

How stakeholder advisory committees could help fix a broken Congress



The US Congress is mired in gridlock, with spending bills now only passed under threat of government shutdown. But how can Congress get past this dysfunction and begin to pass legislation without such partisan rancor? [Stuart Kasdin](#) explores one potential solution to these problems: the introduction of advisory committees made up of stakeholders and interest groups, which would be attached to Congressional authorizing committees. He writes that to overcome Congress' status quo inertia, the reform could be implemented in stages and depending on the circumstances of individual committees.

We live in an age of polarization in which even facts are no longer accepted as unbiased and without a partisan interpretation. 'Fake news,' originally used to brand intentionally biased news reports with no basis in fact, often generated to mislead and manipulate readers, is now a label used to denigrate reporting which has a more liberal point of view. Climate change is perceived as a fraud by some, irrespective of whatever data and analysis might be assembled to support the claims. Political institutions are perceived as without legitimacy, except to the extent that they seem to preserve or extend one's partisan goals. Much of the public fails to accept the validity of democratic results contrary to their political preferences.

Congressional dysfunction has become the norm

This troubling situation is particularly characteristic of the US Congress, which now wallows in historic levels of legislative stagnation, partisan divide, and public disdain, marked by a complete unwillingness and incapacity to negotiate legislation and compromise on even minor policy questions. As a result, the most routine of legislation, appropriation bills, only get passed under threat of imminent government shutdowns, and invariably use the stopgap of inefficient continuing resolutions to fund all or portions of the fiscal year.

The authorization committees are also failing in their work. In 2017, authorization committees had allowed the underlying authorizations of 73 appropriation programs to expire, valued at nearly \$612 billion on for defense and more than \$37 billion for non-defense spending, including the authorizations for the Office of Management and Budget, the Coast Guard, and the National Institutes of Health. Only minor legislation can pass through Congress in the regular committee-based manner. Instead, all other legislation, like both Bush tax cuts, the Affordable Care Act, and the 2017 American Health Care Act now rely on a specialized budget process, budget reconciliation, by which bills can be passed with a filibuster proof simple majority in the Senate.

In response to the widely acknowledged problem of Congressional dysfunction, a variety of reform proposals have emerged from non-governmental organizations over the years. Many of these reforms focus on changes in parliamentary procedures, altering the operation of Congress, such as changes to the rules on debate and filibuster, improved scheduling for the Congressional workweek, changes to the amendment process, and biennial budgeting.

There are two problems with these reforms. First, those responsible for the gridlock and partisanship are also responsible for supporting reforms to alter it. When parliamentary reforms that would reduce gridlock and enhance Congress' effectiveness are not adopted, it is generally because members in Congress don't want change.

Second, while the proposed reforms are typically worthwhile, for the most part, they do not address the roots of the problem—a failure in deliberation. Congress is failing from a lack of communication, comity, and compromise.

Expanding public participation in Congress

We examine a solution to these problems which involves an expanded role for public participation based on deliberative democracy. Deliberative democracy holds that for a democratic decision to be legitimate, it must be preceded by authentic deliberation; that is, voting alone is not sufficient to establish legitimacy and public buy-in.

We examine different institutions of deliberative democracy that might be applied to the Congress. Federal advisory committees are one set of such institutions that are used to inform, counsel, and guide government agencies in the implementation of federal programs. These committees, with members taken from the relevant public stakeholder groups, enable adversarial interests to build relationships over an extended period as they negotiate program goals.

Internationally, the equivalent of the advisory committee design is found in democratic neo-corporatism in which certain community or interest groups are privileged participants in national policy formulation and implementation. In democratic neo corporatism, national governments foster negotiations over economic policy and other issues through committees composed of business, labor, and state interest groups.



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We apply these approaches to Congress, assessing the potential feasibility for a form of democratic neo-corporatism for Congress, in which advisory committees made up of representatives of different stakeholder and interest groups are attached to each Congressional authorizing committee. We analyze how such a Congressional advisory system should be designed, such as how to achieve representative membership, as well as to select members who might effectively work together.

We also consider whether there is a realistic chance such an institutional innovation, aimed at encouraging public deliberation, could ever develop, and thereby enhance communication and compromise. One would be foolish to bet against Congressional inertia; however, one reason is that the change is possible, is because the reform could be implemented on a partial basis, with individual committees opting to try the advisory committees, depending upon their own specific circumstances, the issues, and the immediate political environment. Unlike biennial budgeting or most of the parliamentary reforms, Congress could experiment with the advisory committee reform, testing it, opting to use it for when the occasion made the most sense for a congressional committee and the party in control.

Congress will undoubtedly reform at some point. For someone who is dependent on alcohol, for example, different circumstances motivate seeking treatment; for some the moment of clarity only comes when they are at rock bottom. It is not clear if the Republican party, which now controls the Congress believes the time is now. However, should the Republican Party fail to choose an institutional reform, change based on electoral outcomes becomes more likely. That would seem like a strong incentive for reform, but change is always hard.

- This article is based on the paper, [‘Creating comity amidst gridlock: a corporatist repair for a broken congress’](#) in *Policy Sciences*.

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Stuart Kasdin was most recently Assistant Professor of Public Policy and Public Administration in George Washington University. Previously he worked in the White House Budget Office as a program examiner and policy analyst. His research focuses on public management, such as assessing what influences government agencies in how they allocate contracts or projects. He has also looked at budgeting and public performance, examining government agencies, as well as Congress.