

Derecho comparado



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HOW DOES A “DIVIDED GOVERNMENT” AFFECT THE EFFECTIVENESS OF THE AMERICAN GOVERNMENT? THE CASE OF TRUMP’S AMERICA

¿COMO AFECTA UN “GOBIERNO DIVIDIDO” A LA EFECTIVIDAD DEL GOBIERNO AMERICANO? EL CASO DE LA AMERICA DE TRUMP

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INTRODUCTION

The American Government is widely followed, not only nationally but it has an International relevance. As such, the effectiveness of said Administration is very much followed and watched. Nonetheless, the everyday citizen is the one that benefits or suffers from the decisions that are made. When asked what it hopes from its local or national governments are, one of the first things they will mention is effectiveness. Overall, letting aside non democratic regimes, it is the top priority of a government, wherever the country: to get the job done and continue to do so getting to be able to get reelected. The United States of America is no exception, but with a complicated system of checks and balances between the executive and the legislative branches, that can be complicated especially in the case of a divided government in which the country might be set to live again after the 2022 Mid Term Elections. But, what is really an effective government? Does a divided government really affect the effectiveness of a government? And taking into account the last Divided Government was under the widely controversial President Trump, how did he handled it?

CONTEXT

The election of Donald Trump as the 45th President of the United States was unexpected, to say the least, by most academics. An outsider with no previous political experience and a campaign run mostly by family members and friends with the motto of extravagance and with scandals as the background. The presidency that followed continued with that motto, with a first lady focused on stopping cyber bullying, a daughter and son in law with offices in the White House and responsibilities that don't follow a specific pattern (Jared Kushner was part of the team responsible for the American Response to the COVID-19 Outbreak, but retained responsibilities covering from Criminal Justice -First Step Act- to the Israeli-Palestinian conflict) and official roles in the administration and a handful of scandals (Michael Cohen in prison, Stormy Daniels,), the 2018 Mid Term Election seemed, at the time, as not only a test to the presidency but

a sort of a Referendum for Donald Trump and the Republican Party. Yet, as the 2020 election showed, chaos could still be even greater in the Trump Presidency, with an unsettling last days of presidency that still have consequences in 2022.

Republicans, and the figure of their new found leader, were polarized even inside their own party, with several “traditional” figures not running for re-election, Paul Ryan (speaker of the House during the 115th Congress) was among the 37 republicans that decided to retire from Congress, several naming the polarization of the political arena as the reason for it. Thus, forming a more “Trump-like” party, it was a test to the strategy and moreover to the entire Presidency.

Democrats, on the other hand, were also fighting their own internal fights. With a newfound influence from Bernie Sanders and more “socialist” ideas, the primaries before the 2018 election had more than a few surprise candidates: famously, Alexandria Ocasio-Cortez (at the time a 28 year old activist working various jobs part-time) won the primary against a “strong” man of the party, Joe Crowley, who had been the representing member for New York’s 14th district for 20 years and was at the time Chair of the House Democratic Caucus. The division between a more “traditional” Democratic Party and the question of a shift to a more “socialist” party was also put into test. This division is still interesting to follow as President Biden and Vice-President Harris try to navigate their own party, with Senators such as Kyrsten Sinema from Arizona, whom they need to pass on the legislation and yet she is more of a centrist or even some people consider a more Republican leaning. Thus, they have leaned more into they have accentuated a more cordial relationship with figures like Senator Lisa Murkowski from Alaska, a much Non-trumpist republican who seems at odds sometime with her own party. The figure of Liz Cheney has also risen, a very much Republican like her father, her actions following the Capitol Attack and her new found “pop status” have granted her a more positive position within the public eye.

The result of the 2018 Mid Term Election was a new divided government, while the Democrats regain control of the Congress, placing Nancy Pelosi as the

Speaker after she had the same post from 2007 to 2011, the Republicans were able to retain the Senate with a larger majority who will enable them to confirm nominations easier. The United States faced a historic challenge on how to survive and still be that strong presence with more divisions than ever, a presidency that is put into question continuously and a divided government that showcases how divided American society really is at this point of history.

All those amid a global pandemic where the White House seemed to be more lost and slow than most international government, and where the praise has not gone to the Presidency but to the Governors of states such as New York or Michigan with now disgraced Andrew Cuomo or Gretchen Whitmer as raising figures of the political arena.

Therefore, the question of the effectiveness of such government raises itself, how can a government be effective in such a context and moreover, what has the past tells about such governments?

1. What is an effective government? What affects the effectiveness of a government?

In order to develop what is an effective government, it is necessary to know what can be understood by effective. It is possible to take an historic approach, from the Leviathan, Hobbes takes the position of a centralized power in the hands of a sovereign, without any class or group or inter system, thus, creating a homogeneous population who gains security and complies with the rules dictated by said sovereign. This, of course, is the vision of the 17th century in England where the society was vastly different and had barely any similarity to the United States of America in the 21st century. From a more modern point of view M. Levi stated: *“Good governments are those that are (1) representative and accountable to the population they are meant to serve, and (2) effective—that is, capable of protecting the population from violence, ensuring security of property rights, and supplying other public goods that the populace needs and desires”*.

Nevertheless, if we want to have an effective government, not only the design have to be well done, the state-building infrastructures have to be accompanied by the construction of attachment within the society, some nation-building.

Robert Bates in *Prosperity and Violence* (2001) states that there is a crucial difference between new governments and the ones in generations before: nowadays, the military threats that these are in the center of are widely slower than in anytime before; thus, allowing more private earnings and income and protecting the sense of liberty. Nevertheless, liberty and private earnings do not mean that there is the necessity of cooperation with the state for the financing of the its institutions and necessary costs for the measures, for example: in order to have a Senate, it needs to be financed, and that has to be paid by the citizens. Without it, the fragility of the state increases considerably. In order for those, least say “compliments” to be fulfilled one element is key: confidence in the capacity of the government to do the actions that protect the population, normally in the form of laws and public goods. The appearance of corruption causes a problem of public relations to said government as it is seen as not trustworthy.

To that extend, four elements can be underlined as the most relevant for an effective government: *“some institutional arrangements that give proper and efficient incentives to the population, a leadership that can enable government to deliver security and services to the population, realistic beliefs and expectations about the capacities and commitments of the government and government actors and preferences for outcomes, such as a clean government and a just society, that might not have previously seemed accessible”*. In a nutshell, institutions that are able to give back to the people while a leader secures their safety without given them false expectations and looking accessible. In that sense, has Trump proven to be that leader of an effective government? He would say yes, but taking into account these points, the answer is different. He has proven to give some incentives to some population with a successful economy, and it is undeniable that the American Army is the most important of the world, but the country is facing an increase of Mass Shootings that

have shocked not only the nation but the world with President Trump facing criticism for having a very “light” response to a high number of attacks. A primary point into an effective government is the capacity of government actors to work together for the desired outcome, that includes the fundamentals of an effective government, is that easier when both Chambers in the United States are controlled by the same party? Definitely but, not necessarily. In that extend and with the troubled relationship between Democrats and Republicans we can put an interrogation into the question of: is the current state of American politics an effective government.

2. The 2018 Mid term elections, a normal pattern?

From an historic point of view, it is necessary to view the House of Representatives and the Senate as two different figures of study, of course they represent different chambers but studies seem to put them in the same category. The President’s party nearly always loses seats in the House, as it has happened in 35 out of 38 elections since the end of the Civil War, no difference is made as if the President is Democrat or Republican. The Senate on the other hand, is not as stable: since the beginning of the direct election of the Senate in 1913 with the adoption of the 17th Amendment, the President’s party has lost 19 out of 26 elections, with several exceptions: in 2002, 14 months after the 9/11 attacks, President George W. Bush picked up seats in both chambers. That is seen vastly as a response from the context of the country and the approval rating hold by the president at the time of the elections.

The approval rating factor seems, nevertheless, a key factor according to the American Presidency Project: overall when the rating is of 50% or higher, there tends to be losses although they are low. That doesn’t mean that one or both Chambers can be lost because of it, and there can be exceptions. For example, in 2014, under President Obama, Democrats lost 13 seats but, as the results from the 2010 election were destroying for the party, and the 2012 were not a vast improvement, they had very few seats to lose from there competitive districts.

Thus, some other reasons also rise as of why this tendency has stuck the elections: lack of interest from the base of the party emerges as one, because winning the presidency two years prior seems “enough” of a victory and results in a low turnout. On that same page, the opposition base seems to be more motivated for the same reason: as they lost the general election, they want to win back some power especially when it is in the first term: major legislation is usually implementing during this time and afterwards, the landscape with the result of the election can be widely different and thus, pursuing big changes can be completely impossible.

3. What is a divided government? Does it allow a stronger and more effective government?

First off, it is essential to have an understanding of what a divided government is. In a nutshell, it is the situation in which different branches of the Federal Government are controlled by different political parties, due to the separation between the legislative and the executive branch: the occupant of the presidency and one or both Houses do not share the same political party. Due to that the efforts of each party to pursue their legislative agenda will be meet with the efforts of the other to stop them, via the Presidential veto or not adopting presidential initiatives into law.

Living in what could lead to a divided government, it is interesting to see how other Presidencies have handled this same situation. With vastly different political ideals, President Obama, for whom President Biden was indeed Vice-President, had a divided government since the 2010 Midterm Elections until the end of his presidency. During those 6 years, there were two Speakers of the House: John Boehner and Paul Ryan. Especially notorious is the relationship with the former in terms of how it shifted (they were seen as particularly “friendly”) and their dispute over The Patient Protection and Affordable Care Act, also known as Obamacare. Boehner retired in 2015 and Paul Ryan took over the Speakership of the House,

with a more conservative view overall with the support of the Tea Party Movement, thus having a more “traditional” relationship in the divided government.

While the level of division that the society has is notorious and thus, it is difficult to compare him or his behavior with any other president, it is possible to get a slight idea with President George W. Bush. From a Political Family and son of a President, the second to follow his fathers footsteps in the Oval Office after John Quincy Adams, he is cited as both one of the most popular and unpopular Presidents in American history. After having the power of both houses from 2002 to 2006 (9/11 and the reaction of the President to the attacks is through to be one of the factors of the 2002 Victory), Bush presidency had been very effective legislative-wise with an average of 81 percent support from Congress on those votes on which he took a public position. After the 2007 Mid term Elections, where the Republicans lost both houses, came a new divided government, with that also comes a loss of the agenda control and having more trouble to implement the President’s preferences: until 2007, he had only used the Presidential Veto once, but, unable to persuade Congress, he relied on this figure more often, in an attempt to stop the Democratic legislative agenda. Specially relevant to the point is the relationship between President Bush and the Speaker of the House: Nancy Pelosi, as she is also the current Speaker. With vastly different political views, they worked together in the development of some important bills and showed that some successful politics were possible between both branches. Nevertheless, Pelosi is a well known and very prolific legislator who has served since 1987 who knows very well her position and has enormous amount of respect for the presidency but so for her job. Is it possible to negotiate with her? Yes, but will she get anything in exchange to claim victory? As any good legislator, yes.

Thus, some strategies on how to handle a divided government: in a traditional way, parties have had the challenge of keeping their agenda, and make theirs stand out against their opponents aiming the same thing, but, without looking like the government is inefficient. Historically, parties and branches of government have had their differences and challenges but have found their way to work in

extreme circumstances. Trump faced a very divided country and the opposition of Democrats but the presence of Nancy Pelosi in lead gave him the opportunity to work for a constant and effective government, as did Bush in one way or another, whether or not he has done it is a complex question.

4. How did Trump handled his own Divided Government

To call President Trump “traditional” is probably not the word to define him, thus, attempting to find a logic or try to be a step forward and intend to develop a sense of the possible future actions by the now twice impeached President and his cabinet seems impossible to most Scholars, specially after the end of his presidency and that was the case in 2018, as well. Most Presidents even suffering the largest lost, call it a victory, as President George W. Bush called it in 2006 when he lost both chambers, a “triumphing”, or how President Obama called the lost of more than 60 seats in the House “shellacking.” Nevertheless, there was also a sense of realism within the teams in the White House and cooperation occurred since the first day, keeping clear that the former couldn’t work without the latter. Historically, President Truman worked with Republicans to shape a bipartisan postwar foreign policy and President Reagan stepped up with a Democratic Senate and Congress for the Social Security and Tax Reform.

But those were other times, since taking over the Presidency, Trump showed a great declination for self-criticism and that did not change during the Mid term Elections, or the years following, stating that he had “saved the Senate” and that the seats lost in Congress were due to the fact that they did not embrace President Trump during the campaign trail, stating: *“They did very poorly, (...) I'm not sure that I should be happy or sad but I feel just fine about it.”*. Nevertheless, a light was seen in his press conference to comment on the elections when he hoped for a “beautiful” relation between Democrats and Republicans during this new divided government.

At the end of his presidency, had this relationship been “beautiful” as intended by the President or has it taken a turn for the worse? Nancy Pelosi and President Trump have

had a more than “turbulent” and “complicated” relationship with several moments standing up and fueling a feud that has, by no means, helped the government. While there have been several “olive branches” from both sides, the Impeachment Investigation kicked off by the Democrats and the increasing disputes about financing and the Mexico-USA Wall, have lead to a Federal Government Shutdown and several meetings gone viral for their interactions. The conclusion is a Pelosi seen as a leader who will not be stopped by a Trump that seems more and more debilitated and has shown that he does not know how to handle political negotiations with opponents.

In the middle of a global pandemic and with the United States as one of the countries with more cases and deaths, you will expect a global consensus that a solution has to be found. Yet, the deficient relationship between Pelosi and Trump seem to not even have a pause in those times: with aides stating that the two have not talked in roughly five months even if Rescue Packages for the situation will be voted in Congress. In times of crisis, it is expected for the leaders of any country to put their differences aside and work together for the greater good of the population because not only Republicans or Democrats are affected.

Of course, it isn't to be forgotten, the infamous 2021 United States Capitol attack. Was it a sign of a Divided Government gone so downhill that it could have resulted into a revolution? I might be in the wrong yet, I do not think so. I believe the Attacks are not in relation with the Divided Government, they are the consequence of a stubborn President not admitting defeat. A President so out of touch with his own rules, his own Constitution, that he sent his own Vice-President to the fire line. As former Vice-President said, this very week, “I had no right to overturn the election”, and that was what his boss wanted him to do.

CONCLUSION

Overall, it has been studied what is a divided government and its effectiveness, focusing on what both those terms mean and how President Trump has handled.

With the 116th Congress as one in recent memory, and a divided government that is not a new concept for American politics, it has been analyzed how both historically and nowadays the situation is handled. Nonetheless, President Biden might see himself in this situation sooner rather than later, and while he has a extremely different style as his predecessor, and with still some months to go, we will have to see if he manages to elect a new Supreme Court Justice and if the is able to pass into law the legislation he wishes, with the background of an on-going COVID.

BIBLIOGRAPHY:

- Jacobson, G. C. (2019). Extreme Referendum: Donald Trump and the 2018 Midterm Elections. *Political Science Quarterly*, 134(1), 9-38.
- Lohmann, S., & O'halloran, S. (1994). Divided government and US trade policy: theory and evidence. *International organization*, 48(4), 595-632.
- Piereson, J. E. (1975). Presidential popularity and midterm voting at different electoral levels. *American Journal of Political Science*, 683-694.
- Hoddie, M., & Routh, S. R. (2004). Predicting the presidential presence: Explaining presidential midterm elections campaign behavior. *Political Research Quarterly*, 57(2), 257-265.
- Bazerman, M. H., Baron, J., & Shonk, K. (2001). You can't enlarge the pie: Six barriers to effective government (Vol. 8). New York: Basic Books.
- Levi, M. (2006). Why we need a new theory of government. *Perspectives on Politics*, 4(1), 5-19.
- Bates, R. H., & Bates, R. H. (2001). Prosperity and violence: the political economy of development (p. 51). New York: WW Norton.
- Coleman, J. J., & Parker, D. C. (2010). The consequences of divided government. In *The Oxford Handbook of the American Presidency*. Oxford University Press.
- Coleman, J. J. (1999). Unified government, divided government, and party responsiveness. *American Political Science Review*, 93(4), 821-835.