Legislature by Lot

The Real Utopias Project

Series editor: Erik Olin Wright

The Real Utopias Project embraces a tension between dreams and practice. It is founded on the belief that what is pragmatically possible is not fixed independently of our imaginations, but is itself shaped by our visions. The fulfillment of such a belief involves "real utopias"—utopian ideals grounded in the real potentials for redesigning social institutions.

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Legislature by Lot

Transformative Designs for
Deliberative Governance

Edited by John Gastil and Erik Olin Wright

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Sortition and Democratic Principles: A Comparative Analysis

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After centuries of absence, sortition is making its return through academic research, practical experiments, and activists' calls for linking participation and deliberation.[1] These invocations of sortition, however, offer divergent accounts of the concept and different justifications.[2] Gastil and Wright's proposal for a "sortition chamber" provides one such example, but sortition can be conceptualized more broadly.[3] When properly analyzed in this larger sense, one can better appreciate how sortition satisfies democratic principles—often in novel ways that go beyond those enumerated in the lead chapter of this volume.

To better understand the implications of sortition, I begin by contrasting it with the other modes of selection democracies use to place people in positions of power, including not only elections but also nomination and certification. I then distinguish varieties of sortition that differ by their mandate, the population from which a random sample is drawn, and the degree to which service is voluntary or compulsory. Depending on the design considerations such as these, sortition can provide a novel means

of realizing the democratic aspirations of equality, impartiality, representativeness, and legitimacy.[4]

Modes of Selection

When a good, task, or position are wanted by too many people, or undesired but necessary to the collective, a *selection process* is needed. Aside from in small direct democracies, certain missions—particularly deliberative ones—cannot be carried out by all the citizens and need to be accomplished, instead, by representatives. I identify four modes of selection, any of which can be combined with the others.[5] In doing so, I focus on the disadvantages of the mode of selection other than sortition.

Election

The "triumph of election" as the legitimate way of selecting rulers makes us forget that prior to the American and French revolutions, it was common to hold a contrary view, as expressed by Montesquieu: "The suffrage by lot is the nature of democracy. Suffrage by choice is the nature of aristocracy. Drawing lots . . . leaves each citizen a reasonable hope of serving his country."[6] In Athenian democracy, most public offices were appointed randomly, ensuring the equality of each citizen and refusing to elect the "better" (*aristoi*), except for few specific tasks. By contrast, Sparta mainly used election and was considered to be an oligarchy.[7]

Manin shows that despite this knowledge, the American founding fathers and the French revolutionaries disliked democracy. They chose election for selecting representatives to create an elected aristocracy, socially distinct from the people.[8] Later the word *democracy* was used as an advertising tool by politicians to lure electors. Eventually, modern political regimes changed their names to "representative democracies."[9]

Election is a selection procedure that *vertically ascends* from the bottom to the top. A majority or plurality of electors choose

every few years to which preselected candidate it will surrender power. In terms of the democratic criteria discussed more fully later in this chapter, elections have four limitations. First, they fail to provide *descriptive representation* (that is, a body of representatives demographically similar to the electorate). Second, they produce only a kind of *personal* legitimacy. Third, they cannot ensure *competent* and *impartial* governance. And finally, elections cannot function among true *equals* because they require voters to distinguish between candidates; choosing one person over another would be difficult—if not impossible—when none are considered superior.

Nomination

Nomination is a common selection method in representative governments. In France, for example, the prime minister is nominated by the president, who is elected through direct universal suffrage. The prime minister then nominates government ministers, and the president has to give his approval. Nowhere are federal government cabinet ministers or agency heads elected.

Nomination has significant problems. The nomination process can be accused of being partial, biased, and arbitrary. Like elections, it fails to provide descriptive representation. A nominee's legitimacy vertically descends from the top of the political hierarchy, which can create hostility among the lay public at that system's base. Finally, since nomination gives an office to a specific person, it produces a very individual type of legitimacy.

Certification

Certification is a mainstream selection process (for universities, civil servants, and so on), but because it is seen as technocratic, it is almost never used to produce political representatives in democratic systems. Exceptions do exist, however. Persons wishing to be nominated to judgeships in the United States, for instance, commonly receive ratings from the American Bar

Association regarding their qualifications, with an "unqualified" score sometimes jeopardizing a nominee.[10] Those who wish to be eligible for random selection onto the California Citizens Redistricting Commission must first meet a set of qualifications set out by the state auditor.[11]

Certification has its own problems. Those certified to serve have not been authorized by the public, nor even necessarily by elected officials. It is grounded in a distinction principle, so certified representatives, by definition, do not resemble the represented. Certification creates a type of legitimacy that is both individual and based on superiority. Even though certification seems to guarantee some equality of opportunity between candidates, producing a form of horizontal legitimacy, this impartiality is often illusory. In reality, certification tests are defined and conducted by superiors who may not themselves be accountable to anyone for the certification process. If the decision-makers atop the hierarchy do not directly choose their favored candidates, they create a test where those same candidates are more likely to succeed. Therefore, the legitimacy remains vertical.

Sortition

Sortition means selecting representatives by lot, but the following section will clarify important variations of this general concept. Concerns about sortition abound, as evidenced by many of the other chapters in this volume. Here, I focus on one particular drawback—the hazard that a sortition body would produce incompetent officials. Jacques Rancière noted a first defense against this charge: "the drawing of lots has never favoured the incompetent over the competent."[12] Sortition is not a competence filter, but the other selection modes all share this problem. Only certification can pretend to ensure competence, on the condition that its test criteria are "sound"—though in whose judgment?[13]

Moreover, the majority of deliberative-democracy experiments, such as deliberative polls and citizens' juries,

demonstrate that citizens learn fast and become more competent than elected officials on complex issues.[14] Finally, due to the "cognitive diversity" it provides, random selection can be an "epistemically superior mode of selection of representatives." Hélène Landemore explains that "decisions taken by the many are more likely to be right than decisions taken by the few." Indeed, sortition produces an assembly with a greater diversity of experiences and social profiles, which creates a stronger collective intelligence capable of tackling issues elected legislatures fail to address adequately.[15]

Selection and Deliberation Frameworks in Sortition

Which kind of officials do we want? If we want representatives who look like the represented, we shall choose sortition, for the democratic ideal of "government by the people." If we prefer socially distinct elites (an aristocratic view), we shall choose election. If we think that leaders should choose the representatives (an oligarchic perspective), we shall adopt nomination. If we want qualified representatives (leaning toward technocracy), we shall select through certification. Even if one chooses sortition over the alternative methods of selection, there remain many choices about how to create and organize a sortition body.[16] Gastil and Wright's sortition chamber presents one set of choices, but other sortition designs will reflect different decisions about mandates, target populations, and voluntary versus compulsory service.

Mandate and Duration

Regardless of the mode of selection, the deliberative rules and institutional architecture in which an assembly is embedded are crucial. This is especially the case for a sortition assembly, with the shifts from consultative minipublics to a powerful body granted legislative authority.[17] Most sortition theorists and advocates envision assemblies that are *deliberative* but not

executive. These main missions, none of which are mutually exclusive, include the following:

1. *Consultation* of the population, as in a deliberative poll.[18]
2. *Providing information* to officials and citizens, through writing a statement.[19]
3. *Control* and *evaluation* of officials and policies.[20]
4. *Making a policy or budgetary decision*, as in some citizens' juries or participatory budgeting.[21]
5. *Legislation*, with an additional chamber of the parliament, as in Gastil and Wright's proposal.
6. *Constitution*, both for revising one or writing a new one.[22]
7. *Long-term issues*, such as climate change or techno-scientific risks.[23]

Regardless of its mandate, so far, every political system based on sortition has had short mandates and regular rotation of members.[24] By contrast, election favors reelection, certification is easily sustained once met, and nomination maintains small circles of initiates. Unlike consultative minipublics, a more enduring sortition chamber would constitute a bold deviation from precedent, which might be necessary for a full-functioning legislature.

Population

Regardless of the mode of selection, there is always a delimitation of the "relevant political body" and criteria to be part of the selection process. As in the case of elections, the lottery for sortition draws from the citizens of a given political unit, but the pool can sometimes be more inclusive. Some processes have drawn names from a phone book, which includes individuals not registered to vote—or not even eligible to do so. The Belgian G1000 reserved 10 percent of its seats for homeless people and undocumented immigrants. The pool is usually related to the level where the decision is implemented (such as workplace, local neighborhood, state).

Mixed Selection

The different modes of selection are not opposed, but instead complementary and combinable. In the French military, for example, members of the High Council of Military Function (Conseil Supérieur de la Fonction Militaire, CSFM) pass certification for their rank, then are sorted and elected by the other randomly designated soldiers.[25] The pairing of certification and sortition is also used in the California Citizens Redistricting Commission.[26]

To show the flexibility of the selection mix and stimulate democratic imagination, I propose that political parties could present manifestos and a long unranked list of candidates. Citizens could then vote on the manifestos, and the result would determine the proportion of representatives *randomly* selected from each party. This would avoid discussing candidates' charisma or personal life to focus on manifestos and concrete policy propositions.

Voluntary, Consensual, or Compulsory Service

When it comes to serving on a sortition body, there are different degrees to which doing so might be obligatory. Here, I distinguish three levels: voluntary, consensual, and compulsory.[27]

At the first level, sortition representatives are selected from a pool of *volunteers*, which means they actively desired to be selected. This method has the advantage of bringing motivated people, but the disadvantage of letting power in the hands of those who wanted it—"the worst of all evils," according to Plato or Rancière.[28] However, volunteering to take part in sortition was the functioning mode in Athens, Venice, Florence, and Aragon.[29]

An alternative carries out the lottery among the whole relevant political body, without any call for volunteers. In this case, the persons selected have a right to refuse the public office a posteriori. The vast majority of deliberative-democracy experiments function on this *consensual* model. To encourage

acceptance of the invitation, organizers typically provide incentives for service, as do Gastil and Wright in their proposed sortition chamber. This approach fares better in terms of equality and of representativeness. By letting invitees decide whether to serve, even with strong incentives to do so, the resulting body differs from the larger population it aims to represent. Some demographic groups might be missing (or at least underrepresented) because their randomly selected members did not consider themselves as equal with the other selectees—not worthy of a seat in the sortition body. The same pattern appears for elections, in which underprivileged social classes vote less frequently than others.[30] The underrepresentation of disadvantaged social groups goes against principles of moral justice and inclusion, but it also poses a legitimacy problem: those second-class citizens who felt excluded might stop respecting laws they had no hand in creating.

One solution to this problem would be moving away from voluntary and consensual levels by making public service *compulsory* for those chosen through sortition. It might seem strange to regard participation as a *duty*; however, it is the secular practice of popular jury in France, the United States, British Commonwealth countries, and many others. Many countries, notably including Australia, make voting compulsory, and no country excuses its citizens from paying taxes. There are other advantages to this third approach. Obligatory sortition improves the impartiality of those chosen. It would be suspicious to elect a jury from volunteer candidates; one would wonder what interests they serve. A compulsory system also protects against the "free rider" phenomenon. Taking part in a deliberative assembly or jury is a heavy load in time and energy; a compulsory system spreads that burden as widely as possible.[31] Finally, obligation would push into service those who might otherwise perceive themselves as unworthy—thereby empowering the most disenfranchised segment of society.

How Sortition Meets Democratic Principles

Having distinguished sortition from other modes of selection, and with an appreciation for the different ways one can implement it, I turn now to how sortition expresses democratic values. Historical analysis reveals three successive principles for sortition: the random selection of citizens for public offices in ancient Athens, based on the principle of *equality*; the lottery to pick out members of popular jury, aiming for *impartiality*; and opinion polls giving a *representativeness* of the population through representative sample. Some authors in this volume address the issue of democratic values, but they overlook some of the novel ways sortition relates to equality, impartiality, representativeness—and the legitimacy this relationship produces.[32] Depending on its institutional architecture, sortition's democratic principles can be enhanced or diminished, but here I stress its greatest democratic potential compared to other modes of selection.

Equality

Without volunteering or quotas, sortition gives excellent *statistical equality* between individuals. Each citizen has the same chance to be randomly selected. For Cornelius Castoriadis, this principle is the same as universal suffrage and majority rule. Each citizen is considered equally politically competent; therefore, each voice is considered equal to others.[33] "The scandal of democracy, and of the drawing of lots that is its essence, is to reveal that [the title to govern] can be nothing but the absence of title." As Jacques Rancière says, the power of the people is "the equality of capabilities to occupy the positions of governors and of the governed."[34]

An answer to skeptics of this equality of capabilities is the evidence showing that citizens come to good decisions, if given the chance, as has been shown in so many deliberative-democracy experiments. Compared with the average voter, addled by political infotainment, a participant in a random assembly is demonstrably more competent.[35]

The second type of equality produced by sortition is the *deliberative equality* among the representatives. Once selected, all the representatives in a sortition body become equals. Lottery suppresses the affirmation of superiority, which in other selection modes might be expressed as, "I've won the election with a bigger majority"; "I was the first nominated by the authorities"; or "I've passed the test with better grades." All representatives drawn by lots have the exact same position, instead of being in the majority or the opposition. Each voice should be heard with the same attention, leading to a more equal footing for deliberation.

Finally, sortition can create an *inclusive equality* between representatives and represented. Indeed, the represented can say to their representatives, "Only chance distinguishes us, so we remain equals." As Gil Delannoi puts it, this "inclusion effect is not just coming from the fact that people elected by lots have an equal chance, but also from the fact that everyone knows that he or she can or could be selected."[36]

I expect that this affirmation of the equal political competence of all citizens could lead to another kind of inclusive equality—through greater mass participation in politics. Under sortition, it is no longer possible to say to citizens, "Your participation is your vote; give your power to the elected and be quiet while they work." Historical and recent cases show that with sortition the necessary moment of mass participation is not suppressed but moved from election toward the debates and votes on laws through referendum. Deliberative experiments are often linked with participatory and direct-democracy procedures, such as public debates, e-participation, or referenda, as was the case with every citizens' assembly, whether in Canada, Iceland, Belgium, or Ireland. These tools allow citizens to use their power directly instead of delegating it.[37] Moreover, as sortition would give a representative sample, possibly adjusted with quotas, excluded minorities would have a fair share in seats, creating a feeling of *inclusion* that further emboldens their participation.

Impartiality

Impartiality appears as the most obvious quality of sortition, as expressed in the *neutrality* principle. This is probably why the oldest use of random selection still exists through the popular jury, which judges admonish to remain impartial in their deliberations.

Neutrality is also the main principle justifying sortition for consensus conferences, particularly on techno-scientific issues in cases like the Danish Board of Technology.[38] There is a tension between interests such as public health or economic benefits, and it is necessary to ask the impartial opinion of lay citizens who have heard opposing experts. To consult only experts, activists, or industrialists would raise doubts about process neutrality. Suspicion can arise from the simple fact that an individual steps forward as a candidate (or receives a nomination) to participate. By contrast, a lottery increases the likelihood that people engaging in the deliberation have no hidden agenda and may, instead, seek the common good. Sortition also prevents cronyism and backdoor negotiations between small powerful groups, as there is no party line or campaign funding to negotiate.[39]

A lottery makes manipulation through media and advertising to win elections pointless. Nonetheless, parties and media still play an important role on how an issue is debated in the public sphere, especially in situations where a referendum follows the assembly deliberation. Random selection also increases neutrality by limiting bribery and the legal "buying" of representation through campaign contributions. The process of sortition is transparent, whether it is conducted physically or digitally by source code that anyone can check,[40] contrary to some elections with "forgotten" ballots or vote miscalculation. Chance suppresses favoritism and discriminations, though the risk of corruption may exist for bodies that have broad agendas and long-term offices, as in Gastil and Wright's proposal. Even so, sortition should mitigate the tendency toward corruption evidenced in the elected, nominated, and certified bodies that exist today.

A second kind of impartiality I call *unity*—or the discourage-ment of destructive forms of conflict. Sortition may make compe-tition or partisan strategy pointless. For this "peace producing virtue of exteriority," as Bernard Manin calls it, lots were used in Italian republics to avoid "the violent tearing created by the open electoral competition."[41] Sortition avoids electoral campaigns, demagoguery, and factions, though it cannot guarantee that those do not form after the fact—especially if paired with an elected body, as Gastil and Wright envision.

Political parties are criticized for the division they create, as they are "combat organizations specially built to carry out a sublimated form of civil war [political campaign]," according to Pierre Bourdieu.[42] This fear of faction and division is a main reason why the French Parliament chose sortition for the CSFM in 1968. There is a need for a concertation process within the army to gather the views and approvals of the soldiers regarding reforms affecting their wages, work conditions, pensions, and so on. Nevertheless, the permanent imperative of ensuring the defense of the nation cannot allow electoral competition within the army. If all the voices—especially from lower ranks—must be heard in the concertation process, the selection of the repre-sentatives should provide diversity in the assembly but could not endanger the army's unity.[43] This unity is also desirable for broad public constituencies, as sortition prevents candidates from targeting a big part of the electorate while leaving behind or stigmatizing another part.

Among representatives and the larger publics they represent, debates are important. *Unity* here is not the absence of divi-sions, but the absence of longstanding—sometimes artificial— preestablished partisan cleavages that impede honest debate. New divisions and debates should rise from concrete issues, but they should do so based on empirical and normative disagree-ments that relate to laws, budgets, and other legislative tasks, rather than the public-relations imperatives of parties. The absence of party discipline allows randomly selected representa-tives to seek a common good, instead of pursuing factional interests.

Finally, sortition creates a special kind of impartiality, which I refer to as *unpredictability*. The professionalization of politics leads to a trend of politicians who all look alike, sometimes even across parties as well as within them. As Pierre Bourdieu argues, elected officials follow the rules and codes of their closed circles and become predictable:

> The sense of the political game that allows politicians to predict other politicians' positions is also what makes them predictable. Predictable, which means responsible, competent, serious, reliable; ready to play the game with constancy without surprise or treasons of the role imposed to them by the game's structure.[44]

According to the historian Alexandros Kontos, the ancient Athenian economic policy was predictable because the magistrates were not. By contrast, contemporary elections make politicians' strategies predictable, which allows the economic sphere to be volatile and uncertain. Kontos's point is that since sortition made it impossible for a specific class to stay in power, it allowed an unpredictable, frequently renewed assembly of poor people (the majority) to rule. The "free market" was tamed and speculation banned.[45] Unpredictability operates here in the same way people might operate behind philosopher John Rawls's "veil of ignorance." Selection by lottery prevents participants from knowing the positions of the others on the issue, their relative rhetorical skills, or their openness to changing their minds. Indeed, some minipublics have produced surprising results, as with Texas residents championing renewable energy or Irish citizens calling for marriage equality.[46]

Representativeness

The recent hegemony of elections gives the illusion of representation through authorization as the only legitimate method of democratic selection, but sortition provides an alternative. Through the law of large numbers, sortition enacts the old ideal of mirror representation since a *representative sample* provides

a fair cross section of the population, in terms of social classes, ages, gender, and more.[47] Lottery also gives seats to ordinary citizens. Therefore, sorted representatives would have similar background to the population they represent. Gastil and Wright, along with other authors in this volume, have noted this, but they have overlooked subtle ways that sortition satisfies the principle of representativeness, by way of diversity and proximity.

"Parliament should be as a map for a territory, a miniature portrait of the People," said (in substance) John Adams, Mirabeau, and American anti-Federalists. Apart from mere geographical diversity, however, modern elections produce assemblies that do not capture the population's diversity. In France in 2013, for example, blue- and white-collar laborers were half of the workforce but were only 3 percent of MPs (with the majority of MPs being lawyers or senior officials). This lack of *diversity* goes against the ancient *quod omnes tangit* principles, meaning that everyone should discuss an issue concerning everyone. As rephrased by Dewey, "The man who wears the shoe knows best that it pinches and where it pinches."[48] As in the epistemic argument, the diversity of a representative assembly is also a question of efficacy.[49]

By including the full diversity of a public, sortition better represents it in a collective sense. Even when the size of a sortition body is too small to have a statistically representative sample of individuals, such as in a jury, the lottery aims to get the greatest diversity possible. Some deliberative experiments even make extra efforts to include marginalized people or minorities, like indigenous peoples in Canada.[50]

The so-called party diversity in modern democracies is actually weak, especially in two-party systems. Many people's concerns are not represented, and parties seem to be in decline. Moreover, through sortition, representativeness is necessarily *collective*: the whole assembly should represent the population as a coherent whole, not each member individually (and not just society's separate factions). Whereas an elected official may feel "personally representative" of a constituency because a

majority of voters granted authorization through an election, sortition members have more latitude to represent the collective because they were chosen from the full population.[51]

Officials chosen through sortition also represent the population better by virtue of their enduring *proximity* to the public. Distance between sortition representatives and represented might grow ex post, but officials chosen by lot serve short terms, with regular rotation.[52] Sortition is consistent with the view that politics is an amateur job that should not be professionalized.[53] To look again at the example of representation within the French military, that system values *experiential proximity*. As one soldier holding office by lot explained in an interview I conducted, "We live the same conditions as the colleagues we represent."[54]

Elected and appointed officials split away easily from constituents with whom they do not share everyday life experiences, but they also do so due to the "iron law of oligarchy." Politicians and unionists who work together become colleagues, creating a connivance climate that leads to citizens' defiance. Proudhon gives testimony: "One needs to have lived in this ballot booth that we call National Assembly to realize to what extent men completely ignoring the state of the country are almost always the ones representing it."[55] Democratic proximity should be sharing the same life as the represented, not the false "proximity" displayed by politicians during their hand shaking. A single four-year term in the sortition chamber seems brief enough to maintain proximity, unlike a political career.

Legitimacy

A process that meets the principles of equality, impartiality, and representativeness should gain some measure of democratic legitimacy. Legitimacy is crucial because it underwrites consent—the willingness of the demos to accept decisions without the use of force. There are three elements composing this specific type of legitimacy: impersonality, independence, and humility (or nonsuperiority), which are connected to the

three democratic principles—equality, impartiality, and representativeness—previously analyzed.[56]

First, *impersonality* comes from the character of representativeness within a sortition assembly. The assembly is "impersonal" because it can be representative only as a whole; no single member can claim to be "representative" on their own. Representatives selected by lot should gain public legitimacy because they have similarity and proximity to the people they represent. Sortition can generate a diverse and representative sample, without using quotas if the sample is big enough. Sortition was (and still is) linked to proximity, thanks to brief terms and rotation, contrary to communist officials that started their lives as factory workers but then never returned to their roots. There are also cases of proximity without similarity, like the young educated Maoist students going to farms and factories, sharing the living conditions of the working class, without coming from poor peasant backgrounds. The combination of both similarity and proximity produced by sortition, creating representativeness, enhances support and the quality of citizens' lives. Anyone represented by a sortition body can say, "Some members of that body look like me and share my living conditions." This also prevents the risk of charismatic leaders. Moreover, members resembling the represented come to office as unknowns, rather than as a candidate who built a personal brand. In this sense, members gain legitimacy by virtue of being (formerly) anonymous members of the demos.

Second, sortition's legitimacy differs from other selection modes because of the "direction" from which it comes. Contrary to a nomination, it comes not from the top, and unlike elections, it does not require climbing up from the bottom. Instead, members of a sortition body gain power and legitimacy *horizontally*: citizens remain lay citizens, even as sortition confers a temporary title on them.[57] In this way, sortition gains legitimacy by producing *independent* representatives who do not owe their title to anyone. This is a good solution for the concertation process in the French military, as neither the minister nor the

soldiers would accept the authority of an assembly selected by the other.[58] Sortition is the only selection procedure that is impartial, neutral, and horizontal. Sortition representatives do not have to flatter an electorate, special interests, or a party hierarchy to get reelected. They are not submissive to those who nominated them. They do not have to follow rules set up by experts designing the test for certification. Independence from such constraints makes them, potentially, more legitimate in the public's eye.

Finally, the sortition body's members might retain a kind of *humility* that distinguishes them from officials selected through other means. A conventional representative has a feeling of personal superiority over all those who failed—or did not even try—to pass the selection contest in which he or she prevailed. That sense might come from having won an election, being a nominee chosen by elites, or being certified as a technocrat after passing prestigious tests. This is a reason why elected representatives so often fail to keep their promises or listen to popular protest; they believe themselves superior to "the people." By contrast, sortition is insulated from the aristocratic "distinction principle" linked to election,[59] nomination, or certification. Delannoi explains this crucial psychological dimension in these terms:

> "Sortition offends no one," noted Montesquieu. It doesn't create vanity for the winner nor rancour for the loser. It diminishes arrogance and bitterness ... This soothing effect is individual, collective and systemic. There are almost no exceptions to it. Maybe a lottery winner can consider himself as "loved by the Gods" but such a favor is at least special and never owned with certitude. One cannot compare it to the feeling of one's own merit.[60]

Sortition produces a legitimacy based on *humility*. The randomly selected representatives do not consider themselves better or worse than other candidates or the majority of people that did not even try to be selected, because there is no credit to

being designated by chance. One is not selected because one would be superior to the group, but because one is an equal part of the group. Thus the sortition representative can claim, "I have the right to speak for you, because nothing distinguishes me from you." Constituents accept this representative claim because they can tell themselves, "It could have been me selected for that job." Or, "It might be me next." Even without parties, elections always create a distinction. Voters can think of an elected representative coming from the same background and displaying proximity. A voter might say, "My representative looks like me and shares the reality of my everyday life. But they are different because they won an election, which is something I cannot do, since I do not possess the qualities to be elected." The same logic applies to nomination and certification.

By contrast, the only difference between the mass public and the people selected by sortition is that the sortition representatives must get to work deliberating in citizens' assemblies or juries. Training and experience deliberating may come to set these representatives apart, in terms of their legislative expertise, but that same career lies within everybody's reach. If we have to select a deliberative assembly, it is not to create an elite, but because deliberation cannot be undertaken by millions of people simultaneously. This means that citizens would be more likely to participate as the system considers them all politically competent.

The message sent by sortition is that anyone is assumed to have the ability to directly take part in deliberation. This message is even stronger when sortition is coupled with direct democracy, as happens in an important share of minipublics. This might lead to a "Pygmalion effect"—a self-fulfilling prophecy in which people who are told they are competent become more competent.[61] By contrast, the logic of delegation and election might have the opposite effect, a "Golem effect"[62]—that is, when people are told they cannot directly take part in deliberation but must delegate their power to better actors, they might become less motivated to care about politics. Sortition could reverse that trend and make its legislators' humility even more

warranted, as the public starts to hold itself to a higher civic standard.

A lottery can be used to distribute desired offices, like in Italian republics, but also to assign duties necessary to the group that no one wants to do. In this perspective, holding a public office is nothing one should be proud of. Also, citizens might accept the sortition assembly's decisions because they want to be accepted in return when they will be sorted and seated. The last part of the legitimacy based on humility is the "authority of the ordinary." This is revealed by trust in "real people's popular wisdom" or "common sense." In such cases, the ordinary person receives the confidence and the support of the group.[63]

Conclusion

To sharpen our appreciation of sortition, I have distinguished it from other modes of selection, clarified the variety of frameworks it could operate within, and revealed less obvious ways in which sortition can thereby fulfill democratic principles. Those democratic principles, revealing what I call the *new spirit of sortition*, are potentialities not always present but enhanced or suppressed by the framework. Sortition is no magical solution to the problems of modern democracies, but taking this idea seriously gives us the opportunity to imagine democracy beyond elections. Envisioning a sortition body helps us see the contradictions between what passes for democracy and real democratic principles.

Explorations of sortition can also shift the debate from direct versus representative democracy to the question of the representative's selection process. Gastil and Wright's proposal for a sortition chamber and, more broadly, the "real utopian" notion of random selection could reopen the democratic imagination and spark experiments that yield more inclusive forms of representation, deliberation, and participation.

34. John Gastil, *Democracy in Small Groups* (Gabriola Island, BC: New Society Publishers, 1993).

35. Max Hardy, Kath Fisher, and Janette Hartz-Karp, "The Unsung Heroes of a Deliberative Process: Reflections on the Role of Facilitators at the Citizens' Parliament," in *The Australian Citizens' Parliament*, 177–89.

36. Dale Hunter, Anne Bailey, and Bill Taylor, *Art of Facilitation: How to Create Group Synergy* (Tucson: Fisher Books, 1995).

37. Usually, "a leader is best when people barely know he exists, when his work is done, his aim fulfilled, they will say: we did it ourselves."

38. Twyford et al., *The Power of "Co."*

39. See the de Borda Institute website: http://www.deborda.org/faq/what-is-a-preferendum/

40. Gavin Mooney, "A Handbook on Citizens Juries with Particular Reference to Health Care," newDemocracy (2010), available on the newDemocracy website.

41. See the G1000 website.

42. See the What Do We Think website, Turnometro, or Beta Baoqu.

43. See the newDemocracy website.

44. Plato, *The Republic*, 2nd ed., trans. Desmond Lee (London: Penguin Books, 1974), 260–80.

45. Naomi Klein, *No Is Not Enough: Defeating the New Shock Politics* (New York: Penguin, 2017).

46. Mark E. Warren, "When, Where and Why Do We Need Deliberation, Voting, and Other Means of Organizing Democracy? A Problem-Based Approach to Democratic Systems" (presentation, American Political Science Association, 2012).

47. Barry Hindess, "Deficit by Design," *Australian Journal of Public Administration* 61:1 (2002): 30–8.

48. Delannoi and Dowlen, *Sortition*.

11. Sortition and Democratic Principles: A Comparative Analysis, *Courant*

1. This chapter is a shortened and completely revised version of a paper published in an earlier and longer version in Spanish—see Dimitri Courant, "Pensar el Sorteo. Modos de Selección, Marcos Deliberativos y Principios Democráticos," *Daimon: Revista Internacional de Filosofía*, 72 (2017): 59–79; and in English, see Dimitri Courant, "Thinking Sortition. Modes of Selection, Deliberative Frameworks and Democratic Principles," *Les Cahiers de l'IEPHI*, Working Papers 68 (2017); and in French, see Dimitri

Courant, "Penser le tirage au sort. Modes de sélection, cadres délibératifs et principes démocratiques," in *Expériences du tirage au sort en Suisse et en Europe : un état des lieux*, eds. Antoine Chollet and Alexandre Fontaine (Berne : Schriftenreihe der Bibliothek am Guisanplatz, 2018).

2. Yves Sintomer, *From Radical to Deliberative Democracy? Random Selection in Politics from Athens to the Present* (Cambridge: Cambridge University Press, 2018, forthcoming).

3. In this volume, see Gastil and Wright's lead chapter, "Legislature by Lot."

4. For empirical developments of this theoretical framework, see Dimitri Courant, "Tirage au Sort et Concertation dans l'Armée Française: Le Cas du Conseil Supérieur de la Fonction Militaire (1969–2014)" (master's thesis, EHESS, September 2014).

5. I leave aside filiation (heredity) and acquisition (buying of offices), as those two modes have almost disappeared.

6. Montesquieu, *De l'Esprit des Lois* (Paris: Garnier Flammarion, 1979), 134.

7. For more detail on sortition in ancient Athens, see chapters in this book by Owen and Smith and by Fishkin.

8. Bernard Manin, *Principes du Gouvernement Représentatif* (Paris: Flammarion, 2012).

9. Francis Dupuis-Déri, *Démocratie: Histoire Politique d'un Mot* (Montréal: Lux, 2013); Dimitri Courant, "Délibération et tirage au sort au sein d'une institution permanente. Enquête sur le Conseil Supérieur de la Fonction Militaire (1968-2016)," Participations (forthcoming, 2019).

10. Karoun Demirjian, "Grassley: Two Controversial Federal Bench Nominees Won't Be Confirmed," *Washington Post* (December 13, 2017).

11. See the website of the California Citizens Redistricting Commission, www.wedrawthelines.ca.gov.

12. Jacques Rancière, *Hatred of Democracy* (New York: Verso, 2006), 42.

13. Candidates and agents in charge of selecting representatives could be completely wrong about the candidates' real competences.

14. Sintomer, *From Radical to Deliberative Democracy*.

15. Hélène Landemore, "Deliberation, Cognitive Diversity, and Democratic Inclusiveness," *Synthese* 190:7 (2013): 1209–31.

16. Oliver Dowlen, *The Political Potential of Sortition* (Exeter: Imprint Academic, 2008).

17. In this volume, see Gastil and Wright's lead chapter, "Legislature by Lot."

18. James S. Fishkin and Robert Luskin, "Experimenting with a Democratic Ideal," *Acta Politica* 40 (2005): 284–98.

19. John Gastil and Robert Richards, "Making Direct Democracy Deliberative Through Random Assemblies," *Politics & Society* 41:2 (2013): 253–81.

20. Dimitri Courant, "Les Militants du Tirage au Sort. Sociologie d'un Nouvel Activisme Démocratique" (paper presented at the CLAIMS workshop, Paris, 2018).

21. Though conventional participatory budgeting does not incorporate random samples, randomly selected panels linked to participatory budgeting exist in Germany, France, and China. See Yves Sintomer, Anja Röcke, and Carsten Herzberg, *Participatory Budgeting in Europe: Democracy and Public Governance* (London: Routledge, 2016); Dimitri Courant, "From *Klérotèrion* to Cryptology: The Act of Sortition in the XXIst Century, Instruments and Practices," in *Sortition and Democracy,* ed. Liliane Rabatel and Yves Sintomer (Exeter: Imprint Academic, 2018b).

22. See Arnold, Suiter, and Farrell in this book.

23. Dominique Bourg, ed., *Pour Une 6e République Écologique* (Paris: Odile Jacob, 2011).

24. Contrary to religious uses of sortition, see Courant, "From *Klérotèrion* to Cryptology."

25. Courant, "Tirage au Sort et Concertation."

26. One could argue for tests to be used to filter potential sortition legislators from a larger pool, but this aristocratic argument goes against the democratic equality of the principle "one person, one vote."

27. This typology goes beyond the distinction between auto-selection and hetero-selection.

28. Rancière, *Hatred of Democracy*.

29. Sintomer, *From Radical to Deliberative Democracy?*

30. Daniel Gaxie, *Le Cens Caché* (Paris: Seuil, 1993).

31. Mancur Olson, *Logique de l'Action Collective* (Bruxelles: Université de Bruxelles, 2011).

32. Courant, "Tirage au Sort et Concertation."

33. Cornelius Castoriadis, *La Montée de l'Insignifiance* (Paris: Seuil, 1996).

34. Rancière, *Hatred of Democracy*, 47, 49.

35. Sintomer, *From Radical to Deliberative Democracy?*

36. Gil Delannoi, *Le Retour du Tirage au Sort en Politique* (Paris: Fondapol, 2010), 19.

37. This connection between sortition and direct democracy can be explained by the concept of legitimacy based on *humility*, as we will see below. See also: Dimitri Courant, "'We Have Humility': Perceived Legitimacy and Representative Claims in the Irish Citizens' Assembly" (paper presented at the American Political Science Association Conference, Boston, 2018).

38. The Danish Board of Technology is an official institution aiming to provide reliable information to the Danish Parliament. Since 1987, it has organized debates on technological issues among randomly selected citizens.
39. However, control procedures are useful to prevent ex post corruption by lobbies.
40. Courant, "From *Klérotèrion* to Cryptology."
41. Manin, *Principes du Gouvernement Représentatif*, 74–93.
42. Pierre Bourdieu, "La Représentation Politique," *Actes de la Recherche en Sciences Sociales* 36–7 (1981): 3–24.
43. Courant, "Tirage au Sort et Concertation."
44. Bourdieu, "La Représentation Politique," 6–7.
45. Alexandros Kontos, "La Démocratie, un Régime Politique Inconnu" (PhD thesis, Paris, 2001): 42, 258.
46. On the Texas case, see Felicetti and della Porta's chapter in this volume. On Ireland, see the chapter by Arnold, Suiter, and Farrell.
47. Sintomer, *From Radical to Deliberative Democracy?*
48. John Dewey, *The Public and Its Problems* (New York: Holt, 1929), 207.
49. Landemore, "Deliberation, Cognitive Diversity, and Democratic Inclusiveness."
50. This was done for the British Columbia Citizens' Assembly, along with many other minipublics. Determination of relevant subpopulations is contextual and should be open to political debate.
51. A sortition system could make districts useless. Moreover, if people represent districts, they might be encouraged to represent a part of the whole—not the whole.
52. Owen and Smith make this point in their chapter, as a critique of the multiyear terms of service suggested by Gastil and Wright.
53. Plato, *Protagoras* (Oxford: Oxford University Press, 2009).
54. Courant, "Tirage au Sort et Concertation," 102.
55. Pierre-Joseph Proudhon, *Les Confessions d'un Révolutionnaire* (Paris: TOPS, 2013).
56. Courant, "Tirage au Sort et Concertation."
57. My perspective differs from that of Kelsen, who only compared nomination and election, the first one creating a dependence to the top, and the second a dependence to the electorate. See Hans Kelsen, *La Démocratie: Sa Nature, Sa Valeur* (Paris: Dalloz, 2004).
58. Courant, "Tirage au Sort et Concertation."
59. Manin, *Principes du Gouvernement Représentatif*.
60. Delannoi, "Le Retour du Tirage au Sort," 14.
61. Robert Rosenthal and Leonore Jacobson, "Teacher Expectation for the Disadvantaged," *Scientific American* 218:4 (1968): 19–23.

62. Elisha Y. Babad, Jacinto Inbar, and Robert Rosenthal, "Pygmalion, Galatea, and the Golem: Investigations of Biased and Unbiased Teachers," *Journal of Educational Psychology* 74:4 (1982): 459–74.

63. I discovered legitimacy-humility studying the military. I asked if the CSFM-sorted officials had a title, to which the secretariat answered, "No, no title! We don't want them to become arrogant!" Courant, "Tirage au Sort et Concertation," 113. The concept was also mentioned by members of the Irish Citizens' Assembly in interviews I conducted: "We have humility, we don't care about the fame, we just want to help people." See also Courant, "'We Have Humility.'"

12. In Defense of Imperfection: An Election-Sortition Compromise, *Abizadeh*

1. See Dennis C. Mueller, Robert D. Tollison, and Thomas D. Willett, "Representative Democracy via Random Selection," *Public Choice* 12 (1972): 57–68; Richard G. Mulgan, "Lot as a Democratic Device of Selection," *Review of Politics* 46:4 (1984): 539–60; Fredrik Engelstad, "The Assignment of Political Office by Lot," *Social Science Information* 28:1 (1989): 23–50; Gil Delannoi, Oliver Dowlen, and Peter Stone, "The Lottery as a Democratic Institution," in *Studies in Public Policy* (Dublin: Policy Institute, 2013); Terrill G. Bouricius, "Democracy Through Multi-Body Sortition: Athenian Lessons for the Modern Day," *Journal of Public Deliberation* 9:1 (2013).

2. Bernard Manin, *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997).

3. See also Kevin O'Leary, *Saving Democracy: A Plan for Real Representation in America* (Stanford: Stanford University Press, 2006); John P. McCormick, "Contain the Wealthy and Patrol the Magistrates: Restoring Elite Accountability to Popular Government," *American Political Science Review* 100:2 (2006): 147–63; Ernest Callenbach and Michael Phillips, *A Citizen Legislature* (Exeter: Imprint Academic, 2008); Alex Zakaras, "Lot and Democratic Representation: A Modest Proposal," *Constellations* 17:3 (2010): 455–71; Michael K. MacKenzie, "A General-Purpose, Randomly Selected Chamber," in *Institutions for Future Generations*, ed. Iñigo González-Ricoy and Axel Gosseries (Oxford: Oxford University Press, 2016); Pierre-Étienne Vandamme and Antoine Verret-Hamelin, "A Randomly Selected Chamber: Promises and Challenges," *Journal of Public*

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