist Convention:

*"The federal government's decision is a flagrant violation of the First Amendment's free exercise clause protections enshrined in the U.S. Constitution. ... In the draft of the Virginia Act for Establishing Religious Freedom (1779), [Thomas] Jefferson wrote, 'To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical.' The Obama administration's mandate on contraception coverage is a blatant and outrageous encroachment on religious freedom."<sup>18</sup>*

In May, scores of Catholic dioceses and other institutions filed a dozen federal lawsuits seeking to overturn the mandate.<sup>19</sup> The lawsuits were joined by evangelical institutions such as Wheaton College, Biola University, Grace College and others.<sup>20</sup> In September Hobby Lobby became one of the largest businesses to join the suits.<sup>21</sup>

- **Granting Amnesty To Illegal Immigrants** -- Obama has also chosen to ignore certain immigration laws. In June, Obama once again ignored Congress and issued an executive order essentially making parts of the DREAM Act law, even though it had repeatedly failed to pass Congress.<sup>22</sup> Obama's order permits certain illegal immigrants to remain in the country and avoid deportation, amounting to a de facto amnesty.<sup>23</sup> In August, 10 immigration and Border Patrol agents filed suit claiming Obama's order:

*"commands ICE officers to violate federal law ... unconstitutionally usurps and encroaches upon the legislative powers of Congress, as defined in Article I of the United States Constitution, and violates the obligation of the executive branch to faithfully execute the law, as required by Article II, Section 3, of the United States Constitution."<sup>24</sup>*

- **Waiving Welfare's Work Requirements** -- In July, Obama's Department of Health and Human Services announced that it was inviting the states to seek waivers from the 1996 welfare reform law that requires

welfare recipients to work in order to receive benefits. According to the HHS memo, states could seek waivers to "test alternative and innovative strategies."<sup>25</sup> However, according to Robert Rector, one of the principle architects of the 1996 Welfare Reform law, the work requirements are not waivable:

*"Today the Obama Administration issued a new directive stating that the traditional TANF work requirements can be waived or overridden by a legal device called the section 1115 waiver authority under the Social Security law (42 U.S.C. 1315). ... "But this is not an open-ended authority: Any provision of law that can be waived under section 1115 must be listed in section 1115 itself. The work provisions of the TANF program are contained in section 407... Critically, this section, as well as most other TANF requirements, are deliberately not listed in section 1115; they are not waiveable."<sup>26</sup>*

Moreover, the Government Accountability Office declared on September 4<sup>th</sup> that HHS did not have the authority to issue waivers without first submitting its proposed regulations to Congress.<sup>27</sup> The welfare reform act passed Congress on a final vote of 328-to-101 in the House and 78-to-21 in the Senate. It was signed into law by Bill Clinton, a Democrat. According to a July Rasmussen poll, 83% of Americans support the law's work requirement. Just 7% oppose it.<sup>28</sup>

In his quest to "fundamentally transform" America, Barack Obama has repeatedly demonstrated his contempt for the rule of law, our system of government and our Constitution by refusing to defend laws he doesn't like and ignoring those that get in his way. If Obama governs like this knowing he must still face the voters, imagine how he will act in a second term, when that constraint is gone.

<sup>1</sup> <http://www.youtube.com/watch?v=OkpdNtTgQNM>

<sup>2</sup> *Ibid.*

<sup>3</sup> <http://www.nationalreview.com/articles/226110/shame-cubed/bill-whittle>

<sup>4</sup> <http://online.wsj.com/article/SB10001424052970204369404577207371703997802.html>

<sup>5</sup> <http://cnsnews.com/news/article/obama-when-congress-refuses-act-joe-and-i-are-going-act>

<sup>6</sup> <http://www.judicialwatch.org/files/documents/2011/czar-report-09152011.pdf>

<sup>7</sup> <http://thehill.com/blogs/blog-briefing-room/news/59071-feingold-questions-obama-czars>

<sup>8</sup> [http://www.cbsnews.com/8301-503544\\_162-4828759-503544.html](http://www.cbsnews.com/8301-503544_162-4828759-503544.html)

<sup>9</sup> [http://www.washingtonpost.com/opinions/obamas-recess-appointments-are-unconstitutional/2012/01/05/gIQAnWRfdP\\_story.html](http://www.washingtonpost.com/opinions/obamas-recess-appointments-are-unconstitutional/2012/01/05/gIQAnWRfdP_story.html)

<sup>10</sup> [http://www.nytimes.com/2011/06/18/world/africa/18powers.html?\\_r=1&pagewanted=all](http://www.nytimes.com/2011/06/18/world/africa/18powers.html?_r=1&pagewanted=all)

<sup>11</sup> <http://www.govtrack.us/congress/bills/104/hr3396>

<sup>12</sup> [http://www.cbsnews.com/8301-504564\\_162-20035495-504564.html](http://www.cbsnews.com/8301-504564_162-20035495-504564.html)

<sup>13</sup> <http://www.hhs.gov/news/press/2012pres/01/20120120a.html>

<sup>14</sup> <http://www.usccb.org/news/2012/12-012.cfm>

<sup>15</sup> <http://concordiaandkoinonia.wordpress.com/2012/02/03/a-statement-on-recent-hhs-decision-and-religious-freedom/>

<sup>16</sup> <http://matzav.com/agudah-and-ou-protest-obama-administrations-decision-on-health-benefits>

<sup>17</sup> <http://www.nae.net/resources/news/715-press-release-evangelicals-disappointed-with-white-house-decision-on-conscience-protection>

<sup>18</sup> [http://www.washingtonpost.com/blogs/guest-voices/post/why-baptists-stand-wtih-catholics-on-birth-control-mandate/2012/02/22/gIQA1RpATR\\_blog.html](http://www.washingtonpost.com/blogs/guest-voices/post/why-baptists-stand-wtih-catholics-on-birth-control-mandate/2012/02/22/gIQA1RpATR_blog.html)

<sup>19</sup> <http://www.chicagotribune.com/news/local/ct-met-catholic-obama-lawsuit-20120522,0,7274599.story>

<sup>20</sup> <http://www.christianitytoday.com/ct/2012/august-web-only/evangelical-colleges-biola-and-grace-sue-obama-administrati.html>

<sup>21</sup> <http://www.sbc Baptist press.org/BPnews.asp?ID=38697>

<sup>22</sup> <http://www.foxnews.com/politics/2010/12/18/senate-tries-pass-dream-act/>

<sup>23</sup> <http://www.cnn.com/2012/06/15/politics/immigration/index.html>

<sup>24</sup> <http://cnsnews.com/news/article/ice-agents-sue-napolitano-ordering-them-violate-federal-law>

<sup>25</sup> <http://www.acf.hhs.gov/programs/ofa/policy/im-ofa/2012/im201203/im201203.html>

<sup>26</sup> <http://blog.heritage.org/2012/07/12/obama-guts-welfare-reform/>

<sup>27</sup> <http://cnsnews.com/news/article/gao-obama-admin-circumvented-law-welfare-waivers>

<sup>28</sup> [http://www.rasmussenreports.com/public\\_content/business/jobs\\_employment/july\\_2012/83\\_favor\\_work\\_requirement\\_for\\_welfare\\_recipients](http://www.rasmussenreports.com/public_content/business/jobs_employment/july_2012/83_favor_work_requirement_for_welfare_recipients)