Article II of the U.S. Constitution gives our country's presidents the unilateral authority to grant clemency, or “reprieves and pardons for offenses against the United States.” Clemency, an absolute power of the Executive, is an umbrella term encompassing pardons, commutations, and amnesties.

The Framers conceived of the clemency power as a mechanism for correcting "systemic shortcomings/miscarriages of justice" in our country's criminal justice system. They wanted to give Presidents the ability to dispense “the mercy of government“ in those cases where the legal system failed to deliver a morally or politically tenable result.

Justice William H. Rehnquist, the former Supreme Court Chief Justice, put it best when he characterized the power as a "fail-safe" against the "unalterable fact that our judicial system, like the human beings who administer it, is fallible.".

While the Framers didn’t conceive of the power as an opportunity for high-level gift-giving, they of course imagined it ran the risk of being occasionally wielded in pursuit of personal or political gain. Still, they felt it was a risk worth taking, as it was believed to be a necessary part of the country’s carefully-calibrated system of checks and balances.

For most of history, U.S Presidents conceptualized the power thusly, and so exercised it in a considered and meaningful fashion. In fact, until around 1980, clemency grants were understood to be a routine part of an American President's day-to-day responsibilities.

Unfortunately, contemporary use of the executive clemency power often falls afoul of the framer's original vision. In recent years, thanks in large part to recent high-profile controversies surrounding grants, presidents have allowed the pardon power to fall into disuse.

Yet, even as pardons appear increasingly outmoded, anachronistic, and/or corrupt, the staggering growth of the prison population over the past few decades — especially when coupled with the elimination of federal parole and the exponential growth of the collateral consequences imposed on justice-impacted individuals — demands greater employment of the power.