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Opportunity for State Legislatures

By Les Ihara, Jr.

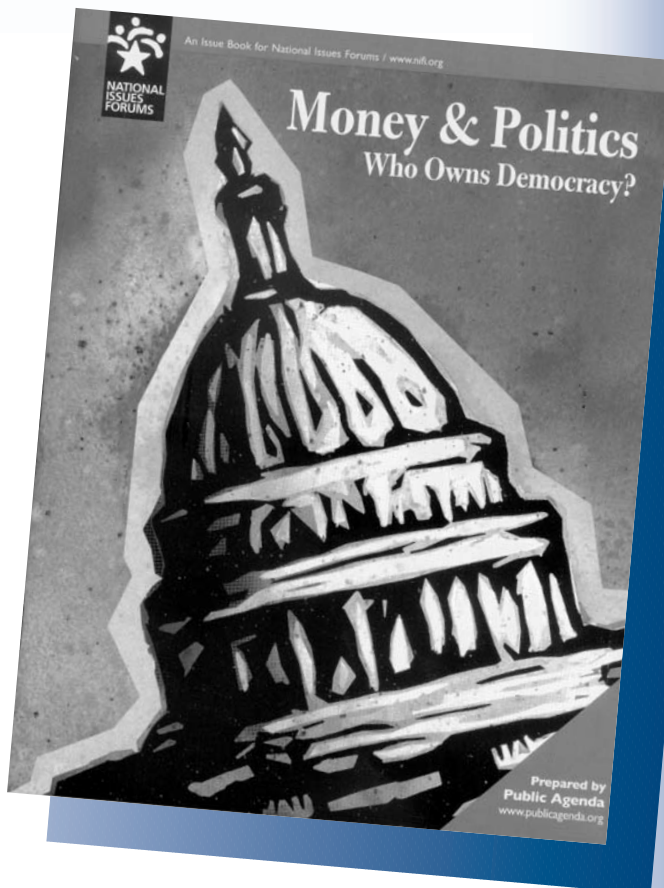
In a democracy, if the executive may be viewed as the head of the body politic, then surely the legislature must be its heart. And though the power to make laws is central to its function, I want to emphasize the potential inherent in this branch of government to enable civic discussions on what matters to the citizenry that the lawmakers represent. Given the rancorous partisan discourse that too often substitutes for deliberation among our national legislators, one could be forgiven a sense of disbelief at the likelihood that congressional debate might enhance our civic conversations. But instead, we might take heart in the well-known quote by Justice Louis Brandeis likening the states in our federal system to “laboratories of democracy.” State legislatures may offer opportunities for enriching democratic practices and bringing our system of government closer to our ideals.

It was with this spirit that the Hawaii state legislature held two National Issues Forums (NIF) in 2001. The NIF events were held in April and December 2001, and I helped organize them as a means of encouraging deliberative democracy in the Hawaii legislature.

Money and Politics NIF

Major campaign-finance reform died in a House-Senate conference committee during the 2000 legislative session, and a number of legislators subsequently sought re-election on this issue. The electoral salience of campaign-finance reform increased interest in the Money and Politics NIF, which was held on April 14, 2001. The significance of the event was also boosted by the fact that the House had passed a bill for the public funding of campaigns two days earlier.

Seventy-five people, including two legislators, participated in the forum in the Capitol auditorium. The NIF *Money & Politics* issue book was used to outline the problem — that a majority of Americans felt that money was corrupting politics, undermining elections, and



shutting citizens out of our democratic system.

Most of the forum was spent deliberating on three choices reflecting different views on the subject. The choices were (1) reform the campaign fund-raising system, (2) rein in lobbyists and politicians, and (3) publicize all political donations but don't regulate them.

Citizens shared their perspectives and concerns during the deliberations, and while few people reported changing their position after the forum, many indicated that they now had a greater understanding of the problem and the choices about how to respond to it. Participants also said that they had a greater appreciation of the views held by their fellow citizens.

The Money and Politics forum achieved the goals of introducing legislators to the NIF deliberation approach,



More than 100 citizens participated in the NIF event. The deliberation was successful on its own terms and was useful to legislators as well.

demonstrating positive citizen contributions on the issue, and advancing campaign reform legislation during that session (though a bill on the issue later failed in conference committee again).

Careful planning contributed to the forum's success. Selecting a relevant issue, legislative venue, and well-timed event date helped the forum fit into the legislative process. Public awareness was also assisted by live cable television broadcasts and extensive promotions to legislators' offices.

NIF Focus on Gambling

Gambling was another controversial issue in the 2001 legislative session.

The Speaker of the House sponsored a bill to legalize gambling to fund long-term care for the elderly. The Senate president proposed a study on the economic benefits of gambling. Though no action was taken, gambling became the top candidate for a second NIF event, scheduled for December 1.

The forum date was six weeks before the 2002 session, in which a major push to legalize gambling was expected. Forum sponsors hoped to frame the issue early enough to encourage people to respect opposing positions, while feeling free to express their own.

In order to involve more legislators, planning began four months before the forum was to be held. Planners decided to use the NIF *Gambling*

issue book but revise the policy choices to be discussed. Planners also solicited input from advocates and opponents of gambling.

Meetings were held with House and Senate presiding officers, who agreed to encourage legislators to participate. They expressed a desire for more deliberation on the gambling issue. In particular, they wanted more mutual understanding of opposing positions.

Planners then met with six legislators, among whom both pro and con views were represented. The legislators suggested focusing on how gambling revenues would be used and the social problems that might occur if gambling were legalized.

Based on these and other comments, the forum choices for deliberation were revised. The new choices were (1) introduce gambling but regulate it, (2) do more study of the issue because Hawaii isn't ready yet, and (3) keep gambling out of Hawaii.

More than 100 citizens participated in the NIF event on gambling. The deliberation was successful on its own terms and was useful to legislators as well. Instead of avoiding the controversy, more legislators seemed comfortable discussing the issue, perhaps because it was less contentious.

Legislators also seemed more open to citizen involvement on the issue. Along



with an appreciation of opposing views, there was a greater sense that the arguments on both sides were valid. Also, media coverage on gambling was considered balanced, fair to all parties in the debate, and helpful for improving public understanding of the issue.

Deliberative Policy-Making

Deliberation, as practiced in NIF events, means “considering, understanding, and weighing the underlying views and concerns of people involved in the issue under discussion.” As such, deliberation stands in stark contrast to the conflictual arguments and debates that are a common occurrence in legislative chambers.

As a legislator for 17 years, I have found that the legislative process of public hearings and debates is not intended or designed to encourage deliberation. The campaign finance reform and gambling NIF events, however, helped introduce the practice of deliberation to Hawaii policymakers.

These forums provided participants with an experience of deliberation on real issues. Many citizens reported a preference for NIF deliberative conversations over the disharmonious discussions often witnessed in legislative debates. Citizen dissatisfaction with the way legislators make laws could be an impetus for exploring the deliberative policy-making approach to lawmaking.

The Hawaii legislature has explored various practices of public policy deliberation. Community town meetings, facilitated issue development projects, legislative partnering retreats, and electronic bulletin board discussions are but a few. However, it remains to be seen whether and how the legislature might seek to institutionalize deliberative policy-making practices.

Public Policy Institutes

In organizing the 2001 Hawaii NIF events, a community capacity-building objective was also achieved — establishment of the University of Hawaii’s Public Policy Institute (PPI). The university was the coordinating cosponsor of the forums, and five other cosponsors served as advisors in setting up the PPI.

The Hawaii PPI is similar to scores of other university-based, NIF-affiliated PPIs around the country. PPI activities typically include research and support of public deliberation programs, sponsor-

ship of NIF events, and training of NIF moderators.

A PPI appears essential in conducting NIF events and other public deliberation projects involving legislatures. As a neutral convener of citizen meetings, a PPI can instill trust and lessen fears that participants might have of their being used for partisan political purposes.

The institutional resources of a PPI are also useful in providing research and practical experience in deliberative practices. These resources include an expertise in framing issues, designing policy options, and training facilitators.

As the Hawaii PPI expands its programs in public deliberation, additional resources and opportunities for experimenting in deliberative policy-making will be available to the Hawaii legislature.

Opportunity for State Legislatures

The Hawaii experience has demonstrated that NIF events can be conducted successfully in a legislative setting. We found that such forums can provide legislators with a positive experience of deliberative policy-making.

NIF deliberative conversations foster a greater understanding of issues and promote trust among participants who take part in them. Instead of quarrelsome debates, deliberative conversations provide a constructive way for legislators to talk about issues — and narrow the gap between the ideals and the current practice of democracy in state legislatures.

There now appears to be an opportunity to promote deliberative democracy in state legislatures around the country. Legislators in New York, Florida, West Virginia, and other states are already working to promote deliberation in their legislative processes.

To foster information exchange on public deliberation experiments, a national network of state legislators on deliberative policy-making is being planned. Conversations with the National Conference of State Legislatures and the Kettering Foundation have begun to lay the groundwork for this network of local legislators. The intent of the network is to assist and promote the evolution of democracy in America.

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