

The Role of Voting in Citizens' Juries

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This paper draws lessons from newDemocracy's experiences operating various citizens' juries in Australia including, the South Australia Nuclear Fuel Cycle, Democracy in Geelong, and Infrastructure Victoria's 30 Year Plan.

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** newDemocracy is an independent, non-partisan research and development organisation. We aim to discover, develop, demonstrate, and promote complementary alternatives which will restore trust in public decision making. These R&D notes are discoveries and reflections that we are documenting in order to share what we learn and stimulate further research and development.*

How Should Citizens' Jury Decisions be Made? The Role of Voting

What is the question?

Mini-public deliberation is different from the usual democratic processes in at least three fundamental ways. One is the method of *participant selection*—via a civic lottery (See, [Citizens' Juries are not Public Meetings](#)) rather than via election, self-selection or appointment. Another is the mode of *interaction between participants* -- deliberation (See, [Deliberation](#)) rather than debate or bargaining. A third difference, just as fundamental, is the approach to *taking decisions*.

A lot has been written about the lottery method (also known as random selection or sortition) (for example, Carson & Martin 1999, Callenbach et al 2008, Page 2007, and about deliberation (for example, Gastil & Levine, Nabachi 2014). Not nearly so much has been written about decision processes in mini-publics. This note addresses the question:

How should deliberative mini-publics take decisions, and when is voting appropriate for that purpose?

What is the usual answer, and why is it inadequate?

To most readers, the answer will likely be obvious – “They should vote!” For many people, it is difficult to even imagine that alternative democratic decision methods could exist. Isn't voting in elections the very essence of democratic government? How do we make a decision among a group without a show of hands? Any method used to engage with constituents should employ the same method, right?

Not necessarily. In mini-publics, voting can entrench views, and shut down exploration, open-mindedness and critical thinking, leading to a premature decision or groupthink (Janis 1982) (See, [Critical Thinking](#)). It does this by encouraging people to take a side between two (often fixed) positions on a subject. The simple act of choosing a side roots peoples' cognitive biases in their initial choice, making it more difficult for them to accept critique, change their mind when subject to new information, or consider alternative viewpoints (all antithetical to deliberation). Voting encourages a rush to judgment, reinforcing a view that when we have 50% plus, the subject is closed, that one group's view wins and we can stop talking.

In newDemocracy's experience, even when it appears that there is equal support for different positions, common ground (leading to 90%-100% support) is often achievable if people are left to explore possibilities. Open questions such as “What needs to change about this statement for you to support it?” can be posed. Otherwise, if voting achieves only 50%+, then nearly half the group's views are ignored. Further, it is unlikely that the best and most enduring decision has been made.

Any deliberation is more than a 'wish list'—it involves difficult trade-offs. Participants have to agree on what they can live with and without in order to gain other advantages. They have to weigh strengths and weaknesses of various options and this requires more than “good/bad, yes/no” thinking – the kind of thinking that voting tends to promote.

Does this mean that mini-publics should never vote? No. For mini-publics, the problem is not with voting itself, but with the most common *role* of voting – as the final test of which (already

formulated) policy should win, through a “fair fight.” Timing matters. Voting too early in discussion is problematic. It is this role of voting, and this concept of policymaking as a contest—rather than the act of voting itself—that causes the problems mentioned above.

What alternative is there, and why is it better?

A better alternative for decision-making in mini-public deliberation starts with a different concept of policymaking – as a collaborative activity, in which the ideal outcome is a decision or recommendation that all participants can support, or at least live with. From this perspective, sometimes voting is not needed, and when it is used, the purpose will more likely be to find out “how close are we to consensus on question X?” than determining “which side wins.”

The ideal of group consensus cannot always be realised in practice (the ideal of “the best policy wins” cannot always be realised in practice either), but striving for a “common ground” recommendation has two important benefits:

- It makes good use of the diversity of views in a deliberation, noting that diversity of views has been shown to improve the quality of decisions (Landemore, 2012); and
- It results in a decision or recommendation that is much more likely to be trusted by the public.

How does it work? What do you do when people disagree?

It is newDemocracy’s contention that in these circumstances, voting should be delayed for as long as possible or avoided completely. Rather than “debate and vote,” a better approach is to lead the group in examining:

- What questions do participants disagree about?
- What are the alternative answers that different participants propose?
- Why does each group support their preferred answer?
- Given this knowledge, what new answer (or sometimes, what new question) could everyone support, or at least live with?

In newDemocracy’s experience, this approach can often result in more informed recommendations, with better support from the participants, and a better likelihood of support from the public. In cases where agreement cannot be reached, voting can be used as a last resort. In these cases, it is still important to avoid voting on fixed positions. Techniques that allow participants to express their views on different parts of a decision and what might make them change their mind can make even voting somewhat more deliberative. In these cases, the use of “minority reports” are strongly encouraged. They communicate nuance that might otherwise be lost.

Skilled facilitation is needed at this stage of the process, when unanimity is missing. A facilitator’s questions can make a difference simply by reframing the situation. For example, one good challenge question is “What would need to change about that statement for your position to change?”. These are some examples that may be the type of questions that move people toward more agreement:

Statement: I object to X

Facilitator: How might we respond to, or deal with X?

(shift from closed to open)

Statement: The project officer has not been keeping us informed.

Facilitator: How might we improve communication?

(shift from personalised to depersonalised)

Statement: This activity is a complete waste of time.

Facilitator: What in particular... How might we overcome this?

(shift from problem to opportunity)

When does voting occur now in mini-publics?

Deliberative Polls provide one example of voting as fundamental to the process. Participants are surveyed at the start of the process (often by phone), then at the beginning of the face-to-face engagement and again at the end. This could be interpreted as a vote, because it measures or counts the level of support or opposition for a given position (See, [Deliberative Polling](#)).

Polling (assessing level of support) sometimes occurs during long-form deliberations, for example in AmericaSpeaks or G1000 events (See, [Forms of Mini-publics](#)). Large-scale citizens' assemblies can use voting pads on smart phones to poll participants, and then display the results on large screens, showing overall support for ideas and options. We know from anecdotal evidence that these votes can be unhelpful if used prematurely, as explained above.

At newDemocracy, we see voting as a 'last resort'—best delayed until no other method is available, thus persisting with exploration of common ground. We tend to apply an 80% rule, which is discussed in advance with client and participants. In other words, if we need to break a stalemate we will test the room for 80% support in order to move forward.

What are the circumstances in which voting makes sense?

- Polling opinion, both uninformed and informed; when collective judgement is required.
- In groups with large numbers (50+), preferably when small-group work has preceded voting by first exploring common ground and discovering small-group agreements.
- As a last resort with mini-publics with fewer than 50. The smaller group enables genuine consensus building. Once options have been talked through and participants are 'down to the wire', voting can be useful if the group still cannot come to consensus.

Should voting be public or secret?

Australia is renowned for inventing the secret ballot for elections, once known as the Australian ballot. However, the Ancient Greeks used it thousands of years ago for its courts (Lyttkens et al, 2018, p.394). Secret ballots make sense not just for elections where they enable voters to be free from coercion, but also makes sense in the context of long-form deliberation, where they help avoid peer pressure or more subtle forms of group conformity.

One unusual example occurred at the Irish Constitutional Convention, which included two-thirds randomly-selected citizens and one-third elected representatives. Using secret voting in the ICC meant that the elected representatives were freed from censure by their political party and the media.

Nevertheless, there will be circumstances in which it is appropriate to 'take the temperature of the room.' This is best achieved using socio-lines or similar—a physical representation of

the level of agreement, enabling participants to discuss together areas of concern. Even a simple technique such as asking people to identify lukewarm or vehement opposition/support can help to uncover the deeper issues that may enable some movement.

What is still unknown or untested?

There has been little research about voting within a mini-public—when it should be used, how it should be used, and the pros and cons of open versus secret voting. Rarely are these questions asked: when is it appropriate to curtail the journey of discovery and default to a vote? What are the consequences of premature voting? When does voting support the successful completion of the deliberative task? More research is needed to establish answers to those questions.

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