Insights for design of direct public participation: Mongolia as a case study

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The Deliberative Polling process for constitutional change in Mongolia

Deliberative Polling® is an attempt to use public opinion research in a new and constructive way. A random, representative sample is first polled on the targeted issues. After this baseline poll, members of the sample are invited to gather at a single place for a weekend in order to discuss the issues. Carefully balanced briefing materials are sent to the participants and are also made publicly available. The participants engage in dialogue with competing experts and political leaders based on questions they develop in small group discussions with trained moderators. Parts of the deliberative events are often broadcast on television, either live or in taped and edited form and/or through social media and other mediums. After the deliberations, the sample is again asked the original questions. The resulting changes in opinion represent the conclusions the public would reach, if people had opportunity to become more informed and more engaged by the issues. Results are reported before and after questionnaire results, often showing significant changes of opinion. In the case of Mongolia, the quantitative results were the basis for recommendations to the Parliament about which proposals had strong enough support to merit consideration in a constitutional amendment.

Deliberative polling was originated by Professor James Fishkin of Stanford University over 30 years ago, was first conducted at the Ulaanbaatar city level in Mongolia with support from The Asia Foundation and Stanford University.

In December 2015, residents of Ulaanbaatar gathered to prioritise major infrastructure projects proposed in the capital city’s master plan. After the two-day deliberations, results were available and the city publicly announced that the priorities from the Deliberative Polling had been included in the Action Plan for the City Master Plan in the order determined by the citizens. (There was public speculation before the event that the top priority would prove to be the proposed Metro system, however, it was the proposal for “improved heating for schools and kindergartens” that was ranked as the most urgent project that needed to be implemented!) This application in Ulaanbaatar provides data on policy priorities for the distribution of scarce public resources and data that is based on representative and informed deliberation.

Three months after this deliberation, the national parliament has passed a “Law on Deliberative Polling”, which took effect March 1, 2017. The Law requires Deliberative Polling as a form of public consultation before the parliament can consider amendments to the Constitution as well as for

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1 Disclaimer: The views and opinions expressed here are my own and not those of The Asia Foundation, Centre for Deliberative Democracy, or Government of Mongolia. Both Stanford and The Asia Foundation provided capacity building and technical advisory support for this event.

2 https://cdd.stanford.edu/what-is-deliberative-polling/
projects to be funded by the local development fund, and for the partial planning of cities and settlement areas and parks, recreational areas and green facilities in public space. The Law lays out the standards for random sampling and the recruitment of deliberation participants, for the supervision of any Deliberative Polling and advisory and other details.

In April 2017, the Mongolian parliament brought together 669 randomly selected citizens from across the country to the capital city for the first-ever national deliberative poll on the future of the Mongolian Constitution. As previously mentioned, the deliberative polling method gathers a randomly selected and representative sample, rather than self-selected participants, and provides citizens with information in writing to ensure it is gathering informed opinions. These opinions are then collected and help shape the process of constitutional amendment the government would undertake in the coming months, which however turned into years. The two-day event stimulated discussion and gathered citizen input on critical issues ranging from the powers of the president and ensuring the independence of the civil society, to the pressures of urbanisation and the frequency of elections.

At what stage(s) in the constitution building process did public participation occur?

Mongolia’s Constitution dates to 1992 when the country was just beginning its transition to democracy and a fully market-based economy. While the Constitution has provided the foundation for Mongolia to become one of the region’s most robust democracies, in recent years politicisation has crept into all levels of government, the independence of the courts and other independent institutions have been called into question, and successive governments have struggled to identify and implement key policies to continue Mongolia’s resource-based growth. The country is a very different place today than it was in 1991, when the current document was drafted.

After years of discussion of possible constitutional amendments (the Constitution was amended only once in 2000, and since then Members of the State Great Khural continued to submit draft amendments in 2000, 2011, 2012 and 2015, respectively, without any leading to actual amendment) the government passed on action plan in 2016 for a working group of experts to study the need for an amendment. This group convened meetings around the country with over three thousand citizens to discuss possibilities and conducted their research and analysis for over three months, before presenting the results to the Government. Another working group at the Parliament, consisting of MPs, experts and constitutional scholars, also conducted an assessment of the need for an amendment. Based on these results, the Parliament then decided on the six topics of the public deliberation in April of 2017. They were:

1. Ensure effective checks and balance between the Parliament and the government;
2. Ensure effective separation of powers, and clearly identify rights and responsibilities of the President;
3. Strengthening public service so that it is free of politics, merit based, skilled and prestigious;
4. Improve the administrative and local governance systems;
5. Strengthening the responsibility, accountability, and discipline of government, and improving rule of law;
6. Ensure necessary conditions to openly discuss a proposal to have two chambers of Parliament.
How did public participation occur?

A national random sample of the Mongolian people gathered from all over the country in the Government Palace in the capital city of Ulaanbaatar over the weekend of 28-30 April 2017. The National Statistics Office, the agency that conducts the census, did all the survey work. The National Statistics Office randomly selected households from randomly selected geographical areas (or strata) and then randomly selected an adult in each of those households to be interviewed. Each adult citizen in the country had an equal random chance of being selected. This approach is widely recognized around the world as one of the “gold standard” methods for scientific sampling. However, like all methods of sampling it can be undermined if the response rate is low. In this case, the response rates were exceptionally high. A total of 1,568 households were randomly selected within geographical areas so as to cover the entire country. Tablets with GPS kept track of the interviewers and their progress in completing the fieldwork. An extraordinarily high 96 percent of the people selected completed the initial interview (1,515 out of 1,568). According to the Deliberative Polling Law over half of those who completed the interview were invited to travel to Ulaanbaatar to deliberate in the Government Palace. Out of the 785 who were invited, 669 came and attended the two days of deliberation. The result was the largest sample ever convened for a Deliberative Poll anywhere in the world. (Deliberative Polling has been organized over 100 times in 28 countries.) After the two-day deliberation, the results were submitted to the Parliament as the first step required by law in possibly amending the constitution.

Why and how were deliberative polling and citizens’ assemblies used in Mongolia? What worked and what didn’t?

With a view to ensure the effective representation of public views, the Mongolian government employed Deliberative Polling in the constitution reform process. Despite some challenges and criticism, the process allowed a random sample of ordinary citizens to participate in and influence the agenda and outcome, including the rejection of crucial proposals supported by the main political parties. This Deliberative Polling exercise showed that the government has learned some lessons from the last round of constitutional amendment efforts in 2000, which were viewed negatively throughout the country, in part because they were made quickly and with minimal discussion and debate. In contrast, this event was highly publicised in advance, and the deliberative polling methodology brought clear advantages over other traditional consultation techniques. Participants from across the country expressed excitement at the prospect of their voices being heard in this amendment process, as well as strong opinions about the wide range of issues being considered. For example, one participant who had journeyed from remote Huvsgal aimag (province) indicated that after the event she had a strong preference to have the power to elect her own local governor, rather than have the governor appointed by the aimag. She believed an elected governor would better understand local issues and concerns.

Legally, the Parliament can amend the constitution with a three-quarters majority and the current ruling party, the Mongolian People’s Party, has a larger majority than that. Hence, it could, in theory, proceed to amend or it could take the issue to a referendum, or it could drop the amendment.

What were the outcomes of public participation?

Six topics of deliberation (see above) generated eighteen questions about specific aspects of the proposals. In ten of the eighteen support for the proposals changed significantly.
Support for two of the most ambitious proposals dropped dramatically with deliberation. The proposal for “Creating a Parliament with two chambers: a people’s representative body (People’s Great Khural) and legislative body (State Baga Khural)” went from 61 percent to 30 percent, a drop of 31 points. With deliberation, the participants became more sceptical that “a second chamber would provide effective oversight of the lower house of Parliament”. Agreement with this idea dropped from 70 percent to 38 percent. More specifically, there was increased agreement with the criticism that “both chambers would be controlled by the same political parties, thereby not providing proper oversight”. Those agreeing with this proposition rose from 43 percent to 59 percent. There was also a significant increase from 48 percent to 57 percent in those who agreed that “adding a second chamber would create too many politicians”.

A second major drop in support occurred with the proposal for an indirectly rather than directly elected President for only a single six-year term. There were two components to this proposal, the change in the term and indirect election. Support for “ELECTING THE PRESIDENT FOR A SINGLE SIX-YEAR TERM, WITHOUT RE-ELECTION” dropped from 61.5 percent to 41 percent with deliberation. Support for “ELECTING THE PRESIDENT FOR A SINGLE SIX-YEAR TERM BY AN EXPANDED PLENARY SESSION OF THE PARLIAMENT THAT INCLUDES PARLIAMENT MEMBERS AND THE CITIZEN’S REPRESENTATIVE COUNCILS OF AIMAGS (PROVINCES) AND THE CAPITAL CITY” started at 36 percent and ended at 33 percent (not a significant drop but showing a low level of support after deliberation). There was a significant drop in support for one of the arguments in favour of indirect election: “If the President is indirectly elected by the Parliament and the Citizens Representative Councils, then he/she will be someone acceptable to all sides and above political fray”. Agreement with this conclusion dropped from 55 percent to 38 percent. On the other hand, there was strong agreement before and after with one of the key arguments in favour of direct rather than indirect election: “If the President is directly elected s/he can better speak for the interests of all people” (84 percent before, 80 percent afterward, no significant change).

By contrast, the deliberators supported an amendment that would increase the power of the Prime Minister: “Granting the Prime Minister the authority to appoint and dismiss the members of his/her Cabinet”. This proposal increased significantly from 57 percent to 73 percent.

All the proposals were evaluated on the same scale from 0 to 10 where “0 means strongly oppose and 10 means strongly support and 5 is exactly in the middle”. Nine of the top ten proposals at the end of the deliberation concerned the transparency, accountability and meritocratic operation of government through protections for the civil service and the judiciary (the tenth was granting authority to the Prime Minister to appoint and fire members of the Cabinet).

The quantitative results before and after deliberation, compiled by the National Statistics Office, were given to the Advisory Committee which reported them to the Parliament. Each of the two proposals that showed a large drop in support, the proposal for indirectly electing the President and the proposal for a second chamber of Parliament, was supported mostly by members of one of the two major parties (the indirect election of the President was mostly supported by the ruling Mongolian People’s Party and the second chamber was most prominently supported by members of the main opposition Democratic Party). The Deliberative Poll appears to have screened out both proposals from further consideration.

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In June 2019, 62 Members of Parliament submitted the amendments to the Constitution. They did not include either the indirect election of the president or the second chamber. It is already clear that this scientific national public consultation has had a major impact. Although, after three rounds of discussion, on 11 September 2019 the Parliament passed a resolution to take the constitutional amendments to the public referendum. After two days, the President vetoed the resolution. The most up to date constitutional amendments have not been made public yet as of September 2019.

What insights can be drawn for others from the experience with public participation in Mongolia?

To politicians, observers, citizens, and others watching this deliberative event it became apparent that if people think their voice matters in a forum such as this, they will fully engage in fruitful discussion among themselves, ask the experts informed questions, and then make tough decisions on what is best for their communities. While many discussions included surprise and honour at being invited to the deliberation and visiting Government House, and excitement at meeting people from different provinces, most would quickly, however, shift back to the Constitution and how it can support their hopes for the country’s development.

As Professor Fishkin has written:

> Regardless of what happens in the next stage, this process shows that the deliberations of the people, in microcosm, can effectively screen out proposals that lack majority support after deliberation, even if they are fervently supported by a minority. Hence, the DP [Deliberative Polling] has already served as a screening device or filter on admissible proposals, in much the same spirit as the Council of 500 in ancient Athens – the deliberators screened which proposals had enough support after deliberation to reach the next stage of decision. For highly consequential constitutional changes, this is already a major contribution. Regardless of the eventual fate of the proposed amendment, this DP defines a milestone in the experimentation with public deliberation as an input to constitutional revision.  

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\(^5\) Ibid, page 195.