

The Problem of Divided Government in an Era of Polarized Parties

Jeffrey A. Fine, Ph.D.

Clemson University
Clemson, South Carolina

In the wake of the 2006 congressional elections, the Democratic Party held a majority of seats in both the House of Representatives and the Senate for the first time since the "Republican revolution" of the 1994 midterm elections. The shift from Republican to Democratic control also ushered in a new period of divided government, which exists when the president's party does not also control both chambers of Congress.

Divided government, sometimes referred to as divided party control, has been extremely common in the post-World War II period. In fact, divided government has actually been more common than **unified government** during this time span, with the president facing opposition control of at least one chamber for 36 of the previous 62 years. Although divided government has been prevalent since the mid-twentieth century, the level of disagreement between the president and Congress has varied greatly over this period. This essay describes the variations in divided government over this period, paying particular attention to how polarization of Democratic and Republican elected officials in recent years has impacted presidential-congressional outcomes during periods of divided party control.

For much of the post-1945 period, divided government arrived in Washington alongside Republican presidents. Since the Democratic Party held a majority of seats in both the House and Senate for the vast majority of this time frame, Democratic presidents such as Kennedy, Johnson, and Carter faced unified party control, while their Republican counterparts (Eisenhower, Nixon, Ford, Reagan, and George H. W. Bush) all served during times of divided government. Not until Bill Clinton took office did we have a Democratic president who spent the majority of his time in the White House facing an opposition Congress. Similarly, George W. Bush's presidency

constituted the first time that a Republican chief executive presided over a period of unified party control in the last 40 years.

Although divided government has become the norm, there has been a great deal of variation in the degree to which government has been unified or divided over the last 60 years. While Republican presidents have typically governed during periods of divided government, the size of their opposition (the Democratic majorities in Congress) has fluctuated greatly. Compare, for example, the political situation faced by two Republican presidents: Richard Nixon and George W. Bush. During Nixon's first term as president, the Democratic Party controlled large majorities in both chambers—there were 54 Democrats in the Senate and 254 House Democrats (roughly 58 percent of the seats). George W. Bush has governed during two different periods of divided party control. At the beginning of Bush's first term as president, the Republican Party held a majority of seats in both chambers (a 221-212 majority in the House, and a 50-50 majority in the Senate due to Vice President Dick Cheney's tiebreaking vote). However, the Republican Party lost its slim majority control of the Senate following the defection of James Jeffords of Vermont from the Republican Party to an independent affiliation in June 2001, giving the Democrats a razor-thin margin in the Senate (50 Democrats, 49 Republicans, and 1 independent). The Republicans, however, retained control of the House of Representatives. Clearly, controlling one chamber is more advantageous for a president than controlling neither. Later during Bush's presidency, the Democratic Party regained control of Congress during the 2006 midterm election by seizing a 51-49¹ majority in the Senate and a 233-202 majority in the House. The different seat allocations under Nixon and Bush II underscore that different presidents have encountered very different political environments with respect to divided government. Furthermore, the Bush examples show a president who faced two dramatically different periods of divided government during a *single* presidency. The prevalence of divided government, as well as the wide variation in the size of party control, has led scholars to turn their attention to this phenomenon to assess the impact of party control on various political outcomes in the American system.

1. Technically, there are 49 Democrats in the 110th Senate (2007–2008), as both Joseph Lieberman of Connecticut and Bernie Sanders of Vermont are independents. However, both Lieberman and Sanders caucus with the Democratic Party, effectively giving them a 51-49 majority.

The Effect of Divided Government on Presidential–Congressional Outcomes

Before political scientists investigated the effects of divided government, the conventional wisdom was that divided party control led to gridlock. While untested empirically, the assumption was that divided government resulted in a markedly worse political relationship between the president and Congress. Mayhew's landmark book *Divided We Govern* (1991) offered one of the initial tests of this conventional wisdom. Mayhew examined whether the amount of major pieces of legislation passed in a particular year was affected by the presence of divided government. Examining outcomes over a roughly 50-year period, Mayhew ultimately concluded that there was not a significant difference between the amount of major legislation passed during times of unified and divided government. Mayhew also considered whether Congress was more likely to conduct investigations of the executive branch during divided government, again finding that there was no significant difference between the number of investigations conducted in periods of unified and divided party control. Mayhew ultimately concluded that contrary to conventional wisdom, divided government did not present an adverse political environment between the president and Congress.

The surprising and counterintuitive nature of Mayhew's conclusions sparked a wave of subsequent research that set out to confirm or challenge his findings. The vast majority of studies conducted after Mayhew's seminal book produced very different findings. For instance, Huber, Shipan, and Pfahler (2001) observed that while the number of legislative enactments does not vary between times of unified and divided government, the legislative *content* does. Congress delegates greater levels of discretion to the bureaucracy when a president of the same party inhabits the White House and less discretion during periods of divided government. Edwards, Barrett, and Peake (1997) investigated whether legislative *failure* was more likely during divided party control, concluding that the propensity of presidents to block legislation and the likelihood of presidential failure to pass legislation is greatest during periods of divided government. Similarly, Binder (2003) noted greater levels of policy gridlock during periods of divided government, as the *percentage* of legislation passed is significantly lower when different parties control the presidency and Congress. Along this same line, presidents are more likely to veto legislation or veto bargain (see Cameron 2000) in periods of divided government. Research by Krutz (2001, 1) also suggests that omnibus legislation—which combines “numerous measures from

disparate policy areas into one massive bill" —is more prevalent when the president and the majority of Congress are controlled by different parties.

Studies of the effect of divided government are not limited to legislative outcomes. The Senate's "advise and consent" role on presidential nominations to the judiciary and executive branch makes this yet another presidential–congressional outcome that may be affected by divided government. In his study of the fate of Supreme Court nominations in the Senate, Segal (1987) determined that unified government is crucial to the president, as opposition control of the Senate has a negative impact on nominations. Segal posited that the process is a struggle between the Senate and the president, rather than just a struggle between the parties.

Binder and Maltzman (2002) moved beyond simple confirmation rates of judges to examine the increasing length of the Senate confirmation process. These authors concluded that the ideological distance between the Congress and the president is an important constraint on the ability of presidents to get their nominees through the Senate quickly. More ideological discord between the president and Congress leads to a longer confirmation process and a higher likelihood of obstruction. McCarty and Razaghan (1999) examined the determinants of a lengthy confirmation process for executive branch nominees, again finding that the presence of divided government and a more ideologically polarized Senate lead to a longer confirmation process. Thus, in the wake of Mayhew's work, the majority of the literature suggests that divided government does in fact have a negative impact on presidential–congressional relations.

The effect of divided government on the various outcomes discussed above appears to be contingent on the *degree* to which government is divided. The wide variations in the number of seats held by the president's party during periods of both unified and divided government help determine how well presidents and Congress work together. Perhaps more important than the number of seats held by the president's party is the ideological composition of Congress in relation to the chief executive. Not surprisingly, when the president and Congress are ideologically close, we typically see higher levels of legislative productivity and interbranch cooperation. When larger ideological differences exist, **gridlock** dominates Washington.

To illustrate the importance of ideology when considering the effect of divided government, again consider two political environments. Both Richard Nixon (from 1971 to 1972) and Bill Clinton (from 1995 to 1996) faced a period of divided government where the opposition party held 54 seats in the U.S. Senate. When Nixon was president, the Democratic and Republican parties were much closer to one

another ideologically. At that time, it was not uncommon to see members of either party voting more often with the *other* party than with their own. This pattern was especially common among Southern Democratic legislators who were markedly more conservative than non-Southern Democrats. Thus, while Nixon faced a large seat deficit, the political environment that he faced was less adverse than it would otherwise appear. Contrast this situation with that confronting Clinton after the 1994 Republican revolution in which the Republican Party gained control of both chambers of Congress for the first time in nearly half a century.

By the 1990s, the Democratic and Republican parties had become much more polarized ideologically. Members of Congress voting alongside the opposition party were extremely rare. In fact, party unity—the degree to which party members all vote together—reached high levels, especially in the House of Representatives. As the median Democrat and Republican became more ideologically extreme and unified, cooperation between the parties dissipated. Clinton, a liberal Democrat, was faced with a large Republican majority that was quite far from him ideologically. The leadership of both parties was polarized as well, with both the Republican and Democratic parties selecting floor leaders who were far left or right of center.

As this example demonstrates, the effect of divided government on presidential–congressional relations is not as straightforward as simple party control of government. Unified government is not sufficient for presidential success in Congress or high levels of legislative productivity, nor is divided government a recipe for gridlock. Instead, the allocation of seats in Congress and the preferences of both legislators and presidents affect the relationship between the executive and legislative branches. When either the president or Congress has an incentive to transcend party polarization, such incentive might ease the passage of legislation.

Party Polarization and the Future of Presidential–Congressional Relations

The polarization of the Democratic and Republican parties in recent years (see Bond and Fleisher 2000) has changed the tenor of presidential–congressional relations. This ideological polarization has translated into larger disparities between the ideological position of the president and key congressmen during periods of divided government. Not only has the average Democrat and Republican become polarized from one another, but the parties have also selected more polarized floor leaders and committee chairs in recent decades, again meaning that the distance between the preferences of key legislators and the president has been increasing. This increased ideological

distance, rather than merely divided party control of institutions, appears to be the cause of the numerous negative political outcomes discussed above. Today's party polarization means that divided government is more problematic now than at any other point in the last 60 years. As the Democratic and Republican parties select more ideologically extreme candidates for public office and more polarized leaders, this trend is likely to continue.

A note of caution is warranted when discussing the problems of divided government, even in a period of **party polarization** such as the one that exists today. Those who argue that party polarization and divided government are the source of gridlock often imply that periods of unified government automatically equate to better outcomes, including high levels of legislative productivity and a relatively smooth judicial and executive branch confirmation process. Unfortunately, gridlock is still common during unified government.

For example, minority party members in the Senate have resorted to frequent use of the **filibuster** in recent years to block unwanted legislation and thwart presidential nominees who the minority deems to be "outside the mainstream." Party polarization only exacerbates the use of the filibuster, as the minority party is now further ideologically from the majority party. Given the prevalent use of the filibuster, presidential legislation can fail even during unified government unless a supermajority of 60 senators supports a bill. George W. Bush, who governed during two different periods of unified party control, had a difficult time achieving various legislative victories and getting many of his nominees confirmed because the Democratic senators were quite willing to use the filibuster as a tool for obstruction. The only presidents whose party controlled a supermajority large enough to invoke **cloture** to stop a filibuster were Kennedy, Johnson, and Carter. Even with a seemingly filibuster-proof majority, these presidents faced some obstruction because the Democratic senators, particularly Southern Democrats, did not always vote with their party and the president. Thus, without a filibuster-proof supermajority in the Senate, even presidents who govern during periods of unified government often find dealing with Congress difficult. In sum, the literature suggests that the seat allocations in the House and Senate, the ideological composition of Congress, and the level of party unity affect outcomes far more than simply whether government is "divided" or "unified."

Bibliography

- Binder, Sarah A. *Stalemate: Causes and Consequences of Legislative Gridlock*. Washington, DC: Brookings Institution Press, 2003.
- Binder, Sarah A., and Forrest Maltzman. "Senatorial Delay in Confirming Federal Judges, 1947–1998." *American Journal of Political Science* 46(1) (2002): 190–99.
- Bond, Jon R., and Richard Fleisher, eds. *Polarized Politics: Congress and the President in a Partisan Era*. Washington, DC: Congressional Quarterly Press, 2000.
- Cameron, Charles M. *Veto Bargaining: Presidents and the Politics of Negative Power*. Cambridge, MA: Cambridge University Press, 2000.
- Edwards, George C., III, Andrew Barrett, and Jeffrey Peake. "The Legislative Impact of Divided Government." *American Journal of Political Science* 41(2) (1997): 545–63.
- Huber, John D., Charles R. Shipan, and Madelaine Pfahler. "Legislatures and Statutory Control of Bureaucracy." *American Journal of Political Science* 45(2) (2001): 330–45.
- Krutz, Glen S. "Tactical Maneuvering on Omnibus Bills in Congress." *American Journal of Political Science* 45(1) (2001): 210–23.
- Mayhew, David R. *Divided We Govern: Party Control, Lawmaking, and Investigations, 1946–1990*. New Haven: Yale University Press, 1991.
- McCarty, Nolan, and Rose Razaghan. "Advice and Consent: Senate Responses to Executive Branch Nominations 1885–1996." *American Journal of Political Science* 43(4) (1999): 1122–143.
- Segal, Jeffrey. "Senate Confirmation of Supreme Court Justices: Partisan and Institutional Politics." *The Journal of Politics* 49(4) (1987): 998–1015.

Study Information

Key terms:

1. **Cloture:** The process in the Senate that is used to end a filibuster. It requires 60 votes to invoke cloture, which in turn ends a filibuster.
2. **Divided government:** The situation of different parties controlling the presidency and one or both houses of Congress. Divided government has been common throughout American history at times, but has been particularly prevalent since 1968.
3. **Filibuster:** The senate tradition of unlimited debate, allowing a senator, once he or she has the floor, to speak for an unlimited time. This process can block or delay the consideration of legislation and can only be stopped by invoking cloture.
4. **Gridlock:** The situation that occurs when partisan conflict in government prevents the Congress and president from enacting and putting into effect legislation. While gridlock might be seen as positive when it prevents bad legislation from becoming law, it is problematic when needed legislation cannot be passed into law. This situation is more likely to occur in divided government than in unified government.
5. **Party polarization:** A situation that occurs in the United States when the two parties become ideologically controlled. When that happens, the result is that relatively few moderates staff Congress, leading to difficulty in making legislative compromises.
6. **Unified government:** The circumstance of one party controlling both chambers of Congress and the presidency at the same time. Under unified government, a relatively rare occurrence in recent times, it is easier to enact legislation than when there is divided government.