



Citizens Assemblies: A Mechanism for Enhancing Legislative Transparency and Accountability

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Prepared for the National Academies of Sciences Workshop on eGovernment and the Web, 19 June 2007

The Problem

Many promising reforms have been proposed to make Congress and other legislative bodies more transparent. A May 8, 2007 report by the Open House Project, for example, calls on Congress to use new information technology to create a “truly transparent legislature.” But all such proposals face the same obstacle: elected legislators benefit from the status quo and have a conflict of interest in using new information technologies to make themselves more democratically accountable. One democratic reform that can solve this conflict of interest problem is the Citizens Assembly.

Citizens Assembly

A Citizens Assembly is a randomly selected group of citizens with formal governmental powers and a jurisdiction confined to issues where elected officials have a blatant conflict of interest—that is, issues that have a direct bearing on an elected official’s re-election prospects. The two most notable citizens assemblies to date have been conducted in the Canadian provinces of British Columbia and Ontario.

The British Columbia “Citizens’ Assembly on Electoral Reform” was assigned the task of choosing a new electoral system for British Columbia. The assembly’s 160 members were randomly selected and met from January through November 2004. They met on weekends, usually every second weekend, and were paid a per diem and reimbursed for expenses. In addition, they had extensive staff support. The total governmental cost of convening the nine month assembly was \$6 million. In December 2004 the Assembly released a report with its proposed referendum on electoral reform, which was placed on the ballot in May 2005 and received 57.1% of the vote, just short of the 60% it needed for passage. The same referendum question will be placed on the ballot in May 2009.

The Ontario “Citizens’ Assembly on Electoral Reform” was given the same task as the British Columbia group. The assembly’s 101 randomly selected members met from September 2006 to April 2007. They also met on weekends and were paid a per diem plus expenses, with a total governmental cost for the deliberation phase of \$6 million. On May 15, 2007 the assembly released a report with its proposed referendum. The referendum will be on the ballot for the October 10, 2007 election. This is the first referendum in Ontario since 1921.

A slightly different citizens assembly was conducted at the national level in the Netherlands in 2006. The Netherlands citizens assembly on electoral reform was inspired by British Columbia. The assembly’s 142 randomly selected members met from March to November 2006 and submitted its recommendations to Parliament in December 2006. The major difference between the Netherlands and the British Columbia and Ontario citizens assemblies is that the former was purely advisory, and therefore not a citizens assembly according to the strict definition given above.

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A Proposal

All citizens assemblies have focused to date on designing electoral systems: how votes are translated into seats. However, citizens assemblies could also play a vital role in designing voter information systems: the information made available to voters and their information agents (such as the press) to hold elected officials democratically accountable. The jurisdiction of voter information systems includes official public statements, bill tracking, campaign contributions, and lobbying activities.

Such a jurisdiction would require a fundamental rethinking of the citizens assembly as a democratic institution. Instead of being an ad hoc body to deal with a single issue, the citizens assembly would have to be a standing body—perhaps a standing committee of a legislative body with jurisdiction confined to electoral information and voting systems. And to ensure that the assembly was not taken over by special interests, it would have to be a rotating body like the randomly chosen Ancient Athenian Council of 500, which rotated on a yearly basis. However, unlike the Council of 500, which set the entire agenda for the Athenian legislature made up of all citizens, this citizens assembly would only be able to propose an agenda for a narrow subset of issues where elected representative bodies have a blatant conflict of interest and a correspondingly poor track record. For exceptional issues, where its democratic legitimacy and visibility were not enough force to compel a legislature to pass its proposed legislation, it could also propose referendum items like the British Columbia and Ontario citizens assemblies.

This type of citizens assembly is not compatible with the U.S. Constitution, which gives Congress a monopoly on legislative powers. But Congress could pass legislation creating a citizens assembly with great democratic legitimacy and a mandate to propose legislation to Congress in issue areas where Congress has a blatant conflict of interest. The democratic legitimacy and visibility of such a citizens assembly would carry great political weight. In addition, like a federal agency, the citizens assembly could be given enforcement powers within its narrow sphere of jurisdiction. In short, it would have a novel mix of congressional committee and federal agency-like powers.

If a citizens assembly were implemented in a state with the initiative and referendum, constitutional problems would be significantly alleviated. Even here, however, a state constitutional convention might be needed. But reforming state constitutions has historically been much less of a hurdle than reforming the U.S. Constitution.

Conclusion

The citizens assembly solves a real democratic dilemma: how do we enact effective democratic reform legislation when elected officials have a conflict of interest in doing so. Many other so-called independent bodies have been proposed to deal with this problem. One common proposal is to have an independent body made up of equal numbers of the two major political parties. But such bodies exhibit a strong pro-incumbent bias. Other types of independent bodies, with individuals appointed by prominent policymakers or their surrogates, have also exhibited a strong pro-incumbent bias. Only a citizens assembly can completely eliminate the problem of pro-incumbent bias. If we want to modernize our legislative information systems and our legislative bodies more generally, then the citizens assembly should be viewed as a potentially effective vehicle for doing so.