

Failed Prosecutions: Donald Trump Survives the Senate

By [Dr. Binoy Kampmark](#)

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Never undertake a prosecution unless you have good grounds, and prospects, for a solid conviction. In the case against President Donald Trump, there was never a serious prospect that the Senate would cool sufficiently to give the Democrats the votes necessary to affirm vote of impeachment in the House. The GOP remains very much in Trump's pocket, a remarkable if opportunistic transformation given the innate hostility shown towards him prior to the 2016 elections. With their allegiance pinned to the Trump juggernaut, the hope is that, come November, the entire effort won't sink under the toxic miasma that is US politics.

House Speaker Nancy Pelosi had agonised over the original decision to pursue Trump through impeachment proceedings. One argument that seemed persuasive was the sense that too much energy would be consumed in the process, taking away from the election cycle and jeopardising the campaign to oust Trump at the ballot box. She held out for a time, keeping the firebrands at bay. But the demands of her office, and those around her to do something to combat Trump's claimed misdemeanours in office, were too profound to ignore. Even if the effort was bound to loose, a stand had to be made.

Political strategists, however, thought of alternatives as to how best to land enduring blows. Douglas Heye, former deputy chief of staff to House Majority leader Eric Cantor, [felt that censure](#) was more appropriate and would have constituted "a serious rebuke of Trump's action and might have even garnered some bipartisan support."

Once commenced, the approach of the Democrats seemed clipped, a crude abridgment that was as much a matter of caution as it was of fear. The articles of impeachment were narrow, pegged to the issue of Ukraine, the nexus with US electoral interference, and obstruction of Congress. The meaty report of the Special Counsel, Robert Mueller, played no part.

For all that, the case against Trump did convince Senator Mitt Romney, the only Republican to be swayed by the arguments that Trump be removed. The bar for misconduct in executive office, as opposed to the wheeling and dealing that keeps company with the occupant of that office, remains a high one indeed.

The school of thought favouring Pelosi – that the Democrats had to pursue the impeachment route – [has force](#) with the likes of Robert Kuttner, co-founder and co-editor of *The American Prospect*. "Trump's contempt for the rule of law was so flagrant that it would have been a dereliction of constitutional duty for the House Democrats to turn the other cheek." While Trump was not removed from office, "it had to be done, and could yet produce major benefits for the Democrats and the country." Kuttner, it would seem, is no political

strategist.

Keith E. Whittington of Princeton University is also of similar mind. There were a host of “good reasons”, [he claims](#) in *Lawfare*, in pursuing an impeachment process despite falling at the final hurdle. It constituted “a kind of formal censure” and “an effort to reassert important constitutional norms.” For all that, Whittington makes a concession. While an impeachment process might not be a failure because it ends in acquittal, one “that heightens political divisions without reinforcing the proper limits on conduct of government officials is not much of a success.”

Those divisions were laid bare in their partisanship. The Republicans ensured minimal scrutiny in the trial process itself, including jettisoning any prospect for calling witnesses. Further avenues of embarrassment were cut off. It was a reminder that, however such processes are framed, impeachment is a political scrap rather than a sober judicial assessment. The Democrats, despite their desperate attempts to make Russiagate swallow Trump, or the allegations regarding the withholding of funding to Ukraine as a quid quo pro for investigating the Bidens, have not been able to shift the ground.

Trump’s fantastically oily manner of conducting politics – an aping of business acumen and crassness – has left opponents wanting. He slips, ducks and eventually turns the gun pointed at him against the opponent. He makes sure it is armed, then fires. The impeachment episode is now being loaded and launched as a means of acquittal and exoneration, while the Democrats are being accused of failed venality. We, claimed Trump “have that gorgeous word. I never thought a word would sound so good – it’s called, ‘total acquittal.’” Arithmetic is evidently not the president’s strong suit.

The ever demagogic Louis Dobb of Fox Business is also happily restocking the arsenal, [having told his audience](#) that the Senate had “acquitted President Trump of both charges fabricated by Congressional Democrats, led by Speaker Pelosi and Adam Schiff, to carry out the most egregious and partisan attack against any president in our history – a man they knew to be innocent.”

The representative Republican position, and not just one held by them, was to be found [in the views](#) of the Senate Majority Leader Mitch McConnell. “Right now, this is a political loser for [the Democrats]. They initiated it. They thought this was a great idea.” In the “short term, it has been a colossal political mistake.” Much reading of the tea leaves is bound to follow.

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Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He lectures at RMIT University, Melbourne. He is a frequent contributor to Global Research and Asia-Pacific Research. Email: bkampmark@gmail.com

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