



A Guide to Involving Citizens in Constitutional Reform

By Alexandra Runswick, Deputy Director and Parliamentary and Policy Officer

This paper examines the ways in which citizens can be involved in constitutional reform and focuses on the use of citizens' assemblies. Rather than explore the issues that a citizens' assembly might consider, the briefing focuses on why citizens should be involved in deliberating constitutional reform and exactly how the citizens' assembly process works.

Drawing on evidence from citizens' assemblies around the world but in particular the example of the British Columbia Citizens Assembly on Electoral Reform, the briefing examines how the citizens assembly process can be used to restore trust in politics. However this can only be achieved if, like the Bank of England, the assembly is given genuine independence from government.

Citizens' assemblies have been successful where it has been established from the outset that their findings will be put straight to a referendum, without amendment or modification by government. In these cases the assembly was seen to be independent and consequently the public and media bought into the process. Where it is not clear what the outcome will be or the assembly merely reports to Parliament as in the Netherlands, the assembly is dismissed as yet another consultation exercise that is unlikely to lead to change. Deliberative techniques on their own are not enough, the assembly has to be seen to be independent and have the power to propose change.

Introduction

Charter 88 has always argued that the process of constitutional change is as important as the outcome and that citizens need to own their constitution. We believe that for the citizens to possess a constitution they need to have built it themselves. When the new South Africa wanted to write a constitution following the end of apartheid it embarked on a wide-scale process of public discussion, debate and participation. We would very much welcome a similar process for the UK. However citizen involvement in constitutional reform is not dependent on, or limited to, writing a constitution from scratch.

Address: 6 Cynthia Street, London N1 9JF **Phone:** 020 7278 4443 **Fax:** 020 7278 4425
Email: info@unlockdemocracy.org.uk **Web:** www.unlockdemocracy.org.uk

Deliberative techniques such as citizens' juries have been used at all levels of governance to involve citizens in evaluating service delivery or to develop priorities for an organisation. These mechanisms are particularly effective because they allow for participants to learn about the subject, quiz experts and develop an informed opinion rather than simply capturing an immediate view in an opinion poll or referendum.

Crucially they recognise that different views and interests have to be balanced in any society and also enable people to change their minds. One of the criticisms made of involving citizens in complex or controversial topics is that they won't understand the subject matter, or will make knee jerk reactionary judgments based on populist headlines. The evidence of previous citizens juries, panels and assemblies suggests that this simply isn't the case. The British Columbia experience in particular shows that citizens are more than capable of working through complex policy issues. We have found when running community panels to assess views on Europe, that listening to other views and debating the issues, influences participants opinions even when they don't feel their views have changed.

More recently the idea of actively involving citizens in decision making has been seen as a means of challenging public disillusionment with politics and politicians. In particular mechanisms such as citizens assemblies have been used to explore issues of constitutional reform, such as the electoral system, where politicians are seen to have a direct or vested interest. A recent opinion poll conducted by ICM for the Power Inquiry found that 70% of respondents thought a jury of the general public should make decisions such as how to reform the House of Lords and party funding reform. A poll conducted by the New America Institute in the USA also found that 70 percent of voters are more likely to support recommendations made by a panel of average citizens than they are to support the ideas of a government committee or even a panel of independent experts¹.

Reasons to involve the public

1. Public participation can lead to better policy

Involving the public allows access to wider sources of information and experience as well as other possible solutions. Members of the public have experience as users of public services, as employees, as members of a community, of how policies actually work in practice and what needs to be changed. It is easy for public policy to be rarefied and cut off from the real world. What might seem ingenious in the abstract does not necessarily work well in practice. Public participation in policy making helps to ensure that your policy is grounded in real

¹ http://www.makeitanissue.org.uk/2007/01/californians_catch_the_citizen.php

life experience and therefore is more likely to be able to be implemented and achieve its' aims. If the public have been involved in making the policy it may also be seen as more legitimate.

2. Participants can also gain enormously from involvement in policy making

Not only do they get a better understanding of the policy making process and how they can influence it but depending on the method you use it can also inform the public about the issues and help them understand the policy dilemmas. Some participatory methods can be very empowering for citizens, as they can become the experts on a particular policy area. For example the alumni of the citizens' assembly in British Columbia set up an organisation to campaign for their proposals and proactively went out into the community to talk about their experiences.

3. Increasing participation strengthens democracy

Involving the public in deliberative policy making complements representative democracy. It challenges the idea that a democracy is just somewhere you live and that voting every 4 or 5 years is enough. Fundamentally democracy is stronger when it involves more people and when it is demonstrated that different and competing interests can be represented. Involving the public in policy making in is one way of increasing participation in politics more generally.

4. It meets citizens expectation that their views be considered and rebuilds trust in politics

A frequent criticism of politicians is that they only try and engage the public during an election campaign, that once they are elected they lose interest in local concerns. This may not always reflect the reality of the way many elected representatives work but it is a powerful perception. Involving the public in policy making meets the fundamental desire to be listened to and taken seriously. Where public involvement is genuine and well managed it demonstrates that the government, council or organisation is interested in and listens to the concerns of citizens. It builds trust and also demonstrates that political engagement and in particular your political party can bring about change.

Key issues to consider before involving the public

What do you want you get out of involving the public?

Involving the public can have significant benefits but also requires both financial and staff resources so you need to be clear about what you as want to get out of the process².

What is the public going to get out of the process?

You are asking people to give up their free time and share their experiences and views with you – are they going to benefit from being involved in making policy? In most examples participants are paid a small attendance allowance but this is not enough to act as an incentive to potential participants – they have to be willing to invest in the process.

Who do you want to involve?

You may want to involve representative groups, just particular groups in society or individual citizens.

What are you going to do with the response?

Unless you are genuinely interested in and open to the responses you get from the public do not go any further, it will only be damaging in the long run. **This is a key difference between the citizens' assemblies in British Columbia and the Netherlands.** The British Columbian process made it clear from the outset that the findings would be put straight to a referendum without any modification from the government. This gave the process legitimacy with both the public and the media. In contrast the Netherlands Citizens Assembly simply reported to Parliament, the public never bought into the process and it is doubtful that the proposals will be taken forward.

Unlock Democracy strongly supports and promotes the involvement of citizens in deliberative decision-making. However there are examples of when this shouldn't be done. For example if you already have detailed policy on the subject that you are committed to enacting don't involve the public.

While there can undoubtedly be benefits to engaging the public in deliberative policy making exercises if it is done badly or when the party or government is not committed to increasing participation, it can also be very damaging and further

² Detailed costings for running a citizens' assembly are not included in this briefing but an indication is included in the case studies

alienate potential voters. Bad participatory practice creates mistrust, wastes people's time and can undermine any future attempts at public engagement.

How should the public be involved?

There are a number of deliberative techniques that can be used, being clear about the aim the project is essential to both choosing the right method and ensuring that the experience is beneficial for all concerned.

Citizens' assemblies are effective when there is a clearly defined subject area. There can be a number of different inter-related questions but they have to fall within the same broad area. For example the British Columbia Citizens' Assembly explored whether to change the electoral system and if so what the new system should be. This technique could be used to explore issues such as the role of the Attorney General or what should be included in a Bill of Rights.

However if the intention were to examine the constitutional settlement as a whole, it may be better to use citizens' assemblies in conjunction with a larger constitutional convention, such as took place in Scotland. The citizens' assembly could examine individual topics in detail and feed into a broader discussion in the convention. This would maximise citizen involvement in the process.

An essential element of the Citizens' Assembly process is that power is given to the Assembly and politicians remove themselves from the decision making process. The British Columbia experience was so successful precisely because once the Premier and legislature had agreed the terms of reference and appointed the Chair of the Assembly, their involvement ended. The Assembly was able to make its recommendations and they were put straight to a referendum. The Assembly was completely independent of the political process and it was this that encouraged the public to buy into the process. It also meant that political parties were able to campaign for and against the proposals in the run up to the referendum.

How a Citizens Assembly works

There are usually 4 phases to a citizens' assembly:

- the selection phase;
- learning phase;
- public hearings or consultation phase; and finally
- the deliberation phase.

Although not formally part of the process what happens to the result of the citizens assembly is crucial. For example do the findings get reported to Parliament or put straight to the people in a referendum? Unlock Democracy would argue strongly in favour of the latter and indeed this was one of the

strengths of the British Columbia model but whichever option is used it is essential that this is clear from the outset. *The assembly will only fuel disillusionment if participants feel that their findings are ignored.*

The timing of each phase depends on a number of factors such as the subject matter, how many opportunities there are for those outside the assembly to participate, how much time participants are expected to invest in the process. Selection is usually the longest individual phase at around 4 months with the remainder taking about 8 months in total.

Size

One of the advantages of a Citizens Assembly is that it uses deliberative decision making techniques but involves a larger groups of people. Where a citizens' jury shouldn't exceed 10-12 a Citizens Assembly can involve hundreds of people. It is necessary to find a balance between including as many people as possible in the process and not making the assembly so large that participants become passive audience members. Most assemblies to date have involved between 100 and 160 people. This is obviously a tiny percentage of the UK population so it important that there are other opportunities for public involvement such as holding public meetings and publishing the assembly resources to enable debate on the web.

Eligibility

One issue that needs to be addressed before the selection process begins is whether all those on the electoral role are eligible to take part in the Citizens Assembly. For instance should all participants be UK citizens or is residence a qualification? Should there be an upper age limit for Assembly members? Should certain occupations be excluded?

In British Columbia anyone who was an elected representative or who had stood for election for any political party at the last general election was excluded. This is essential if the process is to be seen to be independent.

Participant selection

It is important that participants are seen to be representative of the wider community. One of the key factors in the British Columbia experience was that the members of the Citizens Assembly felt that they were participating on behalf of all citizens in the province. This was one of the elements that created the high levels of commitment.

The selection process needs to balance random selection, so that the process is not perceived to be rigged, with ensuring that socially excluded groups are not excluded from the process. The electoral register is a common starting point for

the selection process as it is a reliable source of data, although obviously it does not include those under 16. This is one of the issues that should be examined during the review at the end of the selection process. One of the key issues for the UK is the number of people who are not on the electoral register and particularly that BME groups and those on low incomes are much less likely to be on the register. It would be beneficial if in advance of any Citizens Assembly an independent body, most likely the Electoral Commission, ran a voter registration drive. However it may still be necessary to appoint members to the assembly to represent certain groups.

If the citizens assembly is to represent the whole of the UK then there needs to be a mechanism during the selection process that ensures that there are participants from all areas of the UK. If the electoral register is used as the data source then there are two options, either selecting participants on the basis of parliamentary constituency or by European union regional constituencies (although excluding Gibraltar.)

In British Columbia parliamentary constituencies were used - this has the advantage of ensuring that all areas are equally represented and being a boundary that is commonly recognised and identified with. However as there are over 600 parliamentary constituencies and the citizens' assembly would need under 200 participants this would not be feasible.

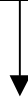
A better option would be to use the constituencies used for the European parliamentary elections. However in this instance a decision would have to be made as to whether to have equal representation for each region or to have more participants from the more populous regions. Equal representation for each region would ensure that regional views are seen to be heard, and that the assembly could not be accused of being London or South-east England centric. However this would mean accepting a degree of 'unfairness' built into the system.

How the selection process works in detail

Updating of the electoral register – this could include a campaign to increase registration or just ensuring that the current data is correct.



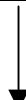
A group of citizens is randomly selected – if each region were to have 10 participants, then approx. 1000 men and approx. 1000 women should be selected. These names are then grouped by age and gender to ensure they are representative of the region.



Letters are sent out explaining the purpose of the Assembly, the tasks and responsibilities of participants and asking them to consider taking part. Responses are again grouped by region, gender and age cohort. Depending on the level of response it may be necessary to randomly select another group of names and issue new letters in some areas.



Potential assembly members are invited to one of a number of information weekends where they are given an overview of what would be involved in participating and if they are still interested, they confirm their eligibility and their name goes into a draw.



One man and one woman are selected from each region until the full number has been reached.



A review of the Assembly members then needs to be conducted to ensure that they are, in fact representative. If they are not e.g. if there are no BME Assembly members then additional members are selected.

In addition to the participants the Assembly also needs a chair and staff to service the assembly. The Chair is usually appointed by the authority setting up the Assembly, such as the regional or national government and is key to the success of the process. They must be seen to be independent and should have experience of facilitating discussions and decision-making processes.

The Learning Phase

Once selected participants agree a shared set of values and way of working, which reinforces their ownership of the process.

The Learning phase recognises that participants have different levels of formal education and assumes that most have no knowledge of the issue being explored. Before the Assembly meets participants are given background reading material.

Participants then meet for a series of residential weekends where they attend workshops designed and conducted by experts in the field. This could take the form of a lecture followed by discussion groups. An advisory panel ensures that different views are represented and that participants receive all the materials they need. It is essential that there is facilitated discussion where participants can develop their own views and deliberate ideas with each other not just hear evidence from academics. Participants can also ask to examine a topic or area that they feel is relevant to their discussions.

One of the ways of involving the public more generally in the process is for the Assembly to have an interactive website. In particular learning resources can be published and online debates started. In addition lectures could be videoed and made available on the site.

Consultation phase

This is the main way that people not chosen to serve on the Assembly can participate and therefore is incredibly important. A series of public meetings are held over a 2-3 month period. The meetings are held around the country or region with some held in the evening during the week and some held at the weekend to ensure as many people as possible can attend.

A group of assembly members attends each hearing – this should include some of the representatives from that region but also some from other areas so that all assembly members hear a range of views. Generally the public hearing involves a formal presentation and then discussion is opened to the floor. There also need to be opportunities for the public to quiz assembly members more generally about their experiences built into the process. Summaries of the points raised at the hearings can be published on the website to further stimulate debate.

In addition to the hearings members of the public and interest groups can submit written evidence to the Assembly in the same way as they do for select committee inquiries. Assembly staff would need to provide abstracts and detail the key themes for assembly members.

The Deliberation Phase

This stage brings the process to a conclusion. The assembly members consider what they have learnt both through the formal sessions and the public hearings. Exactly how this stage works depends on the issue in question but it could involve agreeing the values the assembly wants the electoral system to reflect and then having presentations on the different options. It is important that during the deliberation phase the assembly can call on experts to answer any remaining queries they may have.

Case studies

1. Regional Citizens Assemblies

The Citizens Assembly on Electoral Reform in British Columbia

- 161 members – aboriginals were appointed
- Met for 8 months
- Participants received \$150 for each sitting day
- The budget for the entire process was \$5.5 million
- findings put to a referendum but just failed to meet 60% threshold

see <http://www.citizensassembly.bc.ca/public> for more information

Ontario Citizens' Assembly on Electoral Reform

- 103 members – aboriginals were appointed
- Members received compensation at the rate of \$150 per day for Saturday and Sunday meeting days and for their participation on panels during formal consultation meetings.
- Met for 8 months
- Findings will be put to a referendum

See <http://www.citizensassembly.gov.on.ca/en-CA/home%20page.aspx> for more information

2. National Citizens' Assemblies

Netherlands Citizens Assembly on the Electoral System

- 140 members
- Met for 9 months (although there was a 2 month Summer recess)
- members of the Civic Forum attending an entire weekend meeting received an allowance of 400 euros.
- The total budget for the Civic Forum excluding staff costs (2005-2007) amounted to € 5,100,000
- Advice given to government - no referendum and it is doubtful the proposals will be enacted

See <http://www.burgerforumkiesstelsel.nl/> for more information

There are also campaigns for citizens' assemblies in Australia, Taiwan, California and Arizona in the USA