Legislature by Lot: Envisioning Sortition within a Bicameral System*

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Abstract

In this article, we review the intrinsic democratic flaws in electoral representation, lay out a set of principles that should guide the construction of a sortition chamber, and argue for the virtue of a bicameral system that combines sortition and elections. We show how sortition could prove inclusive, give citizens greater control of the political agenda, and make their participation more deliberative and influential. We consider various design challenges, such as the sampling method, legislative training, and deliberative procedures. We explain why pairing sortition with an elected chamber could enhance its virtues while dampening its potential vices. In our conclusion, we identify ideal settings for experimenting with sortition.

Keywords

bicameral legislatures, deliberation, democratic theory, elections, minipublics, participation, political equality, sortition

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Democracy embodies a tension between utopian aspirations and practical realities. The utopian ideal holds that ordinary people should be empowered to govern themselves. Democracy means rule by the people, not by elites, and if this were fully realized, the people would themselves actually rule. In practice, even the most robust and vibrant democracies delegate most rulemaking to professional politicians, who are elected by the people, or to bureaucratic officials employed by the state. Ordinary citizens may choose their rulers and hold them accountable, but the people do not themselves rule.

In the United States and most other mature democracies in recent decades, many people believe this gap between ideals and reality has been widening. In the worst cases, elections become a symbolic sideshow hiding the real exercise of power by elites operating behind the scenes. Even in the best democracies, the gap remains. There has never been a "Golden Age" in any actual democracy that approximated democratic ideals.

Can this gap be narrowed? Is it possible to realize democratic ideals more fully even under the constraints of large and complex contemporary societies? One strategy is to try perfecting the mechanisms by which political elites are elected and held accountable by ordinary citizens. There are many good proposals to accomplish this, such as insulating electoral campaigns from the influence of private wealth,[1] changing the rules of the game for electoral representation,[2] or enhancing the ability of citizens to deliberate meaningfully on policies and candidates.[3]

These kinds of reforms, if implemented in a serious manner, would certainly improve the democratic quality of elections, but they would still leave intact the fundamental feature of electoral democracy in which ordinary citizens are ruled by political elites. The question, then, is whether there are ways other than improving electoral mechanisms for reducing the gap between democratic ideals and realities. Are there alternative foundations for democratic institutions that might better realize democratic ideals?

We propose a different kind of strategy for deepening democracy. Before going into the details, we can summarize our idea as having four basic elements.

1. The legislature would have two chambers, one consisting of elected representatives and the other a "sortition assembly" of randomly selected citizens.
2. The two chambers would have equal powers, each being able to initiate legislation and vote on legislation passed by the other chamber.
3. The members of the sortition chamber would be well compensated to make participation attractive to those randomly selected for service.
4. Sortition appointments would be for a number of years, with a new cohort selected each year as the most senior cohort finishes its term. Those selected would receive extensive training and professional support staff.

The idea of choosing representatives by lot harkens back to the method the ancient Greeks used to choose legislators, jurors, and municipal officers. Athenians believed that this method could retain power in the hands of the public.[4] In the modern world,

the idea has gained traction and recently received an endorsement from Kofi Anan, former UN secretary general, who called for democracies to "reintroduce the ancient Greek practice of selecting parliaments by lot instead of election." In his view, such a system "would prevent the formation of self-serving and self-perpetuating political classes disconnected from their electorates."[5]

We begin our argument by reviewing some of the familiar pathologies of electoral democracy. In the next section, we show how a randomly selected citizen assembly might deepen democracy. We then we lay out the principles for evaluating the design of a sortition legislature. In the following two sections, we sketch the broad contours of the institutional design itself, then justify a complementary electoral chamber. We conclude by discussing how a sortition legislature might come into being, then offer a postscript that makes an anticapitalist case for this institution.

The Pathologies of Legislative Elections

Two broad categories of problems within conventional legislative elections are especially important—those directly associated with the electoral process and those associated with the behavior of elected legislatures.

Electoral Failures

In every phase of the electoral cycle, problems persist that sortition could eliminate or substantially mitigate. The Electoral Integrity Project has documented the deficiencies in electoral systems across the globe, and some of these failures plague even the most highly rated electoral systems.[6] Endemic problems include campaign finance, candidate selection biases, and problematic media coverage.

Campaigns require huge sums of money, which typically come from concentrations of wealth. How such money influences electoral outcomes depends on a system's laws, but private money always finds a way because so much is at stake. Even the best public financing schemes designed to thwart such influence come at a price, such as reinforcing major parties to the exclusion of others.[7] What does campaign finance buy? Some goes to mobilization campaigns, which serve to increase voter turnout but may have little secondary benefit. The bulk of the spending, however, goes to campaign advertisements, from online posts and banners to direct mail to radio, cable, and broadcast commercials. To augment their paid media, candidates play to broadcast and social media by vilifying opponents and grandstanding on behalf of themselves, their parties, or their preferred cause. Precious little of this discourse contributes to genuine public deliberation, whereby voters might learn more than the partisan leanings of the candidates on offer.[8]

Elections, and particularly national ones, too often attract the wrong kind of candidate. Many sincere, capable, and well-intentioned individuals seek and win public office. Once elected, however, even these individuals find themselves surrounded by a greater number of peers who exhibit an excess of ambition, ego, and stubbornness—the traits best suited to winning partisan elections.[9] This reality, along with the practical obstacles posed by electoral competition, dissuade many civic and community leaders from seeking office in the first place.[10]

Even when electoral contests pit a talented and virtuous candidate against a scoundrel, that contrast may not become apparent to voters owing to a dearth of high-quality media coverage. The Electoral Integrity Project gave more than a third of all electoral systems a failing grade on media coverage, but even higher-rated systems have problems. Governing parties often enjoy an unfair advantage, sometimes owing to their ownership or direct influence over major media providers. Particular political parties and organizations are denied coverage or disparaged owing to ideological biases in the media system. When media do aim to provide more balanced coverage, sometimes that imperative engenders a reluctance to call out poor arguments or outright falsehoods.

Legislative Behavior

These electoral challenges generate behavioral problems within legislatures. Too often, elected legislatures have erred by commission or omission, at times carelessly but often willfully. The most visible of these failings become textbook cases of corruption or lobbyist influence. Laws were passed to provide dubious tax breaks, to legalize monopolies, and more. Legislatures mete out the bulk of such favors beneath the radar of media, even when policy watchdogs bark wildly.[11]

One factor contributing to legislative failure is that the ideological precommitments required for effective party membership simultaneously limit candidates' creativity in generating novel solutions. As political scientist Murray Edelman observed in *The Symbolic Uses of Politics*, victorious candidates take office having already decided on the appropriate solutions. They spend many of their years in office choosing which problems require their preselected remedies.[12] Even when all parties recognize a problem's optimal solution, one party's leadership may decide to block legislation because it cannot afford to grant the other a political victory.[13]

Ongoing partisan activity often amounts to a tremendous waste of human and financial resources, spent not on articulating principled policy and values conflicts but on posturing, strategizing, fundraising, and advertising. In a deliberative democracy, the floor of a legislative chamber can serve as the most visible stage for public argument, whereby legislators and citizens alike might reconsider their views on weighty issues.

Given the absence of such deliberation, it is no surprise that legislators cannot ensure the public legitimacy of the chambers they occupy. In the United States, every metric of trust in government, Congress in particular, is at or near an all-time low.[14] But trust in government is by no means a uniquely American problem. In the vast majority of OECD nations, most citizens distrust their national government, and trust scores have fallen from 2007 to 2016 for two-thirds of OECD countries. In European OECD countries, trust in political parties has hovered near 20 percent during a similar period.[15]

Sortition as a Democratic Alternative

Our proposed institutional design aims to address the problems of elections and conventional legislative behavior, but we do not argue that sortition need replace electoral or direct democratic systems altogether. Rather, it should stand as an equal among more familiar democratic institutions.

Table 1. A Comparison of Elections, Sortition, and Direct Participation as Democratic Alternatives.

	Locus of Decision Making	Expression of Equality	Extent of Direct Public Involvement	Government Decisions Made by Ordinary Citizens
Electoral representation	Elected council, parliament, etc.	Each ballot has equal weight	All registered voters	None
Citizen sortition	Sortition assembly, juries, etc.	Equal opportunity for selection	Limited to those chosen	All
Direct participation	Participatory budgeting, town meetings, etc.	Equal direct authority	Anyone interested in being involved	All

Source: Authors' elaboration.

Table 1 juxtaposes these alternatives to make clearer their relative virtues. Electing representatives to councils, legislatures, and parliaments gives every registered voter equal say through the ballot, but lay citizens exercise authority only during elections. Direct participation, through such things as town meetings or participatory budgeting, gives citizens direct and equal authority throughout the decision-making process, but those processes have been limited by scale and scope of authority.[16] By contrast, a sortition assembly would express equality through each citizen's chance of selection while exercising citizen authority directly on matters of government.

Each of these has a place in an ideal democratic system. Whenever feasible, a direct participatory process might prove effective at tackling a wide range of local public problems. At larger social scales, however, a trade-off emerges. Elections embody the ideal of government *by* the people (i.e., the full electorate), whereas sortition advances the goal of government *of* the people (i.e., the sortition assembly). Pairing those together, as we suggest, helps ensure a good measure of both in legislative bodies.

Which method best governs *for* the people—that is, in the public's interest—is an empirical question ultimately settled only through experience. We will say more about this in our proposal for a sortition assembly, but our critique of electoral processes suggests three reasons why sortition might produce better outcomes. First, elected bodies favor the ideological and class interests that gave the governing parties a financial advantage in elections. Money plays no role in selecting sortition assembly members. Second, reelection pressures and party discipline constrain deliberation in elected bodies, but a sortition legislature is more likely to study problems with open minds and discover creative solutions that transcend conventional electoral divides.[17] Third, the demographic diversity in a sortition assembly further increases the prospects for robust deliberation by ensuring a greater diversity of experiences and perspectives than appear even in those legislative bodies that impose demographic quotas on their memberships. Direct contact with diverse participants can lead to recognition of marginalized voices, as has been observed in previous large-scale deliberative processes using lay citizens.[18]

In sum, sortition has a straightforward rationale as a democratic process of self-government. To advance the idea of a sortition assembly, however, we have to make clearer the principles on which one should be built. Once we have done that, we will spell out in more detail our vision of such a body.

Principles for Evaluating the Design of a Sortition Legislature

Serious questions must be addressed in designing a sortition legislature, and we wish to lay out two sets of related evaluative principles before undertaking such a design. We view these as the principles that should guide any legislative reform or overhaul. We phrase these in the broadest possible language to ensure that we convey them as general principles, which might be satisfied in any number of ways—including ones that lie outside our own vision of a sortition legislature.

The principles we use to build our proposal address different levels of concern. The first set of principles—inclusion, control, and equality—aim to ensure that the legislature embodies fundamental democratic values. The second set focuses on the deliberative quality of a legislature, including the education and resources required by the legislators, the necessary conduit connecting the public to its representatives, and the need for an accountability mechanism.

Democratic Principles

Political theorist Robert Dahl offers a definition of democracy that emphasizes five principles a democratic system must embody: inclusion; control of the agenda; effective participation; voting equality; and enlightened understanding. Dahl stresses that no existing system can fully meet these five criteria. Instead, they serve as a sound basis for judging ostensibly democratic institutions, such as the sortition legislature we propose.[19]

Inclusion. The first principle is inclusion, which requires that a democracy make every effort to include all the persons within a political unit, save those who are transient (e.g., nonresidents and tourists) or incapable of representing their own interests (e.g., children and the most severely mentally ill). For our legislative design, this principle means that the body's membership should be as representative of the citizenry as possible. Representational legitimacy hinges on meeting this criterion.[20]

Random sampling's logic has much in common with the inclusion principle. Survey researchers worry over response rates, landlines versus cell phones, and other recruitment challenges. As the Pew Research Center insists, each person with a telephone of any kind should "have roughly the same chance of being called."[21] Census workers face a similar but greater challenge. They aim to find and take note of every person residing in a country, regardless of whether that person has a phone or even a home address.

We leave open the question of what population data provide the standard against which one can best judge inclusion. A sortition legislature's realization of the inclusion principle could be judged against a census of the adult population, survey data collected by nonpartisan polling firms, or official voter lists in those countries with inclusive registration systems. Whichever serves as the sampling frame, the principle of inclusion calls for equality in the likelihood of selection.

A second concern, however, arises once an initial random sample is collected. The inclusion principle further requires that every person so selected has an *equally viable opportunity* to serve in the sortition legislature. In jury service, for example, the summons from the courthouse comes with a legal protection for those who might worry that serving on a jury could put their job at risk. The jury selection process may not go far enough, however, in that long-term service—such as on a murder trial or an ongoing grand jury—could be financially ruinous for someone whose income supports a family. Thus, a serious effort must be made to realize the inclusion principle by making the sortition service opportunity a real one for people from diverse life circumstances.

Control of the agenda. Dahl also requires that a fully democratic system have control of the policy agenda. A system lacking this power is one in which citizens or public officials might make important choices, but the questions they address are beyond their control. In the abstract, this principle is a straightforward requirement that a political unit not be subject to agenda constraints imposed by a "foreign" power. In practice, democratic systems operate with multiple levels and institutions, such that a given body might have legitimate constraints. Thus a provincial legislature works within limits imposed by a national constitution and federal laws. Furthermore, larger economic forces inevitably impose constraints on the agendas of democratic systems.

A sortition legislature will have limits analogous to those for existing legislative assemblies. The agenda principle, though, argues for the broadest possible scope for its deliberation. It should be authorized to exercise its influence on the same range of issues as other bodies at comparable levels of government. For practical reasons, one might initiate a sortition legislature with a more limited mandate, but the training wheels should come off the bicycle as soon as the body is ready to explore the wider policy world.

Effective participation and voting equality. Our third principle joins the next two of Dahl's criteria, which require that each member of a democratic system have an "adequate and equal opportunity" to express policy preferences and vote at the decisive stage of decision making. In a legislative context, these go hand in hand.

The members of a sortition legislature may divide themselves into committees, set up rules regulating floor speech, and otherwise organize their work, but none of those policies should result in unequal opportunities for legislators to speak and vote. If the body differentiates assignments and authorities, such as the power to bring a bill to the floor for debate, it must do so in a way that avoids concentrating power over time in a subset of the legislature.

Dahl stresses the *adequacy*, as well as the equality, of opportunity to avoid another hazard that citizen bodies often face. Deliberative polls, for example, often bring together hundreds of people to discuss a series of issues in small meetings and large plenary sessions. Even with numerous breakout sessions, the agenda is so crowded and the issues so complex that a single person has little chance to do more than tell anecdotes, ask some questions, and get answers from a panel of experts. Toss in a few spirited conversations during breaks, and it adds up to a moving experience of frank political talk for those fortunate enough to serve.[22] The sum of such interactions is not, however, adequate for the task of making decisions in a legislative assembly.

The implication for a sortition legislature is that special care must be given not merely to equalizing participation and voting but also to preparing the legislators for the complexity of the task placed before them. This concern flows directly into the next set of principles we consider, which aim to ensure the legislative body's deliberative capacity.

Deliberative Principles

Dahl's definition of democracy has a fifth requirement that takes it beyond many conventional conceptions of the term. He insists that a political system can fulfill its democratic promise only if it achieves "enlightened understanding." In Dahl's words, "Citizens ought to have adequate and equal opportunities for *discovering and validating . . .* the choice on the matter to be decided that would best serve the citizen's interests."[23] Of course, as in the other principles, the full realization of this principle is attainable only by degrees. Nevertheless, the aspiration toward it encourages careful attention to the quality of deliberation.

Education and resources. Every form of citizen deliberation has built into it an educational component, along with staff and resources that make it possible for citizens to do their jobs. Juries have an orientation, a commissioner, a bailiff, and unseen support staff at their disposal. Even the judge serves the jury by doing a tremendous amount of pretrial work to make the proceedings run smoothly. Recent jury reforms in the United States, such as allowing juries to take notes or ask questions (through the judge), have been implemented by courts to make more manageable the demanding task that they give to their juries.

Professional legislatures have even more elaborate systems of education, staffing, and professional assistance. To take the US Congress as an example, the members receive an extensive orientation to their job after being elected. Members then have access to the Congressional Research Service, the Congressional Budget Office (CBO), personal and caucus staff, and everything from web designers to tour guides to custodial staff to make their institution run properly. The CBO alone has an annual appropriation approaching fifty million dollars.[24] A properly designed sortition legislature can draw on resources such as these, but it will require a more fundamental training process for members unfamiliar with government's basic operation.

Deliberative public input. Legislatures already have numerous vehicles for soliciting public input. To write to one's member of parliament or congressperson is almost a cliché of public engagement, although such letters are usually counted more conscientiously than they are read. Periodic town meetings and open committee hearings both afford opportunities for lay citizens to speak, but these events often devolve into performative rituals. To have two minutes at a microphone with no response is hardly an adequate opportunity.

The deliberative input principle does not require dispensing with traditional forms of speech, but it calls for the creation of a surer conduit for gathering, recording, and responding to reflective public input to inform the legislature's deliberation. Were this an elected body accountable to campaign contributors and party leaders, such input might carry little weight, but a sortition legislature comes into being without a fixed agenda. Its members may prove more receptive to public input, particularly if the voices it hears come from the same kind of deliberation now asked of the citizen legislators.

Fortunately, there already exist numerous models for gathering public input through various means. Some of these gather small samples of citizens, in the same sortition model. Citizens' juries, consensus conferences, and planning cells have all proved their ability to produce sensible judgments.[25] In the case of a sortition legislature, though, the imperative is to devise a process that more readily draws in the wider public. After all, the sortition legislature itself provides a deliberative microcosm of the full citizenry. Experiments in crowdsourcing legislation, adaptations of face-to-face issues forums to the digital environment, and other online technologies could be harnessed to facilitate such communication.[26] In spite of the public's reputation for cynicism, research suggests that citizens relish opportunities to participate in these kinds of forums, particularly if the events connect back to a public official with the authority to act on their input.[27]

Oversight and accountability. The final principle in this set aims to address a problem common in all legislative bodies, whether elected, appointed, or selected at random. The design for a sortition legislature must put in place some mechanism for internal oversight to hold its members accountable, at least to one another.

This is one instance in which removing elections takes away a vital function—the means of removing from office during reelection (or by recall) an official who violated the public's trust. As an unelected body, the sortition legislature will require a mechanism for overseeing its operations and taking stock of its members' behavior. Legislators who willfully violate the spirit of the body, for instance, may need to be censured or even removed from office. Just as in elected legislatures, citizens in a sortition legislature are vulnerable to bribes when important legislation is being considered, and some mechanism of accountability needs to be in place to deal with this.

One way to see the importance of such an accountability mechanism is to note the inefficacy of ethics committees in existing legislatures. Such bodies typically have little reach, because of the mutual distrust of oversight by leaders in the major parties. Alternatively, they become vehicles for partisan attacks that rely on an inconsistent

application of ethical rules across different parties. Nonetheless, the mere existence of such committees underscores the need for some analogue—and hopefully a superior one—in our plan for legislative reform.

Proposal for a Sortition Legislature

Just as there exist a variety of parliamentary and legislative designs, so are there numerous ways one could configure a sortition legislature following our principles. There is good reason to be wary of discussions for new institutions that come with highly specified blueprints, since problems with fine-grained details always will need to be worked out in practice. Nevertheless, we will present the basic contours of a design in sufficient detail to clarify the problems that a sortition legislature must address. Our specific solutions to these problems should be taken as illustrations of possibilities rather than as claims about the optimal design. In what follows, we describe our design in terms of its random selection method, training and staff support, procedural rules, accountability mechanisms, and direct public engagement.

Selecting a Sortition Method

The defining feature of a sortition legislature is the method of selecting its participants. Three factors go into our selection method: identifying a target population and then drawing a sample; specifying qualifications and disqualifications for service; and creating incentives for those invited to become legislators.

Sampling from a target population. In principle, the sortition sample should be drawn from the population of adult citizens old enough to sit in an elected assembly. In practice, the operational definition of this target population will vary by nation. In countries where all citizens have identity cards, direct sampling will be possible. In a country like the United States where there is no administratively accessible comprehensive list of citizens, we believe voter registration lists would be appropriate only once current state-level impediments to registration were eliminated.[28] Ideally, as part of the reform package that created a sortition legislature, universal and automatic voter registration would also be instituted.

When it comes time to draw a sample, one possibility would be a truly random sample. This could be appropriate in some circumstances, but we believe the legitimacy of the sortition assembly would be enhanced by a sample stratified along demographic lines. What criteria are appropriate for drawing a stratified sample would be a politically contested matter, but candidate criteria could include gender, age, socioeconomic status, and race/ethnicity/indigeneity, as well as geography (e.g., the districts for the complementary electoral body).

Ideally, the selection criteria for a stratified sample should be few and simple. Because of the relatively small size of even a large assembly, there are practical constraints on the number of categories in terms of which the sample design for an assembly can be meaningfully stratified. We are wary of including explicit criteria for

stratifying the sample that could have the side effect of reinforcing divisions that limit the deliberative capacity of the assembly.

However, when historic hostilities continue to divide ethnic, racial, national, or religious groups, proportional representation along those lines may be necessary to secure representational legitimacy. We have particular sympathy for giving special consideration to aboriginal or native peoples. Previously constituted minipublics, such as the British Columbia Citizens' Assembly and the Australian Citizens' Parliament, made allowances for such populations to give them a voice in a body's deliberations. In New Zealand, there are seven reserved seats in the elected parliament to ensure Maori representation, and if that country convened a sortition assembly, indigeneity would seem an appropriate criterion for sample stratification. In such cases, the sampling method should ensure the inclusion of legislators from those, or other, historically marginalized populations.[29]

Beyond this, we provide no further a priori guidance to optimizing sample frames. As with many institutional design problems, the optimal solution to the trade-offs between the ideal of faithful demographic representation and practical exigencies can only be worked out through a political process. That said, the sample frame and selection algorithm should be as transparent as possible, such that an ordinary citizen can comprehend them.

Qualifications and disqualifications. As was the case for the sample frame for demographic representativeness, there are many possible criteria for disqualifying individuals for service in a sortition assembly. Some of these would be uncontroversial and likely to be adopted in any context. For example, little controversy would likely result from disqualifying persons currently serving prison sentences. Excluding those currently on probation or parole after conviction for a felony would also likely seem reasonable to most people.

Other potential exclusions might raise objections. Should ex-felons who have served their time be eligible for the sortition body, or should some categories of ex-felons, say murderers or rapists, be permanently barred from selection? Should the sortition body exclude candidates on the basis of tests of minimal cognitive competence or diagnoses of serious mental illness? Or should those previously elected to an equal or higher level of government be excluded?

These are difficult issues. Experimentation with sortition should clarify which exclusions are needed, but the burden of proof must be on those who want to establish such criteria. No data yet exist that show how a modern sortition legislature would suffer from including among its ranks those who lack literacy, deliberative skills, and political experience. To the contrary, countless public processes, including the modern jury system, attest to the collective competence of even small bodies of citizens that include novices.[30] An illiterate member of parliament, for example, might require special assistance, just as a diplomat requires a translator, but this is a difference of degree. After all, even veteran legislators rely on professional staff to navigate the details of proposed legislation.

Service incentives and term of office. Our vision of a sortition legislature draws people out of every walk of life for a period of time, then returns them to their prior vocations, or whatever new course they may choose after having what will be, for many, a life-changing experience in government.[31] People will vary tremendously, however, in their life circumstances at the moment when the invitation arrives in the mail. The right set of incentives must be in place so that none would suffer an undue burden should they choose to serve.

Legal protections against employer retaliation would be a bare minimum, but such laws cannot resolve the dilemma faced by small-business owners who risk financial ruin if they step away for even a month, let alone two years. One strategy would be to set incentive levels (e.g., for salary, benefits, travel allowances) equivalent to the complementary elected chamber. As a starting point, what is good enough for elected legislators should be sufficient for the members of the sortition body. There will be high-income earners who choose not to forgo their exceptional incomes in exchange for such a salary. For example, if the annual sortition legislature salary in Britain is set at twice the median pretax income, the top 13 percent of earners would take a pay cut by serving.[32] That pay rate might strike the right balance, but the body's legitimacy might suffer if it could not attract at least some members from each economic stratum.[33]

The term of office could also prove an incentive or disincentive, depending on how it is viewed by the prospective legislator. There are many possible formulas, and, of course, they could vary by the level of the political system of the assembly. The terms for a local sortition assembly could be different from the terms for a provincial/state or national assembly.

One design would have citizens serve a two-year term, with an option to serve a second. This flexibility makes the term of appointment short enough for a person to return quickly to work, family, or other opportunities and commitments that call them back home. It also permits a more substantial term of service for those who would want the opportunity only if they could serve long enough to make a more substantial impact. Terms of legislators would be overlapping, to ensure that there would always be a mix of experienced and novice citizen legislators in the assembly. The size of each initial two-year cohort would depend on the number of members who choose to stay for a second term.

An alternative design would have citizens serve a five-year term, with roughly one-fifth of the members replaced each year. This allows for experience to accumulate over the length of service. Members could resign at any time, but an explicit expectation could encourage at least two years for every member. The size of each cohort of new legislators would vary depending on how many legislators end their service in a given year.

Impediments to participation. Many other issues would need to be resolved in fine-tuning the incentives and terms of office for sortition legislators. The timing of the service, for example, is an issue that might interfere with a person's accepting a legislative invitation. It might be desirable to permit—or even encourage—deferral of

one's service to a later session. Some complexity would be added to the selection process, especially to filling quotas in a stratified sample design. It could, however, add the flexibility necessary to accommodate the complexities of personal circumstances. A person with a newborn, or one in the midst of a degree program, for example, might opt to participate two or three years after the initial invitation.

Even with deferral, life disruption poses a special challenge for a sortition assembly compared to an elected chamber: the new members of elected chambers all *planned* to join that body, at least from the day they filed papers to run for office. To take but one example, primary caregivers would have responsibilities that could make a full-time legislative job challenging or unwelcome, in spite of the generous financial compensation it offered. There is no need to belabor the specifics of how to anticipate such cases, other than to acknowledge that a sortition assembly faces this problem to a far greater degree than one-off minipublics, which form and then disband after asking only a few days or weekends of their members.

We eschew such short-duration designs because only an ongoing assembly will have the time required to manage the complexity of multi-issue policy trade-offs and to craft larger-scale solutions to problems beyond the scope of a conventional minipublic. For the same reason, we prefer a single sortition assembly that takes on the full range of issues, rather than issue-specific legislatures, such as those described in Alexander Guerrero's "lottocracy" proposal.[34]

Training and Staff Support

If incentives are set right, a large proportion of those selected for the sortition legislature should agree to serve. The timing of that decision point, however, is less obvious than for a person who wins an election after enduring the crucible of an election. Elected legislators move quickly, and without hesitation, from candidate to public official, but someone who agrees to serve may come to have doubts as the date of their appointment approaches. For that reason, we have in mind a particular sequence of orientation and training, which we will now describe, along with questions of committee assignments and staff support.

Legislative orientation and training. We envision an initial introduction to the sortition legislature that reaches all prospective members even before they decide whether to serve. The British Columbia Citizens' Assembly on Electoral Reform used a similar process to give invitees a clearer idea of both the unique opportunities and the special responsibilities assembly service presents.[35] With a sortition legislature, this approach could prove useful as an opt-out mechanism for those who come to feel overwhelmed. It might also retain prospective members if it allays their fears or doubts. Simply meeting with those who have served previously could reassure hesitant citizens about their capacity to execute their assigned duties.

Even with this filtering process built into our orientation, critics may harbor doubts about the readiness of the average citizen to take on legislative duties. There will be considerable variance in such capability among those who choose to serve. Electoral

systems, however, produce officials who also have substantial knowledge deficits, exacerbated by ideological commitments that include rigid (and often grossly incorrect) convictions about government, society, and the natural world.

To remedy this problem for newly elected officials, numerous academic and nongovernmental organizations offer closed-door training sessions. For the US Congress, the Aspen Institute's Congressional Program, funded by philanthropic organizations, has brought legislators together to discuss domestic and international policy problems with invited experts (with no staff, lobbyists, or media present).[36] Harvard Kennedy School's bipartisan Program for Newly Elected Members of Congress includes workshops that get into practical questions of how to work effectively with colleagues in Congress and how to interface with the media and the other branches of government.[37] The National Institute for Civil Discourse focuses squarely on the importance of working through political differences and has reported success with its state legislative trainings.[38]

Such programs will be of great service to the sortition legislature, but we propose two important deviations from the preceding examples. First, such orientations should be treated as paid mandatory training. Making attendance mandatory provides one more opportunity for an uncommitted selectee to decline the offer to participate. In addition, it provides all new members a more even footing, in terms of professional knowledge. Attending these sessions together also will help new legislators bond over a common experience before they feel the pressures of lawmaking.

Second, we believe many training sessions should be opened to public viewing, such as through live streaming of key sessions. Closing off trainings protects newly elected officials from partisan scrutiny, but the selectees in a sortition system owe no party or lobby for their selection. Opening some of the trainings also will give lay citizens a better sense of what it would be like to be selected. It might even showcase the open-minded inquiry and learning taking place among their randomly selected peers.

Committee assignment and specialization. At some point during the orientation period, committee assignments will be made for the new selectees, who will be joining a body already populated by veteran legislators. The status quo assignment process rewards seniority and party loyalty, whereas the sortition legislature could place more weight on interest, experience, and ability. New members will have learned already about the full breadth of potential assignments during their training, which served the function of a job fair. Current committee members who remain in the assembly could retain their most preferred committee assignments, then enter into a lottery with the rest of the selectees, each of whom would have ranked their preferences like students signing up for courses.

Once the new committee seats were filled, another round of training would bring together continuing and new legislators to go over the specific responsibilities of each assignment. At this point, professional staff would be paired with the new legislators on the basis of staff capabilities and interests. Legislators would later have the authority to release staff for reassignment (or termination), if they could not work together

effectively, but it would avoid a hiring phase that could prove a distraction, or worse (should it introduce nepotism).

Staff, services, and legislative capacity. At this juncture, a concern arises about the ability of professional staff to shape legislators' agendas and policy preferences. Experienced staff already have influence over elected legislators. The concern of many public policy scholars is not the hidden power of committee staff but rather the staff's difficulty in getting and holding legislators' attention. Trust between staff and elected officials can develop over time, but biased hiring practices and unpredictable electoral turnover can make this challenging.[39]

The National Conference of State Legislatures views effective staff as part of a larger category of resources and services that develop legislative capacity. As the political scientist Alan Rosenthal defines the term, capacity is "the wherewithal for the legislature to do its job." It is, he explains, the sum of "time in session and in the interim period, the size of the professional staff, [and] the adequacy of facilities and technology."[40] The disposition and capabilities of the legislators also influence capacity, but in the United States, professional state legislatures—such as those in Pennsylvania and California—do not necessarily generate more capacity than ones in which lay citizens predominate, as in New Hampshire or Montana.

In terms of legislative capacity, members of a sortition legislature may have a significant advantage over their colleagues in the elected chamber. One of the hidden costs of elections is the toll on the schedules, energy, and morale of legislators. In countries without public financing, this problem is acute: members of the US Congress, for example, spend at least a third of their typical day fundraising. They often seek funds for their own reelections, but the "permanent campaign" requires raising money for one's party, regardless of the safety of one's own district.[41] If that lost time is put back into the daily schedule of sortition legislators, they should have ample time to develop their expertise and policy viewpoints, working both with and independently of their staff.

Avoiding technocratic capture. Whatever its advantages, the sortition assembly will face one common problem to a greater degree than professional legislatures. All such bodies risk technocrats seizing control of the policy agenda if their members become too dependent on professional policy advisers. The case of the European Union is instructive, however, in that the body has managed to balance technical expertise with external political pressures that can hold experts accountable.[42]

Put another way, advocacy coalitions that form naturally in policy disputes organize technical information in relation to their different political agendas.[43] This practice, in turn, will help lay citizen legislators make sense of expert information rather than rely on those same experts for their political interpretations. The problem of technocratic capture offers one more justification for keeping the sortition assembly tethered to a parallel elected chamber, which shares bureaucratic information resources that serve both chambers.

Deliberative Procedures and Norms

The norms and rules that govern a deliberative body come in so many useful varieties that we cannot specify a single set best suited to the sortition legislature. Instead, we offer guidelines to follow in setting up such rules. In addition, we consider the formation of caucuses and the management of committee and floor debates.

Oversight commission. A sortition legislature would need an oversight commission that periodically reviews the process for random selection, manages staff hiring and firing, and oversees new member orientation and training. The commission could also review and amend the rules for committee processes (e.g., holding hearings and bringing bills to a vote), floor debates (e.g., turn taking, amendments, and closure), and the status of caucuses.

There are many possible designs for such a commission. One is for it to include a mix of current and former sortition legislators, with additional members from the complementary elected chamber and some appointed by the executive branch (e.g., prime minister or governor). The legislators on the commission would be chosen by their peers, with former officials being elected in their final year of service. We see no irony in using an electoral process here because peer selection within small deliberative bodies bears little resemblance to the large-scale elections we critiqued earlier.

The commission could play a stronger role if it oversaw legislative procedures and moderated the assembly's deliberation, directly or through professional facilitators. Previous experiments with citizen deliberation rely on trained forum moderators, who often work in teams to help citizens work through their agenda, manage speaking time, and ensure respectful discourse. That goes far beyond the uncontroversial role of a passive parliamentarian, but the difficulty of sustaining meaningful debate in legislatures suggests the need for experimentation along these lines.[44]

Privacy and publicity. Open meeting and "sunshine" laws have pushed for ever greater openness in elected bodies. It is less clear that a presumption of openness would always serve the purposes of a sortition legislature. Even for conventional legislatures, democratic theorists have noted the importance of granting legislative bodies a measure of privacy so that members may negotiate with opponents to craft politically feasible policies in the public's interest.[45]

In the case of citizen sortition chambers, there are additional considerations. Elected politicians, by the very nature of their careers, are used to public speaking and generally crave public exposure. Because of the likely distribution of dispositions, many ordinary citizens selected for a sortition chamber may be uncomfortable with public speaking; the presence of public media during legislative discussion could prove intimidating.

Although the sortition chamber does not have conventional campaign and partisan pressures, negotiating agreements in the midst of heated ideological conflict can be seen as a sign of moral failing.[46] If meetings in the sortition legislature can occur only in the presence of cameras and microphones (from both news media and informal

social media), brokering a compromise in which concessions are made in the interest of the common good becomes exceedingly difficult. Sortition legislators have no fear of losing elections, but even these members might wince at the backlash from segments of the public whose support they value. Thus, private space for honest and reflective deliberation has a purpose in both elective and sortition assemblies.

Consider the example of minipublics, such as the British Columbia Citizens' Assembly. Plenary discussions among its members were open to public view, as the citizen body began to refine its questions and ideas for British Columbia's electoral laws. During that phase of its process, however, the assembly frequently broke into subgroups in smaller rooms, which were not as open to public view. Once its members reached tentative conclusions, they held hearings across the province to test and refine their judgments before reaching a final decision.[47]

Most minipublics benefit from a period of private—or semiprivate—discussion analogous to the time jurors spend in their aptly named "deliberation room." Those are times when citizen participants can express candidly their fears, uncertainties, and controversial attitudes. Whatever insights emerge from such discussion must ultimately become part of the minipublic's explicit rationale for its choices, but the initial expression and reformulation of such arguments might require relative privacy.[48]

More controversially, we recommend affording sortition legislators privacy in their votes akin to that enjoyed by most juries. When it comes time to cast final votes, we believe members should use secret ballots. The votes of individual legislators should be recorded securely, such that a member's vote cannot be known by colleagues or by the general public. A member might publicize how she intends to vote, then make claims about how she voted, but the official voting record can neither confirm nor disprove such assertions.

The reasons for this privacy are very much in line with the justification of the secret ballot for citizens in ordinary political elections. Of particular importance is the possibility of corruption if the votes of individual sortition legislators were made public. Vote buying through various mechanisms would be enabled by public votes, since interested parties would have proof of how a legislator voted. Even if this practice were illegal, there are always ways around legal prohibitions (e.g., giving jobs to relatives). A secret ballot makes vote buying more difficult.

A visible vote also increases the possibility of undue pressure and retaliation against legislators who vote contrary to the wishes of segments of the public. Members may choose to make their votes known, and reap the benefits or suffer the consequences, but they will not be obliged to do so, nor will their claims of how they voted be independently verifiable.

Caucuses and connections. Although sortition legislators are not chosen as members of political parties, a place for traditional caucusing should remain part of the legislative process. Even though the sortition legislature eschews parties and elections in its formal structure, it should not pretend that its legislators will each conceive of the same general will at the conclusion of their deliberations. It should be possible for reasoned and honest debate to yield both consensus and principled disagreement in the same body.[49]

As an alternative to traditional party caucuses, however, members could organize themselves into a larger number of more cohesive groups of like-minded legislators, who share common values and priorities. Some democratic theorists stress that these spaces create valuable opportunities for "enclave deliberation," during which legislators would sharpen their understandings of issues from a particular perspective.[50]

Whatever the caucus structure, there need to be direct connections between the sortition legislature and its electoral counterpart. When both chambers pass different versions of the same legislation, for example, a reconciliation process will be needed. Joint hearings and regular informal exchanges would create much needed opportunities for cross-pollination. The potential for the sortition body to influence the elected body outweighs the risk of partisan contagion, in our estimation, because partisan messages and pressures transmit regardless of such meetings. Bringing the bodies together periodically increases the odds that the elected chamber can work effectively with its upstart cousin—and perhaps even learn the virtues of its distinct deliberative processes and norms.

Limited Accountability Mechanisms

One understandable anxiety about sortition assembly members concerns their accountability to the electorate, which has no say in their selection or retention. That anxiety reflects the reality of this chamber, which we believe should *not* have grafted onto it an electoral accountability mechanism. Such a lever (e.g., a recall process) would undo the very point of sortition—to bring together citizens freed from political pressures and ready to govern to the best of their abilities.

That said, prudence requires some means of removing assembly members whose behavior undermines the assembly's legitimacy or its ability to govern efficiently. Consider a member who has come to demonstrate profoundly diminished mental capacity, delights only in outbursts, or refuses to participate in deliberation.[51] Dismissal should be rare, but there should be some means for the legislative system to end the term of service for such an individual.

Many specific procedures could be used to deal with this problem, depending on the terms of service in the assembly and other considerations. One possibility is to make this a responsibility of the oversight commission, which could review complaints from members of the legislature (if they reached some reasonable threshold). The commission would make a recommendation to the full chamber, which would then have to vote on expulsion, with a large supermajority required for dismissal.

Direct Public Engagement

The final feature of our proposal serves multiple purposes simultaneously. A deliberative governmental institution should not only have a robust internal decision-making process but also an interface with the wider public. Although it lacks regular elections, the sortition legislature should include a more direct and ongoing form of public

engagement. This connection with the public could not only make the legislature publicly accountable but also improve the quality of that same public's judgment.

Consider the resources that the legislature could devote not to public relations but to genuine public outreach. Traditionally, legislative support serves three roles—informational (e.g., Congressional Budget Office), policy and procedural (e.g., committee staff), and political (e.g., campaign staff). With no elections, the third staff role could change to facilitating public consultation.

This public consultation could be as simple as coordinating with nongovernmental organizations. In the United States, organizations connected to the National Coalition for Dialogue and Deliberation and the National Civic League already sponsor innumerable opportunities for public engagement. The sortition assembly could interact with these organizations in diverse ways. Or consider the various forms of participatory budgeting that have spread from South America. Participatory budgeting processes could be tethered to the sortition legislature to influence some of their budgetary priorities, at every level of government.[52] Beyond fiscal questions, the Provo People's Lobby, recently piloted in Utah, aims to organize public deliberation into a cohesive policy agenda, which the public then advocates directly to government.[53] The British Columbia Citizens' Assembly also provides a model, now used in the United Kingdom and elsewhere, to craft legislative proposals that could come to the sortition legislature for review.[54]

A civic educational component could also become part of the legislature's regular functioning. Imagine how different a high school's Model Congress program might feel if students realized that, once they turn eighteen, they will have the same likelihood of sitting in the sortition legislature as anyone else. Curricula could be developed that introduce the aforementioned mechanisms of civic engagement with the legislature, any number of which could become regularized institutions. Changing the public's role through these means could fundamentally change how citizens relate to government. Helping citizens appreciate the complexity of governing and reducing the appetite for more autocratic approaches could boost the legitimacy of the government itself.[55]

The Complementary Electoral Chamber

Regardless of the specific details of how a sortition chamber should be organized, we believe an elected chamber should serve as its complement. This may disappoint those who wish to do away with elections altogether, but we argue that an optimal bicameral legislative system would work best with a combination of electoral and sortition mechanisms.

A Justification for Retaining an Electoral Chamber

We have already reviewed the many limitations of elections. We now offer three main reasons for the coexistence of electoral and sortition chambers.

First, in the absence of elections, political parties would atrophy even more than they have. At their best, political parties can play an important role in formulating political programs, educating the public about policy alternatives, formulating broad visions for social change, and mobilizing people for collective action. Although the adversarial impulse of parties can create failures in practical problem solving, the absence of organized adversarial politics can narrow the space for thinking about policy alternatives.

When Jane Mansbridge titled her classic work *Beyond Adversary Democracy*, she meant to encourage proposals that tempered the adversarial impulse, but her writings since have just as often cautioned deliberative democratic theorists not to lose sight of the virtues of partisan conflict.[56] At their best, parties articulate policy agendas that tap into discontent, but not from constituents spread evenly across the political spectrum. The greatest legislative accomplishments often have emerged not from a national consensus but in the midst of a pitched battle between competing parties.

A robust party system is especially important for popular social forces. In capitalist societies divided by class inequalities of wealth and power, political parties offer the popular classes a way of collectively organizing to advocate for their interests. Historically, political parties and unions were the only organizations capable of mobilizing sustained collective action on behalf of the working class and other economically subordinated groups. Although recent decades have witnessed considerable deterioration in the coherence and vitality of political parties in many countries, the absence of competitive elections would make party revitalization all but impossible. Without parties, it would be much more difficult for successful social mobilizations to emerge in response to substantive policy conflicts.

Second, given the nature of power and inequality in contemporary societies, there are conflicts of interest in society that cannot be resolved simply through disinterested deliberation. Thus, bargaining and compromise will remain an important part of politics. A randomly selected legislature would have some members able to represent specific interests in a bargaining process, but that chamber is not designed for that purpose. Bargaining needs highly articulated expressions of interests with authorized representatives who can forge compromises. An elected chamber with political parties is better suited for that task.

Third, elections create the possibility for political careers and the development of skillful politicians as political leaders. People can enter politics at the local level, running in elections for city councils and other local offices. They gain experience, then run for offices at higher levels. As we discussed earlier, electoral rules and finance systems too often subvert this process. It is certainly the case in the United States today that a person with money or celebrity can obtain a high office with no experience whatsoever. Nevertheless, if all elected legislatures and councils were replaced by sortition, a crucial way of discovering and cultivating political leadership would be lost.

For these reasons, we believe that the optimal design for representative democracy combines a sortition citizen assembly with an elected chamber. If the latter is designed to minimize the pathologies of electoral processes and encourage coherent political parties, then a bicameral legislative process could be driven by a creative tension

between deliberative problem solving in the sortition body and adversarial negotiation in the elected chamber.

Optimal Electoral Rules

The rules that best complement a sortition body might differ from the rules appropriate for a purely electoral system. For instance, nonpartisan elections would not be well suited to this role, since they would undercut the interparty bargaining function of the elected chamber. In addition, since the sortition body ensures regular turnover in its membership, the electoral body might avoid strict term limits and place more emphasis on sustaining its institutional memory.

It is beyond the scope of this essay to specify the ideal complementary electoral process, but we have suggestions. We favor systems that avoid the flaws inherent in first-past-the-post systems (also known as "winner take all") that use single-member districts. A variety of alternatives exist, including cumulative voting, optional preferential, and single transferable vote. All of these variations are designed to extract maximum preference information from voters to choose representatives.[57]

An ideal electoral chamber will provide voters the most tangible sense of direct representation by political parties and officials who share their particular views. This notion parallels the sortition process's emphasis on representative legitimacy but stresses the role of organized parties and electoral competition.

For that reason, we recommend a system that uses large, multimember districts that elect legislators with legislative power in proportion to their level of public support. Voters in a given district would consider candidates from different political parties, then rank-order their preferences. Candidates whose proportion of first-choice ballots falls below a threshold (say, 20 percent) would be dropped; the ballots for dropped candidates would then move to their second choices, and so on, until each remaining candidate crossed the threshold. All of those candidates would be elected.

When voting on a bill in the legislature, a representative would cast a number of votes equivalent to the number of ballots received in the election (e.g., a candidate who receives 300,000 votes in the election would cast a vote carrying that same weight in the legislature).[58] Although this might seem unwieldy, since every legislator would cast a different number of votes, with appropriate computer programs the vote counting would still be seamless.

In such a system, every vote counts equally to a greater degree than in other voting systems. The weighting of legislator's power neutralizes the impact of gerrymandering and district boundaries more generally. The system also strengthens representatives' direct ties to their constituencies, since legislators act as a kind of proxy voter for their supporters. At the same time, this system sustains the relevance of parties and collective mobilization central to elections.

Reciprocal Influence

At various points, we have stressed the value of retaining the elected chamber alongside the sortition assembly. We conceptualize these two bodies as having a reciprocal

relationship. When justifying sortition, we acknowledged that the elected body gives every citizen an equal voice in the voting booth, but no direct voice thereafter. That full franchise serves as a counterweight to sortition, which gives each citizen an equal chance to serve but exercises its real citizen power downstream, in the randomly selected assembly.

More indirect connections include how the two bodies might influence one another once constituted side by side. The elected body provides a stream of politically motivated policy analyses that citizens in the sortition chamber can observe and selectively adopt. More important than that, the sortition body forces its elected counterpart to consider whether prospective bills will pass muster in a relatively deliberative assembly. Since the citizen sortition assembly can block party-generated policy, the elected chamber has to craft policy that not only meets its political objectives but also has a good prospect of passing muster under citizen scrutiny.

Where to Begin?

We have made the case for the desirability and viability of a sortition legislature as an institutional design that advances democratic ideals, but is this achievable? In one way or another, new institutions always involve the transformation of existing institutions; they never emerge fully grown in an institution-free context. Some preexisting institutional structures can make it much easier and others harder to introduce particular kinds of changes. Three institutional settings seem relatively favorable for the possibility of introducing a sortition chamber.

The simplest setting is one in which a sortition body is a replacement for appointed upper houses in Westminster parliamentary systems. This change would bring broader powers and a dramatically more representative membership to bodies that range in size from 105 members (the Senate of Canada) to more than 800 (the British House of Lords). Here sortition gains an immediate legitimacy boost by appropriating the real estate and resources of a dubiously democratic body. Thus, it is no coincidence that proposals for sortition legislatures have appeared in the United Kingdom, Canada, and other nations that find themselves in this circumstance.[59]

An alternative institutional setting replaces the lower house in a large bicameral legislature in a modestly sized state or province in a federal system, rather than in a national government. Examples in the United States include New Hampshire's 400-member lower house and the 203-member Pennsylvania General Assembly, whereas the largest lower houses in Australia carry roughly 90 members (New South Wales, Queensland, and Victoria). In each case, the legislature is large enough to ensure a diverse random sample, with a smaller elected body providing a complementary legislative process. These changes would require constitutional amendments, but doing so in a state, province, or territory might prove more feasible in the near term than making such an attempt for an entire nation.

A third context favorable to the introduction of sortition is that of a government that itself is relatively new, or newly forming. Such a legislature could complement an existing one that is either unicameral or only weakly bicameral. The European Union, as currently configured, has a popularly elected European Parliament with over 750

members, complemented by a Council of Ministers made up of just two dozen national representatives. In contrast to these two bodies, a sortition chamber with 250 members would provide a popular counterpoint.

Nations just beginning to develop democratic systems might be open to *beginning* with a sortition chamber in their legislature, or even during their process of constitutional design. Nepal, for example, chose to elect the 501 members of its Legislature Parliament, which serves as the legislature until it completes its task of passing a new constitution. A sortition body could have served as a useful complement to the parliament, or it could be written into the constitution as a permanent part of that nation's bicameral system.

Regardless of which nation or state first adopts sortition, the method should come into place through a democratic process. It could come about through a political party that chooses to self-destruct the body it governs (or seeks to govern). After all, the British Columbia Citizens' Assembly arose from a party advocating fundamental structural reform, then delivering the mechanism it had promised. Participatory budgeting in Brazil also emerged from a political party's empowerment platform, as have related popular reforms in Kerala (India) and elsewhere.[60] Sortition might come about through popular referendum in a country such as Switzerland that has a tradition of direct democratic governance.[61] Or it might first appear at the subnational level in a state like Colorado, where amending the constitution requires only a simple majority in a statewide election.[62]

Sortition could also emerge more gradually as part of an electoral body. For example, an idea floated in Iceland would permit voters in ordinary parliamentary elections to choose "a random citizen" instead of a party.[63] Under that nation's rules of proportional representation, whatever proportion of the electorate chose that option would then make up the same proportion of the parliament, with individual members selected through a sortition process. Such a concept may find fertile ground in Iceland, which used lay citizens in its National Forum during the 2010 constitutional overhaul.[64]

More modestly, the idea of a sortition legislature might gain stature gradually through lower-stakes institutions that build on the successes of experiments such as citizens' assemblies, deliberative polls, and initiative review panels. Each of these minipublics draws random samples for bodies that form and then disband in the space of a few days, weeks, or months. Indigenous nations that have not found externally imposed electoral systems suitable to their needs might try hybrids that stand between such minipublics and full-fledged sortition.[65] Sortition processes might be tried within large worker collectives or nongovernmental organizations, which seek to reinvigorate their memberships by giving them a more direct stake in decision making. Online versions of such bodies might hold particular appeal for youth-led entities, which have a membership native to digital environments.[66]

The modern idea of self-government has an enduring appeal, and people have been reluctant to let go of institutions that afford them greater direct control. If the sortition legislature delivers even half of what we envision, it will not only clear the low bar set by elected chambers, but it will also demonstrate the citizenry's true capacity for governing itself fairly and effectively.

Notes

1. Bruce Ackerman and Ian Ayers, *Voting with Dollars: A New Paradigm for Campaign Finance* (New Haven, CT: Yale University Press, 2004).
2. The special issue "Strategic Incentives in Unconventional Electoral Systems," *Representation* 50, no. 1 (2014), provides insight into how less conventional voting systems influence the strategic behavior of parties, candidates, and public officials.
3. Bruce Ackerman and James S. Fishkin, *Deliberation Day* (New Haven, CT: Yale University Press, 2005).
4. Josiah Ober, "What the Ancient Greeks Can Tell Us about Democracy," *Annual Review of Political Science* 11 (2008): 67–91.
5. Speech by Kofi Anan, September 13 at the 2017 *New York Times* Athens Democracy Forum, Athens, Greece, September 13–15, 2017.
6. Current reports are available at the Electoral Integrity Project website, https://www.electoralintegrityproject.com/. Also see Terrill Bouricius, David Schecter, Campbell Wallace, and John Gastil, "Imagine a Democracy Built on Lotteries, Not Elections—Nexus," *Zócalo Public Square* (April 5, 2016).
7. See Lawrence Lessig, *Republic, Lost: How Money Corrupts Congress—and a Plan to Stop It* (New York: Grand Central Publishing, 2011).

8. For a deliberative critique of legislative elections, see John Gastil, *By Popular Demand: Revitalizing Representative Democracy through Deliberative Elections* (Berkeley: University of California Press, 2000).

9. Direct evidence of candidate personality traits is hard to come by, but research suggests that it has a meaningful link to ideological orientation and behavior. See Bryce J. Dietrich, Scott Lasley, Jeffery J. Mondak, Megan L. Remmel, and Joel Turner, "Personality and Legislative Politics: The Big Five Trait Dimensions among U.S. State Legislators," *Political Psychology* 33 (2012): 195–210.

10. This problem is exacerbated for women. See Jennifer L. Lawless and Richard L. Fox, *It Takes a Candidate: Why Women Don't Run for Office* (New York: Cambridge University Press, 2005).

11. Mark Smith, *American Business and Political Power: Public Opinion, Elections, and Democracy* (Chicago: University of Chicago Press, 2000).

12. Murray Edelman, *Constructing the Political Spectacle* (Chicago: University of Chicago Press, 1988).

13. Even within a political party with a working majority, a minority faction within the party might work with opposition members to thwart a victory for its own party leadership.

14. Current data are available online from Gallup at http://news.gallup.com/poll/1600/congress-public.aspx, and Pew Research Center at http://www.people-press.org/.

15. See the 2017 online OECD report, *Government at a Glance*, at https://www.oecd.org/gov/government-at-a-glance-22214399.htm. The figures for trust in parties refer to 2005–13, as reported in the 2013 edition of the OECD report.

16. For an accessible introduction to participatory budgeting, see Josh Lerner, *Everyone Counts: Could "Participatory Budgeting" Change Democracy?* (Ithaca, NY: Cornell University Press, 2014). On town meetings and how they could become more powerful, see Frank Bryan and John McClaughry, *The Vermont Papers: Recreating Democracy on a Human Scale* (Port Mills, VT: Chelsea Green, 1989).

17. This has been observed in a wide range of deliberative bodies using lay citizens. See Kimmo Gronlund, Andre Bächtiger, and Maija Setälä, eds., *Deliberative Minipublics: Involving Citizens in the Democratic Process* (Colchester: ECPR Press, 2014).

18. A concern about Aboriginal political rights emerged in a national deliberation on political reform held in Canberra. Lyn Carson, John Gastil, Janette Hartz-Karp, and Ron Lubensky, eds., *The Australian Citizens' Parliament and the Future of Deliberative Democracy* (University Park: Pennsylvania State University Press, 2013).

19. Robert A. Dahl, *Democracy and Its Critics* (New Haven, CT: Yale University Press, 1989).

20. Dahl goes farther with this requirement when a demos does more than make rules for its own members. When states make laws enforceable on noncitizens, the inclusion principle requires a demos to "include all adults subject to the binding collective decisions of the association." Ibid., 120. This goes beyond the scope of our proposal, but it is interesting to conceive the ways such populations could be infused into a sortition assembly, perhaps on a provisional basis in relation to specific legislative questions.

21. Pew Research Center, "Frequently Asked Questions"; online at http://www.pewresearch.org/methodology/u-s-survey-research/frequently-asked-questions/.

22. For a review of recent evidence, see Heather Pincock, "Does Deliberation Make Better Citizens?," in Tina Nabatchi, John Gastil, Michael Weiksner, and Matt Leighninger, eds., *Democracy in Motion: Evaluating the Practice and Impact of Deliberative Civic Engagement* (Oxford: Oxford University Press, 2012): 135–62.

23. Dahl, *Democracy and Its Critics*, 112 (italics added). The omitted text offers the qualifier, "within the time permitted by the need for a decision." The time required for a small sortition legislature would be considerably less than for a mass public.

24. Figures provided by the CBO online at https://www.cbo.gov/publication/51289.

25. John Gastil and Peter Levine, eds., *The Deliberative Democracy Handbook: Strategies for Effective Civic Engagement in the Twenty-First Century* (San Francisco: Jossey-Bass, 2005).

26. John Gastil and Robert Richards, "Embracing Digital Democracy: A Call for Building an Online Civic Commons," *PS: Political Science & Politics* 50 (2017): 758–63.

27. Michael A. Neblo, *Deliberative Democracy between Theory and Practice* (Cambridge: Cambridge University Press, 2015).

28. There are straightforward solutions to these problems. See Daron Shaw, Stephen Ansolabehere, and Charles Stewart, "A Brief Yet Practical Guide to Reforming U.S. Voter Registration Systems," *Election Law Journal: Rules, Politics, & Policy* 14 (2015): 26–31. The barrier to such reforms—and the impetus for counterproductive voting laws—is that broader participation would hurt the electoral fortunes of the Republican Party. See Wendy Weiser, "In 22 States, a Wave of New Voting Restrictions Threatens to Shift Outcomes in Tight Races," *American Prospect* (October 1, 2014).

29. There are risks in using strata in a sample to seek proportionate representation of minorities. Depending on the number of actual people this involves, the result can be that a few individuals from an oppressed group are thrust into the position of "representing the interests" of "their" group in the assembly. Since these individuals are themselves randomly chosen, there is no reason to believe that they will have the temperament or experience to fulfill this role. For this reason, if a sortition assembly is serious about genuinely representing the interests of marginalized groups, there need to be other mechanisms in place to bring the perspectives of those communities into their deliberation in a meaningful way.

30. On the performance of juries, see Neil Vidmar and Valerie P. Hans, *American Juries: The Verdict* (Amherst, NY: Prometheus Books, 2007). On deliberative citizen bodies generally, see Gronlund, Bächtiger, and Setälä, eds., *Deliberative Minipublics;* Nabatchi et al., *Democracy in Motion*; and Gastil and Levine, *The Deliberative Democracy Handbook.*

31. Evidence of the impact deliberation has on Australian and US participants appears in Katherine R. Knobloch and John Gastil, "Civic (Re)socialisation: The Educative Effects of Deliberative Participation," *Politics* 35 (2015): 183–200. On similar impacts on American jurors, see John Gastil, E. Pierre Deess, Philip J. Weiser, and Cindy Simmons, *The Jury and Democracy: How Jury Deliberation Promotes Civic Engagement and Political Participation* (Oxford: Oxford University Press, 2010).

32. UK government data are available at https://www.gov.uk/government/statistics/percentile-points-from-1-to-99-for-total-income-before-and-after-tax.

33. Existing legislatures in most places are heavily biased toward people with wealth and high earnings capacity. Whatever other problems in demographic representativeness a sortition assembly might have, it will certainly be a substantial improvement in terms of socioeconomic representativeness. See Martin Gilens and Benjamin I. Page, "Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens," *Perspectives on Politics* 12 (2014): 564–81.

34. Alexander Guerrero, "Forget Voting—It's Time to Start Choosing Our Leaders by Lottery," *Aeon* (January 23, 2014).

35. Mark E. Warren and Hilary Pearse, eds., *Designing Deliberative Democracy: The British Columbia Citizens' Assembly* (Cambridge: Cambridge University Press, 2008).

36. Aspen Institute program details available online at http://www.aspeninstitute.org /policy-work/congressional-program/about-congressional-program.

37. Kennedy School program details available online at http://iop.harvard.edu/get-inspired /newly-elected-members-congress.

38. State-by-state details on Next Generation workshops are available at the National Institute for Civil Discourse site, https://nicd.arizona.edu.

39. Carol S. Weissert and William G. Weissert, "State Legislative Staff Influence in Health Policy Making," *Journal of Health Politics, Policy & Law* 25 (2000): 1121–48.

40. Alan Rosenthal, "The Good Legislature," *State Legislatures* (August 1999).

41. Andy Sullivan, "Insight: In Washington, Lawmakers' Routines Shaped by Fundraising," *Reuters* (June 12, 2013).

42. Claudio Maria Radaelli, *Technocracy in the European Union* (London: Longman, 1999).

43. Hank Jenkins-Smith, *Democratic Politics and Policy Analysis* (Pacific Grove, CA: Brooks/ Cole, 1990).

44. The founder of the citizens' jury process argues along these lines—both for facilitation and experimentation and research on any new citizen body. See Ned Crosby, "System Four: A New Form of Democracy" (unpublished manuscript, 1976). The Australian non-governmental organization newDemocracy, for example, is experimenting with exercises wherein citizens critique prospective policies, or expert testimony on them, in terms of preset criteria (logic, depth, etc.) to sharpen citizens' skills at critical thinking and deliberation (personal correspondence with Lyn Carson, October 2016).

45. Joseph M. Bessette, *The Mild Voice of Reason: Deliberative Democracy and American National Government* (Chicago: University of Chicago Press, 1997).

46. Ibid. Also see Amy Gutmann and Dennis Frank Thompson, *The Spirit of Compromise: Why Governing Demands It and Campaigning Undermines It* (Princeton, NJ: Princeton University Press, 2014).

47. Warren and Pearse, *Designing Deliberative Democracy*.

48. Technically, such rooms are often not fully private, but only researchers are likely to venture into them. Some minipublics even have a decision-making phase closed from public scrutiny, such that the participants cannot be identified individually with the particular votes that were cast. Other processes, such as the deliberative poll, do not vote at all but record attitudes via confidential pre- and postdeliberation surveys. See James S. Fishkin, *When the People Speak* (Oxford: Oxford University Press, 2009).

49. John Gastil, Katherine R. Knobloch, Dan Kahan, and Don Braman, "Participatory Policymaking across Cultural Cognitive Divides: Two Tests of Cultural Biasing in Public Forum Design and Deliberation," *Public Administration* 94 (2016): 970–87. A broader conception of consensus suggests other kinds of agreements that can be reached, short of policy agreement per se. See Simon Niemeyer and John S. Dryzek, "The Ends of Deliberation: Meta-consensus and Inter-subjective Rationality as Ideal Outcomes," *Swiss Political Science Review* 13 (2007): 497–526.

50. Christopher F. Karpowitz, Chad Raphael, and Allen S. Hammond IV, "Deliberative Democracy and Inequality: Two Cheers for Enclave Deliberation among the Disempowered," *Politics & Society* 37 (2009): 576–615.

51. Linking pay to attendance might help keep legislators present, but it cannot regulate their behavior.

52. *Journal of Public Deliberation* 8, no. 2 (2012), is a special issue providing a range of views on participatory budgeting.

53. Jessica McKenzie, "Small but Successful Participatory Democracy Experiment to Continue in Utah," *Civic Hall* (July 27, 2016). For background, see Jeffrey Swift, "The People's Lobby: A Model for Online Activist Deliberation," *Journal of Public Deliberation* 9, no. 2 (2013).
54. At this time, citizens' assemblies are most common in the United Kingdom, with archives and updates available at citizensassembly.co.uk.
55. John R. Hibbing and Elizabeth Theiss-Morse, "A Surprising Number of Americans Dislike How Messy Democracy Is. They Like Trump," *Washington Post* (May 2, 2016).
56. The basic argument appears in Jane J. Mansbridge, *Beyond Adversary Democracy* (Chicago: University of Chicago Press, 1983). Also see the essay Mansbridge coauthored with numerous colleagues, "The Place of Self-Interest and the Role of Power in Deliberative Democracy," *Journal of Political Philosophy* 18 (2010): 64–100.
57. See special issue "Strategic Incentives in Unconventional Electoral Systems," *Representation* 50, no. 1 (2014).
58. Party primaries within each district would determine the candidates who vie for votes in the general election.
59. For recent examples, see https://www.sortitionfoundation.org/.
60. See Patrick Heller, "Moving the State: The Politics of Democratic Decentralization in Kerala, South Africa, and Porto Alegre," *Politics & Society* 29 (2001): 131–63.
61. Benjamin R. Barber, *The Death of Communal Liberty: A History of Freedom in a Swiss Mountain Canton* (Princeton, NJ: Princeton University Press, 2015). Also see Matthias Benz and Alois Stutzer, "Are Voters Better Informed When They Have a Larger Say in Politics? Evidence for the European Union and Switzerland," *Public Choice* 119 (2004): 31–59.
62. For background, see https://ballotpedia.org/Colorado_Constitution.
63. Personal communication from the Icelandic sociologist Kris Arsaelsson, 2016.
64. A basic description is available online at https://participedia.net.
65. See work by the Native Nations Institute, online at https://nni.arizona.edu/.
66. Chris Wells, *The Civic Organization and the Digital Citizen: Communicating Engagement in a Networked Age* (Oxford: Oxford University Press, 2015).

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