Restoring balance among the branches of government in Washington; Remove the political blinders on separation-of-powers problems.

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The controversy over President Obama’s decision to exchange five high-ranking Taliban leaders for Army Sgt. Bowe Bergdahl last month focused largely on the price paid. There was less focus on Obama ignoring a federal law that required him to notify Congress 30 days in advance of releasing detainees at Guantanamo Bay, Cuba. Laws such as this have been enacted to allow vital oversight of actions of such consequence. If this were an isolated instance, it could be dismissed. It is not.

After announcing that he intended to act unilaterally in the face of congressional opposition, Obama ordered the non-enforcement of various laws - including numerous changes to the Affordable Care Act - moved hundreds of millions of dollars away from the purposes for which Congress approved the spending and claimed sweeping authority to act without judicial or legislative controls.

A growing crisis in our constitutional system threatens to fundamentally alter the balance of powers - and accountability - within our government. This crisis did not begin with Obama, but it has reached a constitutional tipping point during his presidency. Indeed, it is enough to bring the two of us - a liberal academic and a conservative U.S. senator - together in shared concern over the future of our 225-year-old constitutional system of self-governance.

We believe that people of good faith can likewise transcend politics and forge a bipartisan coalition to examine these changes. In our view, the gridlock in Washington is not simply the result of toxic divisions. The dysfunctional politics we are experiencing may in part be the result of a deeper corrosion - a dangerous instability that is growing within our Madisonian system.

Unfortunately, however, when separation-of-powers problems are typically raised, they are viewed through the lens of politics. Democrats who objected to actions by George W. Bush are silent in the face of the circumvention of Congress by Barack Obama. Republicans who were silent during the Bush years decry such actions by Obama.

No one can predict with certainty what will follow the Obama administration. The only thing we know is that a new president will be elected in 2016 and congressional majorities will continue to shift. That uncertainty offers a window of opportunity for members of both parties, academics and others to come together to focus on three questions that may determine the viability of the separation of powers for decades to come.

First, we need to discuss the erosion of legislative authority within the evolving model of the federal government. There
has been a dramatic shift of authority toward presidential powers and the emergence of what is essentially a fourth branch of government - a vast network of federal agencies with expanded legislative and judicial power. While the federal bureaucracy is a hallmark of the modern administrative state, it presents a fundamental change to a system of three coequal branches designed to check and balance each other. The growing authority invested in federal agencies comes from a diminished Congress, which seems to have a dramatically reduced ability to actively monitor, let alone influence, agency actions.

Second, much of the tit-for-tat politics that has alienated so many Americans is due to the fact that courts routinely refuse to review constitutional disputes because of an overly constricted view of the standing of lawmakers to sue and other procedural barriers. While there can be legitimate disagreement over how and when legislative standing should apply, current legal barriers rob the system of a key avenue for resolution of such conflicts. A modest expansion of standing would provide greater clarity to the line of constitutional separation without causing a flood of cases.

Finally, Congress should address the rising share of federal spending that is not under its control. Last year, only 35 percent of spending was appropriated and voted on. The remaining 65 percent grows automatically. As a result, our debt exceeds the size of our economy, and Congress is losing its critical "power of the purse."

The Supreme Court found in National Labor Relations Board v. Noel Canning this week that the president violated the separation of powers in his use of his appointment powers. Also this week, House Speaker John A. Boehner (R-Ohio) announced a lawsuit challenging the Obama administration's unilateral actions. A lawsuit by one of us - Sen. Johnson - is raising some of the same issues with regard to Obamacare and will be heard next month. However, such cases will take years to resolve, and Congress needs to speak with one voice as an institution at this critical time. The Canning decision should be a catalyst for all members to look at the comprehensive loss of legislative authority in our system.

The framers believed that members of each branch of government would transcend individual political ambitions to vigorously defend the power of their institutions. Presidents have persistently expanded their authority with considerable success. Congress has been largely passive or, worse, complicit in the draining of legislative authority. Judges have adopted doctrines of avoidance that have removed the courts from important conflicts between the branches. Now is the time for members of Congress and the judiciary to affirm their oaths to "support and defend the Constitution" and to work to re-establish our delicate constitutional balance.

It will not be easy, but the costs of inaction are far higher. We need to look beyond this administration - and ourselves - to act not like politicians but the statesmen that the framers hoped we could be.