

## The Clinton Presidencies

by Julian Kirby

Many of the traditional criticisms levelled at the performance of US presidents - that they display weak leadership, for example - are based on a misunderstanding of the American political system. 'The president is not the presidency, the presidency is not the government. Ours is not a presidential system.' (Jones). Instead, it is, as the framers of the constitution intended, a separated system of government with three coequal branches - the president, Congress, the Supreme Court - sharing power.

Charles Jones defines this separation of powers as not just a sharing of, but also a competition for, authority: each institution seeks to defend and enlarge itself through a wide interpretation of its own formal authority, even to the extent of usurping power from the other branches if the opportunity arises. He adds: 'Impoundments, budgeting one-upmanship, the legislative veto ... all come to mind ... as evidence of worrisome mistrust between the branches.'

The separated system is laced with representational structures through which the public mood may be articulated, and at the same time monitored. This does not mean, however, that the system can move quickly and effectively to produce fresh legislation in response to shifting policy demands. Rather, as Jones says, 'the initial reaction may be to thwart present plans or policies, seemingly resulting in stalemate. It is precisely that potential outcome that encourages reformers to make change, typically designed to increase the power of the president.'

Such calls for reform may also be rooted in a misunderstanding of the American system. The constitution of the United States deliberately creates conditions from which a number of different combinations of government may emerge; a separated system offers numerous opportunities for co-operation, conversation and compromise

between the president and Congress and the parties. We need to re-frame the phenomenon of divided government, recognising it instead as 'one of the many flowers that the Constitution allows to bloom, rather than as a weed to be yanked out of the garden.' (Nelson.)

The circumstances under which presidents enter the White House largely determine the legislative strategies they will be pursued once in office. A strong electoral showing for the president and his party, resulting in a clear mandate, will enable him to pursue, for two years at least, an assertive strategy. In most presidential elections since 1945, however, clear mandates have been hard to discern: a narrow presidential victory has been accompanied by incongruous congressional returns (for example, Kennedy in 1960, Nixon in 1968, and Clinton in 1992 and 1996). In such situations, a president typically adopts a compensatory strategy which allows him to reinforce his position through organisation or in legislating together with Congress. Implicit in this strategy for governance is an understanding of the notion that, in a separated system, the primary task facing an incoming president is to fit himself into a continuing process of government and policymaking. In order to achieve this task the president must specify clear policy and political objectives.

From the outset, the first Clinton presidency faced difficulty. Change had been the dominant theme of the 1992 elections; yet the separated system could not facilitate major policy changes quickly. Moreover, the election results had failed to produce a clear mandate for the new president. Indeed, the 43 per cent of the popular vote garnered by Clinton (similar to Nixon's 1968 total) appeared to show that what voters wanted above all was to remove George Bush.

Clinton's governing strategy was compensatory: a personalised, campaign-oriented presidency looking to share power, and to compromise with Congress.

However, as the Clinton White House was quick to discover, this kind of strategy had a high political cost: the orientation to campaigning tended to distil into a preoccupation with media coverage. 'The perpetual campaign as compensatory strategy features continual attention to press coverage. Staff members are likely to measure success or failure primarily by how positive or negative is the treatment of their candidate, rather than how productive the government is during his tenure.' (Jones.)

The first Clinton presidency challenged the separated system of government: despite a weak electoral mandate, the President promoted an assertive strategy, relying on his own skills as persuader-in-chief to win public support. Yet, simultaneously, the Clinton style appeared to facilitate the workings of separated government, as it was able to accommodate the greater policy role of Congress.

In his second presidency, Clinton has lost the strategic advantage an incumbent president who can run again enjoys. As a result he may face a particularly 'policy-assertive' majority Republican Party in Congress. And the separated system will continue to prevent the introduction of the sort of sweeping changes he might favour in his search for a special place in history.

Given these obstacles, President Clinton would do well to adopt a guardian strategy, using his electoral reaffirmation to protect and build on his existing achievements such as deficit reduction and education reform. In addition, conditions appear ripe for cross-partisan policy formulation between the White House and Congress. Indeed, as long as the Clinton strategy is able to accommodate the greater policy role for Congress under conditions of split-party control, the separated system will continue to do its job.

*Julian Kirby is a PhD candidate at CSD and a Visiting Lecturer in American Politics at the University of Westminster. This is an edited version of a paper he presented to the CSD Research Seminar in June 1996.*



## Territoriality and citizenship

### an interview with Pierre Hassner

by Bridget Cotter

BC: The 1951 Geneva conventions define a refugee as an individual fleeing life-threatening, politically motivated persecution. This excludes anyone fleeing for other reasons, such as hunger or unemployment, and also fails to recognise categories of collective persecution. Would you alter this definition?

PH: I certainly would. The Geneva conventions were drawn up mainly with dissidents from communism in mind, and the definition was meant to cover refugees whose status was determined by man-made crises, and who were persecuted as individuals and for political reasons. Everyone who has been a refugee or who deals with refugees from a theoretical or practical point of view wants to broaden this definition.

The Red Cross or the High Commission for Refugees say: how can you insist that a refugee give proof that he is going to be persecuted individually when whole populations of Jews, Bosnians, and so on, have been persecuted? If there's a war, you have to flee war. And how can you distinguish whether or not a famine is man-made?

So, if one takes the refugees' side there is an iron-clad case for broadening the Geneva definition. And yet western European borders are closing. Unemployment crises, a search for scapegoats, a fear of loss of identity, or, as some have called it, 'societal insecurity': for all these reasons, governments are arguing for a halt to immigration. No one is in the mood to accept the broader definition. If anything, people are making it narrower.

Refugee laws should be

distinct from migration laws. They should be shaped by the plight of the refugees, not the needs of the economy. As the Statue of Liberty says, 'Give me your tired, your poor, your huddled masses'. But, of course, the definition of refugees and governments' refugee policies follow very closely policy on migration flows. When a



government needs workers it uses a broad definition of refugees; when it doesn't, a narrow one. One reason the French adopted - rather late in the day: in the nineteenth century - the territorial, *ius solis* definition of citizenship was that they needed men for their army. As soon as someone arrived in France, they said: 'Okay, you're a Frenchman, here's your gun'. Regiments of Senegalese died in Germany in World War I with no idea of why they had been sent to an alien climate to fight in a conflict which they had nothing to do with. The needs of governments preside over the definitions of citizens and refugees.

I see no easy solution to this. I have only banal observations to make: the flow of migration and refugees has increased recently because the communist world is opening up, because civil wars continue, because there are famines. It depends on how you count, but I think there are 20 million refugees outside their own nation-states, whereas twenty years ago there were only 3 or 4 million. There are 44 million displaced persons if you count people who have had to abandon their homes but stayed in the same country. Just when the need is greatest, the West is closing

up: even countries which have been traditionally open to immigration, such as America, Canada, and Australia. Hence the 'refugees in orbit' phenomenon - refugees whom nobody accepts, and who go from plane to plane, from airport to airport, station to station, circling the world like satellites.

As far back as 1943, Hannah Arendt, in her reflections on the refugees of World War II, wrote that the new conditions of mass statelessness in Europe reflected a new separation of people, state and territory. It became clear then that, without a legitimate tie to territory, rights have no meaning. You have said elsewhere that territory is a substitute for blood ties - *ius solis* can replace *ius sanguinis* - but this still means that people can be excluded from having rights. Shouldn't we now alter our thinking on citizenship, in light of both the continuing refugee problem and the greater human mobility of the late twentieth century?

Certainly we should. The question is: are we likely to find a principle that will substitute for territoriality? Hannah Arendt's point is paradoxical. She says that when you are not part of a legal community you have lost - in that beautiful formulation of hers - 'the right to have rights': you are nothing and the rights of man no longer exist. We, whether Christians or cosmopolitans, tend to think that the rights of man do exist, but the question is: do we have these rights as individuals whether or not we are part of a community?

The second question is whether these rights are likely to be trampled on or respected. You can say that if you don't have a community to protect you, if you don't have a territory, then you are lost, but Arendt's formulation is so extreme that she seems almost to dismiss the idea of human rights and the value of the individual, and to give weapons to those who say that it is only the community that gives you rights. This is the old debate between Burke and Paine, between inherited rights and universal rights.

Arendt points up the