**Democracy When the People Are Thinking**

**Revitalizing Our Politics through Public Deliberation**

James S. Fishkin

**12. Mongolia Deliberates for Constitutional Change**

The idea of inserting speciﬁc substantive recommendations from a deliberating microcosm into a process of constitutional change received its ﬁrst pilot at the national level in Mongolia in 2017. As we noted in Section3, Part III, the parliament of Mongolia passed a “Law on Deliberative Polling” that requires Deliberative Polling as a form of public consultation before the parliament can consider amendments to the constitution. The law also requires Deliberative Polling for the distribution of local development funds and for certain issues of urban planning.

A few words about the context. After years of discussion of possible constitutional amendments, the government passed an 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.

A second working group in the parliament, representing the different political parties, developed an agenda in light of the public meetings and its own deliberations. This agenda was cross-party in that the strongest proponents of some of the proposals were from the ruling Mongolian People’s Party (MPP) and the strongest proponents of other proposals were from the main opposition party, the Democratic Party. There were six topics in the agenda:

1. Ensure effective checks and balances between the State Great Khural(the parliament) and the government. One proposal here was to “grant the Prime Minister with authority to form his cabinet, appoint and dismiss members of the cabinet.” Another proposal was to “include names of ministries and determine structure of cabinet in the Constitution to ensure sustainability and stability of state policies in terms of cabinet structures.” Currently, election victories can lead to the renaming of ministries, allowing civil servants to be ﬁred because their ministries no longer exist.
2. “Clearly identify rights and responsibilities of the President.” This topic included a proposal to elect the president indirectly rather than directly, as in the current arrangement, and for a single term of six years rather than for the current renewable term of four years. Another proposal would revoke the right of the president to initiate legislation and direct decrees to the Cabinet.
3. “Strengthen professional, skilled and reputable civil service free of politics.” This topic included proposals to make the Civil Service Commission free of politics, with protections in the constitution and proposals to protect civil servants from discrimination based on their political views.
4. “Perfect the administrative and local governance systems.” This proposal would put the administrative divisions into the constitution and also allow the governors of larger units to appoint the governors of the smaller local units.
5. “Strengthen state accountability, discipline and justice.” This topic included an independent constitutionally protected organization to ﬁght corruption free of political interference. It also focused on expanding the composition of the Judicial General Council which supervises the courts.
6. “Ensure necessary conditions to openly discuss a proposal to have two chambers of Parliament.” This proposal involved a second chamber on the model of the second chamber in the 1990 constitution. At present, the parliament has a single chamber.

These six topics generated eighteen speciﬁc policy options for the Deliberative Poll. These questions were the core of the questionnaire used on ﬁrst contact and again at the end of the weekend.

**Sample and Recruitment**

In the ﬁrst application of the new law, 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 April 28–30, 2017. The law speciﬁes that at least half the people who take the initial interview must be invited. The National Statistical Ofﬁce (NSO), the agency that conducts the census, did all the survey work. A total of 1,568 households were randomly selected within geographical areas so as to cover the entire country. Participants were randomly selected within the randomly selected households. 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). In conformity with the law on Deliberative Polling, 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 completed the entire weekend of deliberations. This is an extraordinarily high rate of participation for those invited (85 percent = 669 out of 785). All expenses were paid by the government but honorariums were not paid to the participants. The result was the largest sample ever convened for a Deliberative Poll anywhere in the world.

**Representativeness**

By comparing the 669 participants in the weekend deliberations with the 846 non-participants, we can evaluate their representativeness in both demographics and policy attitudes. In their demographics, there were no signiﬁcant differences between participants and non-participants in income, age, or marital status. There were some small but signiﬁcant differences in education (the participants are slightly better educated) and employment (2 percent less participants were employed). The only major difference was gender. There were signiﬁcantly more women than men (there were 53 percent women and 47 percent men among the participants and this is slightly more balanced than the non-participants, who had a slightly higher percentage of women). We can also compare participants and non-participants in their political attitudes before deliberation. There were eighteen questions on the proposed amendments. Only three show statistically signiﬁcant differences between participants and non-participants. The participants began by being somewhat more favorable to ward two chambers of parliament, somewhat more favorable to a mechanism for state accountability, and somewhat less favorable to an expanded judicial council. But these differences are all small. Fifteen of the eighteen items show no statistically signiﬁcant difference between participants and non-participants. We can justly say that the sample that gathered for the weekend in the Government Palace put the whole country in one room, with regard to both their political attitudes and their demographics. With only slight differences, and as best as we can measure it, their view points and their demographics were about the same as the nation as a whole.

**What the Public Concluded**

There were eighteen questions about speciﬁc aspects of the proposals. Ten of those eighteen questions (55 percent) changed signiﬁcantly. It is worth discussing both the signiﬁcant changes and the proposals that rated most highly at the end, regardless of change. The highest-rated proposals withstood all the criticisms and still came out at the top of the list. Let us start with the opinion changes and then look at the top-rated proposals. 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 63 percent to 32 percent—a drop of thirty-one points.

With deliberation, the public became more skeptical that “a second chamber would provide effective oversight of the lower house of Parliament.” Agreement with this idea dropped from 72 percent to 41 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. Lastly, there was a signiﬁcant increase from 53 percent to 58 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 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 reelection” 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 Citizens’ Representative Councils of aimags and the capital city” started at 40 percent and ended at 34 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 favor 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 61.5 percent to 41 percent.

On the other hand, there was strong agreement before and after with one of the key arguments in favor of direct rather than indirect election: “If the President is directly elected s/he can better speak for the interests of all people” (85 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 62 percent to 73 percent. Deliberators agreed that “If the Prime Minister cannot even appoint the members of his/her own Cabinet then s/he lacks the authority to get anything done.” A total of 72 percent agreed before and 67 percent afterwards (an insigniﬁcant drop).

Many of the highest ranked proposals after deliberation were also rated highly beforehand. 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.” All eighteen proposals are listed in the online report. Except for the proposal allowing the prime minister the authority to appoint and dismiss the members of the Cabinet, all the proposals concern the transparency, accountability, and meritocratic operation of various aspects of the government, including the civil service and the judiciary. We show the percentages of support in parenthesis for each proposal (we rank them by the mean post-deliberation). The top ten proposals after deliberation are:

1. Adding that the Public Service Commission should regulate recruitment, promotion, and security of tenure based on merit (91.4 percent).

2. Adding that public servants cannot be dismissed because of election results or on the basis of their political views (90.4 percent). Adding that the public service should be professional, merit-based, and independent from political interference (87.9 percent).

3. Creating mechanism in the constitution for state responsibility and accountability (89.4 percent).

4. Creating more clear procedures and principles for appointment of judges and chief justice (83.2 percent).

5. Adding a clause to the constitution that protects the independence of the Public Service Commission (78.6 percent).

6. Adding the structure of the Cabinet ministries in the constitution (79.3 percent).

7. Establishing a parliamentary body to strengthen state accountability and ensure implementation of anti-corruption policies (76.4 percent).

8. Granting the prime minister the authority to appoint and dismiss the members of his/her Cabinet (73.2 percent).

9. Expanding membership of the General Judicial Council responsible for ensuring the autonomy of the judiciary (72.5 percent).

These ten priorities speak to the most urgent concerns of the participants. Two of the “most important problems with the current political system” are “corruption among high level ofﬁcials” (87.5 percent) and “corruption in the ﬁnancing of campaigns” (85.1percent).The only other problem rating as high is “too much debt” (86 percent). These are very high levels compared with other key concerns such as “Government effectively delivering public services”(34percent) and “Government effectively managing public resources” (31.5percent). Apart from issues of corruption and accountability, deliberators’ worries about the political process actually lessened with deliberation. Concern that “too many elections are creating obstacles in the current political system” went down signiﬁcantly from 60.9 percent to 52.5 percent. The belief that “Parliament is able to get things done” increased signiﬁcantly, from 58.6 to 64 percent. Belief that the “President is able to get things done” increased signiﬁcantly from 45.1 to 50.5 percent. However, belief that “the Prime Minister is able to get things done” did not change signiﬁcantly (54 percent post-deliberation). The most urgent concerns were not the structure of the government but corruption.

After deliberation, only 40.8 percent agreed “there are not enough limitations of the President’s power” and only 37.6 percent agreed that “there are not enough limitations on the power of Parliament.” Given these perceptions of the problem, it is not surprising that deliberators failed to endorse dramatic changes in the structure of the presidency or the parliament. By contrast, 81.8 percent thought it was important for “public servants to have security of tenure,” 78.9 percent for them to be “non-partisan,” and 90.5 percent wanted “To have promotion based on merit.” They supported a professional and meritocratic civil service and they wanted constitutional protections for it, as we saw with the top proposals. The second-highest priority in the top ten was “Adding that public servants cannot be dismissed because of election results or on the basis of their political views” (90.4 percent.) This result also seems linked to the support for priority number 6: “Adding the structure of the Cabinet ministries in the Constitution (79.3%).” It was argued in the deliberations that this proposal would prevent the reorganization of the ministries after elections and thus protect civil servants from losing their jobs on political grounds.

**Proposed Amendment**

Results were tabulated by the NSO and reported to the advisory group, who passed them on, with recommendations, to the Parliamentary Working Group. The parliament has formulated an amendment based on the results. That amendment has two notable features.

First, the two most ambitious proposals for change, the indirect election of the president and the second chamber, were both left out of the proposed amendment. As we saw, both of these proposals fared poorly in the Deliberative Poll. While they had fervent supporters in one party or the other, they were both dropped from consideration in the amendment after the deliberative results became available. The second major point is that the amendment includes several more modest but clearly important proposals that would enhance governance and decision making. These include giving the prime minister the authority to appoint and ﬁre his Cabinet, guarantees for the civil service to be immune from political interference, various anti-corruption measures, and support for naming many of the ministries in the constitution so that they cannot be renamed (thus protecting civil servants from ﬁring based on election results).

These proposals all had strong support in the Deliberative Poll and, at time of writing, were included in the proposal that is before parliament. The parliament has the authority to approve this amendment with a two thirds vote (currently the ruling party, the MPP has more than a two-thirds majority). Or the parliament can decide by majority vote to put the proposal to a referendum. At time of writing the ﬁnal fate of the amendment has not been decided. 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 Deliberative Poll 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 Deliberative Poll deﬁnes a milestone in the experimentation with public deliberation as an input to constitutional revision.