

## President Barack Obama's Second Term: Prospects and Constraints

by Bert A. Rockman

*The 2012 election nominally strengthened President Barack Obama's political leverage as he enters a second term. However, it is only in rare cases that elections in the United States produce sufficient political leverage for a president to advance fully his political agenda. The complexity of American political institutions frustrates political leadership under normal circumstances. But the current state of American politics is far from the norms of the mid-20<sup>th</sup> century. American politics is intensely polarized, though most of this is the result of a far rightward turn in the Republican Party. Perhaps related to the polarization are changes in the norms by which institutions operate, the virtually unlimited amounts of money not only poured into campaigns but also between campaigns to influence policy, and the lack of responsiveness to the median voter stemming from a "rotten boroughs" process of redistricting. The result is mostly stalemate and a significantly disgruntled public that has low confidence in its political class as the system lurches from one self-manufactured crisis to another. On most matters, including appointments, Obama will be rebuffed – but so, too, will the Republican majority in the House of Representatives. However, some signals deriving from the election may lead to legislative compromise and, possibly, a tragic event may lead to some marginally greater regulation of firearms. The prospects for Obama's second term will likely be disappointing for those expecting that elections lead to clear outcomes.*

*Die Präsidentschaftswahl 2012 hat Barack Obamas politische Handlungsfähigkeit zwar nominell gestärkt, doch genügt dies in den Vereinigten Staaten nur in seltenen Fällen, um dem Staatsoberhaupt die vollständige Umsetzung seines politischen Programms zu ermöglichen. Bereits unter normalen Umständen verwässert die Komplexität des amerikanischen politischen Systems jeglichen Führungswillen, doch fällt die gegenwärtige Situation noch weit hinter die aus dem 20. Jahrhundert gewohnten Standards zurück. Die politische Landschaft ist stark polarisiert, weitgehend dank eines deutlichen Rechtsschwenks der Republikaner. Damit verbinden sich einige Veränderungen in der Funktionsweise politischer Einrichtungen, etwa aufgrund der nahezu unbegrenzten Ressourcen, die inzwischen in Wahlkampfzeiten verausgabt werden, und der Neuzuteilung von Wahlbezirken. Im Ergebnis finden sich vielfach nur noch Stillstand und öffentliches Misstrauen gegenüber einer politischen Klasse, die sich von einer selbstverursachten Krise zur nächsten durchschlägt. In den meisten Politikfeldern, selbst bei seiner Personalauswahl, wird Obama von den Republikanern zurückgewiesen werden, denen es – vice versa – im Bereich der Gesetzgebung kaum anders ergehen dürfte. Nur einige wenige Bereiche bleiben maßvollen Kompromissen zugänglich, sodass sich Obamas zweite Amtszeit für jene, die sich von den Wahlen vor allem Ergebnisorientierung erhofften, als Enttäuschung erweisen dürfte.*

## I. The 2012 Election

On 4 November 2012, *Barack Obama* was re-elected to the presidency of the United States in an election that generally was regarded as a victory for the president and his party. Most remarkable, especially in contrast to Europe and Japan where economic stagnation has led to changes of regime when the electoral opportunity has arisen, low growth rates and high unemployment rates in the U.S. led to a reaffirmation of the incumbent and, for the most part, the incumbent's party. The Democrats gained seats in both the Senate and the House of Representatives, reinforcing their majority in the Senate and cutting into the Republicans' control of the House. Nevertheless, the election was closer than in 2008. More or less, *Obama's* percentage of the popular vote approximated his public approval rating of 51 per cent.

Three important points need to be emphasized in thinking about the meaning and consequences of the election. First, the election was close enough that the losing party could fault their own tactics but not their message. Second, the House of Representatives remains under Republican control even though the Republicans lost nine seats and the aggregate popular vote by one million – the latter being the result of existing officeholders selecting their voters rather than the reverse.<sup>1</sup> The outcome maintained the divided government which was the condition that existed prior to the election. Moreover, while the Democrats also gained two seats in the Senate, changes in the norms of Senate procedures now routinely require a super-majority of 60 per cent on most legislation and often encompass executive and judicial appointments as well. In addition, individual senators can delay action on executive and judicial nominations by placing “holds” on them, and they can do so anonymously through their party leader. As a consequence, many critical executive positions go unfilled for lengthy periods of time and

- 1 States control the redistricting of state legislative and congressional districts in the two years after each decade's census. The Republicans' victory in the 2010 elections was especially pronounced at the state level, giving them unified control over many more states than the Democrats. When state governments are divided, there is usually compromise over redistricting or a third party (the courts in some cases or independent commissions in others) does the redrawing of districts. Usually when one party has complete control of a state government, whichever party it is, it will seek to maximize its advantages in both state legislative and congressional redistricting. After the 2010 election, that advantage mainly belonged to the Republicans. There is, however, another factor that, given the current composition of party constituencies, places the Democrats at a districting disadvantage: party constituencies are a function of population density. Democrats tend to concentrate their votes in large urban and metropolitan locations; Republicans tend to distribute their votes more across lower population concentrations. Thus, it becomes relatively easy to stack voters into districts that Democrats carry by huge majorities while distributing Republican voters more evenly across districts.

there are also significant judicial vacancies. While the structure of government in the U.S. has scarcely changed since its founding over 225 years ago and while the formal rules have only modestly altered during the last several decades, what has changed are the norms of opposition strategy that makes governing a cantankerous system even more problematic than it has traditionally been. While Democrats in opposition employed some of the same strategies as the Republicans have used, two long time notable observers of Washington's politics have documented the extraordinary extent to which Republican tactics of oppositionism have been utilized to check-mate the *Obama* administration's initiatives and appointments.<sup>2</sup>

The U.S. has, what is called in the parlance of political science, a "consensus" political system designed to mitigate the effects of decisive electoral outcomes. Consensus political systems are typically designed for conflictual societies. The founders of the American constitutional design were largely skeptics of human nature. In the age of the enlightenment, they were largely divided between factions that were skeptical of the "mob" and therefore preferred a relatively insulated central authority – for example, the first U.S. Treasury Secretary, *Alexander Hamilton* – and those who were skeptical of the power wielders as well – for example, *James Madison*, the leading architect of the American constitutional system, and the fourth president of the United States. *Madison* devised a system to promote competition within the government and to allocate powers in ways that over time would be relatively ambiguous between the federal government and the states. Consequently, it is rare in the U.S. that electoral results bring with them the basis for carrying out decisive agendas.

Sporadically, however, this does happen. *Franklin D. Roosevelt's* outsized Democratic congressional majorities from 1933 until the midterm elections of 1938 enabled his advisers to reinvent the Democratic Party as the party of the positive state, of social reform, of organized labor, and of ethnic minorities. This allowed the Democrats to expand their political coalition for at least a generation until the internal contradictions in the party's coalition led, by 1948, to obviously irreconcilable conflicts between the dominant strains in the party's northern wing and those of its southern wing. In the meantime, however, major elements of the social insurance state had been enacted and the modernization of both government and society had been undertaken.

2 *Mann, T.E./Ornstein, N.J.*: It's Even Worse Than It Looks: How the American Constitutional System Collided with the New Politics of Extremism, New York, 2012.

Between 1964 and 1966, and especially after the decisive election of 1964, the administration of *Lyndon Johnson* and the vast Democratic majority in Congress enacted major civil rights legislation, bringing to an end the formal apartheid system in the American south, and also enacted major initiatives to extend the social insurance state, as well as the development of anti-poverty programs – some of which, however, were clearly not well thought through.

While the *Reagan* election of 1980 left the Democrats in nominal control of the House, they lost 33 seats there and 12 in the Senate. As a consequence, they were willing to give the new administration some leeway to advance their initiatives. That was aided by the fact there still was a significant minority of moderate to conservative Democrats who were at least as much in accord with the *Reagan* agenda of smaller government (except for Defense and law enforcement) as they were of the Democrats' traditional policy objectives. During this brief window of opportunity, the *Reagan* administration was able to cut approximately 3.6 per cent of discretionary expenditures, to lower income tax rates, and to get Congress to authorize and appropriate a substantial increase in defense expenditures.

## II. Stalemated Politics

Although other presidents have achieved important legislation in collaboration with Congress even under conditions of divided government,<sup>3</sup> for example *Truman's* policies in defense of Europe in 1947-48 and *Nixon's* environmental initiatives in the first half of his first term, presidents' party-based initiatives are limited unless they enjoy substantial majorities and cohesion within their parties. In other words, the window of opportunity for an American president to achieve – rather than merely promote – his party's platform is narrow, if it is available at all. The current conditions of sharp party polarization that have been brewing for many decades now make it difficult for presidents to move much, including appointments to the courts and the executive, at least with any measure of dispatch unless they possess overwhelming majorities, especially in the Senate.

There are several consequences to this stalemate. First, presidential appointments have been held up for longer periods of time making it increasingly difficult for presidents to staff their own administrations.<sup>4</sup> In many instances, positions are

3 *Mayhew, D.R.*: *Divided We Govern: Party Control, Lawmaking, and Investigations, 1946-2002*, second edition, New Haven, 2005.

4 *Aberbach, J.D./Rockman, B.A.*: *The Appointments Process and the Administrative Presidency in: Presidential Studies Quarterly*, 39 (2008), 38-59.

never filled with a Senate approved appointee and lately appointments have been held up with no floor vote because of minority opposition in the Senate to the law that created an agency rather than to the appointee him- or herself. A vintage case of this was the creation during *Obama's* first term of the Consumer Protection Bureau as part of the Banking and Finance reform legislation. *Richard Cordray*, a former and well-respected Attorney General of the state of Ohio, was given a recess appointment that allows him to serve until approved by the next session of the Senate or effectively to the end of the following calendar year. Both parties play this game, if not to the same degree. Senate Democrats and a few Republicans refused to allow the nomination by President *George W. Bush* of *John Bolton* as the U.S. Ambassador to the United Nations to go forward. *Bolton* was given a recess appointment by the *Bush* administration, but was never confirmed. The Center for Medicare and Medicaid services, which accounts for a significant portion of total federal expenditures, has not had a confirmed administrator for six years; the Bureau of Alcohol, Firearms, and Tobacco, similarly, has not had a confirmed director since 2005. The Federal Labor Relations Board currently lacks a quorum with which to conduct business. The ability to bring government to a grinding halt and the will to do so have converged to create an incapacitated government.

A second consequence is that presidents are resorting to more frequent exercises of unilateral prerogatives (as they understand them, of course) and in ways that are sufficiently subtle that they are hard to trace. Instead of presidential vetoes of legislation, there are signing statements that dictate a large zone of presidential discretion in interpreting the laws that Congress has passed. Instead of executive orders, presidents now delegate prosecutorial discretion to agency heads essentially telling them, however implicitly, to ignore the law. *Bush's* use of signing statements was especially notable. But *Obama* has not been reluctant to use them either. And when *Obama* decided that Congress's Defense of Marriage Act was unconstitutional prior to a court ruling, he gave the Justice Department leeway to not defend the law. Further, when *Obama* needed the votes and enthusiasm of America's fastest growing population – Americans of Latino heritage – he gave the Department of Homeland Security prosecutorial discretion to not deport undocumented immigrants if they met certain criteria. Moreover, *Obama* has made clear that if Congress fails to act on his priorities, he will take whatever action is open to him through executive authority. All things being considered, this is probably a recipe for the de-institutionalization of government.

A third consequence of Washington's gridlock is that while Americans, except for voting, have high participation rates in politics, they have little trust in government and feel that they are not adequately represented in the political process. A study of the 26 nations of the Americas shows that the U.S. ranks near the bottom in trust in government and in whether citizens' concerns are being taken into account in the political process.<sup>5</sup> Another study shows that the U.S. political parties tend to be especially responsive to the well-heeled segments (even if different ones) of the population who can provide financial support to their campaigns and to whom they are most likely to listen.<sup>6</sup> *Alan Jacobs* also notes that the ability of government to think long term is in inverse proportion to the ease by which it can be penetrated by lobbyists.<sup>7</sup> For the most part, the rotten boroughs system of distributing state legislative and U.S. House seats immunizes many legislative politicians from listening to anyone other than their hard core partisan constituents who are frequently the source of political enthusiasms and party or candidate finance.

### III. *Obama's First Term*

In the 2008 election, *Obama* not only won by a substantial, though hardly landslide, margin, he also came in with strengthened party majorities in both chambers of Congress including the pivotal 60<sup>th</sup> member of the Senate (Senator *Arlen Specter* of Pennsylvania) who turned from the Republican brand to the Democratic one in the months following the election. *Specter* was up for re-election in 2010 for a sixth term. He concluded that he could not be nominated from within the Republican Party which found him insufficiently conservative. He was labeled by the hard right Republican activists as a RINO ("Republican in name only"). As a result, and having been re-nominated by the party only with the smallest of margins in 2004, *Specter* and the White House discussed a *quid pro quo*. The Obama White House would endorse *Specter* within the Democratic Party and *Specter* would become the coveted 60<sup>th</sup> Democrat in the Senate, thus giving *Obama* a filibuster proof margin in that chamber.

- 5 Information received in a personal communication with Professor *Mitchell A. Seligson*, Director of the Latin American Public Opinion Project and Centennial Professor of Political Science, Vanderbilt University.
- 6 *Bartels, L.M.*: *Unequal Democracy: The Political Economy of the New Gilded Age*, Princeton, 2008.
- 7 *Jacobs, A.M.*: *Governing for the Long Term: Democracy and the Politics of Investment*, Cambridge, 2011.

This condition, however, did not last long. The Democratic Party stalwart, Senator *Edward M. Kennedy*, was terminally ill. He left Washington by early summer of 2009 and died in August. In January 2010, a Republican, *Scott Brown*, won his Senate seat and the Democrats majority was now once more below the 60 member supermajority required for a filibuster cloture vote. Nevertheless, by utilizing Senate rules that permit simple majorities on budget matters, Obama passed a landmark health insurance law with only Democratic votes in both chambers. The administration also managed to get a major banking and finance reform passed, and earlier succeeded with a stimulus bill to combat the great recession with three Republican votes in the Senate, one of whom was *Arlen Specter*.

With the economy still not gaining an expected amount of traction in recovery, the Democrats suffered big losses in the congressional mid-term elections in 2010 and also in state legislative and gubernatorial elections. Matters looked ominous for *Obama's* agenda during 2011 and 2012 leading up to his own re-election campaign. It was not just that a normal opposition party took control of the House and added to its numbers in the Senate. Rather, the situation was one where radical insurgents, known as the tea party, were swept into office disproportionately by the Republican mid-term triumph. The tea party insurgency was named after the 1773 rebellion in Boston Harbor against the colonial British imposition of taxes on tea supposedly leading to the slogan “no taxation without representation”. The insurgents dumped chests of tea from British ships into the harbor. The tea party symbolized a rebellion against “big government” (unless, of course, it benefited the protestors) and for low taxes. While it was portrayed as a “grass roots” movement, it was actually well-seeded by wealthy donors to the Republican Party. The idea of the tea party donors was not to putter around the edges but to dramatically curtail government spending. However, the tea party rank and file was especially notable for their past Republican activism, social conservatism, xenophobia, and racism.<sup>8</sup>

As the 111<sup>th</sup> Congress, elected in 2008, came to a close, a flurry of activity arose in a lame duck session held after the November election. By virtue of a combination of strategic positioning, deal-making, and party cohesion, the 2010 lame duck session was remarkably productive from the point of view of the White House. While the White House accepted an extension of the *Bush* tax cuts for two years, which the Democrats could have rejected simply by refusing to act

8 *Campbell, D.E./Putnam, R.D.*: Crashing the Tea Party in: *The New York Times*, 16 August 2011.

since the law authorizing the tax cuts expired at the end of 2010, it packaged an extension of long term unemployment benefits and a continuing payroll tax holiday into the deal hoping for an economic stimulus benefit. In a more controversial maneuver, the *Obama* administration effectively sought the repeal of the “Don’t Ask, Don’t Tell” law governing gays and lesbians in the military, thus allowing them to serve openly in the armed forces. And finally, the *Obama* administration was able to get a long delayed nuclear weapons reduction negotiated with Russia to be ratified in the Senate. The impending return to minority status in the House and reduced authority in the Senate apparently helped to focus the minds of the Democratic members.

The rise of tea-party-endorsed members in the Republican ranks in the House constituted a great challenge for *Obama* and perhaps also for the Republican leadership in that chamber. Many of the tea party activists had not previously held elective office and they adamantly opposed compromise with the White House. At several flash points during 2011, it became clear that Republicans, spurred by the newly minted members, would set off potential budgetary or financial crises to harden their bargaining leverage against the president. The Republican congressional leadership and its members adamantly opposed *Obama*’s initiatives during the 111<sup>th</sup> Congress and deployed all available tactics at their disposal. It is not clear, therefore, that the Republicans were any more anxious to cooperate with the President during the 111<sup>th</sup> Congress than they came to be in the 112<sup>th</sup> Congress that had been elected in 2010. In the House of Representatives, with a new Republican majority and an even more radical party caucus, the House Republican leader, *John Boehner* was facing significant pressure to appease the tea party faction. *Boehner*’s deputy, *Eric Cantor*, was anxious to have *Boehner*’s job, thus pressuring *Boehner* to accede to the most uncompromising elements of his party caucus. *Boehner* also felt it necessary to follow what had become known as “the *Hastert* rule”, named for the former Republican House Speaker, *Dennis Hastert*. The “*Hastert* rule” specified that a bill could be brought to the House floor only if a majority of the majority party (the Republicans) supported it even if there was a majority in the chamber that supported it. There were circumstances in the past wherein Republican and Democratic presidents relied upon the opposition party to supply most of the support for legislation. In 1991, President *George H.W. Bush* needed the Democrats to supply the majority for his budget agreement that, among other things, raised some taxes, particularly on the consumption of luxury items. In 1993, President *Bill Clinton*

relied upon Republicans in the Senate to provide the majority of the votes to ratify the North American Free Trade Agreement (NAFTA).

It may be that Republican opposition would not have been any different without the large first term class elected in 2010 on an uncompromising stance since politics is as much or more about power and positioning, blame avoidance and credit-taking as it is about ideology. However, the Republican “freshmen” were recalcitrant to reach agreements since they had come to Washington, so they proclaimed, to remake it (and the society), not to accept it. Many of the new Republican members of the House had come to Washington intent on slaying “big government” as they understood that. Whether or not *Boehner* had any deal-making instincts, his position as party leader was likely to be determined by the power of the first term members of whom there were 85 (more than one-third of the House Republican Party caucus).

During the second two years of *Obama's* first term, he was now obviously stymied in seeking legislative initiatives. At the same time, both his executive power and the Democrats in the Senate could block House Republican initiatives. Most important, however, the Republicans chose to precipitate budgetary and financial crises throughout 2011 in order to extract large budget cuts without additional revenues. Cutting spending and not raising taxes or, above all, tax rates were the twin Republican mantras.

The first crisis was a threatened shut down of government in April 2011, when no budget agreement could be reached and Congress's continuing resolutions that kept the government going expired. As noted by *Campbell* and *Putnam's* research,<sup>9</sup> the tea party faction of the Republican caucus was motivated as much by social conservatism as by austerity. They placed riders to defund Planned Parenthood, a non-profit women's health organization that also performed abortions, and to force the Washington school system to provide vouchers to private schools. Eventually, and at the last minute, a deal was reached and the crisis averted. While the Republicans sought more cuts, the Democrats agreed to 73 billion dollars of cuts in discretionary programs. In the dark arts of the budgeting game, many of these cuts were actually to programs that were going to expire in any case, so the actual cuts were reputed to be as low as 33 billion dollars.

The second major crisis involved the debt ceiling, usually a symbolic Washington ritual where Republicans especially go on the record against indebtedness but

9 *Campbell, D.A./Putnam, R.D.*, 2011, op. cit.

ultimately accede to raising the debt ceiling. The debt ceiling authorization is actually about the past not the future. It authorizes the government to pay debt that it already has accumulated, not to acquire new debt. The deadline for reaching an agreement after the Treasury ran out of wiggle room to manage its obligations was 1 August 2011. In order for the Republicans to raise the debt ceiling, they were intent on extracting deep cuts in spending in years to come. The White House was looking for a deal that would combine spending cuts with revenue increases. After long negotiations between the White House and congressional leaders and between the congressional leaders and their party rank and file, there was little give. Republicans insisted on spending cuts with little commitment to raising revenues. Democrats, alternatively, wanted to protect social insurance programs and discretionary expenditures for programs for the economically disadvantaged. They were not always on board with their president's willingness to put expenditure cuts on the table, and certainly not without commitments from the Republicans to raise tax rates. Shortly after the deadline to raise the debt ceiling had passed, an agreement to kick the can down the road was reached. The bond rating company, Standard and Poor, downgraded the U.S. credit rating from the top grade and made note of its dysfunctional politics as the main cause. Ironically, interest rates on Treasury bonds remained low and bonds were moving through the markets without any indication of distress.

Ultimately, the negotiations failed. They created a congressional super-committee of twelve members, six from each chamber, divided evenly between the parties and selected by each chamber's party leader. The super-committee was supposed to arrive at an agreement for long term budget cuts and increased revenues. If they could not, an automatic sequestration would commence on 1 March of 2013 to cut 82 billion dollars en route to a 1.2 trillion dollar cut over a ten year period. The sequestration would affect only discretionary funding (the part of the budget that is annually appropriated) and exempt the major social insurance programs. A disproportionate share of the sequestration would affect the military, an outcome with which congressional Democrats were not necessarily unhappy. As we now know, the sequestration threat was insufficient to get the congressional super-committee to come to an agreement.

## IV. *Obama's* Second Term Prospects

### 1. The Political Impasse

The continuing struggles over how to fix the debt problem and, more importantly, how to bring the economy on a path to sustainable growth defined most of the Obama Presidency and particularly the struggles between the congressional Republicans and the White House in the 2011-12 period. To some extent, the parties fought the 2012 election along these lines. On the whole, the public tended to side more with the Democrats than the Republicans but that has not produced a definitive outcome. Partly, this is because the party followers have sorted themselves out in such a way that they cleave along the same lines as party elites. The economic model of two-party competition that says that in a two party system the parties will converge at the median voter is plainly wrong.<sup>10</sup> The parties have only grown more distant from one another and they have become mainly responsive to their political bases and their donors. Consequently, one outcome we can expect to see in a repeated pattern is a continuation of automated government in which there are fewer agreements and more automatic last minute solutions that decrease governmental capacity and result in short term pain without long term gain.

Later in 2013, there will be another struggle over the debt ceiling which Republicans indicate they will use to extract more spending cuts. In the meantime, the Democrats did get concessions from the Republicans to raise marginal tax rates for individuals and households in the highest tax brackets while Republicans gained advantages in estate taxes and capital gains taxes. The Republican leadership in both chambers have publicly indicated that in any further negotiations revenues are off the table and only spending cuts and entitlement "reforms" will be accepted.

There can be little doubt, barring an unexpected Democratic surge in the 2014 midterm elections, that budget, fiscal, tax, and financial issues will continue to define the milieu in which the *Obama* administration is situated. It is likely that there will be a continuing stalemate around these issues until a decisive political breakthrough is achieved one way or the other. That seems unlikely but not necessarily impossible. These constraints are likely to impede many of the *Obama* administration's objectives, especially investments in infra-structure, education,

10 *Downs, A.:* An Economic Theory of Democracy, New York, 1957.

early childhood education, and research and development. It also could have effects on implementing some of the President's most prized achievements from the first term, especially the Health Care reform and the financial regulation reform, each of which is dependent upon sufficient implementation funding.

One sharp change from the first term election to the second was that *Obama* initially came into office seeking to deal with the Republicans. After the second election he had no such illusions and put forth in his second inauguration speech and the subsequent State of the Union address a set of objectives that were particularly pleasing to his own political constituency and equally displeasing to his Republican opposition. In broad outline, *Obama's* proposals encompassed extensions of civil rights (equal pay for women and legalization of marriage for gays and lesbians), the absorption of undocumented non-citizens with a path to citizenship, social equity and justice (higher minimum wage; closing tax loopholes that treat different streams of income differently; eliminating tax incentives for industries producing negative externalities; and emphasizing the obligations of the wealthy toward the society); more support for education and research and early childhood development; emphasis on controlling the level of gun violence in the United States; and the need to incentivize renewable energy sources and reduce the amount of carbon rising in the atmosphere – a scientifically consensual but politically dissensual issue. This version of a reinvigorated *Obama* quickened the heartbeats of Democrats while giving heartburn to Republicans. If the first term *Obama* sought at least some Republican buy-in to his proposals, the second term *Obama*, fortified by his and his party's electoral support, concluded that this was unlikely. Despite his skepticism about Republican motives, he has selectively tried to persuade the handful of Republicans with seats in districts that he had won in 2012 to support his package for putting revenue increases back on the table and to lessen the sequestration drag on the economy. And, in fact, it now appears that in quest of a grand long term budget deal, he is back to wining and dining Republican senators minus their leadership. Unlike his very gregarious Vice-President, *Obama* is not a natural politician. His conclusions are that the wining and dining does not really amount to much, and in that he is probably right. While it may not help, it is politically more risky to look as though he is not open to his opponents' views.

## 2. International and Security Affairs

Although *Obama* clearly has emphasized domestic policy from the beginning of his presidency and extracting the U.S. from its military commitments in Iraq and Afghanistan, there are notable highlights of his policy directions in international and security affairs. One of these changes in direction, of which little has been said publicly, is a change in tactics toward Al Qaeda terrorists and its allies. In this, as well as in other matters, Vice-President *Joseph Biden* has been perhaps the most influential adviser, and one well-credentialed as the former Chair of the Senate Foreign Relations Committee. The military intellectuals, spearheaded by General *David Petraeus*, advocated counter-insurgency (COIN) strategies requiring heavy investment in both military and civilian personnel. *Biden* has long opposed COIN as costly and largely unsuccessful. He has been a persistent voice for counter-terrorism tactics to take out the command structures of terrorist organizations through remote guidance systems. The *Obama* administration clearly has moved in that direction. The drone strikes, however, remain controversial internationally and also within the U.S. with concerns expressed from *Obama's* allies on the left as well as some on the right of a libertarian bent who oppose international interventions. That is unlikely to affect *Obama's* approach, however, in view of the declining funding available to the Pentagon.

Despite funding limitations, the *Obama* administration has been showing the flag along the Pacific Rim as a response to the growth in Chinese military budgets and tensions between China and many of its neighbors, including, in particular, Japan with whom the U.S. has treaty obligations. In all likelihood, this will mean little but it is clear that many Asian states have developed concerns – real or imagined – over the no longer sleeping giant in their midst. While the probability of even low level military conflict is weak, there clearly will be further tensions between China and the United States over cyber security issues. *Obama* has pressed, so far unsuccessfully, for intensified efforts regarding cyber security in the private commercial sector which is especially vulnerable.

On international trade issues, Democrats tend to be more protectionist than Republicans, mostly over their concerns about wage and industrial job losses and, to some extent, concerns about regulatory safety and environmental protection. These concerns usually are associated with developing countries and they may be the mirror image of European Union perceptions of the U.S. where regulations are often less strict. *Obama* fleetingly mentioned in his State of the Union address trade negotiations with the EU, likely reflecting its importance to the relevant agencies rather than to his own policy agenda.

On the whole, *Obama* is a proponent of treading lightly. That is partly a reflection of his domestic policy priorities but also his deepened skepticism of what the U.S. can do to influence events over which it either has little leverage or for which the leverage that it does have comes with a high political cost. Leading from behind was the expression used to characterize the administration's policies in support of the Libyan rebellion in 2011. It is probably fair to say that this is likely to be *Obama's* strategy in the remaining years of his administration. In Syria, chastened by the manner in which U.S. arms fell into the hands of war lords and the Taliban in Afghanistan, both *Obama* and *Biden*, against the more assertive advice of the then-Secretary of State *Hillary Clinton*, the military, and the former C.I.A. Director, *David Petraeus*, opted not to provide lethal weaponry to the Syrian rebels against the *Assad* regime inasmuch as they had been infiltrated by Al Qaeda connected groups. It is not clear, one way or the other, whether withholding weaponry from the opposition to *Assad* led to greater dependence on the extremists to fuel the anti-*Assad* struggle or whether those weapons would have fallen into their hands, creating continuing warfare and instability in Syria.

Given how combustible the Middle East and Central Asia have been, it is not surprising that the *Obama* administration has focused on the Iranian development of fuel enrichment for nuclear weaponry. This is one of the few cases where *Obama's* words have outpaced any action likely to be taken. *Obama* has asserted that Iran would not be allowed to have nuclear weapons. But that seems an idle threat designed more to alleviate Israeli fears than to lead to action. The Israelis do have a fear of a first strike Iranian capability and a belief that what the Iranian leadership says it means. But it also is fearful, perhaps even more so, that even crude nuclear weapons could fall into the hands of Hezbollah or Hamas which could deliver a destructive blow to Israel. The Israelis have the will to strike at the enrichment facilities but likely not the capability. In contrast, the United States may have the capability to strike the facilities but certainly does not have the will to do so. Moreover, it is unclear just what conflicts are going on within the Iranian ruling class, and who it is that actually holds power – if anyone. There is no doubt that multi-national sanctions are hurting Iran and limiting its capacity to sell its oil. But that does not necessarily mean that it will concede on developing a nuclear capability. If *Obama's* bluff is called, what exactly will happen? Nobody knows for certain but the U.S. decided it would be easier to live with North Korean nuclear weapons than to devise an alternative since the range

of alternatives in an already isolated and impoverished state was powerfully circumscribed.

This, of course, leads to *Obama's* sometimes difficult relations with the right wing government in Israel led by *Benjamin Netanyahu*. The most recent Israeli elections have moderated somewhat that government but the Israeli right is disproportionately supported by settlers in the contested areas. When *Obama* came into office, he seemed convinced that his predecessor, *George W. Bush*, simply had failed to give the Palestinian-Israeli two separate states project sufficient attention and priority. As a result, *Obama* appointed a high profile "czar" to oversee negotiations between the two sides. The overseer was *George Mitchell*, a former Democratic Party leader in the Senate and a previously successful international mediator. As the Israelis continued building settlements in contested territories, the Palestinians left the talks and, ultimately, *Mitchell* stepped down from his responsibilities. There seemed little he could do. *Obama* spoke out at one point when the Vice-President visited Israel to meet with *Netanyahu* and was greeted by the announcement of expanding settlements as *Biden* arrived. *Obama* was furious but his comments evoked a full scale rebuff from insistent Israeli sympathizers who, among others, include many evangelical Christians and Republicans as well as the Israeli lobby in Washington. While American Jews are actually quite divided over what course they think Israel should take on the Palestinian issue, the organization and alliances of the Israel lobby almost always prevail when push comes to shove.<sup>11</sup> As a result, *Obama* decided that discretion was the better part of valor. He had an election coming up, and this was not a good time to be thought of as being antagonistic to Israel. As with *Bush* before him, *Obama* may have decided that there is little he can do to bring about a settlement. His main concern at the moment is to prevent the Israelis from doing something rash in Iran.

### 3. Signals from the Election

A second term agenda is often an effort to resuscitate some proposals that could not be acted upon in the first term, some that had been only partially implemented, and some that are entirely new. The election itself sends signals and these signals may make possible proposals that previously were given little chance. One of these was the so-called "Dream Act" to provide a path to citizenship for

11 *Mearsheimer, J.J./Walt, S.M.*: The Israel Lobby and U.S. Foreign Policy, New York, 2007.

the children of undocumented immigrants who were brought to the United States by their families. Originally, President *Bush* along with a group of bipartisan senators tried to liberalize the immigration status of undocumented persons. However, this went nowhere once *Obama* became president. Partly, that was because of a Republican strategy to oppose all initiatives coming from the *Obama* White House. However, probably even more important, some Republican legislators and governors found that they could mine resentments against Latinos during the ascendancy of the tea party radicals. Xenophobia tends to rise when jobs are scarce or as an older generation sees changing *morés* associated with immigrants. While the Latino population that is eligible to vote tends to be predominantly Democrat, sympathetic Republicans have often attracted a sizable minority of Latino voters. *George W. Bush*, for example, was able to garner 44 per cent of the Latino vote in the 2004 election which was otherwise a very close election. However, the Republican presidential nominee in 2012, *Mitt Romney*, won only 29 per cent of the Latino vote which had grown significantly over the eight years. *Romney* spoke about self-deportation and publicly supported draconian measures in line with where the conventional wisdom of the Republican base had positioned itself. Given the growth of populations not in their base and the relative decline of populations that were their base, Republicans all of a sudden in their post-election post-mortem concluded that they might need to pose a friendlier face to the Latino population. In part, Republicans had much to lose by being hostile to Latinos. For one, they each had cultural conservatism and religiosity in common even if they did not have a common economic status. Had the Republicans for a second time (the first was in California under Republican Governor *Pete Wilson* in the 1980s) not made a special effort to antagonize Latinos, they might have had a better chance at electoral success in 2012 and to have had a foundation upon which to be competitive for this actually quite diverse population's support. The consequence is that Republicans have come back to try to work out a compromise on this one with the Democrats. It may still flounder because a major sticking point is that Democrats want to provide an expedited route to citizenship to gain the voting loyalties of Latinos while Republicans tend to prefer permanent residence status since they deem it less likely that they will be able to attract the votes of newly enfranchised Latinos.

#### 4. Unexpected Events

Post-election events and completely unanticipated ones with large shock value also can sometimes bring onto the policy agenda matters that had been given little priority in the past.<sup>12</sup> Bringing some measure of control over the proliferation of guns and ammunition in the U.S. is exceedingly difficult despite the fact that in most instances the public often favors it. In the past, assassinations of famous people close in time to one another brought moments of strong support “to do something.” After the assassinations of *Martin Luther King*, the civil rights activist, in April of 1968 and of Senator *Robert F. Kennedy*, a candidate for the 1968 Democratic nomination for president, in June of 1968, a window of opportunity opened to regulate the purchase and sale of guns. It failed, however, and one reason is that the Senate tilts to states with sparse populations where guns are commonplace. While other “frontier” societies, such as Canada and Australia, once had relatively lax controls over guns, none had the proliferation of guns or their firepower as in the U.S., and each reacted swiftly to sharply control firearms after massacres. Moreover, after tragic events involving guns, each country’s government took steps to regulate firearms more than it had. In the United States, however, “the right to bear arms” is the second amendment to the Constitution. The objective as stated in the amendment, however, seems to be aimed at providing for state militias at a time travel to and from armories was problematic. One can read the second amendment more or less as the tradition of Swiss citizens to bear arms in order to defend the country from attack. However, the most ardent gun proponents usually define the amendment in absolutist terms. They are bolstered by a powerful lobby, including gun owners associations and the National Rifle Association which front for the companies that manufacture the guns.

There are substantial political divisions on the issue of gun regulation in the U.S. A recent survey of members of Congress conducted by the newspaper, USA Today, indicates that Republican members of Congress are more likely to be gun owners than Democrats. Only 10 per cent of Republican members responding to a survey compared to 66 per cent of Democrats said that they did not own a gun. Furthermore, and overlapping to some extent with party, there was a strong regional divide with 77 southern members claiming to own guns while only 12

12 Jones, B.D. and Baumgartner, F.R.: *The Politics of Attention: How Government Prioritizes Problems*, Chicago, 2005.

members from northeastern states said they had.<sup>13</sup> A Gallup Survey of the general public also found a sharp nearly two to one difference between Republicans and Democrats in gun-owning. Furthermore, twice as many people in rural areas owned guns than in urban areas. Writing in *The New York Times*, *Nate Silver*, a sociologist and statistician, notes that “whether someone owns a gun is a more powerful predictor of a person’s political party than her gender, whether she identifies as gay or lesbian, whether she is Hispanic, whether she lives in the South or a number of other demographic characteristics.”<sup>14</sup> Silver further notes that while gun ownership has decreased in a forty year period, almost all of the decline is accounted for by a steep drop in gun ownership among Democrats.<sup>15</sup>

While there are daily homicides through firearms, a rash of mass killings with the use of semi-automatic weapons and up to 30 bullet magazines had taken place in the past two years including the shooting of a member of Congress and killing of a federal judge among six fatalities at the Congresswoman’s open forum in Tucson in January of 2011, the killing of 12 people in a movie theater and wounding of over 50 outside of Denver in the summer of 2012, and in mid-December of 2012, the killing of 20 six and seven year old children as well as six teachers and school staff members in Newtown, Connecticut. All of the perpetrators appear to have been deranged. Yet, all had easy access to weapons that could not plausibly be justified for hunting or sporting purposes nor even for self-defense. Any measure to tame the gun violence was resisted by the gun lobby.

*Obama* never spoke about gun regulations or universal checks until the Newtown school massacre because Democrats, especially those in Republican leaning states or districts, were fearful of being targeted by the NRA and the Republicans. In 1994, with Democrats still in control of the Congress and with a Democrat, *Bill Clinton*, as President, a ban on automatic assault weapons was passed. The legislation would have to be renewed in 2004 at a time when there was a Republican president, *George W. Bush*, and a Republican Congress. Many Democrats believed the enormous losses their party suffered in the 1994 mid-term election was the result of their votes on behalf of the assault weapons ban. By the time 2004 came around, the Republicans had no inclination to renew the ban and Democrats had no desire to contest it. And there was certainly no great public

13 *Singer, P./Korte, G.*: USA Today Survey: More Republicans in Congress Own Guns, in: *USA Today*, 4 February 2013.

14 *Silver, N.*: Party Identity in a Gun Cabinet, in: *The New York Times*, 18 December 2012.

15 *Ibid.*

arousal even after several of the massacres. The Newtown shootings, however, roused the President at last to place gun regulation on the public agenda. The terrible tragedy had opened up a further window of opportunity and the gun lobby's unwillingness to countenance any change other than to provide armed guards in schools helped to move public opinion toward tightening controls. President *Obama* assigned his Vice-President to come up with a set of recommendations within thirty days. How much will come of this remains to be seen. It is possible that universal checks on all gun purchases, wherever they may be, will pass; it is unlikely that reinstating the assault weapon ban will pass; and it is uncertain whether magazine clips of ammunition will be limited to a lower number than at present. These are not, in the end, great changes, but they are likely to have some effect in the margins. The case illustrates four important aspects of the policy system in the U.S. First, it often takes some dramatic event, frequently a tragedy or a series of tragedies, to get the underlying issue on the policy agenda; second, it shows how much effort it takes, in most instances, to get the political system to move incrementally; third, it shows how unanticipated events can bring an issue to the center of attention; and, fourth, it shows how important leadership is in shaping the agenda if not necessarily the outcome.

## 5. What is Possible?

If *Obama* gets the immigration reform and at least some parts of the gun control proposal, he will have done well, given that he is dealing with a divided and also deeply polarized government. It is possible also that the Supreme Court will overturn the Defense of Marriage Act of 1996 in which case the *Obama* administration will have achieved, if indirectly, another success. However, the President's climate control proposals, support for renewables, and advocacy for an increased minimum wage are unlikely to get far in the current Congress. There are, of course, the 2014 elections but history is not running on *Obama's* side. Similarly, most spending requests to bolster development, education, and research will likely fall victim to budgetary austerity, and this also may affect some legislative triumphs the administration had in its first term since the costs of implementation come through appropriations.

Perhaps especially important, but that remains to be seen, is the extent to which the parties continue to lock horns over budgets, entitlements, and taxes and exhaust all energy and international financial credibility in doing so. For the most part, the system has been lurching from one self-manufactured crisis to the next. Undoubtedly, the political impasse is undergirded by fundamental differences

about what government should do and what its responsibilities are. But the deadlock also reflects the parties' different sources of funding, their relative insulation from general public preferences, and their positioning when it comes to making difficult decisions to ensure that it is the other party that has to make them. To be more precise, the evidence of where the parties' stand indicates that ideological polarization mainly reflects the steady progression of rightward movement among the Republicans.<sup>16</sup> It is not yet clear where this is all heading, but both the bond accrediting houses and the U.S. public believe the fundamental driver of these continuing crises is to be found in the U.S. political class.

## V. Conclusion

Under normal circumstances, the U.S. political system at the federal level works slowly, is highly responsive to powerful interests, and is deeply divided. In fact, even in an earlier era before the American chattering class talked about polarization, the American political parties were farther apart ideologically than any other two major parties in Europe.<sup>17</sup> That has only worsened, although obviously not everyone believes that to be for the worse. The combination of changing norms, closely contested elections in the aggregate, the echo chamber effect of districting, big donors, cable networks and blogs, and the tendency to produce divided or closely divided elections makes governing increasingly complicated in a system where it was designed to be complicated in the first place.<sup>18</sup> On a good day, presidents struggle for half a loaf and consider it a success if they get half of that half. While much is said about the importance of personal leadership in the White House, most of it is romanticized and at best marginal.<sup>19</sup> What a

16 James, F.: Political Scientist: Republican Most Conservative They've Been in 100 Years, in: *It's All Politics: Political News from NPR*, 13 April 2012.

17 Klingemann, H-D./Hofferbert, R./Budge, I.: *Parties, Policies, and Democracy*, New York, 1994.

18 The fact that elections have been close in the aggregate at the national level does not necessarily mean they have been so at the state level. Where one party gets full control of a state legislature and the governorship, it is generally able to work its will and particularly so when that party's control is substantial in the state. In states where Republicans have considerable strength and are closely connected to evangelical movements, they have made the implementation of abortion rights far more complicated. They have also very swiftly limited the rights of workers and the ability of their unions to organize. On the other hand, when Democrats hold the political upper hand, they have tended to remove death penalty statutes, for example. In some states, public referenda often leave critical policy choices to the voters. What is the difference between the federal government and the states? One answer is the absence of the ornate and opaque procedures of the U.S. Senate under which minorities rule. The second is that what is closely divided at the federal level reflects a high degree of variability across the states, many of which have preponderant one party majorities – most of them Republican.

19 See, for instance, *Edwards, G.C. III: On Deaf Ears: The Limits of the Bully Pulpit*, New Haven, 2003.

U.S. president is faced with are constraints and the need to find the means, however limited, to work around them.<sup>20</sup>

Deep and perhaps irreconcilable divisions among the American political elite obviously make it difficult to find space for agreement. A Supreme Court decision in 2010, *Citizens United vs. Federal Election Commission*, removed nearly all prior campaign contribution thresholds that had been legislated and upheld in at least two other court decisions. One powerful impact of this decision based on an absolutist interpretation of the First Amendment of the U.S. Constitution is to change the popular expression that “money talks” to one where “money veritably shouts”. In many instances it eliminates public accountability in contributions and makes candidates responsive to their largest donors not only during the campaign but once in office, assuming they get there. As a consequence, along with districting that distorts the popular vote, the parties and their candidates have less and less need to veer toward the median voter. They need mainly to cater to their most intense partisans.

As with other major economies, the United States faces similar problems of long term fiscal stability. Every highly developed nation will be faced with older and needier populations with fewer younger workers paying into social insurance funds. These are excruciatingly difficult problems and they have no easy solutions. Moreover, almost no one is good at resolving them.<sup>21</sup> But hardly anywhere are the ideas for how they should be resolved so starkly different. What one side takes to calling “reform”, the other side sees the privatization of risk – in other words, the complete opposite of the concept of social insurance. This irresolution provides the basis for continuing efforts to exact leverage over the normal financial obligations of government. It is likely that these issues will continue throughout Obama's second term, and they will set a significant constraint on what else he can accomplish during this time.

As well, many problems are essentially intractable. Technological advances and globalization have depressed the work force in affluent countries. With the rise of the internet, customers also double as employees and wind up contracting entire industries. What ever happened to travel agencies, for example? Easing trade barriers in a global economy has been good for less developed countries

20 See, in this regard, *Moe, T.M.*: *The Politicized Presidency*, in: Chubb, J./Peterson, P. (eds.): *The New Direction in American Politics*, Washington, 1985.

21 *Weaver, R.K.* and *Rockman, B.A.* (eds.): *Do Institutions Matter? Government Capabilities in the United States and Abroad*, Washington, 1993.

with low cost wage structures and otherwise little labor or health and safety regulations. But this has not been so good from the standpoint of the affluent countries where unemployment rates have been stagnant, and particularly so for those without university educations. There is much talk about the need to produce new jobs but little certainty as to how that might be brought about. While *Obama* has pressed for infra-structural development and innovation as a path toward a new labor market, the chances of getting there, at least through public policy, remain remote.

Finally, any political leader anywhere may find unanticipated changes in the environment or the acceleration of what might have been anticipated. Chance events can dramatically alter agendas or at least priorities. *George W. Bush* undoubtedly did not expect the terrorist attacks of 11 September 2001, although he was alerted to the non-specific possibility that something big was being planned. That event set in motion a series of choices that sharply redefined the *Bush* Presidency. Much undoubtedly is yet to come in the *Obama* second term that is difficult, perhaps impossible, to foresee. But what can be foreseen suggests that, for better or worse, *Obama's* achievements in the second term will fall far short of his aspirations.