

From Deliberative to Radical Democracy? Sortition and Politics in the Twenty-First Century*

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Abstract

This article defends four claims. The first is that in the last few decades, two waves of democratic innovation based on random selection must be differentiated by their partly different concrete devices, embodying different social dynamics and pointing toward different kinds of democracy. The second claim is that the rationale of the first wave, based on randomly selected minipublics, largely differs from the dynamic of political sortition in Athens, as it points toward deliberative democracy rather than radical democracy. Conversely, empowered sortition processes that have emerged during the second wave capture better the spirit of radical Athenian democratic traditions. The third claim is normative: these empowered sortition processes are more promising for a real democratization of democracy. The last claim is that any proposal of a legislature by lot must rely on this lesson when trying to defend a normatively convincing and politically realistic perspective.

Keywords

deliberative democracy, democratic innovation, minipublics, political sortition, radical democracy, representative democracy, self-government

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*This special issue of *Politics & Society* titled “Legislature by Lot: Transformative Designs for Deliberative Governance” features a preface, an introductory anchor essay and postscript, and six articles that were presented as part of a workshop held at the University of Wisconsin–Madison, September 2017, organized by John Gastil and Erik Olin Wright.

John Gastil and Erik Olin Wright present legislature by lot as a real utopia, which would push a step further a long democratic tradition coming from Athens and revitalized by contemporary minipublics at the end of the twentieth century. A number of convincing arguments tend to demonstrate that this is a promising way of democratizing the political system. However, some questions should be raised. What kind of democracy is at stake? Deliberative democracy, as most of the proponents of minipublics advocate? Radical democracy, as induced by the frequent reference to Athens? A mix between both—or something quite different? What is the specific value of sortition? Although defending a mixed constitution and a complex vision of democracy,¹ Aristotle famously wrote, “It is considered democratic that offices should be filled by lot, and oligarchic that they should be elective.”² Jacques Rancière goes in the same direction when he writes, “The scandal of democracy, and of the drawing of lots which is its essence, is to reveal . . . that the government of societies cannot but rest in the last resort on its own contingency.”³ The political scientist Bernard Manin, in his seminal book on representative government, seems to share the same idea.⁴ I advocate for a much more complex narrative. The idea that sortition in politics has sustained a trans-historical democratic logic is more myth than historical fact, as political sortition has been used in quite different functions throughout history.⁵

I will defend four claims, two historical and two normative ones. The first historical claim, which will be central in my argument, is that when analyzing the experiments that have taken place in the last few decades, two waves have to be differentiated on the basis of their partly different concrete devices, embodying different social dynamics and pointing toward different kinds of democracy. To a great extent, the rationale of political sortition has changed from the first wave to the second one. The second historical claim is that the rationale of the first wave of democratic innovations based on randomly selected minipublics largely differs from the dynamic of political sortition in Athens, as it embodies a logic of deliberative democracy rather than a logic of self-government and radical democracy. Conversely, the second wave is more differentiated and more compatible with a neo-Athenian perspective; empowered sortition processes that have emerged during the second wave capture the spirit of radical Athenian democratic traditions better than consultative minipublics. My third claim is normative: these empowered sortition processes are promising for a real democratization of democracy. My last claim is that any proposal of a legislature by lot must rely on this lesson when trying to defend a normatively convincing and politically realistic perspective.

In what follows, I will take a critical approach, studying real democratic experiments (historical and current) to understand the normative and political claims that come from society, rather than try to assert pure philosophical principles. I will first describe the initial wave of experiments, composed by deliberative pools, citizen juries, and consensus conferences, that used sortition in politics at the end of the twentieth century. Those experiments have been mostly top-down consultative minipublics. They have complemented representative democracy with deliberative democracy, and the latter has been differentiated from, or opposed to, radical democracy and social movements. Those devices have been sort of what Europeans call protected designations of origin (PDO):

carefully designed, closely monitored, and often patented by their inventors. I will briefly oppose this logic of deliberative democracy based on randomly selected minipublics to the logic of radical democracy and self-rule that characterized Athens.

In the second part, I will present the second wave of experiments. It has been much more diverse than the first one. From citizen assemblies to the Oregon Citizens' Initiative Review, from the Students' Association of Lausanne University to the left-wing party Morena in Mexico, from the use of sortition between 2011 and 2016 by Occupy-like social movements (e.g., Syntagma Square in Greece, Movimiento 15-M in Spain, or Nuit debout in France) to the new French president's political movement La République En Marche!, the devices have been hybridized and inventive, offering spaces for creative imagination to both practitioners and theoreticians. Most of them have been directly linked to some real decision making and may therefore be analyzed as empowered processes. They have been coupled to representative government but also to direct democracy and to grassroots democracy. They often have linked deliberative democracy with radical democracy.

In the third part, drawing the conclusions of my analysis of the two waves of sortition experiments, I will develop my normative claims and explain why legislature by lot can be a crucial dimension of a radical democratization of democracy.

The First Wave of Modern Political Sortition: Deliberative Minipublics

Over the last two decades, tools that bring selection by lot back into politics, such as citizen juries, consensus conferences, and deliberative polls, have spread to other countries and resulted in many new experiences. Thousands of citizen juries have been held around the world.⁶ Between one hundred fifty and several hundred consensus conferences have been held, nearly half of them in Denmark.⁷ Dozens of deliberative polls have been conducted in the United States and all over the world.⁸

Citizen Juries, Deliberative Polls, and Consensus Conferences

These trends can only be understood in relation to the social upheavals of the 1960s and 1970s and a broader push for democratic change. The ideas of participatory democracy or self-management began to inspire activists, finding an echo in the academic world. These themes built on old arguments about the elitist character of representative democracy and sounded the charge against the existing political system. However, random selection came to public attention only gradually. Its advocates were concerned with giving institutional expression to the critique of representative democracy but kept their distance from radical left-wing tendencies modeled on the Russian workers' councils of 1905–20. Sortition appealed to ordinary citizens, and its attraction increased as the fascination for vanguards began to wane. The title of one of the first volumes to defend the idea of using selection by lot broadly in politics, *After the Revolution?*, is thus quite revealing.⁹

The idea of selecting a small group of citizens to deliberate within a regulated procedural framework also ran counter to some of the grassroots democracy ideologies of the 1970s, which saw the general assembly as the highest embodiment of democracy. In that sense, deliberative polls, citizen juries, and consensus conferences are all part and parcel of a “deliberative turn” in participatory practices, as greater attention is paid to the quality of debates and to the institutional tools that allow people to have their say on a balanced and egalitarian basis.

The idea of random selection in politics reemerged separately in Germany, where Peter Dienel argued in 1969 for “planning cells” (*Planungszellen*), the first ones having been tested in the winter of 1972–73, and in the United States, where Ned Crosby created a similar structure in 1974 that he called the “citizen jury.”¹⁰ In 1988, James Fishkin invented “deliberative polling” and in 1994 experimented with it for the first time in Britain. All three of these men were political or social scientists, and because they had no initial support from a movement, party, or institution, all three endeavored to found an institution that would disseminate, or indeed commercialize, the concept. All three moved quickly to patent it, even if Ned Crosby continued to work from a more activist perspective. Independent of these experiments, the Teknologiradet (Danish Board of Technology) decided in 1987 to open consensus conferences to “lay” citizens, after a period during which they had been used in medical circles in the United States. Only in the late 1990s did political and academic figures begin to consider the consensus conference, the citizen jury, and deliberative polling as largely convergent procedures, and the first moves were made to produce both conceptual and empirical hybrids.

Meanwhile, whereas the earliest conceptual justifications of random selection in politics had been closely tied to an experimental urge, a more theoretical process of reflection began to gather steam. From the 1990s on, three fast-developing currents independently helped to give theoretical nobility to these procedures, at first indirectly and then in more direct ways. One of these currents has based itself on the work of John Rawls and Jürgen Habermas to theorize the practice of deliberative democracy in politics.¹¹ The work and action of James Fishkin has been important to link deliberative democracy (whose main authors initially did not speak about random selection) and sortition.¹² The other literature trend, central for consensus conferences, has concentrated on the vast realm of “technical democracy,” drawing theoretically on the social history of the sciences.¹³ On a less massive scale, a few books and articles that defend or indirectly legitimize the reintroduction of random selection in politics helped to awaken further interest in the subject, especially in English-speaking and French-speaking countries.¹⁴

Eight Common Features

Beyond their differences, eight features characterize the devices of the first wave. (1) They constitute minipublics, that is, randomly selected representative samples, or at least a “fair cross-section of the community.”¹⁵ Most often, they are composed through some kind of stratified random selection in order to increase their representativeness.

(2) Most of these experiments are top-down. They are organized by public authorities, or in some cases foundations, in collaboration with social scientists. They are not linked to social movements. They can even be opposed to grassroots democracy. (3) These devices have been what Europeans call protected designations of origin (PDO): carefully designed, closely monitored, and often patented by their inventors. They function well and are highly interesting for a scientific analysis of the ordinary deliberation between lay citizens. The dark side of the PDO is that the political imagination of actors remains limited and the diffusion hindered. (4) Most of these devices have been one-shot events. The number of institutions that have organized such minipublics several times is quite small compared to those that have organized them once or twice. The main exception is the Teknologiradet and its citizen conferences. But even there, the minipublic has not become part of the “constitution”: in Denmark, the experiments are nearly over now. (5) Random sortition is linked to high-quality deliberation. The minipublic is a place where a high-quality deliberation can take place, with carefully balanced briefing materials, intensive discussions in small groups and in general assembly, facilitators helping an equal and inclusive discussion, and the chance to question competing experts and politicians. (6) Most of these devices are only consultative. They give a recommendation to public authorities, or provide them a counterfactual enlightened public opinion. They complement representative democracy. The aim is not to make decisions but to improve the decision-making process with a sophisticated deliberation of lay citizens. The minipublics allow us to know “what the public would think, had it a better opportunity to consider the questions at issue.”¹⁶ (7) The minipublics are not embedded in everyday social and political relations. Citizens have no link with one another, nor are they organized or mobilized. They discuss in an artificial institution. (8) These devices are concrete embodiments of deliberative democracy. In most books on political theory, deliberative democracy is differentiated from or even opposed to participatory democracy.

The Contrast with Athens: Representative Sample versus Self-Government of the People

The supporters of citizen juries, deliberative polls, and consensus conferences generally consider that civic participation in politics is crucial for the good health of our political system. Even if we bracket the obvious and important differences in the social, political, economic, and institutional contexts of modern democracies, on the one hand, and of ancient Athens on the other, is it enough to diagnose a partial resurgence of the ideal of Athenian radical democracy?

The close link between sortition and democracy in Athens is well known. Athens had a “mixed system” of aristocratic and democratic elements, and sortition was crucial for the second dimension. Each citizen could stand for selection by lot. This operated in four major types of institution. First, it served for the yearly constitution of the *boule*, the main council of Athenian democracy. Second, most of the magistracies were filled by random selection.¹⁷ Third, the *nomothetai*, a sort of supreme court, was also selected by lot in the fourth century. Finally, all the judges were selected by lot.

Citizenship entailed the unalienable right to participate in the assembly and to become a juror, and selection by lot became a routine activity.¹⁸ The *kleroterion*, the allotment “machine,” most likely mentioned by Aristophanes as early as 393 BCE,¹⁹ made the procedure quicker and more straightforward while simultaneously protecting it from any attempts at manipulation.

In Athens, however, the link between random sortition and deliberation was complex. On the one hand, the Greeks theorized a form of public debate that would involve all citizens. Nevertheless, the concrete dynamic of deliberation was differentiated according to the institutions. In the people’s assembly, an essentially contradictory debate unfolded, wherein orators attempted to convince the audience: a practice conceptualized by Aristotle as rhetoric.²⁰ Nonetheless, the public could actively express its feelings by speaking loudly. The practices of the *boule* were doubtless more interactive; one-on-one political discussions took place in the various public spaces of the agora. In the courts, on the contrary, juries were required to form their opinions by listening to the various parties but without deliberating, as all discussion among jury members was prohibited.

The coupling of rotation of the functions of power with selection by lot became a highly rational procedure that was particularly effective in warding off the professionalization of political activity and the monopolization of power by experts in a realm cut off from the citizenry. Of course, the Athenian city-state excluded women and slaves from political life and used its strength to subjugate allied cities. Within those and other important limitations, however, the Athenian way of life revolved around political activity, and citizens participated on a highly egalitarian basis in comparison with other systems known to history. Nearly 70 percent of citizens aged over thirty were *bouletai* at least once during their lifetimes,²¹ and a still higher proportion were called on to be jurors. These institutions functioned as schools of democracy in a society with a developed civic culture where face-to-face contact made mutual checking easy to achieve. Within the relatively narrow circle of citizens, power was largely exercised *by* the people.

A crucial difference sets Athens’s use of sortition apart from contemporary practices: the representative sample.²² In Athens, sortition and the rapid rotation of offices enabled citizens to govern and be governed in turn. That is why, in classical political thought, random selection has been associated with democracy and elections with aristocracy. Compared with today’s representative democracy, Athens embodied an example of radical democracy. The contemporary use of random selection is quite different. The real likelihood of being selected for a citizen jury, a deliberative poll, or a consensus conference is very low. Sortition is used rather to select a microcosm of the citizenry, a group with the same features and the same diversity as the citizenry, but on a smaller scale. A group of hundreds of randomly selected citizens tends to be statistically a representative sample of the citizenry as a whole. A smaller group of twelve to twenty-five persons cannot be truly representative, but this “fair cross-section of the community” incorporates some of the people’s diversity. Both types of panels embody a specific kind of descriptive representation.

The notion of a representative sample is familiar to twenty-first century readers thanks to decades of its intensive use in statistics and opinion polls. Thus it seems “quite rational to see lotteries as a means to the end of descriptive representation.”²³ However, the representative sample is a late nineteenth-century invention. It was introduced in politics with opinion polls in the 1930s; it became an instrument for selecting trial juries only at the end of the 1960s²⁴ and the political minipublics in the 1970s. There could be no relation between random selection and descriptive representation in Athens, as the idea that random selection statistically leads to a cross-section of the population was not scientifically available at the time. Chance had not yet been scientifically “tamed.”²⁵ Descriptive representation was important during the age of the French and North American revolutions. Mirabeau argued that the assembly should be “for the nation what a scaled-down map is for its physical area; whether in part or in full, the copy should always have the same proportions as the original.”²⁶ But because it was impossible to rely on the notion of a representative sample, promoters of descriptive representation ignored sortition and put forward other technical solutions. Mirabeau suggested the separate representation of different social groups through what we would call today corporatist methods. The Antifederalists proposed small constituencies.²⁷

Bernard Manin was the first to wonder why selection by lot disappeared from the political scene along with the modern revolutions.²⁸ He gave a two-part answer. On the one hand, the founding fathers of the modern republics wanted an elective aristocracy rather than a democracy, and so it was logical that they should reject random selection. On the other hand, the theory of consent, deeply rooted in modern conceptions of natural law, had gained so much ground that it seemed difficult to legitimize any political authority not formally approved by the state’s citizens. These two arguments are important, but they do not tell the whole story. In particular, they fail to explain why radical minorities did not demand the use of selection by lot in politics, even though they campaigned for descriptive representation.

To understand these developments, one has to point to a number of other factors. We must abandon the realm of “pure” political ideas and look at how they take material shape through governance techniques and various tools and mechanisms. The lack of a statistical concept of representative sampling at the time of the French and American revolutions, when probability and statistics were already well established but not melded together, was why legislation by lot seemed doomed in modern democracies—as well as why those who upheld a descriptive conception of representation inevitably had to select other tools to advance their ideals. The sheer demographic and territorial size of modern republics seemed to forbid any serious consideration of political lotteries, since it could not allow all citizens to govern and be governed in turn.

Conversely, the current return of random selection is also related to representative sampling. Random selection as practiced in politics today is inseparably bound up with that concept. In modern democracy, deliberation by a fair cross-section of the people is not the same as the people’s self-government. It gives everybody the same chance to be selected, but because that chance is very small, it does not allow all citizens to hold public office in turn. It leads instead to a minipublic, a counterfactual

opinion that is representative of what the larger public opinion *could think*. John Adams wrote that the microcosmic representation he was arguing for “should think, feel, reason, and act” like the people. For contemporary deliberative democrats, the statistical similarity between “descriptive” representatives and the people is only a starting point. The minipublic has to deliberate, and during that process it changes its mind. It begins to think somehow differently, and this is precisely the added value of deliberation.²⁹

The Second Wave: Liberating Democratic Imagination

The inventors of the first wave of deliberative minipublics hoped that these techniques would soon or eventually come into general use, but up to now there has been no standardized application on a large scale. This, according to Hans-Liudger Dienel, the leading expert on citizen juries in Germany, is due in part to the promoters’ concern to preserve the “purity” and seriousness of procedures: “I wonder whether the protagonists of deliberative democracy, with their societal approach, with their academic and ideological culture, might be a major obstacle for mass application of citizens juries and other direct deliberative instruments. Do they, do we, really want to leave the niche and join new coalitions to see mass application of deliberative democratic tools?”³⁰

Another reason was the position of those who wanted to promote participatory democracy in politics and in the academy. They were more interested in other mechanisms and processes, such as Latin American participatory budgets, which were bound up with the social mobilization of subaltern classes or challenges to the existing order. Although advocates of participatory democracy have been attentive to the deliberative quality of new participatory procedures, they have thought of them mainly as instruments in the service of social change; they initially ignored or were skeptical toward mechanisms based on random selection, which by their very nature give little scope for citizen mobilization and are usually introduced top-down.³¹

The situation has changed with a second wave of experiments relying on political sortition. The second wave has not replaced the first: some experiments of the former began very early, and the three “classical” devices of the latter are still being experimented with. In addition, the second wave has taken advantage of the achievements and lessons of the first: the techniques for organizing a good deliberation among lay citizens; the demonstration that these lay citizens can enter reasonable deliberation when organized in such conditions; the values of impartiality, epistemic diversity, and democracy attached to political sortition; the increasing public legitimacy of this kind of democratic innovation; and so on. Last but not least, some of the promoters of the first wave are also very active in the second one. However, the second wave has greatly broadened the panorama. The numbers have increased and the types of experiments have diversified. Four main streams can be differentiated.

Randomly Selected Minipublics and Direct Democracy

The first direction of innovation tends to couple deliberative democracy, embodied by minipublics selected by lot, and direct democracy. Citizen assemblies are the most

well-known examples of this trend. The first experiment was the British Columbia Citizens' Assembly for Electoral Reform in 2004, followed by the Ontario experiment the year after. British Columbia became a source of inspiration for other regions. In November 2009, Iceland was profoundly shaken by the financial crisis. Huge social movements imposed new elections and a new deal between business and unions. A citizens' assembly of 950 randomly selected individuals and a few hundred qualified persons was created. The assembly was tasked with identifying the most important points for constitutional reform. Iceland repeated the process with a new assembly, this time entirely selected by lot, before using universal suffrage to elect a kind of jury from among the population, composed of twenty-five ordinary citizens responsible for elaborating a new fundamental law based on the material produced by the previous assembly. This process has led to a dead end thanks to the opposition of the new ruling parties. Another experiment, in Ireland, has been more successful. Following an initiative launched by an NGO movement, a citizens' assembly of 100 individuals met in June 2011. Calling itself the Citizen Parliament, the group sought to make suggestions for constitutional reform. It was met with significant response in the media. After the 2011 election, the new government accepted the idea supported by the majority of the different parties and organized a constitutional convention, 67 of whose 100 members were ordinary citizens randomly selected from the electoral register. The others were politicians, in order to avoid the negative pushback from political parties that had made the adoption of the proposals coming from the citizens' assemblies in British Columbia or Ontario more difficult. From the work of the convention emerged the proposal to legalize same-sex marriage, which was ultimately validated by a referendum in May 2015. One of the most ambitious attempts to combine deliberative and direct democracy was thus ultimately a great success.³² The process is being repeated in 2017–18, this time about abortion and with a constituent committee entirely selected by lot. The constitutional amendment was approved by 66 percent of the voters on May 25, 2018. Other examples have been organized bottom-up, the most well known being the G1000 in Belgium.³³

In Oregon, one of the most interesting experiments with citizen juries has been conducted, called the Citizens' Initiative Review. Following a grassroots movement calling for deliberative democracy to be reconciled with the existing forms of direct democracy,³⁴ and benefiting from the expertise of Ned Crosby, the inventor of citizen juries, members of government from both sides of the aisle decided to institutionalize the use of randomly selected citizen panels. The Citizens' Initiative Review was officially adopted in 2011. Its principle is as follows. Once a collection of signatures meets with success but before voting takes place, a panel of citizen voters is organized to debate and evaluate the ballot measure in question. The panel's decision is then shared with citizens, as well as the informational material distributed (opinions from both an initiative's supporters and opponents). With this kind of procedure, deliberative democracy does not short-circuit direct democracy but rather increases its rational component. Moreover, it should be noted that at the end of deliberations, the panels are forced to elaborate a majority position rather than find consensus. The proposals submitted to the citizen panel and the popular vote have addressed mandatory minimum sentencing, legalizing medical marijuana dispensaries, corporate tax reform, and

more. The procedure has received largely positive evaluations. Overall, the quality of its deliberations has been touted,³⁵ and the impact of the review panel's opinions on voting outcomes has been nonnegligible.³⁶

Randomly Selected Minipublics and Participatory Democracy

A second trend of innovations makes use of randomly selected minipublics within larger participatory dynamics. Randomly selected minipublics have been combined with participatory budgeting. The citizen juries of Berlin, organized between 2001 and 2003, are a prime example, in which Peter Diemel's planning cells have been hybridized in an interesting way (Peter Diemel himself was not satisfied with this innovation). In each of the seventeen districts federally targeted for urban renewal, a sum of 500,000 euros was made available to a group of inhabitants for the support of local projects. Half of each group was composed of people selected by lot from the list of residents, and half of citizens organized or active in the local area. They were given decision-making powers, and the local authority endeavored to follow their advice to the limits of its jurisdiction and of the legislation then in force.³⁷ Random selection has also been used in the participatory budgets of other German and Spanish cities and in Pont-de-Claix (France) during the period 2001–8.³⁸ Since 2005, and with moderate success, the Chinese borough of Zeguo has mixed the participatory budgeting taking place in the city of Wenling (an eastern Chinese city with a population of over one million inhabitants) with a version of the deliberative poll.³⁹ Later, a quota was established to allow for the overrepresentation of entrepreneurs, so that this social class, important for local economic development, could wield more influence than its demographic weight would otherwise allow.

Randomly Selected Permanent Councils within Institutions and Associations

Democratic imagination has been so prolific that it is in fact impossible to describe all the different forms taken by the contemporary political use of random selection. Nonetheless, some important examples of a third trend—use of random selection to establish permanent councils within institutions or associations—should be mentioned.

Following a cooperation with James Fishkin's Center for Deliberative Democracy at Stanford, Mongolia passed a law in 2017 which makes it compulsory to organize a deliberative poll before any constitutional amendment. In April 2017, the Mongolian parliament did just that when it brought together 669 randomly selected citizens from across the country to Ulaanbaatar for the first-ever national deliberative poll on the future of the Mongolian constitution. Although negatively affected by a number of procedural defects,⁴⁰ this initiative could launch a new era of institutionalization at the national level for one of the best-known minipublics.

A more bottom-up and original initiative took place in Switzerland. The Federation of Student Associations of the University of Lausanne, which enjoys institutional recognition and plays a significant role in the university's operations, is organized around a statutory assembly composed half of representatives from student associations and

half of representatives supposed to speak on behalf of the federation as a whole. Until 2011, the latter were elected. Lists were drafted by the youth chapters of the various political parties on campus, and their debates were not aligned with those of the student association representatives, who were more likely to discuss the everyday problems of students than issues of partisan politics. In 2012, it was therefore decided that representatives would be randomly selected. Several variations were tried, but the general principle remained that a lottery was organized among students who voluntarily presented themselves. The first evaluations to emerge show that discussions within the federation have become more peaceful and more constructive, but the presence of less politically informed students simultaneously strengthens the influence of the bureau, composed of more politicized volunteers who have no true political counterweight within the federation.⁴¹ A similar initiative began in 2017–18 in the Chinese-American Schwarzman College, within Tsinghua University (Beijing), influenced by the well-known scholar Wang Shaoguang.

On a broader scale, in 1969 the French military welcomed the Conseil supérieur de la fonction militaire (CSFM), whose delegates are randomly selected following quotas that correspond to the various military corps. The council was design to create a consultative body that allowed soldiers to express their requests while avoiding any kind of politicization or union activity, both of which are legally prohibited in France within the armed forces. Since then, the designation procedure has been modified numerous times. In 2015, it was based on a combination of random selection from a group of volunteers (first step), followed by an election within this group (second step). The CSFM is viewed as highly legitimate within the French armed forces and is a powerful interlocutor for the minister—much more powerful than its police equivalent, elected from trade union lists. In this case, random selection has helped to forge a representative body, to level the playing field between representatives of different ranks, and to encourage discussions oriented toward the general well-being of soldiers. As the representatives do not enjoy any sort of individual legitimacy or power by virtue of being randomly selected, they tend to encourage a form of collective “legitimacy of humility” based on their impartiality and the quality of their deliberations.⁴²

A number of other examples exist worldwide. In France, for example, since the middle of the 2010s, randomly selected citizens’ councils are compulsory in the most disadvantaged neighborhoods, and Paris’s youth council is also selected by lot. Both citizens’ councils and Paris’s youth council are advisory, but they are included in the law or at least official rules and are not mere one-shot events depending on the goodwill of the majority. However, in the absence of grassroots social movements that would push in favor of empowered minipublics and verify whether they are well organized and whether their recommendations produce real changes in public policies, the impact of such institutionalized randomly selected bodies may still be small.

Random Selection in Party Politics

A last trend makes use of sortition in order to select new kinds of representatives, instead of a minipublic. A series of experiments have used random selection to select

party candidates in the frame of competitive party elections. A first experiment, inspired by the procedure of the deliberative poll, took place in 2006 in Marousi, a medium-size town in the suburbs of Athens. One hundred and thirty-one randomly chosen local citizens voted for who should be the mayoral candidate of PASOK, the Greek Socialist Party.⁴³ At the beginning of the 2010, the local Metz chapter of the French Greens randomly selected its candidates for local and legislative elections.⁴⁴

It is ultimately in Mexico that the most ambitious form of random selection has been used to choose election candidates. The procedure was discussed intensely for several years in academic and also in political circles. It was then proposed by the Movimiento Regeneración Nacional (Morena), the party of the former left-wing presidential candidate Manuel López Obrador and one of the opposition's main political organizations.⁴⁵ Morena decided to select two-thirds of its candidates for the legislative election on June 7, 2015, using a combination of election and lottery (the other third was reserved for external candidates who were not members of the party). In each electoral district, party supporters met in assemblies to elect ten individuals (five men and five women), from whom the candidates were in turn selected using a giant lottery system. That experiment has already had a significant effect throughout Latin America's second-largest country; it has allowed outsiders who would never have been selected otherwise to become candidates for and, in a number of cases, members of the new parliament. On July 1, 2018, Manuel López Obrador was elected president while Morena, using the same system, got a majority of seats in both the parliament and the senate.

This mix of sortition and elections recalls the many electoral processes that took place during the Middle Ages and early modern period in Italian and other European communes and at the beginning of the nineteenth century in Mexico. However, there is no historical precedent for another innovation that uses random selection to select members of party assemblies or central committees. In Spain, regional sections of the left-wing parties Izquierda Unida and Podemos also have introduced sortition in their internal procedures. In Andalusia, Izquierda Unida randomly selected 15 percent of the delegates to its 2017 assembly. In Valencia and Murcia, Podemos randomly selected 17.5 percent of the members of its standing committee, and the procedure should be extended to Balears and Aragon. In France, 25 percent of the central committee of La République En Marche! (Republic get started), the political organization of the new French president, Emmanuel Macron, were randomly selected among members in 2017. The radical left-wing political movement Les Insoumis also used sortition to select among its members the 1,200 delegates to its 2017 national convention, while smaller parties randomly selected their legislative candidates or the members of their standing committees.

Selection by Lot as a Tool for Radical Democracy?

What are the main differences between the first and the second wave of experiments? A very serious challenge of randomly selected minipublics concerns the tension between their deliberation and the wider public sphere.⁴⁶ By definition, deliberative

minipublics aim to reach a counterfactual opinion of what public opinion could be—they are better informed and enjoy a reasonably satisfactory setting in which to formulate an opinion—that may well differ from wider popular opinion. Deliberation and participation may be presented as opposing models of democracy.⁴⁷ That must not be the case, but some trade-offs are inevitable.⁴⁸ A majority of deliberative minipublics of the first wave did not have much effect on the wider public sphere, and in the worst-case scenario the democratic deliberation of a small circle of randomly selected citizens could replace a deliberative democracy including all citizens.⁴⁹ In such circumstances, deliberative minipublics could be implicated in a kind of elitism, at the antipodes of radical Athenian democracy. Such deliberative elitism would argue that the inclusion of lay citizens in politics could ever take place only within the managed arena of minipublics, other forms of participation being suspected of contributing emotional and nonreasonable elements. The first wave of experiments was also top-down and consultative (and most often only for one-shot experiments). That fact seriously limited their potential impact on social change. They have been successful in demonstrating the possibility of reasonable deliberation among lay citizens—but they have not been efficacious in substantially changing the real lives of citizens. Given that they existed solely by the willingness of public authorities, it was unlikely that they could really subvert power structures and massive injustice.⁵⁰ Reasonable discussions in modest committees are not enough to impose positive change in a world where the structural resistance of dominant interests is enormous.

Had minipublics not entered the second wave, their legitimacy would have remained weak. We needed these bodies to become more than “just talk.” That has happened with the second wave, which opened the door to more dynamic experiments. Because those experiments have been characterized by hybridizations, the political imagination of practitioners has been liberated. Concrete experiments have not often been pure examples of deliberative democracy, and deliberation has not been perfect, but many of them have been empowered—a major difference from the first wave. In addition, random selection has also been advocated within social movements such as the *Movimiento 15-M* in Spain, *Syntagma Square* in Greece, and *Nuit debout* in France. There are now real grassroots movements that call for “real democracy now” and include in that perspective the reintroduction of random selection in politics and even legislature by lot. For many activists who advocate the return of random selection in politics, such as Etienne Chouard in France or David van Reybrouck in Belgium, the legitimacy of the device has to do with its supposed radical democratic quality. In some cases, as in Mongolia, the sortition device has been institutionalized and rulers now *have* to organize randomly selected minipublics. That could lead to major breakthroughs: in 2006, Ségolène Royal—who was to become the French Socialist Party candidate for the 2007 presidential elections—envisaged “popular scrutiny” of political leaders and a requirement that these should “regularly give an account of themselves to citizen juries selected by lot.”⁵¹ She lost the elections but had planned to revise the constitution and introduce sortition in case of success. Important is also the fact that sortition is no longer merely a supplement to representative democracy. A number of experiments have coupled deliberative with direct or participatory

democracy. It is also striking that random selection has been introduced within party politics to make it less elitist but has at the same time been proposed as a new path to democratization in authoritarian contexts. The well-known Chinese intellectual Wang Shaoguang, one of the most prominent figures of the New Left, has advocated legislature by lot instead through Western-like elections in order to make China more democratic and its political system more representative.⁵²

According to many of the supporters of these deliberative instruments, the return of sortition in politics, after centuries of eclipse, implies that some of the ideals of ancient democracies are coming back. James Fishkin, who invented the deliberative poll, describes it as a “neo-Athenian solution” and even argues that “the key infirmities in modern democracy can find a constructive response in modern refinements and improvements in the two essential components of the ancient Athenian solution—random sampling and deliberation.”⁵³ I have argued that random sampling was a modern invention, unknown at the time of Pericles, and that the first wave of minipublics could seem at odds with radical democracy. However, in view of the second wave, and especially those cases of empowered experiments, it seems now possible to reclaim the radical democratic imagery that was coupled with sortition in the Athenian democracy. Table 1 summarizes the main features of political sortition in Athens and in the two waves of contemporary experiments.

From Minipublics to Legislature by Lot

In Switzerland, starting in 2015, a group of activists called *Génération Nomination* has been preparing a citizen initiative that would propose to replace the lower chamber by a sortition chamber. Although it will probably not succeed, it shows that legislature by lot is not only a proposal of theoreticians. Also with *Nuit debout*, in France, we see legislature by lot considered as a natural and self-evident dimension of democracy. The invention of the welfare state in the nineteenth and twentieth centuries was the outcome of quite different actors: the revolutionary labor movement and statesmen such as the German chancellor Bismarck, churches that wanted more solidarity, and businessmen who wanted to sell their products to their workers. The return of random selection in politics could follow a similar path.

As grassroots NGOs and social movements make their voices heard, the prospect of transforming the political system and society becomes more credible. Organized citizens embedded in their social world are necessary to impose real democratic changes. They may well encounter theoreticians interested in democratic theory, entrepreneurs or scientists disgusted with corruption and short-term political games, and politicians in search of a new profile. The ancients thought mixed government as coupling the virtues of democracy, aristocracy, and monarchy. A sortition chamber could become part of a new kind of mixed government that would couple deliberative democracy with direct, participatory, and representative democracy. When linked to social, economic, and ecological changes, this new mix could be understood as part of a radical democratic turn. (For a summary, see Table 1).

However, contemporary schemes based on random selection rely on representative samples and not on the self-rule of citizens, and legislature by lot should have specific

Table 1. Comparing Political Sortition in Athens and in the Two Waves of Contemporary Experiments.

	Athens	First Wave of Experiments	Second Wave of Experiments
Main logic of the device	Everyone takes a turn to govern and be governed	Counterfactual deliberative public opinion	Various: counterfactual deliberative public opinion; selection of political representatives, of juries with decision-making power, etc.
Model of democracy	Radical democracy	Deliberative democracy complementary to representative democracy	Deliberative democracy combined with representative, direct, participatory democracy
Institutions	Council, tribunal, magistrates	Minipublics	Minipublics, representatives
Where the initiative comes from	Not applicable	Top-down	Top-down and bottom-up
Relation to first inventors	Not applicable	Patented by the inventors	Hybridized by the practitioners
Institutionalization	Full institutionalization	Quite limited or no institutionalization, use of sortition depends on arbitrariness of the public authority	Various: complete institutionalization and compulsory use of sortition possible
Repetition in time	Permanent institutions	One-shot	Various: repetition possible
Link to decision-making process	Binding	Consultative	Various: consultative, binding, in between
Link to deliberation	Variable	Consubstantial	Consubstantial in minipublics, no link for the selection of representatives
Link to the notion of representative sample	Nonexistent	Consubstantial	Mostly consubstantial
Link to ordinary social/ political life	Consubstantial	Disembedded	Various

Source: Author's elaboration.

features that differ from Athenian democracy. Gordon Gibson, the creator of British Columbia's citizens' assembly and former councilor of the prime minister, justified the experiment in the following manner:

We are . . . adding new elements to both representative and direct democracy. These new elements differ in detail but all share one thing in common. They add to the mix a new set of representatives, different from those we elect. . . . The idea of deliberative democracy is essentially to import the public interest, as represented by random panels, as a muscular third force. The traditional representatives we elect are chosen by majority consensus, for an extended period, as professionals, with unlimited jurisdiction to act in our name. The new kinds we are talking about are chosen at random, for a short period, as lay citizens for specified and limited purposes.⁵⁴

When widely used for a sortition chamber, in party politics and in social movements, sortition could be even more significant if it couples strong participatory elements with the deliberative ones. It should contribute to the pluralization of the forms of democratic legitimacy.⁵⁵ Focusing on a sortition chamber and drawing the lessons of the two waves of experiments, I will conclude by highlighting some of its key features.

Randomly selected bodies should be institutionalized: their organization cannot be left to the arbitrariness of rulers. These bodies should have real decision-making power—a counterfactual and merely consultative enlightened public opinion alone will not be able really to change the lives of citizens. There will not be one perfect model that can apply everywhere: democratic innovations are always hybridized and highly influenced by the context and path dependencies. To give an example, in a federal system, a sortition chamber should probably be a third chamber. That is why the following discussion indicates a direction rather than a rigid standard.

Legislature by lot empowers a random selection of the people and not the all citizenry; its concrete institutional design should take this crucial feature into account. First of all, experience shows that randomly selected minipublics work much better when they have to focus on a specific issue rather than on general topics. That is why a sortition chamber should take the form proposed by David Owen and Graham Smith in their article in this special issue. As with the Athenian popular courts, the sortition chamber should be a popular body of 6,000 citizens, with pools of members frequently selected randomly for participation in minipublics working on concrete issues. The 6,000-citizen body would itself be rotated regularly, every year or few years.

What would be the topics at stake? History shows that selection by lot has had a clear advantage over other forms of selection, including elections, when the imperative of impartiality is high (either because a conflict of interest is probable, such as in the case of an elected chamber reforming the electoral law, or because of massive trade-offs and complex modeling of dynamic systems, such as those involved in long-term environmental policies). In modern democracies, elected officials, experts, and organized groups have a strong tendency to defend particular interests. Conversely, legislature by lot will tend to recruit nonpartisan people without career interests to defend, encouraged by the deliberative procedural rules to reach a judgment tending toward the public interest. In addition, when both representative and direct democratic processes find it difficult to represent the values at stake, legislature by lot is a good alternative, such as in the case of the preservation of the ecosphere and living conditions for future generations. A sortition chamber should therefore have three main tasks: defining the rules of the political game; proposing solutions to highly

controversial issues, such as lesbian and gay marriage or abortion in Ireland; and legislating for the long term.⁵⁶ In order to increase the legitimacy of its most important decisions, they should probably be validated by referendums at large: the coupling of a sortition chamber and direct democracy seems promising.

What would be the legitimacy of the sortition chamber? In addition to its impartiality, its democratic nature will be crucial. As Lynn Carson and Brian Martin put it, “The assumption behind random selection in politics is that just about anyone who wishes to be involved in decision making is capable of making a useful contribution, and that the fairest way to ensure that everyone has such an opportunity is to give them an equal chance to be involved.”⁵⁷ In addition, the deliberative quality of randomly selected minipublics focused on specific issues is high and usually much better than that of elected chambers. Deliberation by lay citizens conducted in good conditions leads to reasonable results. A representative sample or a fair cross-section of the people has epistemological advantages over representative government and committees of wise men: good deliberation must include diverse points of view, so that the range of arguments considered will be broader and discussion will be more inclusive.⁵⁸ Randomly selected minipublics have the advantage of being socially—and therefore epistemologically—richer than committees of experts or of political leaders, and richer also than publics in which participants come purely from volunteers or already organized civil society. Wide input is important in a world of increasing complexity. Last but not least, a specific kind of accountability will be developed in the sortition chamber. It is often claimed that the advantage of election compared to sortition is that elected politicians are accountable to their constituencies, whereas randomly selected citizens are not. In fact, this is far from evident, and not only because the real accountability of politicians is questionable. Sociological observation of contemporary minipublics clearly shows that citizens who have been randomly selected feel themselves to be strongly accountable: first, to the public authority that initiates the process and, second, to one another. A distinctive feature of minipublics is that those who are perceived as speaking for particular interests rather than for the common good are quickly marginalized; either they rectify their behavior, which happens in most cases, or their voices do not count anymore. Third, citizens who take part in a minipublic feel accountable to the wider public they represent. In dealing with the future of the ecosphere, a sortition chamber could bring a clear benefit over an elected one: the latter feels accountable to its electors (and in some cases to the donors who finance the elections), whereas the former are more likely to feel accountable to future generations, groups that do not yet exist.

It would be naive to think that politics will simply continue as usual, with minor changes compared to the previous century. Given the size of the recent financial crisis, the increasingly dire impasse produced by the current production model, and the massive disrepute into which institutional politics has fallen, preserving the status quo is neither realistic nor adequate. Recent experiments show that legislature by lot could be part of a radical democratic renewal and a key element to make such a change sustainable in the long run.

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