

Deliberative Polling and the Democratic Innovations Agenda

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Abstract

James Fishkin's Democracy When the People Are Thinking (2018) is a comprehensive account of why Deliberative Polling is now the gold standard for a type of deliberative mini-public. Fishkin's book is nicely theorized, and counts as a major contribution to the empirical study of democratic innovations. The book does, however, leave a number of questions open that we need to frame and answer as we look forward to using innovative processes such as Deliberative Polling to deepen democracy. These include questions of (1) the democratic legitimacy of randomly selected bodies; (2) the boundaries of relevant publics, particularly when they do not correspond to established jurisdictions; (3) managing legitimate exclusions of special interests that are powerful enough to undermine deliberative mini-publics; (4) when and why political elites might have incentives to use deliberative mini-publics; (5) when and where divisions of labor among venues and activities deepen democracy, and (6) locating democratic possibilities outside of electoral democracy, particularly within governance systems.

Keywords: *democracy, democratic theory, democratic innovations, deliberative mini-publics, political participation*

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James Fishkin's *Democracy When the People Are Thinking* (2018) is a comprehensive account of why Deliberative Polling is now the gold standard for its type of democratic innovation. Deliberative Polling is a species of the broader genus of deliberative mini-publics: political bodies comprised of demographically representative samples so they are “mini” versions of a relevant public, and tasked with learning and deliberating about an issue of public concern. The result is, typically, a survey (or sometimes a report) that reflects what the body prefers once they are informed and have thought about it: that is, democracy “when the people are thinking.”

There is a lot to like in this book. Importantly, it places Deliberative Polling within the contexts of encompassing political systems, particularly electoral democracies. In doing so, it helps us to think about when and where Deliberative Polling can supplement our legacy institutions to produce governance that is smarter and more democratic. Fishkin's broad framing of the problems of representative democracies to which deliberative polling might respond is compelling and theoretically clean. Democracies today are experiencing what seem like ever-widening gulfs between “populism”—demands for popular control of elites—and “technocracy”—competent leadership (Part I). Deliberative Polling achieves populist goals by constituting a body that is demographically representative and comprised of ordinary citizens. It achieves technocratic goals by organizing learning and deliberation into the work of such bodies. The broader democratic theory in the book is likewise compelling and well-developed, and casts Deliberative Polling as addressing the “trilemma” of achieving three goals of democracy: political equality, participation, and deliberation (Part II). Fishkin beautifully situates Deliberative Polling within interesting and enlightening discussions of Madison's constitutional designs aimed at institutionalizing elite deliberation, and the ancient Athenians' innovative combination of direct democracy and representative bodies tasked with deliberation (Parts II.6 and II.8).

Perhaps the most important academic contribution of the book (and the Deliberative Polling projects that the book explains, surveys, and justifies), however, is its contribution to the empirical study of deliberative innovations. To date, the emerging field of democratic innovations has tended to be built on one-off or small numbers of cases that are difficult to study comparatively, due to variations in design, content, observer access, and above all, participation. Because Deliberative Polling has been repeated numerous times under many conditions, in many contexts, and over many issues, with but slight variations in design, Fishkin and his collaborators

now have thousands of observations that allow them to address with credible statistical inference a number of normatively crucial questions, identified by critics of deliberative democracy (see Bächtiger, et al., 2018, 17–23): Can social inequalities be overcome within deliberative processes? Does more deliberation tend to polarize opinion or to consensus? Do more vocal and/or educated participants distort opinion as it is formed? Can and do ordinary citizens become informed enough to become lay experts on the matter at hand? The findings Fishkin presents in this book—that careful process design can mitigate most potential problems with deliberative politics—are hugely important, and are consistent with an increasing number of quasi-ethnographic studies emphasizing the importance of well-designed and well-executed processes. This book is an important step forward in establishing the emerging field of democratic innovation.

I have no critical comments, as I agree with virtually all of Fishkin's arguments and analyses. Rather, I want to focus on questions that Fishkin does not address or addresses incompletely—questions we need to frame and answer as we look forward to using innovative processes such as Deliberative Polling to deepen democracy.

First, we still know very little empirically about the democratic legitimacy of deliberative mini-publics. As academics, we attribute legitimacy to random selection or selection through stratified sampling because we can see that it produces bodies that include voices, perspectives, and forms of knowledge that often fail to be represented in self-selected and elected bodies. But we don't really know much about how *citizens* view these kinds of bodies. We don't have the luxury of the Athenian view, namely, that random selection amounts to allowing the gods to decide. Today's social scientific justifications for sampling methods are probably too abstract for most citizens. But we do have some evidence that, when citizens know about these processes, they tend to like them, possibly because they like the idea of political bodies comprised of ordinary citizens rather than professional politicians (Cutler, et al., 2008; Stone 2012). We need better knowledge about how broader publics view the legitimacy of near-randomly selected bodies.

Second, the general problem in democratic theory of defining the *demos* needs to be better theorized, largely because our interconnected world is full of issues that fail to correspond to organized jurisdictions (Fung 2013). Fishkin states at the beginning of the book that he will simply accept that the people who ought to be included or represented on an issue are defined by existing jurisdictions like states or countries. At other points, however, he refers to “the relevant population” or to “those affected”—ideas that

carve out constituencies by identifying the scope of the issue at hand, and which may overlap existing jurisdictions, depending upon the issue. If we want to connect mini-publics to democracy as collective self-rule, we need to know what the relevant *demos* is, such that it could be represented in a random sample. Sometimes the relevant *demos* is obviously included in an existing jurisdiction, as it was for the British Columbia Citizens' Assembly, which was tasked with looking at electoral reform for the province (Warren and Pearse 2008). For many other kinds of issues—say, immigration or climate change—existing jurisdictions simply fail to map onto affected publics. We need more thinking on this question, not least because deliberative mini-publics can be a very good way of representing people for issues that cross jurisdictional boundaries or involve multiple jurisdictions (Dryzek 2012, chap. 9).

A third question has to do with new kinds of political difficulties introduced by deliberative mini-publics. There is a very good representative case for random selection or stratified sampling—a case Fishkin makes thoroughly and convincingly. In contrast to opt-in processes, however, random selection can exclude people who are intensely interested in an issue. Although justifiable from a representative perspective, these exclusions run the risk of inciting those who are both intensely interested and excluded to work to undermine the legitimacy of a mini-public. Indeed, a proposal to create a Citizens' Initiative Review process in the state of Washington (a pairing of a small deliberative mini-public with ballot initiatives; see Participedia 2012) is widely believed to have been killed by the state teachers' union, whose leadership feared that the mini-public would compete with the union's ability to influence voters. True, advocacy groups can be included in other ways, such as processes allowing groups to make their cases to a mini-public in ways similar to advocates presenting cases before juries. But for any given case, this kind of inclusion may not be sufficient to placate groups conditioned to fear competition for political influence. So we need to think more about how to position deliberative mini-publics in hostile political contexts. We need to understand better how to connect democratic innovations “to the political fray,” as Fishkin puts it—a problem he begins to frame toward the end of the book, but for which he offers no solution (esp. 199–208).

Fourth, and along the same lines, we need more theory as to why elected political elites might make room for mini-publics within the legacy institutions of representative democracy—again, a problem Fishkin begins to frame and discuss in Part IV, but does not fully address. Here again, we

have cases and stories—but are they adding up to patterns? Can we identify democratic deficits that produce problems for political elites of the kind that might motivate their consideration and endorsement of democratic innovations? We must also attend to variations in the ways that differing political systems generate democratic deficits. In Canada, for example, governments are typically elected with around 40 percent support from those who vote owing to its First-Past-The-Post electoral system and regionalized parties. Governments thus have formal power but weak legitimacy, which tends to complicate issue-specific governance problems. The patterns are different in the Nordic Proportional Representation systems, and very different again in a country like China, whose rulers don't benefit from electoral legitimacy at all (Fishkin 195–99). Can we theorize these contexts in ways that help identify opportunities for democratic innovations?

Fifth, if we are to imagine a future in which deliberative—and participatory—innovations play a much greater role than they do today, we also need to face the fact that they place demands on citizens' time and attentiveness. Even the most capable citizens can participate in a few places on a few issues during any given period of time. For most issues, most of the time, people have to trust their representatives. We need to build theory to help us judge how citizens might divide their participatory and deliberative labors in ways that are feasible as well as democratic. Within a good division of labor, there will be a high density of trusted information proxies, as citizens rely on one another for cues about how and when to participate. One of the most interesting possibilities for deliberative mini-publics is that they can function as trustworthy information proxies for those who are not directly participating or deliberating (see, e.g., Warren and Gastil 2015). Fishkin recognizes this potential function, but views it as “second-best.” I disagree: It's a different kind of role for mini-publics than he imagines, but one that will become ever more valuable and necessary as we move toward democratic systems with greater densities of participatory and deliberative processes. To identify and understand these possibilities, we need to build out democratic theory to inform divisions of labor that involve both well-distributed participatory engagement and warranted forms of trust.

Finally, as we build toward systematic accounts of deliberative democracy, we also need to recognize the very large extent to which democratic innovations are driven by governance problems that are external to traditional political systems altogether. In fact, the dominant uses of democratic innovations like mini-publics now seem to occur within administrative systems, driven by bureaucrats who are finding that electoral democracy isn't

providing the legitimacy they need to do their jobs (Warren 2014). We need to theorize these developments, too, if we hope to locate genuine opportunities for innovations like deliberative mini-publics to deepen democracy.

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