

Congress Needs The Deliberative Process

By Lee Hamilton

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A few weeks ago, I had a conversation with a group of political scientists who asked what bothered me the most about Congress in recent years. The answer, I told them, was disturbingly clear: a lack of deliberation.

Congress has dealt with three significant domestic matters this year: tax cuts; a rewrite of Medicare rules to provide for greater prescription drug coverage; and a new energy strategy. Normally, bills on matters of such importance would pass through an extended deliberative process before going to a conference committee of the House and Senate – a small group of senior legislators from both houses who finalize legislation. Yet in each case, Congress bypassed the deliberative process and gave the conference committees the bulk of the responsibility for crafting the legislation. To be blunt, this is not a good way to make laws.

This is not the first session of Congress to opt for shortcuts, or to decide that the majority's goals justify the means necessary to achieve them. Under Democrats and Republicans, both houses have been moving in this direction for some time. But it has reached the point where anyone who cares about the integrity of our most representative institution needs to register concern.

Americans often look with disdain at the traditional way Congress considers legislation. Why go to all that effort? Bringing an issue before a committee, hearing what witnesses have to say, arguing over amendments to the bill before it leaves the committee, sending a bill to the floor, arguing again over amendments, debating a final version, and then sending the House and Senate versions off to a conference committee—it can take months, and frequently years, for a measure to clear those hurdles. The process seems unwieldy and it is.

But too few Americans understand how much these details matter. The process of deliberation guarantees that their voices are heard and freedom protected. Committees are where members of Congress with different backgrounds, political philosophies and regional outlooks build consensus—in essence, where they make sure that legislation meets the needs of a broad array of Americans.

Committees are also where members and staff use expertise they've developed in particular policy arenas to ask hard questions, consider the merits of proposals and smooth out problems. This is also true once bills leave committee and move to the floor of the House or Senate. To a large extent, every stage is designed to allow Congress to explore all aspects of a problem, accommodate different interests, reduce points of friction, and build a consensus in support of a bill. This is how Congress knocks out bad ideas and proposals, and adjusts good ideas to make them better laws.

When this process gets short-circuited, your representatives lose the opportunity to examine an issue, debate it fully and offer amendments. Many members of Congress, both conservatives and liberals, had reservations about the specifics of tax cuts, the Medicare rewrite, and energy legislation; because they were not allowed to fully air their concerns, significant voices and points of view were not considered. The power to shape the legislation fell to only a few members and their key staff. This short-cutting –increasingly the norm on important initiatives in recent years – hurts the quality of legislation, and makes the Congress a less representative body.

Democracy is all about process. The Founders understood that how we reach a result matters. As congressional scholar Norman Ornstein recently observed, “The system of checks and balances and the legislative process as it evolved in the House and the Senate were built around deliberation... If there is one word at the core of Congress' essence, it is deliberation.” The Founders created a system to ensure that all proposals receive careful scrutiny, and that all voices are considered – not just a narrow majority. The recent lack of deliberative process explains in part the growing lack of civility in the Congress. If those on the losing end don't see the process as open and fair, they become disgruntled, uncooperative, and eventually vindictive, and our democracy suffers.

When I was in Congress, I often winced at a comment I heard with growing frequency: "Let's get on with it. We have the votes and we can do whatever we want." If all you care about is winning, perhaps process doesn't matter. But if you care about good governance in a country as diverse as ours, you have to deal with people of different beliefs, outlooks and concerns; you have to aim for wider coalitions, not just slim majorities. Avoiding the deliberative process and shutting down debate risks sacrificing the faith of members of Congress in their own institution, and forfeiting public respect for the key institution of our democracy. It is not a gamble worth taking.

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