



Trump's Claim of "Total Authority" Gets Pushback Across Political Spectrum

President Donald Trump stunned many on Monday by asserting that he has "total" authority over when to reopen the country, after weeks of government-mandated business shutdowns that have left the country with massive unemployment. His claim that he, and not individual states, would decide when and how the economy would be reopened drew immediate and widespread opposition from across the political spectrum.



Opposition from Democratic governors and their allies in the mainstream media was to be expected, as they operate from the default position of opposing anything Trump proposes. But Trump's remarks also drew pushback from Republicans, conservatives, and libertarians.

"When somebody is president of the United States, the authority is total," Trump insisted. "The governors know that."

Governor Chris Sununu of New Hampshire, a Republican, was among those lining up in opposition to Trump's assertion of such sweeping authority: "All of these executive orders are state executive orders and so therefore it would be up to the state and the governor to undo a lot of that."

Trump's assertion appears to be a contradiction of his earlier position that the decisions on governmental response to the coronavirus pandemic should be made mostly at the state level, not at the federal level. As such, Trump has backed national recommendations that people should stay home, and other such preventive measures, but it has been governors and even local governments that have put mandatory restrictions in place, such as the closing of schools, "non-essential" businesses, and gatherings of more than 10 people.

Governor Andrew Cuomo of New York, a Democrat whose state has faced perhaps the worst of the pandemic, was emphatic in his opposition to Trump's announcement. Cuomo, thought by some political pundits to be a possible replacement for former Vice President Joe Biden at the top of the Democratic Party ticket should Biden end up stepping away from the nomination he seems to have secured, warned that if Trump should attempt to reopen New York against Cuomo's wishes it would create "a constitutional crisis like you haven't seen in decades."

Appearing on MSNBC's *Morning Joe* program, Cuomo said, "The only ways this situation gets worse is if the president creates a constitutional crisis. If he says to me, 'I declare it open,' and that is a public health risk or it's reckless with the welfare of the people of my state, I will oppose it." Cuomo said that states would tell the federal government, "We're not going to follow your order."

Politicians' principles tend to shift depending on which political party a president belongs to. In this case, many Democrats have previously argued that Trump needed to assert his status as president to



Written by [Steve Byas](#) on April 14, 2020

basically order state and local governments to impose draconian restrictions, so as to mitigate the spread of COVID-19. Many Republicans, on the other hand, rightly argued that it is really the role of the states in our federal system to make such decisions, not the federal government, and certainly not the president unilaterally.

Now, Trump seems to be taking what had been the Democrat position on his authority, while the Democrats have now switched to Trump's original position, which emphasized federalism. James Madison, whose contributions to our Constitution were so great that he is rightly called the Father of the Constitution, wrote in the *Federalist Papers*, "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former [those to be exercised by the federal government] will be exercised principally on external objects, as war, peace, negotiation and foreign commerce.... The powers reserved to the several States will extend to all objects which in the ordinary course of affairs, concern the lives and liberties, and properties of the people, and the internal order, improvement and prosperity of the State."

While Madison did not say, "such as with a pandemic that originated in Communist China," it is clear that he would have sided with those who view that government actions, if any, to mitigate the coronavirus should be taken at the state and local levels, not at the level of the central government.

It should be noted that we may think some states will go beyond what we would agree is proper in addressing the COVID-19 situation. But, in our federal system of government, that is the responsibility of those states. It is not for those of us in one state to dictate public policy to those in another state.

Trump properly took action early in the crisis to cut off travel into America from China, eventually expanding that order to prevent individuals from bringing the virus in from other nations. That would fit in quite nicely with Madison's envisioned role for the federal government concerning "external objects." That was certainly within his authority as the chief executive of the federal government. And, it should be noted, the Constitution grants *all* federal executive authority to the president of the United States, just as it grants all federal *legislative* authority to Congress. But in both cases, those executive and legislative roles are limited to the enumerated powers delegated by the Constitution to the federal government.

Contrary to what some ignorantly say, the president does not "run the country." He only runs the executive branch of the federal government. President Trump, like any other American citizen, can suggest that we wash our hands frequently, avoid touching our faces, cough into our sleeves, wear masks, and avoid getting too close to other people during a pandemic. But he cannot order, like some imperial monarch, states or individuals to impose draconian measures to combat that pandemic, or even tell states and local governments how they should handle the problem.

President Barack Obama did not have the constitutional authority, and neither does President Donald Trump.



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