CAN AMERICA'S DEMOCRACY BE IMPROVED?

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Introduction

Ideally, the democratic process ought to "direct the exercise of political rights toward the satisfaction of interests" and operate in ways that involve and educate all relevant stakeholders[1]. The current structure and practice of representative democracy in the United States fall short of this ideal in several ways. First, too few people are involved in a meaningful way in most decisions that affect them and their communities, and there is too much dependence on electing representatives to speak on behalf of those whom they serve. Second, there is an over-reliance on majority rule, and a lack of emphasis on forging political consensus. This means that the concerns of certain "minorities" are constantly ignored. Very little effort has been made to increase the capacity of people who disagree or come from disparate schools of thought to interact in ways that encourage deeper understanding or reconciliation of differences. It is almost as though we have resigned ourselves to the idea that people who disagree will never change their views, no matter what evidence or arguments are presented.

The notion of democracy in the United States has been reduced to barely competitive elections for legislative and executive offices in which less than half of the public participates. Expression of public opinion is often limited to writing letters "to the editor," participating in highly partisan radio call in shows, and petitioning elected officials, usually as part of organized letter-writing campaigns. As a result, policy-making and resource allocation are more likely to be influenced by organized interest groups with professional staff and the substantial budgets required to contribute to electoral campaigns. They are not likely to be influenced by individual citizens with thoughtful questions, well-crafted arguments, or ingenious ideas.

In this paper, we suggest that by working to satisfy individual interests through facilitated face-to-face dialogue, it is possible to enhance our democratic process and produce public policy results that are viewed as fairer by those affected, more efficient when reviewed by independent policy analysts, more stable over time, and wiser when the participants look back on the knowledge that was actually available at the time decisions had to be made. The key, in our view, is to create new problem-solving forums that operate by consensus.

The basis for our claim is found within the theory of deliberative democracy, which has emerged within the last decade as a means of addressing the inadequacies of

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[1] Joshua Cohen and Joel Rogers, *On Democracy*, Middlesex: Penguin Books, 1983, p. 51

current democratic practice[2]. Essentially, deliberation provides an opportunity for the public to determine the legitimacy of particular public policy choices. Proponents and opponents of each decision are expected to justify their claims in terms that the public as a whole can accept. The critical assumption behind deliberation is that individuals must be able to reflect upon conflicting arguments, because individual preferences will evolve as different ideas and facts emerge during a dialogue[3].

We move, however, beyond simply advocating deliberation as a means of enhancing public discourse, and look more specifically at various tools that might help us reach our democratic ideals. In this paper we review recent experiments aimed at achieving more direct and responsive democratic discourse. We highlight instances in which new techniques and institutional arrangements were developed in response to longstanding obstacles to democratic participation or policy gridlock[4]. Our objective is to examine the evidence from these real-world experiments and determine whether these techniques can actually produce greater political responsiveness and better policy outcomes. We have found a number of well-documented experiments that merit attention. We have organized these experiments under four headings: 1) new methods of information dissemination; 2) teledemocracy as an alternative to face-to-face dialogue; 3) a redefinition of the roles and responsibilities of experts and non-experts; and 4) consensus building strategies[5].

New methods of information dissemination arise out of the belief that meaningful public education hinges on putting more information in the hands of citizens. Its advocates realize that merely pumping out additional material, no matter what media are used, is not enough. Instead, the focus of the most intriguing experiments is on sharing information through dialogue -- a give and take among a cross-section of the population encountering materials that they might not otherwise have the opportunity to confront.

"Teledemocratic" experiments go a step further. They provide new opportunities for members of the public to respond to what they see and hear. They are designed to harness new forms of electronic technology to provide information to the public, and to gather up systematic feedback to elected and appointed officials from citizens who have taken the time to review the new information and organize their thinking. Teledemocracy puts a premium on increasing the number of citizens providing informed feedback on each issue. The presumption is that the voices of just a few individuals with strongly held beliefs should not determine the views attributed to the public-at-large. If sufficient

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[2] John Dryzek, *Deliberative Democracy and Beyond*. Oxford: Oxford Press, 2000, p. 1
[3] *Ibid.* p. 1
[4] We do not focus on referenda and polling, even though these do represent more direct forms of involvement on the part of American households and voters in public policy-making. They rely, from our standpoint, on oversimplification and a dangerous "either-or" approach to policymaking. Even if they sharpen the political debate and engage people who would otherwise sit on the sidelines, they fall short of involving citizens in the kind of reasoned deliberation likely to lead to informed consensus. And, as we argue later in the paper, without informed consensus we are not likely to produce better results than what we have at present.
[5] The boundaries between these categories are not always clearly defined, and there are some experiments that could legitimately fall into more than one category.

numbers of citizens respond simultaneously, small factions masquerading as the majority, will be relegated to their proper place in policy debates. Furthermore, with the appropriate technology, officials can assess the demographic characteristics of the group responding and how representative they are of the general population.

Experiments that redefine the roles traditionally played by experts and non-experts provide further expanded opportunities for the public to participate in public policy decisions and policy implementation. When diverse groups participate in generating the data that influence public policy, it is less likely that "the best information available" will be brushed aside in favor of the loudest voices with narrow political agendas. While collaborative efforts will not in-and-of-themselves guarantee that public officials place more emphasis on the factual or technical inputs into political decision-making, it seems to increase the chances of ensuring a better balance between science and politics.

Finally, consensus building -- which relies on professionally facilitated dialogue among ad hoc representatives of all relevant stakeholder groups, as chosen by those groups -- can bring us closest to a new form of democracy that overcomes the shortcomings described above. Consensus building incorporates and builds on elements of each of the previous experiments: it provides opportunities for information dissemination and deliberation; it allows the public to respond (mostly through carefully chosen representatives) to questions relating to public policy; and it encourages a shift in the traditional roles played by experts and the lay public. It does all of these things and brings diverse voices into public policy dialogues. It seeks to address the concerns of all those affected by public policy decisions by allowing them to participate more directly. Ad hoc dialogues are not meant to undermine the authority of elected and appointed officials, but rather to supplement their efforts. By working to formulate consensus statements, these new forums ensure that elected and appointed officials will be held accountable to the concerns of the public-at-large.

I. New Methods of Information Dissemination

Two experiments -- study circles and the National Issues Forum -- provide illustrations of efforts to put more information into the hands of citizens. Both of these experiments are deliberative in character, and thus go beyond a citizen's "right to know". They provide settings in which conversation, usually in the form of face-to-face dialogue with others in the same community, supplement the mere supply of information and so ensure that participants consider the implications of the new information they receive. The value of these experiments is primarily in the fact that they offer citizens an opportunity to share and debate ideas as they form opinions about the direction public policy should take[6]. The ideological foundation from which these experiments have sprung is the notion that, in Przeworski's words, deliberation stimulates "change(s) of

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[6] See Yankelovich, D. *The Magic of Dialogue: Transforming Conflict into Cooperation*. New York. Simon & Schuester. 1999

preferences resulting from communication"[7]. While deliberation clearly changes opinions that were originally based on inaccurate, biased, or incomplete information, Susan Stokes has shown that deliberation can also "influence citizens at a deeper level: to mold their very sense of who they are and what their capabilities are"[8]. Moreover, if approached carefully, when participants address divergent opinions in an unbiased environment, they may be also be able to diffuse hostilities and open up new channels of communication.

In working to build a better-informed citizenry, these experiments are intended to enhance members of the public's capacity to address, at the communal level, important issues that they face together. Further, by creating a more informed, and presumably more interested, citizenry, experiments in information dissemination may be intended to ultimately force greater governmental responsiveness.

(i) Study Circles

Study circles are an example of informed small-group deliberation. The Study Circles Resource Center, founded in 1990, promotes the use of study circles to share information and encourage discussion on critical social and political issues[9]. The goal of Study Circles is to help people become active in their neighborhoods and communities by engaging them in informed discussions, and to help citizens to establish relationships with each other, and with government officials. Topics of discussion are diverse, and have included, amongst others, matters of race relations, crime and violence, and public education.

In the Study Circles tradition, a group of eight to fifteen residents meets regularly over a period of weeks or months to discuss a prominent issue. The group sets its own ground rules for discussion, and is intended to progress from sharing of personal experiences, to discussion of various perspectives on the matter, to consideration of potential strategies for community action. A designated, impartial facilitator helps to manage the deliberation process, and assists the group in documenting whatever common ground is reached. Consensus is not required. Sometimes communities or regions establish large-scale study circle programs, in which diverse participants meet in many study circles over a set time period, all to consider the same issue. At the end of the program, the participants in all the study circles gather for a community meeting at which they may try to jointly formulate strategies to address the issue they had considered. Both individual study circles and large-scale study circle programs often lead to a set of action steps determined by the participants[10].

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[7] Stokes, S. "Pathologies of Deliberation", *Deliberative Democracy*, Cambridge: Cambridge University Press, 1998. p. 123.
[8] *Ibid.*
[9] The Topsfield Foundation, whose mission is to advance deliberative democracy and improve the quality of public life in the United States, currently funds the project.
[10] Study Circles homepage: www.studycircles.org

A Study Circle can be initiated by a Mayor's office or a local school board with sponsorship from a coalition of individuals or organizations. In 1992, Lima, Ohio became the first city to create community-wide study circles. Towns as small as Yarmouth, Maine and cities as large as Los Angeles have implemented similar projects. Sponsoring organizations include the National Urban League, YWCA, Education Commission of the States, National Council of Churches, and the National Association of Human Rights Workers.

Recognized as a decentralized, citizen-based approach to deliberation, Study Circles lay a foundation for informed dialogue on a larger scale by connecting citizens to public life at the local level. Programs of this sort emphasize that "through connecting personal experience and public policy, a study circle can lead to better understanding of [the participants'] own and others' concerns and perspectives on a host of issues"[11]. Study Circles have demonstrated that by linking individuals, members of small groups, voters and members of larger organizations they can provide the impetus for local problem-solving[12].

(ii) National Issues Forum

The National Issues Forum (NIF) is a network of civic and educational organizations across the United States that organize deliberative forums about issues of public concern. The issues might be national or local in scope and, consequently, the forums for their consideration might involve only small groups of individuals or large gatherings that follow the model of the town meeting. These deliberative forums are intended to create a more thoughtful and informed public through the exchange of ideas and experiences, and to create a more unified voice to influence public policy decisions by enabling citizens to discover where their values and interests intersect. Thus, the goal of the forums is for the participants to reach agreement on a desirable course of action. The organizers of these forums often share reports on the outcomes with public officials at the appropriate level of government so as to give them better insight into public opinion.

The NIF acts as a clearinghouse for individuals interested in participating in or hosting forums in their community, schools, churches or civic organizations. The network itself identifies critical issues for deliberation. These have included: responses to terrorism, health care, juvenile crime, and gambling. In addition, the NIF commissions the Kettering and Public Agenda Foundations to prepare non-partisan issue books to provide background materials and to outline different strategies for acting on a specific

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[11] Leighninger, M. Study Circles Resource Center, www.studycircles.org and Planning Community-Wide Study Circle Programs: A Step-by-Step Guide. 1996.

[12] Participants in Study Circles have the opportunity to evaluate their program. The Study Circles website provides a limited selection of project evaluations. In addition, there has been some independent research on Study Circles. These include research projects conducted by the Southwest Educational Development Laboratory (SEDL); Prof. Marc B. Goldstein at Central Connecticut State University, who examines four communities that have organized study circles on race relations; and *Best Practices*, a two-year study of community-wide study circle programs, funded in part by the Charles Stewart Mott Foundation.

issue. Finally, the network assists municipalities, organizations, and citizens in conducting local forums[13].

Clearly, citizens need up-to-date information to participate effectively in local and national decision-making. More information -- more accurate information -- and even careful deliberation over information are only a necessary but not sufficient basis for effective citizenship. The experiments in information dissemination are primarily unidirectional; the public becomes more informed and educated, but the mechanisms for the public to actually influence public policy outcomes essentially remain unchanged.

II. Teledemocracy as an Alternative to Face-to-Face Deliberation

Technology projects aimed at enhancing democractic processes have progressed from 1980s' teledemocracy[14], particularly interactive cable television experiments, to much more elaborate electronic forms of interaction. General "web-based" instruments in America and abroad are now being used to incorporate citizens into the democratic process through new interactive media. The following examples include various iterations of web-based applications. These experiments with information technology complement other efforts, such as those described above, to diffuse information and facilitate the creation of stronger social networks. They also represent innovative efforts to increase direct access to decisionmakers.

(i) Minnesota E-Democracy

Minnesota E-Democracy is a non-partisan citizen-based organization whose mission is "to improve participation in democracy in Minnesota through the use of information networks"[15]. Its purpose is primarily educational, and it functions on the premise that a more informed electorate is likely to be a more active electorate. The organization aims to encourage public discourse through the use of information technology, and to encourage increased voter turnout. Established in 1994, the organization created the world's first election-oriented web site. Minnesota E-Democracy includes on-line public spaces for public debates about local or state political issues, as well as debates between election candidates. The organization sponsors election year on-line partnerships to promote citizen access to election information and interactive dialogue. The Minnesota E-Democracy web site delivers political announcements and provides links to other sites concerned with public policy in Minnesota, such as political parties, news outlets, government departments, and diverse interest groups. Minnesota E-Democracy also enables citizens to subscribe to email lists whose other subscribers include members of the media, state and local elected officials, legislative staff,

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[13] Reports on numerous NIFs are available on the National Issues Forum website: www.nifi.org

[14] Teledemocracy is defined as "democracy at a distance." For more information, refer to Scott London's Teledemocracy vs. Deliberative Democracy: A Comparative Look at Two Models of Public Talk, *Journal of Interpersonal Computing and Technology*, Vol 3 (2), April 1995, pp. 33-55.

[15] www.e-democracy.org

governor's staff, campaign workers, party volunteers, and members of civic and political interest organizations. The goal of these lists is to allow ongoing discussions between the public and policy-makers.

(ii) On-line Participation in Geographic Information Systems[16]

Geographic Information Systems (GIS) allow information about a geographic area to be mapped more quickly, and in ways that are more detailed and more sophisticated than in previous years. GIS has become a key tool for planning development and for managing environmental regions. It is also being used increasingly to communicate those plans to decision-makers and to the general public.

Example: On-line GIS in Slaithwaite, U.K.

In the late 1990s, the British government funded "The Virtual Society Programme" to research changes in human behavior and society resulting from new electronic technologies. One part of this program took place between 1997 and 1999, and focused on the Internet as a tool for increasing public participation in environmental decision-making. Specifically, the experiment, which took place in Slaithwaite, England, put Geographic Information Systems (GIS) on the Internet to increase and enhance the community's participation in town planning.

This experiment set out to replace the former method of community consultation on environmental decisions, in which a physical model of the area under consideration would be placed in a meeting room, and into which the public could plant small flags on which they had written comments. In determining issues of greatest concern, policy-makers would take note of which areas on the model had collected the most flags, and read the comments left by the public. The experiment basically converted this to an electronic process, in which the user could leave anonymous comments, read other users' comments, and also run certain map and database queries. The on-line process was found to have several advantages over the in-person one: first, participation was made more convenient and accessible to many members of the public (and to specific groups that might not otherwise have participated), since they could visit the site in their own time; second, it allowed for more rapid information dissemination and feedback; third, the anonymity of the Internet allowed some people to speak more freely than they might have in a public setting. Ultimately, however, this experiment increased citizen input in the early stages of environmental planning, but did not require any response from decision-makers, nor did it include any mechanisms to ensure that the public's input influenced the decisions ultimately made.

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[16] This case is documented by Steven Dijkstra in Bout, E. (Ed). *The Border Story: What happened at Borders to Cross; Maastricht 5,6,7 October 2000.* Agora Europa: Amsterdam.

*(iii) The 21st Century Town Meeting*TM 17

The 21st Century Town MeetingTM is an innovative model that has been developed by AmericaSpeaks, a nonprofit organization devoted to engaging the public in governance at the local, regional, and national scales. AmericaSpeaks seeks to engage ever larger proportions of the public by integrating modern communication technologies with face-to-face dialogue. The goal of the 21st Century Town MeetingTM, as with the traditional town hall meeting, is to develop a set of recommendations about a specified public policy or planning issue. However, the 21st Century Town MeetingTM employs modern technology to take this type of deliberation to a considerably larger scale and thus, it is hoped, to engage a more diverse and representative segment of the population. This model has been employed to address several important issues, including the redevelopment of Lower Manhatten following the attack on the World Trade Center, as further described below.

One of the unique aspects of this model is that, while engaging hundreds or thousands of individuals simultaneously though communications technology, it also preserves face-to-face deliberation. A 21st Century Town MeetingTM generally takes place in a single location over the period of one full day. Participants are seated at tables of about ten people, where they participate in small-group discussions. Each participant is provided with information materials that are prepared specifically to encourage and support discussion. Each group continuously enters its comments into computers that collect the ideas generated amongst all participants. The results are quickly presented back to the whole meeting, so that the participants can focus on the strongest themes emerging through the dialogue.

The 21st Century Town MeetingTM model has a defined structure with a few key components. Firstly, the meeting is facilitated by neutrals both at the scale of the meeting as a whole, and at the level of small-group discussions. A lead facilitator moderates the meeting as a whole from a stage[18]. The lead facilitator is responsible for guiding the day's program, for example by bringing focus to specific themes emerging in discussion, or encouraging participants to shape their recommendations to be more influential when presented to policymakers. Individual table facilitators are usually volunteers who are trained in moderating small-group discussion. They are responsible for ensuring that all members of the group are given the opportunity to participate and for assisting the participants to find areas in which they agree. The individual table facilitators are also responsible for entering all ideas and comments into the networked laptop computers that are provided to each table.

Another important component of a 21st Century Town MeetingTM is the technology that is employed to gather, analyze and distribute data at the meeting. The networked computers at each table allow each small group to record the ideas that are

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[17] This example is based entirely on the information provided by AmericaSpeaks on its website: www.americaspeaks.org

[18] If a meeting is particularly large, the activity on the stage is often projected onto large screens so that all participants can see more clearly.

generated during discussion. Thus, the computers help to create a permanent record of the whole meeting, which allows more ready analysis during the meeting and when reports are produced after its completion. The comments that are entered into the computers are transmitted instantaneously to a "Theme Team", a diverse group of 6-10 staff members and volunteers who are responsible for processing the data and presenting it back to the participants. The Theme Team identifies key themes, ideas, and priorities emerging from the small-group discussions, and presents them to the lead facilitator who, in turn, presents them back to the meeting as a whole, so that further discussion can build on work done earlier in the day. Visual aids, such as Powerpoint slides, are often used to present the information back to the group. Sometimes the Theme Team and the facilitator will formulate questions as a result of ideas identified in small-group discussions, and put the questions to a vote. These polls are also conducted instantaneously, since all participants are given wireless keypads into which they enter their responses. The members of the Theme Team are selected for their abilities to process data and synthesize ideas quickly, as well as to work together as a team. They are also provided with training about the process before the meeting is held.

Example: 21st Century Town Meeting[TM] in New York

In July 2002, AmericaSpeaks facilitated a day-long public forum, called "Listening to the City", to allow the public to deliberate over and provide recommendations concerning plans for rebuilding Lower Manhattan following the attack on the World Trade Center[19]. This forum was part of a project being undertaken by the Civic Alliance to Rebuild Downtown New York, a broad-based coalition of more than 85 groups that are committed to shaping the redevelopment of the area. The forum followed the format of the 21st Century Town Meeting[TM]. It was held in a convention center in New York, and it was attended by 4,500 people, including survivors and family members of victims of the September 11th attacks, individuals who live or work in Lower Manhattan, many of those who will ultimately be responsible for deciding on the redevelopment plans[20], and other interested citizens. The results and recommendations from the forum are to be presented to policymakers in order to guide their decisions.

The forum organizers asked participants to discuss their most important hopes and concerns about the redevelopment of Lower Manhattan and about a memorial for the victims of the attacks. The Lower Manhattan Development Corporation (LMDC) and the Port Authority (PA) presented to the meeting six potential plans for redeveloping the site, as well as a list of multiple choice questions concerning those plans. These questions were the basis for electronic polls using wireless keypads that were taken during the forum to assess the public's response to the various aspects of the plans. The participants were also invited to comment and provide recommendations either on the plans that were presented or on entirely different ideas.

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[19] See www.listeningtothecity.org

[20] Some of the decision-makers included officials from the Lower Manhattan Development Corporation, the Port Authority of New York and New Jersey, the State of New York, and New York City's Mayor's office and City Council.

The outcome of the forum was that the participants rejected the six proposals presented for redeveloping the site. They provided redevelopment planners with specific advice, such as preserving the twin towers' footprints as a "remarkable symbol", diversifying uses on the site, reducing density, finding ways other than simply building more office space to solve the leaseholder requirement. At the end of the meeting, representatives from the LMDC and the Mayor's office responded to the participants comments, stating that they would seek to include more uses on the site, lower density, and address issues resulting from current leaseholder's rights.

Finally, the participants were asked to evaluate the meeting. A strong majority, 79%, expressed satisfaction with the quality of the dialogue. When asked whether they thought their comments would be taken into consideration by decision-makers, 33% said they were very confident, 45% were somewhat confident, and 22% had little confidence.

The rise of innovative projects to use new information technologies appears to offer great potential for enhancing meaningful participation in democratic processes. Their primary attraction is their potential to create communication networks among people who have traditionally been excluded from political dialogue. However, it is still too early to make conclusive statements about the effectiveness of these tools. It remains to be seen how representative those who choose to participate will be of the general population. It also is not clear whether those "at the controls" will unfairly manipulate the public response that is generated.

Nevertheless, the experiments highlighted above do provide some lessons for improving the use of information technology to enhance the democratic process. They demonstrate that design specifications, covering such aspects as selection of an appropriate medium, accountability, transparency, access, and agenda-setting, are critical to the success of such efforts. These specifications need to be tailored to each situation given the target audience, desired level of engagement, and scale of participation. Failure to consider these factors can result in a project's complete lack of effectiveness, as well as tremendous waste of resources.

In the best of scenarios, teledemocracy provides new communication channels by which a greater proportion of the population can gain information that is traditionally difficult to access, engage in discussion with other citizens or with decision-makers, and be exposed to new ideas that might not normally much "air time". Even under such circumstances, however, the public's role is relatively limited. Communication technologies are used to disseminate information, supplement deliberation, provide an opportunity for the public to comment, and even allow some discussion with policy-makers, but teledemocracy does not necessarily require decision-makers to be more responsive to citizen concerns. Nor does it provide an obvious approach for decision-makers to receive, organize, and meaningfully respond to the increased public input expressed through these technologies.

III. Shifting the Roles and Responsibilities of Experts and Non-Experts

Enhancing meaningful public participation may require a fundamental shift in the roles assumed by elected officials, technical experts, and the lay public. Several experiments have tried to integrate members of the public into decision-making processes by giving non-experts more responsibility. In this section, we describe several such experiments in which members of the public assumed roles they are typically denied in decision-making. In the following examples, representatives moved beyond deliberation, and further into the realm of policy-making. In these cases, members of the public were able to provide informed recommendations and, in some cases, to collaborate directly with experts in generating technical analyses and policy proposals. Inevitably the roles of elected officials and experts will need to change to accommodate such an expansion of the public's role[21].

We present three experiments involving shifting roles: Citizen Panels, Harnessing Indigenous Expertise, and Joint Fact Finding.

(i) Citizens Panels

Citizens panels represent an innovative approach to bring citizens more directly into policy development efforts. While experiments with citizen panels have been run in various countries in Europe and other parts of the world, the Jefferson Center for New Democratic Processes in Minnesota is the focus of most such efforts in the United States. In order to differentiate between its own product and other similar efforts, the Jefferson Center refers to its product under the trademark "Citizens Jury"[22]. The goal behind the Citizens Jury is to provide policy-makers with a clear understanding of the public's view on an issue by allowing ordinary citizens to learn about the issue, deliberate over it, and produce recommendations. Since the idea is that the Citizens Jury recommendations reflect what public opinion would be if the public were well informed about the complexities of the issue, policy-makers are encouraged to watch the Citizens Jury in action, and to seriously consider its recommendations as a reflection of the will of an informed public[23].

In preparation for the process, the Jefferson Center establishes an advisory committee of 8-10 people. This group represents the key stakeholders, activists, and interest groups concerned about the issue. The committee members are selected after Jefferson Center staff have spoken to, and received nominations from, the various stakeholders involved. For example, the advisory committee for a Citizens Jury on Minnesota's property tax system included: representatives from the Minnesota Taxpayers Association, the Minnesota Chamber of Commerce, the Association of Minnesota Counties, the League of Minnesota Cities, the Metropolitan Council, the Citizens League, the Departments of Finance and Revenue, the Minnesota Multi-Housing Association, and

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[21] For more detailed discussion about the shifting roles of policy-makers, experts, and the public, see Susskind, L. and Cruikshank, J. *Breaking the Impasse: Consensual Approaches to Resolving Public Disputes*. New York: BasicBooks. 1987
[22] Jefferson Center. *Citizens Jury; Effective Public Participation.*
[23] *Ibid.*

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the Minnesota School Boards Association[24]. Sponsoring agencies must approve the advisory committee. However, according to Doug Nethercut, Executive Director of the Jefferson Center, in its dealings with its sponsors, the Jefferson Center emphasizes the need for a truly diverse and representative advisory committee[25]. The advisory committee's role is to establish the specific issues for discussion by the jury, and to ensure that the process remains unbiased.

The Jefferson Center emphasizes that the jury selection process must ensure a random sample to be fair, but also that the 18 person-jury needs to be demographically representative of the general population. In order to achieve this, the Center bases its selection on a "stratified sample." Typically, the Center hires a commercial firm to perform a telephone survey of approximately 700 - 800 randomly selected households. The interviewer collects demographic information about the interviewee, and asks a carefully worded question to assess the interviewee's basic attitude about the relevant issue. Then, the interviewer describes the Citizen Jury process, and asks the interviewee whether s/he would be willing to participate. If the interviewee is willing, s/he is included in the pool of potential jurors. Once the survey is complete, the potential jurors are classified according to demographic data such as gender, age, race, residential area, and level of education. Since the Jefferson Center's goal is to produce a jury that reflects a microcosm of society in general, the staff specifies jury demographics that are proportional to those of the general population. Additionally, they try to produce a jury whose attitudes toward the issue match those of the population at large. The selection process is performed transparently so that all stakeholders can be assured that the jury is a random, demographically representative sample[26].

Once selected, the Jefferson Center brings the jurors together to examine the issue over a period of four to five days[27]. They provide hotel accommodation, pay the jurors a stipend, and help to negotiate time off from work for jurors who need assistance. The Citizen Jury process is open to the public and the media. The Center either provides two professional facilitators from its own staff, or it contracts with external moderators who are familiar with the Citizen Jury process. The role of the moderators is to ensure that the process runs smoothly, and to create an environment that is secure and comfortable. After learning about the issue, the moderators may help to set the agenda. They may also help the advisory committee formulate a charge that is presented to the jury at the initiation of the process. The charge involves a series of questions that the jury needs to address[28].

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[24] Jefferson Center. *Citizens Jury on Minnesota Property Tax Reform.* 1999

[25] Personal communication with Doug Nethercut, Executive Director, Jefferson Center. October 10, 2000.

[26] Nethercut. October 10, 2000.

[27] According to Nethercut, the cost of a Citizen Jury may range between $40,000 and $90,000. These costs cover hotel accommodation, and staff time, that can vary considerably between different cases. Most sponsors are county boards, school boards, etc. In the past, several cases were performed to develop and test the Citizen Jury process; these cases were funded by the Jefferson Center of Ned Crosby. Now, this is less common, and the Jefferson Center may approach potential clients and present the merits of the process to them. As the Citizen Jury process has become more widely known, some clients have approached the Center.

[28] *Ibid. note 25.*

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Once the jurors are clear about their task, the panel listens to expert witnesses testify on the issue. The expert witnesses are usually nominated by the advisory committee and then selected by the Jefferson Center. Alternatively, they may be members of the advisory committee. The experts are selected to represent a variety of opinions, and they typically come from different disciplines. There are two types of witnesses: background witnesses and advocate witnesses. Background witnesses do not represent any side; their role is to present general information. Advocate witnesses present the arguments of the different stakeholders. The Jefferson Center assists witnesses with their presentations to try to ensure that presentations are of comparable quality. In selecting witnesses, the Center also tries to avoid experts whose prominence in the field might influence jurors' voting. Nevertheless, Nethercut stated that it is unavoidable that witnesses are sometimes particularly strong presenters who are able to sway the jury[29].

After the witnesses give their testimony, panelists may ask questions and engage in a discussion on the issues. Thereafter, the panelists deliberate together in a moderated environment in an effort to formulate a set of recommendations. They may receive legal advice, particularly from expert witnesses and advisory committee members, who sometimes remain present throughout the process. If the jurors cannot reach consensus, they may vote on recommendations. Voting rules vary according to case. Typically, the Jury's final report indicates the number of votes per recommendation. If the panel was charged with offering a quantitative recommendation, an average or median of the proposed numbers may be used. The jurors may draft their recommendations in their own words, or the Jefferson Center may draft them and present them to the panel for discussion and approval. The final report of a Citizens Jury may include juror comments about any aspect of the process or issue[30].

Twenty-eight policy juries have been run between 1974 and 1999. The issues they have examined include the federal budget, arts in schools, organ transplant policy, physician assisted suicide, hog farming regulation, and property tax reform.

Example: Citizens Panel in Minnesota

Ned Crosby, the founder of the Jefferson Center, along with two other authors, describes the first time that a policy jury was used at the state level to examine an issue of public concern.[31] Then called the Center for New Democratic Processes, the Center initiated a process in 1983, using a panel to address the problem of deteriorating water quality in Minnesota caused by agricultural practices. After Crosby spoke to some farming stakeholders, some major farming organizations, including the Minnesota Farmers Union, agreed to sponsor the process. Thereafter, other players, including Minnesota's Departments of Agriculture and Natural Resources, also agreed to be sponsors.

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[29] *Ibid.*

[30] *Ibid.*

[31] Crosby, N., Kelly, J., and Schaefer, P. "Citizens Panels: A New Approach to Citizen Participation" *Public Administration Review,* Vol. 46, March-April 1986, pp. 170-178

In the initial stages of the process, a series of informational meetings was held in various agricultural communities to acquaint everyone with the project, and to collect regional information. Next, a statewide telephone survey was used to assess Minnesota citizens' attitudes regarding agricultural and environmental issues, and to form a pool of potential jurors. Once the jurists were selected, regional panels on the issue were organized. Each of the regional panels presented recommendations after listening to expert testimony. Then, three members of each panel were selected by their peers to sit on a statewide panel that heard further testimony and discussed possible solutions. The statewide panel ultimately presented recommendations to the sponsoring organizations.

The process used in this case was not exactly like the Citizens Jury process now used by the Jefferson Center. For example, the selection process was modified slightly to accommodate concerns of the major farm organizations sponsoring the project. Since farmers constituted about 5% of the Minnesota population, an entirely random process would have seen approximately 3 farmers sitting on each panel of 60. Rather, half of each panel was selected from among those who attended the informational meetings. The other half was selected using the demographic and attitude categories described above. Another difference was that in this case, the jurors selected a subcommittee to lobby the legislature to support their recommendations. Subsequently, Citizens Juries have been used only for decision-making. The Center found that the juries were considerably less effective as lobbyists than as deliberators[32].

Crosby *et al.* considered this project a moderate success. However, in their article, they highlight several difficulties. First, they noted that both the regional and the statewide panelists found it extremely difficult to reach any conclusions. Second, panelists expressed concern that the Center's staff moderating the statewide panel meetings did not maintain the unbiased posture of the staff at the regional panels. Finally, the sponsoring organizations apparently did take the panelists' recommendations seriously, often writing detailed responses to them, and even enacting a few of them. As a result, the Minnesota legislature agreed to spend an additional $10 million to address non-point source pollution, and to implement a tree-planting program[33]. However, most of the jurors' recommendations were not adopted by the Minnesota Legislature or the other sponsoring agencies.

This lack of responsiveness indicates that efforts by citizens alone are unlikely to be particularly influential when responsibility for decision-making and action remains with government officials. By contrast, the next experiment represents an effort in which the citizenry itself takes responsibility for implementing strategies to address a public concern.

(ii) Harnessing "Indigenous Expertise"

The movement to encourage involvement of "lay" stakeholders in investigating and analyzing issues of public concern is gaining strength in part due to a growing

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[32] Personal communication with Ned Crosby, Founder, Jefferson Center. October 31, 2000
[33] Crosby. October 31, 2000.

recognition that these stakeholders are often able to provide important and practical insights into these issues that outside experts cannot. The "local" or "indigenous knowledge" of the lay public affected by a particular issue is often critical to a more accurate conception of the problem and a more effective research design or implementation strategy. Local residents know about the local culture, including customs, beliefs, and lifestyles, that can greatly affect the way an issue manifests itself in a particular area, and the way proposed solutions might be implemented.

The environmental justice movement, arising out of concern that poor and minority communities are typically exposed to substantially greater environmental hazards than other communities, aims to empower disadvantaged communities to reduce the environmental risks they face to levels that are comparable with the rest of society. This movement has embraced community-based participatory research (CBPR) as a tool to achieve that goal. In CBPR, community members work as equal partners with professional scientists or other researchers to define the problem, gather and analyze the data, and formulate solutions for their community. The goal is to ensure that scientific investigation is undertaken with consideration of the social and economic realities facing the affected communities[34]. The following case, from Williamsburg in Brooklyn, New York, illustrates how CBPR uncovered important findings that shaped outcomes that were more carefully tailored to local conditions than would otherwise have been the case.

Example: Harnessing Indigenous Expertise in Williamsburg, New York[35]

El Puente is a community development organization involved in social justice issues concerning the Latino community in Williamsburg. Concerns about elevated incidence of various diseases within the community, and the incomplete nature of information available about residents' health, prompted El Puente to organize a series of community health surveys, with the assistance of a non-profit organization called Community Information and Epidemiological Technologies (CIET), between 1995 and 2000. The surveys focused primarily on asthma.

The first survey was conducted mainly by a group of high school students who expressed an interest in environmental and health issues. El Puente enlisted CIET to train the students, as well as some teachers and El Puente staff members, in survey design and administration, and to educate them about asthma. The group members collected the data by conducting door-to-door surveys, and they reached 280 households and 1,065 individuals. This survey revealed that many residents were concerned about air pollution and respiratory diseases, but were not aware of any actions they could take to address these problems.

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[34] Corburn, J. "Combining Community-Based Research and Local Knowledge to Confront Asthma and Subsistence-Fishing Hazards in Greenpoint/Williamsburg, Brooklyn, New York." *Environmental Health Perspectives*. Vol. 110, Supplement 2. April 2002. p. 241

[35] This case is based entirely on the research of Jason Corburn, as described in his article, "Combining Community-Based Research and Local Knowledge to Confront Asthma and Subsistence-Fishing Hazards in Greenpoint/Williamsburg, Brooklyn, New York." *Environmental Health Perspectives*. Vol. 110, Supplement 2. April 2002

These findings prompted El Puente to recruit and employ ten Latino women from the community to develop and implement a sustained course of action to research and address asthma in the community. The women were chosen for their knowledge of, and commitment to, the neighborhood and its services and for their commitment to improving community health. These women worked with CIET scientists to develop an asthma survey program, and to bridge the gap between local residents, cultural and folk practices, and professional clinical healthcare providers. While the scientists taught the women about asthma and survey design, the women educated the scientists about local culture, language and health practices. Thus, during the second survey, the women were able to offer residents basic disease education and information about screening and detection techniques. The ability of the survey workers to respond credibly to health concerns of those they surveyed appeared to be one reason for an increased response rate in the second survey, which reached 727 households and 2,311 individuals. Another reason was probably the women health workers' preexisting credibility within the community.

Using the community research, El Puente was able to determine, for the first time, a peer-reviewed asthma rate for Williamsburg's Latino community. The community was found to have a general active asthma rate of 8.5%, and an active rate amongst children of 12.4%, both considerably higher than the national general rate of 5.4%. The survey also revealed other important information: residents living longest in the neighborhood had the highest prevalence of asthma; residents who had arrived directly from Latin America or the Caribbean were considerably less prone to asthma than those arriving via other parts of the United States; more than half the respondents did not have health care insurance; and many new immigrants avoided professional healthcare. These results enabled El Puente to begin addressing asthma in the community, for example by enrolling residents in New York's free healthcare program.

Next, a series of informal community focus group meetings, to which all residents were invited to discuss the survey results, helped to identify some potential reasons behind the findings, and set the stage for more community-specific strategies to address asthma. For example, a surprising finding was that women over age 45 were found to have a particularly high incidence rate, similar to that of children, despite being part of a group not usually thought to be vulnerable. The focus group discussions revealed that many women from this group work in environments, like dry-cleaners and textile factories, with greater potential for exposure to respiratory-related hazards. Another important discovery from the focus group discussions was that many residents rely on traditional or folk remedies to treat asthma, sometimes in place of medication prescribed by a physician. Although scientists and physicians are concerned that some of these treatments actually exacerbate rather than cure asthma, the discussions revealed that many residents place important spiritual or cultural value on such remedies, and often did not discuss them with their physicians for fear of being shunned. Negative experiences with physicians also prompted some residents to turn instead to more familiar treatment from folk healers, through whom new immigrants could also build and maintain social networks.

As a result of the survey research and focus group discussions, El Puente's health workers established an asthma mastery program to train community members in developing asthma management plans. They have organized residents to enroll in New York's free health coverage program, and they initiated a program to train local healthcare providers about Latino folk medicinal practices. High school students have remained involved by, for example, producing asthma awareness public service announcements for cable television. El Puente's efforts appear to be paying off: in the community district, the number of asthma hospitalizations dropped from 1,166 in 1997 to 484 in 1999.

(iii) Joint Fact-Finding

In the above example, community members decided to assume responsibility for investigating and acting on an issue of public concern. While this enabled them to take important steps to address the problem, the effort was not especially geared to influence public policy. Other efforts, which may also seek to harness "indigenous knowledge", seek to influence public policy by ensuring that the scientific or technical information needed to inform public policy-making is produced through a process in which not only certain types of actors can participate. The scientific or technical information required for formulating public policy, such as setting of environmental, health, and safety standards, often includes information about the nature of industrial processes, the properties of certain chemicals, and the operation of various ecological and man-made systems. Those without the education or expertise required to assess the relevant information (frequently including most stakeholders) are often alienated from the process to incorporate it into public policy-making. Thus, the technical aspects of public policy-making in a democratic context may become an obstacle to public involvement. Joint fact-finding is an approach designed to encourage public involvement in exactly these kinds of situations.

Joint fact-finding is a collaborative method of collecting information for policy-making. It involves stakeholders with different viewpoints and different levels of technical background in shaping the scope and determining the procedures used in science-intensive policy investigations. Under joint fact-finding guidelines, stakeholders jointly determine (1) the particular issues requiring further analysis, (2) the experts who ought to be consulted, (3) the most appropriate methods of gathering information, and (4) the relevant limitations on the various analytical methods that might be used. Subsequently, both those with technical backgrounds and those without, analyze the products of such investigations[36]. Joint fact-finding is an alternative to "adversary science" in which the technical experts representing opposing sides present conflicting opinions (usually based on different data sets as well as alternative methods of analysis). Thus, the goal of joint fact-finding is to produce data that will form a common ground upon which to base interpretations, no matter what the ideological or personal interests of the analyst or stakeholder might be.

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[36] Ehrmann, J. and Stinson, B. "Joint Fact-Finding and the Use of Technical Experts" in Susskind, L. *et al* (Ed.s) *The Consensus Building Handbook*. 1999.

DRAFT: Strengthening the Democratic Process in the United States: An Examination of Recent Experiments. Susskind and Zion, August 2002.

Joint fact-finding can enhance public participation in two ways. First, it can provide stakeholders with an opportunity to learn more about the technical aspects of the issue at hand without having to take sides. By putting limits on the role of technical experts, it is easier for non-experts to participate. Second, it allows stakeholders to be part of the process of generating the information that will be used in policy-making. This reduces stakeholder suspicion that the data presented have been generated to support a particular view.

Example: Joint Fact-Finding in Northern Oxford County[37]

When some residents of four towns in Northern Oxford County, Maine suspected that their communities were experiencing elevated cancer rates, many assumed that the cause was pollution from the local paper mill. Other residents became quite angry and concerned about what they saw as unfounded allegations against the mill, fearing that these allegations would cause the mill to shut down and that hundreds of residents would lose their jobs. Although the managers of the mill argued that they were in compliance with all existing federal and state regulations, there were few up-to-date studies of the region's air quality or of changing cancer rates.

To address these concerns, town residents with opposing views initiated a joint fact finding process under the leadership of the Maine Department of Environmental Protection (DEP). They called the group that was created the Northern Oxford County Coalition (NOCC). It brought together many stakeholder groups, including concerned residents, health care providers, the mill management, representatives of small businesses, local and state elected officials, and local, state and federal agencies concerned with public health and the environment.

Among other activities, the group undertook a collaborative inquiry to investigate cancer rates in their towns, to test and monitor air quality, and to evaluate the results. As part of this effort, the coalition gathered and analyzed data from the Maine Cancer Registry to determine whether cancer rates in the County were, in fact, higher than the state average. This was a challenge because, with the exception of the representative from Maine's Bureau of Health, none of the members had any experience with epidemiological research or the assessment of local disease rates. NOCC, therefore, formed a technical subcommittee to initiate and oversee the study, and to report its findings to the whole group. The subcommittee included representatives of the key stakeholders that constituted the NOCC in general, but who had particularly strong interests in local cancer incidence, or particularly strong backgrounds to prepare them for the technical work ahead.

As a group, the subcommittee selected an out-of-state epidemiologist from Rutgers University to assist them with their investigation. The members of the subcommittee had to make numerous methodological choices. For instance, after lengthy

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[37] This case is based entirely on the case "The Northern Oxford County Coalition" by Sarah McKearnan and Patrick Field in Susskind, L. *et al* (Ed.s) *The Consensus Building Handbook*. 1999.

discussion about the standard against which the four towns' cancer rates should be compared, the group decided to compare their rates to those of the whole state of Maine. Once they had designed a research protocol, they presented it to the NOCC for review. Each methodological consideration was discussed and debated. Ultimately, the epidemiologist performed the study according to the subcommittee's recommendations (although if he had doubts about the scientific validity of what was being proposed, he was under no obligation to proceed). The findings showed that certain cancer rates in the four towns were, indeed, elevated above the rate for the rest of the state by a margin that was statistically significant. The subcommittee then had to interpret these data and summarize them for the rest of the NOCC. In trying to interpret the findings, the subcommittee initially tried to determine whether or not they had identified unacceptable levels of risk. Not surprisingly, since such determinations are highly subjective, the members found that they could not reach agreement on that point. Under the epidemiologist's tutelage, however, they decided instead to include their findings in a complete final report to the community. These were accompanied with a range of views on what these data might mean.

The members of the subcommittee presented their findings to the full NOCC. With help from the epidemiologist, the subcommittee explained what they had found and how their findings might be interpreted. For instance, they explained the relationship between statistical significance and risk. As a group, the members of the NOCC built on the work of their technical subcommittee. Although the group as a whole was not able to produce conclusive recommendations, they did come up with an agreed upon course of action. They recommended various actions to reduce cancer risks (regardless of what might be causing them), to keep themselves and the rest of the public informed about environmental changes at the mill, and to improve public health in the four affected communities.

The shifting of roles assigned to experts and non-experts has seen non-traditional actors assume responsibility for generating information necessary to address public concerns. The examples above have shown how the new information can be used by a community to address its own concerns, or how it can form the basis for new public policies. While public participation in information generation can have important effects on the way public policy issues are addressed, such efforts should ideally take place within a larger context of democratic involvement in order to ensure that the information generated is actually used to address the concerns of all stakeholders. Consensus building, the next category, provides such a context.

IV. Consensus Building

Consensus building is an approach to policy- and decision-making that brings representatives from all stakeholder groups together to jointly seek a solution or to develop a shared approach to a problem. The stakeholders, usually with the help of a neutral facilitator, strive to produce a mutually beneficial "package" that must then be

approved by the relevant elected or appointed officials. The goal is to reach an informed consensus with which policy-makers are comfortable.

In the words of John Stuart Mill, "the success of democratic arrangements can be measured in two ways -- by the quality of its decisions and the quality of the citizens it produces"[38]. Consensus-building enhances democratic practice by involving those directly affected by decisions in the process of deciding what to do. As a consequence, such decisions are easier to implement. Also, since deliberation is a fundamental part of consensus-building, the stakeholders learn more about the issue under discussion, are able to refine their own ideas and learn more about each other's interests, perceptions, and world-views. Consensus building does not seek agreement through compromise or by suppressing conflict. Rather, it requires an exploration and understanding of all stakeholders' interests, fears, and perceptions. This means that conflict airing often needs to be a part of consensus building. The consensus building process also enables stakeholders to establish new contacts in their community while increasing the knowledge of the "players" in the network. Thus, consensus building enhances the quality of the decisions that have to be made while increasing the capabilities of the citizens involved. It can also be a tool for building social capital[39].

This process includes, but entails far more than information dissemination, and even informed deliberation for the purpose of public education, because the purpose is to directly shape a proposal that ultimately becomes public policy. Consensus building also emphasizes the face-to-face problem-solving that teledemocracy does not offer. While it might include joint fact-finding or some other shift of responsibility from experts to non-experts, it is not completed until a consensus has been reached or the group agrees to abandon the search for a near-unanimous agreement.

We present here three kinds of consensus building efforts: negotiated rulemaking, policy dialogue and mediated negotiations. Negotiated rulemaking involves several dozen carefully selected representatives of stakeholding groups and an independent mediator in the process of drafting federal regulations. Policy dialogues involve efforts to formulate priorities or strategies for dealing with a problem or an issue, often before a conflict actually erupts. The mediation of public disputes allows ad hoc representatives of large numbers of stakeholding groups to work out detailed agreements to resolve disputes involving one or more public agencies, with the help of a neutral facilitator or mediator. Elected or appointed officials with the relevant statutory authority must then enact these proposed agreements[40].

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[38] Mill, J.S. *Considerations on Representative Government*, New York: Prometheus Books, 1991, Chapter 2.

[39] See Innes, J. and Booher, D. *Public Participation in Planning: New Strategies for the 21st Century.* Working Paper 2000-07 Institute of Urban and Regional Development, University of California at Berkeley; and Innes, J. and Booher D. "Collaborative Dialogue as a Policy-Making Strategy". Forthcoming in *Theory, Policy and Society*. Eds. Maarten Hajer and Hendrik Wagenaar.

[40] When a policy or regulatory proposal is generated through a well-run consensus building process, it is likely to enjoy broad support, especially compared to proposals drafted by only one or two parties, or those representing only certain interests. When a genuine, concerted effort is made to include representatives of all stakeholder groups in the development of a proposal, and to meet the most pressing concerns and

(i) Negotiated Rulemaking[41]

Negotiated rulemaking is a relatively new approach to developing regulations. In order to ensure that new regulations are effective, realistic, and fair, and that those who will be bound by them will accept them more readily, lawmakers use consensus building techniques to develop draft legislation. Thus, the stakeholders participate in shaping the regulations about which they are concerned. During the negotiation process, the parties may ask experts to make presentations relevant to the task at hand, or they might engage in joint fact-finding as part of the process. The development of a single negotiating text is also a common technique used for rulemaking[42].

Example: Federal Negotiated Rulemaking

One of the largest negotiated rulemaking efforts to date was a consensus building process in 1996 to implement amendments to the Indian Self-Determination Act. The group was to focus largely on arrangements concerning Native American tribes' roles and responsibilities in the delivery of federal programs, including schools, health facilities, and construction projects. The consensus building process involved 63 people, including 48 representatives of Indian tribes and tribal organizations, and 15 representatives from more than 10 federal agencies and offices. These representatives comprised an Advisory Committee that was charged with producing recommendations to the Department of the Interior and the Department of Health and Human Services concerning which regulations, if any, should exist.

The negotiations of the Advisory Committee were facilitated by four co-facilitators of the Federal Mediation and Conciliation Service (FMCS). The negotiations began with a considerable amount of distrust between the Indian and Federal representatives, since previous attempts to amend the regulations had excluded the input of Native groups. However, the group agreed to operate by consensus, seeking unanimity for all decisions, and so each representative was effectively granted a veto on the process. The group decided to follow a proposal submitted by an Indian attorney to divide into six working groups to address different aspects of the law. As a group, the representatives allocated different topics to the different working groups. The representatives then signed

interests of each group, the resulting proposal, if endorsed by consensus, is unlikely to be nearly as contentious as many proposals developed through more conventional channels. Thus, knowing that a consensus proposal has broad-based support, officials responsible for making the final policy or regulatory decisions are typically inclined to accept such proposals. In doing so, they are unlikely to face the pitched political battles or court challenges that often plague more traditionally developed proposals, and if they do, they are usually able to rely on the good process that was followed to defend the proposal. For further discussion on this topic, see Susskind, L. and Cruikshank, J. *Breaking the Impasse: Consensual Approaches to Resolving Public Disputes*. New York: BasicBooks. 1987.

[41] This case is based entirely on Jan Jung-Min Sunoo and Juliette A. Falkner, "Regulatory Negotiations: The Native American Experience" in Susskind, L. *et al* (Ed.s) *The Consensus Building Handbook*. 1999

[42] See, for example, Fisher, R. and Ury, W. *Getting to Yes: Negotiating Agreement without Giving In.* New York: Penguin Books. 1991 (Second Edition) p. 112

up to those work groups addressing issues about which they had the greatest knowledge or in which they had the most interest. Since some representatives enrolled in multiple working groups, the co-chairs tried to avoid scheduling more than three working group meetings simultaneously, and representatives had to prioritize their interests. Each working group was co-chaired by a federal and a tribal representative, and facilitated by one of the neutrals. The working groups produced regular updates on their progress to share with the rest of the participants, notifying them, for example, when they had completed a draft of a section of regulation.

As the working groups agreed on specific sections of the regulation, they submitted them to the whole group for approval. The working groups had to have reached an internal consensus before they could present any product to the whole group, since those within the working groups, involved in formulating the proposals, were those who tended to be most concerned about the issue under consideration. When the working groups presented their proposals, they took questions of clarification first, and then the facilitators listed any questions concerning content. The co-chairs then decided whether to address each question in the whole group, or within a tribal or federal caucus. Once the large group reached consensus, it would adopt the recommendation.

The process did not run without problems. Indian representatives' concerns about the process to review the Advisory Committee's recommendations nearly prompted them to leave the negotiations. Other concerns also arose, and the Advisory Committee was unable to resolve every substantive issue. For four issues that remained outstanding, the federal and tribal teams each wrote a report stating their opinions on the matter. These reports were presented to the chiefs of staff of both departments, who made final decisions, sometimes in favor of the federal team, and sometimes in favor of the tribal team. Despite these problems, however, the Advisory Committee agreed by consensus on 34 pages of detailed regulations to guide the process of making contracts between tribes and tribal organizations and the Departments of the Interior and of Health and Human Services. Tribal and federal representatives expressed satisfaction with the process, and the process has subsequently become a model for further negotiations involving Native groups.

(ii) Policy Dialogue

Consensus building can be helpful not only in the development of specific legislation, but also in the formulation of more general policy. There are often competing and conflicting ideas about the fundamental principles that should guide policymaking on any given issue. Consensus building provides an opportunity for these different ideas to be integrated into a jointly acceptable policy to address the issue. As with negotiated rulemaking, a consensus building policy dialogue would normally include elected or appointed officials mandated to develop and implement the policy, as well as representatives of non-governmental stakeholder groups, and any expert advisors that might be necessary to assist the parties to better understand the issues at hand. It would produce a consensus set of recommendations in the form of language for the policy, or as

a summary of key elements to be included in the policy. The recommendations would be submitted to the appropriate elected or appointed officials. These officials would remain responsible for formally adopting and enacting the policy.

In the United States, there has been a movement – initially at the state level but recently at the national level – to create "consensus councils". Several states, including North Dakota and Montana, have already established these bodies. Legislators in these states have directed issues that are actually or potentially contentious to policy dialogues in their consensus councils[43]. The general success of these bodies at the state level has resulted in an effort, currently underway, to create the U.S. Consensus Council. This body would serve Congress and the Executive Branch by providing a forum for building consensus agreements on important national public policy issues amongst diverse stakeholders. Leaders of the Senate and House of Representatives recently introduced legislation to establish this body. The role of the U.S. Consensus Council would be to design and conduct processes to build consensus on policy for a specified issue, and to convene the meetings necessary to arrive at these agreements. The Council is envisioned as a private, non-profit, quasi-governmental institution that could receive public and private funding. It would focus mostly on issues that the White House or congressional leaders decide need to be addressed[44].

Example: National Policy Dialogue

The National Energy Policy Initiative engaged a group of energy and environmental interest group leaders and technical experts in defining a unified vision for energy policy in the United States, and in outlining specific strategies and options for achieving that vision. It was a non-partisan project organized by the Rocky Mountain Institute, a nonprofit organization that seeks to foster the efficient and restorative use of resources, and the Consensus Building Institute (CBI) of Cambridge, Massachusetts.

In the first stage of the Initiative, the organizers conducted an assessment of the views and interests of 75 leaders of diverse energy constituencies, with respect to national energy policy goals, specific policy issues, and pending legislation. The product of these not-for-attribution conversations was the National Energy Issues Assessment[45]. This report concluded that there was substantial agreement on the overarching goals of national energy policy, and significant potential for national consensus on a number of current policy questions. It also highlighted the issues that ought to be on the agenda for structured deliberations.

In the next stage of the Initiative, a diverse group of senior-level national energy policy experts was invited to a three-day Expert Workshop, facilitated by professional staff from CBI. The participants were charged with the task of building on the

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[43] Consensus councils also provide forums for resolving multiparty public disputes, as described in the next section.
[44] More information is available at this web site: www.sfcg.org/locations.cfm?locus=America
[45] See National Energy Policy Initiative: *National Energy Issues Assessment*. Prepared by the Consensus Building Institute. January 25, 2002.

Assessment by further defining long-term national goals and strategies, and developing specific policy options that would support the broad goals and also meet the interests of key energy constituencies. However, unlike the individuals interviewed for the Assessment, the Experts did not represent or negotiate on behalf of specific constituencies. The Expert Workshop sought to *inform* the participants about key constituency concerns, while *insulating* them from the short-term political concerns of major energy constituencies. The Expert Workshop produced a consensus report, endorsed by 22 energy policy experts, that outlined a vision for national energy policy, identified key policy issues, and recommended specific goals, strategies and options to address priority issues[46].

In the report, the experts recognized that the present energy system has inadvertently created serious threats to American security and prosperity, and to the global environment. They stated that they believed these threats could be significantly reduced by changes in policy that would seek to align the interests of energy producers, distributors and consumers with broader, shared social goals, and that would remove barriers to the commercialization of existing and emerging energy technologies[47]. They also identified four areas of priority concern in which changes in energy policy ought to be made: transportation and mobility; electricity services; energy security; and climate change. Finally, the group identified and highlighted the need for substantial changes in government research and development and procurement policies to support action in these areas.

In April 2002, the Experts presented their consensus report to the Congressional Conference Committee charged with reconciling divergent House and Senate energy bills, and in other Congressional hearings and forums. At the time of writing, it is too early to know what influence the Initiative will have on national energy legislation. While those who organized the Initiative counted on the credibility of the Experts (all senior and widely respected individuals with previous government, private sector and academic experience) to gain Congressional and constituency attention, in practice the Experts' Report may not achieve the kind of political impact that direct lobbying by energy constituencies could achieve. One lesson for future consensus building efforts is to consider engaging constituencies more directly in dialogue with experts, in order to create consensus recommendations backed both by the credibility and legitimacy of experts and the political influence of key constituencies.

Whatever the Initiative's ultimate political impact, it has made a significant contribution to a national energy policy process that has been stymied by partisan debate, conflicting agendas of the political parties, and extensive behind-the-scenes lobbying. A consensus building effort, preceded by a neutral assessment of the interests of all the relevant stakeholder groups feeding into a face-to-face, facilitated, problem-solving session, was able to generate a respected set of policy proposals with potential to address some of the issues at the heart of the political gridlock.

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[46] See the National Energy Policy Initiative. *Expert Group Report.* 2002
[47] National Energy Policy Initiative. *Expert Group Report.* 2002

DRAFT: Strengthening the Democratic Process in the United States: An Examination of Recent Experiments. Susskind and Zion. August 2002.

(iii) Professional Facilitation and Mediation

Although the tasks and strategies of facilitators and mediators are varied, facilitation and mediation are tools that can generally be used to support a consensus building process in complex public policy-making or dispute situations.[48] In order to be effective, a group of individuals working collaboratively should be have a clear mandate or mission. Moreover, to achieve results in a reasonable time, they should be well organized, technically competent, and motivated to work together. Unfortunately, groups formed to address issues of public interest rarely possess these characteristics. In such situations, a facilitator or mediator is needed to assist them. The last two cases in this category have been selected to highlight the important roles that facilitators and mediators must play in a consensus building process.

Example 1: Mediation in British Columbia, Canada[49]

In this case, one of the mediator's most important roles was to help two distinct communities build a relationship, so they could work together on an economic plan for the islands they share. The residents of Haida Gwaii, or the Queen Charlotte Islands, in British Columbia, Canada, comprise two culturally and socially distinct communities: the Haida First Nation and the non-Native community. Historically, the relationship between these two communities has been fraught with tension and alienation. The mediator, a non-Native with substantial experience working with First Nations, was able to assist the two communities in bridging this divide, partly by functioning as a cultural interpreter, and partly by creating opportunities for dialogue and joint problem solving.

In the period immediately preceding the consensus building effort described below, the communities found themselves on opposite sides of a highly publicized and heated dispute over logging in South Moresby, an area in the southern part of Haida Gwaii. The Haida sided with environmentalists opposed to the logging operations that were the livelihood of many of the islands' non-Native residents. In the South Moresby Agreement (SMA) of 1988, the provincial government of British Columbia and the Canadian federal government agreed between themselves to resolve the matter by setting aside South Moresby as a National Park reserve, and providing $38 million as

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[48] Since facilitators and mediators are both neutral parties who work to promote improved communication and problem solving amongst stakeholders, their roles may overlap considerably. In general, however, a facilitator's role is directed primarily towards managing the consensus building process, for example, by assisting the participants to develop the agenda and by enforcing ground rules. By contrast, mediators typically work more intensively with the stakeholders, for example, by helping them to identify and communicate their interests, generate potential solutions, and strengthen the relationships within the group. For more detailed information about the tasks and strategies of facilitators and mediators, see Poirier Elliot, Michael L. "The Role of Facilitators, Mediators, and Other Consensus Building Practitioners" in Susskind, L. *et al.* (Ed.s) *The Consensus Building Handbook*. 1999

[49] This case is based entirely on the case "Cross-Cultural Community-Based Planning: Negotiating the Future of Haida Gwaii" by Norman Dale in Susskind, L. *et al.* (Ed.s) *The Consensus Building Handbook*. 1999

DRAFT: Strengthening the Democratic Process in the United States: An Examination of Recent Experiments, Susskind and Zion, August 2002

compensation for a Regional Economic Development Initiative (REDI). The consensus building process in this case grew out of an effort by citizens to take control of the REDI.

The SMA outlined a particularly top-down approach to development and planning that was apparently justified by the absence of any commonality of purpose amongst the Islands' residents. For example, federal and provincial representatives formed a Planning and Coordination Committee (P&CC), whose primary responsibility was to determine the most effective use of the money, and work out a strategy for expenditure over a period of eight years from the SMA signing. To help them design a preliminary economic strategy, the Committee established a Secretariat of consultants in Vancouver, 500 miles from Haida Gwaii. The plans were then to be implemented by the responsible government agency. The provisions for community involvement were minimal; members of the P&CC could seek participation of a citizens advisory committee if they felt that it would enhance the effectiveness of their planning efforts. All citizen involvement would be entirely at the discretion of senior government planners.

The mediator was initially employed as a "community economic development liaison consultant" to ensure effective communication between the Island communities and the P&CC, and to assist the Secretariat with island-based research, among other tasks. The mediator privately objected to the top-down nature of the process, and decided to use his position to help the communities gain control over the project envisioned for the Islands.[50]

The P&CC provided for the establishment of the Residents' Planning Advisory Committee (RPAC), which was open to all Island communities, including the Haida. However, the Haida refused to sit on this committee, taking the position that they wanted full and equal representation in the decision-making group – the P&CC. Thus, the Haida Council appointed only observers to RPAC. The P&CC decided to provide leadership development workshops for the RPAC to develop its skills for the tasks at hand. It was at these workshops that ideas about community empowerment first began to emerge.

After a presentation at one of the workshops on grassroots planning, RPAC members began to discuss the possibility of "democratizing" the planning process in which they were engaged. However, when Gitsga, the sole Haida observer in attendance noticed that no mention was made of the Haida in the discussions of democratization, he angrily questioned the RPAC members about their commitment to such ideals if the Haida were to be excluded. He went on to criticize RPAC for ignoring the Haida's existing system for making decisions about the land, which he claimed worked very well, and then left the meeting. The mediator, with his experience working with First Nations, was able to explain Gitsga's response to the RPAC members who were puzzled by the outburst. He explained that many Natives feel powerless in the face of an ongoing lack of recognition of their political system by non-Natives.

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[50] For a discussion on some of the ethical questions surrounding this approach, please refer to Dale, N. "Negotiating the Future of Haida Gwaii" in Susskind L. *et al.* (Ed.s) *The Consensus Building Handbook.* 1999

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After speaking with Gitsga, the mediator was able to bring him back to RPAC meetings. Upon his return, the group began to discuss the lack of communication between the two communities, and to examine the enormous difference in each community's frames of reference with regard to local planning. The Haida community believed that its concerns and values were continuously ignored when non-Natives made decisions about the Islands. As RPAC members began to empathize with Haida concerns, they decided to ask the P&CC not to proceed with a Secretariat work plan until they could work with Haida leaders. To initiate discussions, they suggested a feast for members of the two communities. The cultural gap was exposed once again when Haida leaders rejected this decision; in Haida tradition, feasts confer recognition on the hosts, and the Haida would speak only to other governing bodies. Again, it was left to the mediator to explain the situation to the RPAC. The problem was resolved when the group invited a Native American from Hawaii to lead a seminar about tourism (which the SMA identified as a major new source of income for the Islands), and the feast was held in his honor. The feast provided the first opportunity for interaction between the two communities, and was the first step in building a working relationship.

Despite this early progress, the problem remained that the P&CC wanted community input on how the money should be spent, and the relationship between the two communities was still too tenuous for them to create any shared vision on the matter. Under increasing pressure from the P&CC, the Secretariat finally produced a draft work plan for the Islands' economic development. RPAC refused to look at the draft until provisions were made for Haida involvement. Although the P&CC threatened to disband the RPAC if they would not comment on the draft, the members of RPAC still refused to look at the draft, and they informed the P&CC that they were in touch with the Haida leadership. The RPAC invited the P&CC to the Islands to discuss with the RPAC and the Haida leadership the establishment of a trust account for the money, which was an idea that had emerged within the RPAC. In the weeks leading up to the P&CC visit, RPAC members and the Haida held caucuses to further consider the concept of a trust fund. It was during these caucuses that the idea emerged that the trust be made permanent and placed under the authority of a joint Haida/non-Haida committee to dispense the considerable interest on the $38 million. When the P&CC members visited the Island, both sides supported this idea. Ultimately, the P&CC was able to convince federal officials to support this plan as well.

Ultimately the two communities were able to take control of the development initiative. Further challenges remained; the two communities still had to develop the joint committee and then agree on how to distribute the funds. With the ongoing help of the mediator, the communities were able to accomplish both of these tasks, despite various hitches along the way.

Example 2: Mediation in Hartford, Connecticut[51]

Another common role for facilitators or mediators is to help parties overcome their differences. A mediator may use "value creating" strategies to help the parties work out a negotiation plan, to focus on the specific tasks at hand, to generate options for agreement, and to better understand and meet their own and other parties' concerns.[52] This case illustrates the use of some of these strategies to overcome both interpersonal and technical difficulties in a public policy negotiation.

Following passage in 1988 of legislation establishing a pilot program to encourage municipalities to negotiate affordable housing plans, the secretary of the Connecticut Office of Policy and Management (OPM) sponsored two projects to increase low- and middle-income housing opportunities. The law stipulated that affordable housing plans had to be adopted by consensus, and provided for the employment of two mediators. This case focuses on the negotiation of one of those projects, which concerned the area of Hartford, in the Capitol Region of Connecticut. The Hartford Committee (hereafter called "the Committee") included representatives of 29 municipalities, the OPM, the Connecticut Department of Housing, and the Capitol Region Council of Governments (CRCOG). As one would expect, each of the municipalities had its own concerns about affordable housing development. Most representatives supported affordable housing in theory, but resisted the development of substantial numbers of affordable housing units in their own areas.

A typical first step used by mediators and facilitators is to jointly develop ground rules. This ensures that all parties and the mediators understand their respective roles and responsibilities. Within the Hartford Committee, the group discussed issues such as representation, decision-making, interactions with the media, and limits on the mediators' activities. The development of ground rules is also a valuable chance for the group to try out the consensus building process while dealing with less contentious issues. This is particularly important for representatives with no experience in consensus building. In this context, they can begin to develop an atmosphere of joint problem-solving and mutual understanding. The negotiation over ground rules allowed the representatives to see that within a consensus building context, each of their contributions could influence the outcome.

When the Committee first met, the members had not yet defined any clear approach to the task at hand. Therefore, the mediators had to help the parties define the Committee's mission. With the mediators' help, the group agreed to produce a compact containing a commitment from each community to supply a specified number of affordable housing units over 5 years. As an initial step in the process of problem-definition, the mediators aimed to generate a list of the municipalities' concerns with

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[51] This case is based entirely on the case "Affordable Housing Mediation: Building Consensus for Regional Agreements in the Hartford Area" by Lawrence Susskind and Susan Podziba in Susskind, L. *et al.* (Ed.s) *The Consensus Building Handbook.* 1999

[52] For further discussion on value creation, see Susskind et al. *The Consensus Building Handbook.* pp. 11-12, 28-29, 45, 330-333

respect to affordable housing. To do this, at a preliminary meeting they encouraged the representatives to explain their community's interests in affordable housing, and the limitations they faced with respect to its development. Typical limitations included shortages of open space, environmental constraints, and limited public utilities. At this time, concerns were also raised about the fairness of the regional distribution of affordable housing responsibilities. For example, suburban representatives did not want to be forced to supply housing for residents of Hartford's homeless shelters. Following that meeting, the mediators made numerous follow-up phone calls in which the parties expressed further concerns about fairness, regional integration, and possible changes in community character.

The mediation team used a single negotiating text technique to bring focus to the discussions. In this method, a draft agreement is produced as early in the process as possible. This draft incorporates all earlier interim agreements and leaves blank spaces for issues yet to be discussed. This method helps maintain momentum, and allows the mediators to assist the representatives in identifying mutually beneficial trades to further their varied interests.

In the Hartford negotiations, all the interests and concerns that were raised by the representatives at the preliminary meeting and in the follow-up phone calls were integrated into an agenda of concerns that provided the focal point for all future discussions. The concerns in the agenda were organized into categories such as "definition of affordable housing", "formula for determining targets", "maintaining community character", "affordable housing for whom?", and "what is a regional approach?" Once the basic issues within some of these categories had been settled, the Committee members developed a statement of principle, which later became the preamble of the agreement. Much of the remainder of the negotiations entailed discussions over numerical targets for each community. After discussing 16 options produced by a working group, the Committee was able to work out an arrangement whereby each community would be allowed to select a strategy for meeting its commitments from an approved "menu" of strategies. This arrangement was approved by 25 of the 29 municipalities. Because support for the arrangement was so widespread, the CRCOG Policy Board decided to permit the adoption of the compact without 100% consensus, and so the compact was adopted by those 25 communities.

The mediators also had to untangle disputes, and identify issues that could be addressed in the negotiations. For instance, there were strong value differences among the representatives concerning appropriate subsidies for moderate- and low-income people. Though the representatives might have spent most of their time during the negotiations discussing these value differences, clearly the representatives with differing views would not have been convinced. Therefore, the mediators had to keep the discussions focused on the task of developing an affordable housing compact in spite of their differences. The use of the single negotiating text was quite useful in this respect.

Finally, mediators need to ensure that the negotiation process is open and fair, and that it is perceived as such by all stakeholders. In order to do this, they need to gain the

trust of the stakeholders. The mediation team in the Hartford negotiations was able to gain legitimacy in the eyes of the representatives by making it clear that their role was to help facilitate discussion, rather than impose a solution. Although some of the representatives initially suspected that the mediators were hired by the state to direct them towards a certain outcome, as the Committee members' ideas were incorporated into the draft compact, they increasingly realized that they were in complete control of the outcome.

Consensus building, with the help of a trained mediator, allows for participation that transcends dialogue. It goes beyond information sharing and joint fact finding and moves into the realm of problem-solving. This entails a greater degree of empowerment than is often the case in public policy-making, but it does not challenge the ultimate responsibility of those with statutorily defined authority to make final decisions. The cases described above reveal just how far joint problem-solving can go when the stakeholding parties are allowed to select their own representatives, fashion their own agenda (with the help of a mediator), work hard to generate informed proposals, and work with elected and appointed officials to generate packages that are designed to meet the interests of all. Once the potential of consensus building becomes clear, it is hard to imagine that citizens will settle for anything less.

Conclusion

We have provided a snapshot of recent experimental efforts aimed at making the democratic process more participatory and responsive. We have seen that practically all such efforts are based on the idea that more structured deliberation is necessary to improve the way democratic institutions function. We have offered a progression of deliberative strategies for strengthening democracy. Information dissemination involved cases in which the central objectives were deliberation and public education. Teledemocracy seeks to reach a larger audience and encourage a degree of two-way dialogue between large numbers of citizens and their elected and appointed representatives. In the category called shifting roles, we discussed citizen panels that give citizens the opportunity to formulate policy recommendations, as well as joint fact-finding and related efforts that seek to balance science and politics by relying more heavily on indigenous knowledge of various kinds. Finally, we discussed consensus building by presenting a series of cases in which deliberation involves all stakeholders in the search for "packages" that can be adopted by consensus.

In *Deliberative Democracy and Beyond*, John Dryzek investigates the development and practice of deliberation as a means of advancing democracy. He raises and attempts to answer a series of questions about the characteristics of deliberation that are most likely to promote healthy democratic discourse and engagement. In light of the results of the experiments described above, we come to some different conclusions from Dryzek.

Dryzek states that "in a pluralistic world, consensus is unattainable, unnecessary and undesirable"[53]. The reason that he comes to this conclusion is that he defines consensus incorrectly -- as "unanimous agreement not just on a course of action, but also on the reasons for it"[54]. We define consensus differently[55]. In our view, it is not necessary that the stakeholders in a public policy forum agree on the reasons for a particular course of action[56]. In fact, consensus should not even be defined as unanimity on a proposed course of action. Rather, we define consensus building as a process through which stakeholders *seek* unanimity, but accept overwhelming agreement when all the parties concur that a reasonable effort has been made to address the concerns that have been raised by the participants. We would argue that consensus has been reached when an overwhelming majority of participants concurs that the policy package on the table is "something they can live with" (as compared with their next best options). What is crucial is that every effort must be made to meet the interests of all stakeholders, including the last few participants who do not agree with the final package proposed by the others. It does not seem to us to be crucial that all parties agree on the particular reasons for moving forward with an agreement. In fact, it may be possible to reach agreement because the parties concur on a course of action for different reasons.

Deliberation oriented towards consensus is not only possible, but from our standpoint consensus building is the most desirable strategy for addressing important public policy choices. Without the objective of achieving consensus, deliberation will remain largely a tool for public education, as we saw in most of the experiments described under the headings of information sharing and teledemocracy[57]. Consensus building seeks to make deliberation a problem-solving process -- one in which all stakeholders participate in producing a proposal that must then be formally enacted by agencies or officials with the appropriate statutory powers. The negotiated rulemaking example illustrates how non-governmental stakeholders can work together with governmental actors to produce such proposals. As long as government officials convene consensus building processes and are represented as they unfold, consensus building can take place both within and outside the formal governmental system almost simultaneously.

Deliberation is fundamental to consensus building, but within consensus building, deliberation is not an end in itself. Rather, parties deliberate to reach agreement on the best way of resolving a problem or meeting a need. How do stakeholders reach such agreements? Typically, they engage in negotiation. Within the literature on

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[53] Dryzek, J. S. *Deliberative Democracy and Beyond; Liberals, Critics, Contestations.* (Oxford, Oxford University Press) 2000, p. 170
[54] *Ibid.* p. 170
[55] See Susskind et al. (Ed.s) *The Consensus Building Handbook.* 1999
[56] Dryzek calls this "reasoned agreement" rather than consensus, and he recognizes that processes that build "reasoned agreement" can be very effective in resolving disputes. (p. 49)
[57] Public education certainly has value, in that it can provide the foundation for mass protest and social movements that can ultimately influence the course of public policy. Alternatively, it can help establish a better informed electorate. However, as we saw in some of our cases like Northern Oxford County and Hartford, mass protest is not the most effective or practical means for resolving all public policy issues, and elections are not possible on all such issues either.

negotiation, there is a clear distinction between positional and integrative strategies[58]. In positional bargaining, parties try to maximize their own satisfaction at the expense of the others, typically by using threats and exercising power. This type of bargaining is generally counterproductive to consensus building. Integrative bargaining is at the heart of consensus building[59]. Integrative bargaining assumes that negotiators have a joint interest in creating the most value possible, and distributing it in ways that allow all stakeholders meet their most important needs and interests. The effort to maximize self-interest is viewed as perfectly legitimate. Altruism is not essential for achieving consensus. To create as much value as possible, stakeholders have to engage in dialogue to understand each other's interests and to explore possible "trades" that will lead to acceptable packages. The solution reached in the Hartford case illustrates how this works.

How can one be sure that the interests of all stakeholders will be protected and incorporated into a consensus agreement? There are several well-defined procedures to ensure that this occurs. Firstly, consensus building begins with a neutral party undertaking a "conflict assessment" before anyone comes to the table[60]. During this pre-negotiation stage, the "assessor" is responsible for seeking out all legitimate stakeholders (including elected and appointed officials) and documenting their concerns. Stakeholder groups then choose their own representatives to participate in the ad hoc dialogue. Through discussions with each set of stakeholders, the assessor must uncover all of the issues of concern to each party. This ensures that the agenda, timetable, ground rules, and work plan proposed by the neutral will be acceptable to all the parties. Following the assessment, stakeholder interests continue to be protected and incorporated in explicit ways. An experienced mediator ensures that the dialogue is at least as transparent as existing legislative, judicial or executive decision-making processes. Moreover, use of joint fact-finding procedures ensure that all stakeholders have access to the technical information they need to present their views effectively, as illustrated in the Northern Oxford County example. Finally, as mentioned above, the dialogue is managed by the mediator to maximize joint gains, and to provide a written explanation, that make sense to all participants, for how "value" will be distributed.

Properly constructed and managed consensus building processes address concerns about power imbalance (although it can not transform them). Like Dryzek, we recognize that full political equality is virtually impossible in a deliberative context[61]. However, while a dire lack of material resources can certainly detract from a party's ability to affect deliberated outcomes, equality in resources is not essential to effective consensus building. If political equality is, as Dryzek defines it, "the presumption that all participants in a process have an equal chance of affecting the outcome"[62], then a consensus building process may actually improve the degree of political equality among stakeholders by providing weaker parties with an opportunity to employ alternative

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[58] See, for example, Lewicki, R. and Litterer, J. *Negotiation*. Homewood: Irwin. 1985
[59] See Fisher, R. and Ury W. *Getting to Yes: Negotiating Agreement without Giving In*. Boston: Houghton Mifflin. 1981.
[60] For a more detailed description of conflict assessment, see "Conducting a Conflict Assessment" in *The Consensus Building Handbook.* 1999
[61] Dryzek, p. 173
[62] *Ibid.* p. 173

sources of (negotiating) power. Roger Fisher has enumerated these alternatives, including the power of negotiating skills and knowledge, of good working relationships, of good alternatives to negotiating, and of elegant and legitimate solutions[63]. Since consensus building emphasizes negotiating power, and not political power "away from the table", weaker parties can readily tap these alternatives in a transparent public policy dialogue. For instance, if a stakeholder can generate a proposal that addresses the interests of other parties as well as its own, and that meet agreed upon standards of fairness, the other stakeholders are likely to accept it. To an extent, the Haida Gwaii case illustrates how this can happen.

Dryzek states that "we should rely on mechanisms endogenous to deliberation to achieve an appropriate and acceptable balance between private and public interests, partial and impartial concerns"[64]. By contrast, we believe that the public interest is, by definition, the product of a decision-making process that incorporates all the elements we have discussed above: inclusion and active involvement of all stakeholders both in fact-finding and decision-making; integrative bargaining to maximize joint gains; and professional facilitation that ensures transparency and fair management of negotiation dynamics. These elements ensure that the products of a deliberative decision-making process will be considered fairer by the parties, more efficient by independent analysts, more stable, and ultimately wiser when considered in retrospect by independent technical analysts. Consensus building, which embodies all of these elements, provides an organized means for improving our democracy.

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[63] Fisher, R. "Negotiating Power; Getting and Using Influence" *American Behavioral Scientist*. Vol. 27, No. 2. November/December 1983. pp. 149-166.
[64] Dryzek. p. 169

References

Ackerman, B. and Fishkin, J. *Deliberation Day*, white paper. DATE?

Aengst et al., *Balancing Public Trust & Private Interest: Public Participation in Habitat Conservation Planning*, Ann Arbor: University of Michigan, May 1998.

Bout, E. (Ed). *The Border Story: What happened at Borders to Cross; Maastricht 5,6,7 October 2000*. Agora Europa: Amsterdam.

Cohen, J. and Rogers, J. *On Democracy*, Middlesex: Penguin Books, 1983.

Consensus Building Institute. National Energy Policy Initiative: *National Energy Issues Assessment*. January 25, 2002.

Corburn, J. "Combining Community-Based Research and Local Knowledge to Confront Asthma and Subsistence-Fishing Hazards in Greenpoint/Williamsburg, Brooklyn, New York." *Environmental Health Perspectives*. Vol. 110, Supplement 2. April 2002. p. 241

Crosby, N., Kelly, J., and Schaefer, P. "Citizens Panels: A New Approach to Citizen Participation" *Public Administration Review,* Vol. 46, March-April 1986. pp. 170-178

Dryzek, J. *Deliberative Democracy and Beyond*. Oxford: Oxford Press, 2000.

Fisher, R. "Negotiating Power; Getting and Using Influence" *American Behavioral Scientist*. Vol. 27, No. 2. November/December 1983. pp. 149-166

Fisher, R. and Ury W. *Getting to Yes: Negotiating Agreement without Giving In*. New York: Penguin Books. 1991 (Second Edition)

Friedland, L. A., Electronic Democracy and the New Citizenship, *Meida, Culture & Society*, 18. 1996. pp. 185-212.

Friedman, Warren. Research, Organizing and the Campaign for Community Policing in Chicago, Building Community, Case Study 23, Chicago Alliance for Neigborhood Safety. pp. 202-209.

Fung, A., "Deliberative Democracy, Chicago Style." (web.mit.edu/afung/www/proj/utopias.html)

Fung, A. and Wright, E.O. "Experiments in Empowered Deliberative Democracy, An Introduction." (web.mit.edu/afung/www/proj/utopias.html)

Gallois, C. "The Language and Communication of Emotion." *American Behavioral Scientist*. 1993. 36: pp. 309-338

Geiselhart, K. and Colman S., *Two Web-Based Australian Experiments in Electronic Democracy*, Southern Cross University. 1999.

Glaser, J. and Salovey, P. "Affect in Electoral Politics." *Personality and Social Psychological Review*. 1998. 2: pp. 156-172

Innes, J. and Booher D. "Collaborative Dialogue as a Policy-Making Strategy". Forthcoming in *Theory, Policy and Society*. Eds. Maarten Hajer and Hendrik Wagenaar.

Innes, J. and Booher, D. *Public Participation in Planning: New Strategies for the 21st Century.* Working Paper 2000-07. Institute of Urban and Regional Development, University of California at Berkeley

Jefferson Center. *Citizens Jury: Effective Public Participation*

Jefferson Center. *Citizens Jury on Minnesota Property Tax Reform.* 1999

Knight, J. and Johnson, J. "What Sort of Political Equality Does Deliberative Democracy Require?" *Deliberative Democracy: Essays on Reason and Politics*, Cambridge: The MIT Press. 1997.

Leighninger, M. Study Circles Resource Center, www.studycircles.org and Planning Community-Wide Study Circle Programs: A Step-by-Step Guide. 1996.

Lewicki, R. and Litterer, J. *Negotiation*. Homewood: Irwin. 1985

London, S. "Teledemocracy vs. Deliberative Democracy: A Comparative Look at Two Models of Public Talk". *Journal of Interpersonal Computing and Technology*, 3(2) April 1995. pp. 33-55.

National Energy Policy Initiative. *Expert Group Report*. 2002

Mansbridge, J. *Beyond Adversary Democracy*, New York: Basic Books, Inc. 1980.

Mill, J. S. *Considerations on Representative Government*, New York: Prometheus Books. 1991. Chapter 2.

Resources for the Future, Electronic Environmental Democracy: The Future of Information Technology in Participatory Environmental Management, Library Resources, Project Summary (www.rff.org).

Rosen, J. *Getting the Connections Right: Public Journalism and the Troubles in the*

DRAFT: Strengthening the Democratic Process in the United States: An Examination of
Recent Experiments. Susskind and Zion. August 2002.

Press. New York: Twentieth Century Fund. 1996

Showers, C. and Cantor, N. "Social Cognition: A Look at Motivated
Strategies." *Annual Review of Psychology*. 1985. 36: pp. 275-305

Sirianni, C. and Friedland, L. *Public Journalism,* Civic Practices Network,
(www.cpn.org/sections/tools/models/deliberative_democracy.html).

Stokes, S. "Pathologies of Deliberation". *Deliberative Democracy*, Cambridge:
Cambridge University Press. 1998

Susskind, L. and Cruikshank, J. *Breaking the Impasse: Consensual Approaches to
Resolving Public Disputes*. New York: BasicBooks. 1987

Susskind, L., McKearnan, S., and Thomas-Larmer, J. *The Consensus Building
Handbook*, Thousand Oaks, California; Sage. 1999

Theis-Morse, E., Marcus, G. and Sullivan, J. "Passion and Reason
in Political Life: The Organization of Affect and Cognition and Political
Tolerance" in Marcus, G. and Hanson, R. (Ed.s) *Reconsidering the Democratic
Public.* University Park, PA: The Pennsylvania State University Press. 1993. pp.
249-272

Walton, D. *The Place of Emotion in Argument.* University Park, PA: The
Pennsylvania State University Press. 1992

Weissmann, D. "Balancing Power", *Catalyst: Voices of Chicago School Reform*, April
1998, Community Renewal Society. Vol. IX (7) pp. 423-437

Yankelovich, D. *The Magic of Dialogue: Transforming Conflict into Cooperation.* New
York. Simon & Schuester. 1999

Websites

www.americaspeaks.org
www.e-democracy.org
www.jefferson-center.org
www.listeningtothecity.org
www.nifi.org
www.rrf.org
www.studycircles.org
www.sfcg.org/locations.cfm?locus=America

Personal Communications

Ned Crosby, Founder, Jefferson Center. October 31, 2000.

DRAFT: Strengthening the Democratic Process in the United States: An Examination of
Recent Experiments Susskind and Zion, August 2002.

Doug Nethercut, Executive Director, Jefferson Center. October 10, 2000.