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The Paradox of Democratic Selection: Is Sortition Better than Voting?

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Introduction

Although democratic theorists today readily acknowledge a crisis of parliamentary democracy, they hardly agree as to which stage of the democratic process needs to be restored: the first stage of selecting office-holders or the second stage that regards deliberation and decision-making. This distinction is crucial not only because it shifts attention to different types of issues, but especially because each stage involves a different set of normative considerations. The problem of selection regards, for example, the rules of the election game, which need to fulfil a number of criteria -egalitarian, inclusive, fair- in order to qualify as democratic. On the other hand, deliberation procedures refer to the rules of interaction and argumentation within the parliamentary assembly. Clearly, from the procedural tradition of deliberative democracy *klerotarians* have isolated the first stage and advocate random selection as a value per se, independent of the type of deliberation and decision-making that follows.

Sortition, or the selection of political officers by lot, has its antecedent in the direct democratic tradition of ancient Athens. Its transfer into a modern context of representative democracy poses rightful scepticism not only about the practical difficulties, but more so about the theoretical inconsistencies that arise. Modern systems of political representation are based on the aristocratic idea of 'government by the best', who are to be selected through a competitive call for candidates (Manin 1997). Sortition, on the other hand, replaces this aristocratic criterion of competition and evaluative election with the democratic mechanics of direct and equal distribution of political office by chance. Hence, the very expression 'democratic (s)election'

includes a paradoxical contradiction in terms, between the *democratic* concept of equal access to public office and the aristocratic idea of government by the *(s)elected* best.

My aim in this chapter is to shed some light into this contradiction by critically discussing the benefits and pitfalls of using sortition today, comparing it throughout the chapter with voting and the general effects of electoral representation. More specifically, my arguments are divided in four sections. I begin by addressing the reasons that drive klerotarians away from electoral representation (1). Next, I consider alternative modes of political ‘outsourcing’, such as the inclusion of civil society actors or the use of quotas (2). I continue by discussing the democratic legitimacy of sortition by dividing the subject in two questions: (a) political equality and (b) political participation (3). Last, I focus on the type of political representation that the lot produces, viewed from the perspectives of descriptiveness, authorization and accountability (4). In conclusion, I suggest that lotteries may offer valuable improvement to current practices of democratic selection, but only if special measures are taken to compensate for the limitations they entail.

Is political outsourcing necessary?

Not acknowledging that certain policy items run a higher risk of causing a conflict of interest for members of parliament would be like hiding one’s head in the sand. Electoral laws and constitutional regulations are types of legislation requiring such special attention. Reforms concerning electoral constituency borders, campaign and political party financing, politicians’ remuneration and so on call indeed for exceptional procedural arrangements to prevent abuses and manipulation that have been observed time and again (see Buchstein in this volume: 13-14). Indeed, there are several instances of lawmaking when politicians may have an increased conflict of interests and are likely to be biased because they can have private gain.

The most obvious example of legislation, whose manipulation can serve a politician’s self-interest, is electoral legislation. In fact, evidence suggests that over the course of two centuries

(1788-2000), in countries that introduced electoral procedures, only one election in seven resulted in replacement of the incumbent government (Przeworski 2009: 23). More often than not, those in office design the rules of the game in a manner that would secure their victory in the next electoral contest following the reform. Through various institutional arrangements, they tend to control not only who has the right to participate, but also which effect this participation will have on the political power-balance. Such strong partisan or private motives must of course be thwarted. But are lotteries the only mechanisms that can serve this goal?

Of course, the need to prevent manipulation of legislation for personal or partisan gain does not make outsourcing, let alone sortition, a self-evident solution. A variety of internal checks and balances, such as legislative super-majorities, constitutional entrenchment of election laws and national referenda form part of a pool of special measures for these cases. For example, in the US at present laws that regulate the salaries of members of Congress take effect only at the next term of office. Likewise, in Greece electoral amendments are applicable only after the end of the next parliamentary term unless they are passed with a two thirds supermajority. However, such special procedures entail serious normative costs. For example, a supermajority rule challenges the democratic convention of simple majority rule, which is founded on the normative ideal that each vote deserves to count equally, so that half the share of votes should suffice for a law to pass. Instead, isupermajority reflects a bias in favour of one alternative (usually the status quo, i.e. the old law to be reformed), whose numerical strength is enhanced by its vintage value, so that half the votes plus one do not suffice to change it. Hence, Schwartzberg concludes, supermajority rules violate the principles of neutrality and epistemic equality of votes (see Schwartzberg 2013: 122).

Besides, electoral rules and salaries for elected officials may not be the only category of 'sensitive' legislation that is susceptible to manipulation. For instance, a recent study showed that Members of the Greek Parliament may have been covering up the tax evasion for the occupational groups they belong to: the four most tax-offending industries, namely lawyers, engineers, financiers and doctors, which are responsible for the largest proportion of undeclared

income in the country, correspond to the professions of two thirds (0.657) of the Greek parliamentarians in the 2009 administration (Artavanis et al 2012: 27-29). Hence, self-interest might compromise political decision-making in many instances, where legislators can draw direct or indirect benefits. As a result, the social homogeneity of current members of legislative assemblies may be promoting a joint biased perspective on more than just a few lawmaking occasions.

Yet, instead of getting carried away by a cynical interpretation of politicians as acting always and only out of self-interest, it is crucial to isolate those instances which allow representatives to act out their particularistic interests, at the expense of the general interest. Placing factional, occupational or otherwise private interests above the public good is not always due to individual corruption, but rather institutional corruption. In this case, individual misconduct is filtered through institutional practices that are part of an official's job duties (Thompson 2013: 7). For example, political fund-raising and lobbying are established political practices that parliamentarians are expected to comply with, yet often they have distorting effects on parliamentary decisions. Thus, parliamentary politicking and other entrenched practices that compromise the priority of the general interest might be hijacking the democratic purpose of representative politics.

Indeed, one of the strongest arguments in favour of sortition is that it works as a counterweight to the socio-political polarization between ruling elites and ruled masses that liberal democracies promote. The domination of the political process by a professional political caste and the consequent distrust and alienation of voters have been the main motors behind the interest in sortition as a way of bringing the citizens back in the political arena (Delannoi et al 2013: 22). From the use of sortition in Renaissance Florence until its revival today, one persistent benefit has been its *republican* potential as an *inclusive* mechanism that protects the *public* process of selection from manipulation by despotic individuals or factions (Dowlen 2009: 301, 308-311). Concomitantly, it can stop the domination of political agendas by elected political elites, who are susceptible to corruption or illegitimate influences. This argument is extremely relevant for those

countries, where the gap between arrogant political classes and detached masses has widened substantially. Sortition may decrease the social distance between citizens and office-holders and renew political personnel by including in the decision-making process people who would otherwise be cut off due to structural disadvantages (Delannoi et al 2013: 18).

To sum up, the use of sortition may derive from the need to outsource certain decisions to different political actors. As mentioned earlier, the problem of government control over electoral reform and other sensitive legislation may of course be short-circuited through other rules, such as constitutional entrenchment of election laws and supermajority requirements. Yet, these pose additional normative and realistic challenges especially because of the alleged homogeneity of politicians as an occupational group. Hence, socio-political *elitism* and deeply entrenched patterns of political *corruption* might be sufficient reasons to call for a genuine *renewal or political personnel* that sortition can provide. Because modern parliamentary democracies have produced powerful elites with special connections to corporate interests, there is an increased need for an agency that will produce decisions without benefitting from them, at least not directly. In other words, it is necessary to call in a *pouvoir neutre* (Buchstein in this volume: 12).

However, there is a logical distance between the need for outsourcing and the outsourcing done through random assortment of citizens. In fact, the need for involving political actors other than party- or self-nominated candidates may justify inclusive processes in general and not sortition as such. To explain this, it is important to break the idea of sortition in its two distinct components: the idea of including non-elected citizens as office-holders and the principle of randomness. Undoubtedly, it is possible to endorse one without the other. Why could we not, say, randomly select candidate MPs or, conversely, select citizens non-randomly -on the basis of specific criteria?

Non-random alternatives to political outsourcing

The need to open up current practices of electoral representation and legislative deliberation may justify the involvement of external actors, i.e. non-professional citizen-politicians, whose selection however might rely on non-random criteria. Of course, the questions of *who* the potential office-holders should be and *how* to select them (with randomizing or non-randomizing means) are intrinsically connected. To build up a case for non-random outsourcing, we may have to start by looking at the problem that sortition purports to solve. It is plausible to think that the purpose of sortition is to break the monopoly of powerful elites on parliamentary seats or the authority of parties to nominate candidates –regardless of how democratic and transparent the latter is becoming. Recruiting into decision-making these unconventional actors can take shape in two principal forms, each of whom carries a separate burden of justification with regard to the input it produces for democratic decision-making.

The first is based on the assumption that a certain group of the population offers special insight to various issues. Expert bodies and various stakeholders, such as the third sector or even industrial lobby groups, claim a right to inclusion because, due to their specialist expertise, they offer “distinctive insight into potentially neglected or underplayed interests of the group” or because they have a material or other ‘stake’ in a decision (Saward 2009: 11-13). Advocates of substantive representation have been keen in supporting the view that representation does not only consist in elected authorization, but is tantamount to the claim made by various political actors of ‘acting for’ the interests, preferences etc. of constituencies they bring into existence by evoking them (Saward 2006). The whole process of representation is conceived as much more dynamic and flexible than the current understanding of formal procedures, which are seen as too limited and restrictive for encompassing the full range of representative claims that can be raised.

However, the relationship between non-elected representatives and the constituents whom they represent is too evasive. In practice, non-electoral representation follows unstructured and informal routes that leave them immune from scrutiny and lower their responsiveness to the grassroots (Severs 2010). Another problem is that such informal voluntary participation provides beneficial access to political processes only to those who have the means to organize themselves

and receive training in politicking. As a result, the inclusion of grassroots concerns or experts' opinions translates unevenly distributed resources into unequal voice and influence and thus creates patterns of over- and underrepresentation (Urbinati and Warren 2008: 405). Therefore, the inclusion of the third sector in political deliberations fails to meet the goal of equal representation.

A second justification for improving the inclusiveness of democratic government beyond electoral representation is by providing beneficial access to decision-making to groups which have been hitherto systematically under-represented. Women, ethnic, racial and other minorities have been increasingly identified as largely 'missing' from the representative process, with adverse effects for the consideration of their interests in legislation and policy formulation. This garnered support for the idea of selective representation -equal representation with difference- for under-represented groups that share a common identity (Mansbridge 1999), experience of oppression (Williams 2000) or situated social perspective (Young 2002). These arguments have led to the implementation of electoral quotas as a measure to turn around existing de facto inequalities in representation.

Following the example of special measures for the representation of women or minorities, the underrepresentation of poor citizens that sortition promotes could be addressed by introducing appropriate quotas. For example, it would be possible to counter the socially homogenous composition of parliamentary assemblies by specifically inviting the poorest citizens to serve as legislators. Hence, the goal of descriptive representation and social heterogeneity that sortition posits to serve can be addressed through tools for differentiated representation that already exist. In other words, experiments of political outsourcing could employ specifically targeted criteria, rather than no criteria at all. Age, social background, scientific expertise, organized group interests, grassroots support etc. may be some such criteria.

Of course, demarcating such groups poses a challenge, not only because quotas tend to isolate one out of the many characteristics of a person and thus to essentialize groups (Mansbridge

1999), but also because the identification of which group deserves special treatment is in itself a political decision, subject to contingency and/or strategic steering (Young 2000; Buchstein 2010: 448). In addition, if one endorses an epistemic view of democracy, quotas are problematic because they assume that we know which type of diversity is needed before the deliberation takes place, which is impossible given the unpredictable nature of political questions (Landemore 2011: 41). Last but not least, even if historically or normatively justified, the implementation of quotas is always a matter of political contestation because it constitutes a temporary distortion of procedural equality. It is precisely at this conceptual and operational juncture that sortition comes into play and offers a path for achieving descriptive representation that claims to uphold the principle of formal equality for all.

Randomness and Democratic Legitimacy

In the place of excessive control over procedures, klerotarians propose the complete loosening of rational control over the selection of individuals for political office. Lotteries are indeed a reasonable solution, as long as we are willing to admit that there are limits to rationality in certain contexts of decision-making, for example when the alternatives are incommensurable (Buchstein in this volume: 4). For, sortition carries the advantage of a ‘blind break’, “a break in the chain of rational thought and organization” that guarantees an *a-rational* decision, rid of the limitations of the human mind (Dowlen 2009: 304-305). Recognizing the political value of a-rationality is a large step away from the long-standing supremacy of reason. The principle of *la fortuna* qua contingency as a counter-concept of reason had been systematically discredited by the sweeping forces of secularization and modernity (Buchstein 2010: 1-2). And as a political idea, it had been furthermore opposed by socialist and communist thought, which advanced the doctrine of central planning and rational oversight. In this sense, sortition re-emerges now as a post-modern mechanism that ‘liberates’ us from the dominant confines of rationality.

The exclusion of reason is supposed to provide a safety net against bad reasons that may affect the choice of political representatives. According to the so-called ‘lottery principle’, the use of

lottery produces a ‘sanitizing effect’ in cases where it is preferable to avoid substantiating a decision on *reasons*, because there is a high risk of *bad* reasons –partisanship, corruption, racial bias etc- affecting the decision (Stone 2011: Ch.2, 20-21). In other words, the exclusion of reason is useful precisely because reason is not always put in use in a good way. If the purpose of lottery is to exclude bad reasons from any selection process, in the case of randomly choosing office-holders, this means repressing the use of bad criteria for their selection and, as a consequence, preventing the selection of bad office-holders. Yet, are non-professional citizen-politicians at all costs better than badly chosen professional politicians?

a) Political equality through sortition

The disactivation of reasoned criteria renders everybody’s chance of selection absolutely equal. By eliminating any possibility for discrimination in the selection of office-holders, whether positive or negative, sortition translates into practice the ideal of non-discrimination. This absolute equality of all possible political candidates *a priori* makes sortition in a certain sense the ultimate democratic institution. This is why Aristotle claims that “the appointment of magistrates by lot is thought to be democratic and the election of them oligarchic” (*Pol*, 1294b6-7).

It is often claimed that in ancient Greek democracies, certain political offices were considered a public good, to which every citizen should have equal access. Since, like most other goods, political office was scarce, sortition was an instrument to ensure that it was allocated justly. However, the conception of justice can take different forms depending on whether emphasis is put on equity or need rather than absolute equality (Elster 1987: 41-43). From the former point of view, equal distribution of political office is unfair or unjust whereas a process designed in such a way to specifically involve, say, poor citizens would be more just according to the needs-based definition. Clearly, the implementation of quotas and affirmative strategies is based on such a conception of justice. On the other hand, sortition is fair only if we accept the principle of absolute equality as the foundation of justice.

Representative democracy in its present form recognizes the principle of absolute equality when it commands that every citizen has an equal right to elect candidates for office or to be a candidate for office. The use of lot, on the other hand, assumes that there is an equal right to office as such (Manin 1997). In both cases, there is theoretically an equal treatment and equal opportunity of holding office. However, the abilities involved in each task, choosing a representative, running for parliament and holding office, and therefore also the presumed conceptions of political equality, have significant differences. In fact, electoral rights are the founded on the presupposition that office-holding rights are equal only in theory but not in practice: they assume that although everyone might be equally competent to hold office, some are more competent than the rest to do so; a competitive process is needed in order to identify them.

Indeed, one of the main criticisms of lottery, ever since its introduction in ancient Athens, is that it fails to consider ability and merit as defining characteristics for holding public office. Socrates was adamant about this in the metaphor he gives of the polis as a ship that needs a trained pilot to steer it (Xenophon, cited in Dowlen 2009: 299). Indeed, the descriptive type of representation that sortition promotes does not leave room for “leadership, initiative or creative action” (Pitkin 1967, 90). According to Mansbridge, microcosmic representation realized through lot produces legislators with less ability, expertise and possibly commitment to the public good (see Mansbridge 1999: 631-633). One way to avoid this problem, she says, is by delimiting descriptive representation to town meetings, where unlike lawmaking in large states and at national level all individuals may have sufficient capacity to deliberate and make decisions. Otherwise, opponents of the lot tend to describe it as “a crude levelling device aimed at preventing those with natural talent and ability from playing their rightful role in government” (see Dowlen 2009: 299).

Of course, the need for talented, smart or otherwise best-suited individuals in leadership positions is one that cannot be refuted easily. Yet, there is obvious uncertainty about whether random citizens will be mature enough to take up the responsibility that comes with public

office. Therefore, most lottery advocates propose a combination of lot with other institutions that promote aptness and excellence. In addition, attention is paid to these possibilities: a) introducing criteria for the pool of citizens for lotteries, b) selecting the type of office that is commensurate to the capacities of ordinary men c) matching categories of citizens with appropriate types of assigned office (Delannoi et al 2013: 29). All these considerations are aimed at counterbalancing the risks of lotteries producing individuals who are incapable of office-holding.

Such risks may have been low in ancient Athens, which imposed a high threshold for citizenship, but will probably be higher in contemporary large-scale democracies that use universal suffrage. Of course, the educational attainment –probably the most relevant criterion for the capacity to deliberate- of the general population has increased tremendously in our days, with approximately eighty per cent of the population in OECD countries having at least primary education and an average of thirty two per cent having completed tertiary education (OECD 2013). However, problems with regard to the political capacities of random citizens persist, as evidenced in the case of randomly selected Greek polling officers, who sometimes have limited reading capacity and disrupt, delay or even injure the voting process¹. If anything, such problems can be regarded as an indication that lot can become a mechanism of republican education aiming at creating the ideal citizen.

A more immediate solution would be to introduce qualification criteria for entering a lot-based selection process, as in weighted lotteries. In Athens, court check for conduct and character means that a procedure of moral screening of participants in lotteries was in place, while voluntary participation left ample room for intimidation (Tridimas 2012: 4). Such indirect methods of pre-selection resemble the criteria for acquiring citizenship or voting rights, which are known for their historical, cultural and political contingency (Rosanvallon 1992), as well as the possibility of them being manipulated (Birch 2011: 71-88). Similarly, the eclectic determination of criteria for lottery participants runs a high risk of spiraling down into a concealed effort of arbitrary enforcement.

¹ This is based on my personal experience as domestic election observer in Greece in several elections from 2004 until 2010.

The introduction of conditions for participation in lotteries brings to mind another problem, the strategic exploitation of citizen assemblies. Unless there are universal rules that apply on the times and procedures for convening such assemblies, there is a danger of using them only when elected politicians need them to legitimize political decisions (Buchstein 2010: 440). Take for example that the initial motive for Athenians to introduce lot was to counter intra-elite strife and allow the prevalence of a unified elite, although at the end it produced adverse effects of disempowering the elite (Tridimas 2012: 5). In fact, there is no simple way to immunize lotteries from potential malfunctions and secure that the goal of harmonizing political decision-making will not backfire, producing new problems that did not exist previously.

Finally, applying restraints, exceptions and in general reasons into the lottery process would undermine the full potential of the institution. First, it would constitute intervention and control that contradicts the mechanism's republican potential (Dowlen 2009: 311-312). And second, it would generate "deviations from the goal of descriptive representation. Whether such deviations are justified will depend on the importance of enabling good reasons as compared to disabling bad reasons in the selection process" (Stone 2009: 390). In any case, delimiting randomness would force us to compare the intrinsic worth of persons (Elster 1987: 41-43), whereas sortition rests on the assumption that the abilities required for holding office, namely to deliberate, reflect and make an informed judgment, exist by nature in every adult human being.

However, running for office in elections presumes a conscious choice and determinacy to contribute to government, which is not present in lotteries. Hence, it is valid to be sceptical about the degree to which a random citizen will feel interested and subsequently committed to dedicate her time and effort to serve the public. One suggestion is to remunerate, provide tax incentives or otherwise reward those selected, in order to increase demand for allotted slots (Delannoi et al 2013: 29). A second option is to give binding effect to decisions made by random citizens, instead of them being only consultative. For, their motivation to participate in deliberations and

the efficiency of such deliberations depend on the degree of influence of their decisions (Buchstein 2010: 440, 446-447). Hence, if they are given effective powers to reach actual decisions instead of offering only recommendations, they will be more motivated to join the game.

Empirical evidence suggests that random citizens are in general capable and motivated when they are selected for public service (Zakaras 2010: 466), yet this may be due to the voluntary nature of participation in the selection process. The question of competence has led advocates to insist on opt-outs or rather a completely voluntary participation in sortition (Burnheim 2006: Ch. 3, III). Optional exposure to random selection means that those who volunteer would be engaged and active citizens anyway, regardless of the mode of participation. The problem with voluntary candidatures, however, is that it undermines the goals of inclusiveness and transparency –based on the unpredictability of outcome- for which sortition strives. For this reason, it is assumed that only mandatory participation in sortition would ensure the lottery-principles of arationality and its goal to renew the political personnel.

Similarly, the egalitarian presumptions of sortition are also straightforwardly contingent on the mandatory inclusiveness of the process. In fact, the debate on compulsory voting shows that a legal obligation may well be justifiable as a means to achieve equal access to participation. In other words, a legal obligation to take on public office if randomly selected is the sole means to uphold equality of opportunity to claim and hold public office. In this sense, mandatory participation is a kind of “elaborate affirmative action” [...] to ensure that everyone, regardless of contingent status, and obstacles experienced is enabled to deploy this capacity” (Hill 2002: 91). This view is supported by empirical studies demonstrating that voting turnout is skewed by socio-economic bias, which benefits those who are already better off and reproduces inequalities of redistribution (Birch 2009). Hence, an equal redistribution of political office is achieved not only if everyone is granted an equal voice, but also if all voices are obligatorily recorded.

b) Political participation through sortition

The second ‘measure’ of democratic legitimacy that sortition ensures is political participation. If aleatory theorists lament the existence of bad selection criteria in the current electoral method of selecting office-holders, then a central assumption appears to be that the voting process is flawed. Arguing that elections involve a high risk of voters choosing poorly when they enter the polling booth is a strong claim in itself. However, it is not clear if the bad selection reasons that sortition is purported to solve are indeed wrong judgments by the citizens. If so, they do not give details about why there is a high risk of citizens voting poorly (because they are uninformed, ignorant or indifferent?). Hence, it might be necessary for aleatory theorists to explain that there is no odd elitist belief about voter incapacity looming behind their claims.

Alternatively, it could be that the problem with partisanship or elections is not how citizens vote (or the paucity of choices they might have), but the limits posed on them by the indirectness of electoral representation. While elections involve delegating political power to others, sortition carries the benefit of immediate participation, which makes an important difference in the context of large-scale communities. In the European Union for example, the distance between citizens and decision-makers may grow too much and lead inevitably to the political alienation and disempowerment of the masses. In these contexts, sortition could mediate this distance and thus increase the incentives for participation (Buchstein and Hein 2009). Of course, direct participation raises a number of additional difficulties: practical, such as logistics and communication problems, but mainly substantial such as matching individuals to particular offices and trusting their ability of handling complex issues. In fact, the Athenian example might illustrate that sortive practices make sense only on a smaller scale, like for town meetings. In other words, immediacy may be a practical prerequisite for the meaningful use of sortition rather than a consequence or desired effect of its application.

Besides directness, another element of sortition that may provide incentives for political participation is inclusiveness. Klerotarians emphasize that selecting office-holders by chance will broaden participation and make political systems all-encompassing (Delannoi et al 2013: 17).

Such inclusiveness may be demographic. For example, compared to elected offices that attracted mostly the city elite in ancient Athens, the use of lot enabled a wider distribution of political power across Attica (Taylor 2007). *Mutatis mutandis*, sortition practices may break the domination of political offices by individuals coming from urban centres and balance them out with more participants from the peripheries. Or, as mentioned earlier, it will include more people from the unprivileged social classes and non-professional politicians, who are otherwise excluded from political office *de facto* because they lack the resources needed to compete in elections. This effective broadening of participation places sortition right within the participatory turn of contemporary democratic practice.

However, aleatory theorists have neglected to explain what makes political participation so important. Post-war democratic theorists have adopted one of the following three main views on this issue (Salisbury 1975: 326-328). One group looks at participation as a *legitimizing* device with appeasing effect on the masses, which safeguards regime stability, prevents political disorder and wards off revolutions (e.g. Schumpeter). A second views participation as necessary for its *instrumental* value, as a means of obtaining political power, which is crucial to achieve or block the redistribution of resources (e.g. Pateman). Klerotarians favour the third approach that endorses the *educative* effects of participation (e.g. J.S. Mill, Habermas). According to this view, participation is a learning process through which citizens come to share a common conception of the general good and comprehend the essential norms and values of the society. All three approaches can provide a participatory justification for sortition.

The third view holding that participation is an intrinsic democratic good that constitutes the political self is the closest to the ancient Greek understanding. For example, Aristotle argued that equally “taking part in deliberative and judicial office” contributed to the moral education of citizens (*Pol*, 1275b18-20). But he also praised widespread participation for the political benefits it entailed, such as peace, stability and the prevention of stasis. In addition, he thought that a man’s happiness and virtue did not depend on participation as much as on the protection of his life and property (Mulgan 1990). The significance of political participation was highlighted

much more emphatically by Pericles. In his “Funeral Oration”, he called a man who does not take part in politics not simply inactive (ἀπράγμονα) but useless (ἀχρεῖον) (Thoucydides, 2.40). This passage foreshadowed the negative meaning that is ascribed in today’s vernacular English to the ancient Greek word that described an individual who does not hold public office (ιδιώτης > idiot). It goes without saying that the emphasis of ancient Greek authors on participation in general and on direct participation in public deliberation in particular lies behind the justification of lot as a mechanism that enables fulfilling this ideal.

Similar ideas about participation as self-transformation are prevalent in contemporary democratic theory. For example, Hannah Arendt argued that the coming together of individuals in the public realm through speech and action allows them to see reality from different perspectives and develop a shared common sense (1998). Those who support expansive democracy adopt the view that democratic participation not only facilitates collective decisions, but also fosters human development, autonomy and identity, encourages the formation of common interests and teaches reciprocity, respect and tolerance (Warren 1992: 11-13). These contemporary views complement the classic Greek ideas on participation in that they both offer a platform of arguments in favour of sortition.

However, contemporary advocates of selection by lot are incredibly silent on this issue and appear too shy to build a participatory case for sortition. To the contrary, they explicitly note that assemblies chosen by lot are representative, rather than participatory, bodies and should not be seen as devices of participatory democracy or civic engagement (Warren and Pearse 2008: 51; Zakaras 2010: 459-460). Yet, they cannot deny the fact that sortition offers a chance for direct participation in deliberative offices, even though this only concerns a small sample of the population. In this sense, it contributes to the self-transformation of the ‘ordinary’ citizen in a way that electoral participation does not. Hence, aleatory theorists can make a contribution to participatory democracy, but in this case a more explicit account of how this would benefit individuals is in order.

Even though direct participation has clear advantages over representative alternatives, the main risk is that, since the effective inclusiveness realized through sortition is fragmented, it will fail to engage citizens universally. Sortition advocates who are sympathetic to rational choice approaches to democracy have acknowledged this problem. In a democratic regime based on lot, citizens will notice that the probability of being selected for some office and thus “the possibility of influencing the selection process (however small it may be under election) would become zero” (Delannoi et al 2013: 27). As a result, the incentive for the many to stay politically engaged also becomes zero. In this sense, sortition may increase the so-called ‘rational ignorance’ of the masses, i.e. the disincentive of a voter in a mass democracy to study the issues at depth because her individual vote has no causal power (Downs 1957: 145-147).

Of course, this argument falsely assumes that the incentives to get involved in public debate are the result of rational calculation about the impact of such involvement. Yet, many public choice scholars nowadays admit that political interest and the decision to vote do not follow from a rational appraisal about the impact of one’s vote, but carry also intrinsic, expressive value for the individual (Brennan and Lomasky 1993). For example, it fosters party identification and the development of one’s ‘political autobiography’, which are enough to lure citizens to the polls. In addition, voters are incentivized by the competitive character of electoral politics and by partisan attachment, both elements that are not present in the case of sortition. As a result, there is an increased danger of creating a deficit of civic engagement.

In fact, the type of political engagement generated by sortition mechanisms is limited in numerous ways. Even though “citizens selected for office would have an incentive to become well-informed about political topics relevant to the office in question.” (Delannoi et al 2013: 27), this is true *only* for citizens selected for office. Hence, it is plausible to criticize deliberative citizen assemblies as exclusionary instances that fall short of the ideal of universal participation (Chambers 2009; Näsström 2011). Secondly, the type of political education these citizens will acquire will be restrained to information relevant *only* to the office they were selected to hold. This means that citizens will see no point in learning about the broader issues that are politically

at stake or even if they are, they will feel unable to take a position on them. Thirdly, their civic engagement will be activated *only* if they are selected and practically *only* after their selection. This will create a discontinuous and hazardous relationship between state and citizens, leaving the latter in the dismal position of hopelessly waiting that someday their turn to govern may come. Hence, sortition advocates must address the problem of how to avoid deactivating citizens' interest in acquiring political information and how to forestall switching off their political consciousness and turning them into passive, alienated and irresponsible subjects.

Randomness and Political Representation

If we assume that contemporary democracies are inconceivable without representation, it makes sense why the debate on sortition has been mostly intertwined with the theory of political representation. In particular, it has been argued that political lotteries are the best way to operationalize descriptive representation, also known as 'mirror' representation. This means that it reproduces in the political arena the demographic characteristics and the corresponding preferences that exist in society (Pitkin 1967; Sutherland 2011a), its social heterogeneity (Buchstein 2010: 448; Pitkin 2004; Sunstein 2002), its plurality of opinions, values and perspectives. A second perspective holds that the benefits of descriptive representation promoted by sortition lie in including the many life-experiences, different skills and cognitive diversity that large crowds bring along (Landmore 2012; Sutherland 2011a, 23). These two approaches include a significant difference. Whereas in the latter case, the end-goal of representation is to find the best or 'right' solution to political problems, in the former the aim is to prevent social elitism, polarization and the radicalization of group decisions. In any case, following Anne Philips' influential theory (1995), descriptive representation should be regarded not only from the point of view of a party-political 'politics of ideas', but also as a challenge in terms of a 'politics of presence'.

However, sortition advocates recognize that descriptive representation can be realized only if the pool of candidates is sufficiently large (Delannoi et al 2013, 14). This is not easy to achieve,

since the responsibilities involved in office-holding and public service are likely to scare off many from volunteering for lottery selection. This has tremendous consequences, since a selective participation of citizens in lotteries will skew not only the egalitarian effects as I argued earlier, but also the descriptiveness of the whole process. Perfect diversity of social backgrounds and cognitive qualities is possible only with full coverage of all members of the society. Otherwise, “the offices would end up being staffed by those who were already committed or active, and these people might be merely bringing their own pre-determined interests and ambitions into the body politic” (Ibid, 29). In order to ensure the inclusion of all citizens in future selections by lot, it is vital to make participation in such mechanisms mandatory.

A central problem for descriptive representation by lot is that it lacks a proper mechanism of authorization. Whereas in electoral representation, the voting act leaves no doubt as to who the authorizing party is, sortition does not feature a real chance of direct authorization of representatives. The importance of direct authorization through elections is founded on the natural law theory of consent, whose prevalence explains why elections replaced sortition (Manin 1997). According to the Lockean tradition, individuals’ consent to government actions may be express or tacit/hypothetical, as they retain a moral right to withdraw it if those actions are deemed not to preserve the society and to cater for the public good. Elections provide a tool for each individual to renew her consent to government periodically.

To the contrary, it has been suggested that sortition is legitimized by a different understanding of consent. One possibility is to consider authorization activated by virtue of one’s likeness to the representatives. This model is called ‘consent by proxy’ (Fishkin 2009) and is based on the idea that informed consent is granted *ex post* in the form of deliberative judgment. Such individualized conception of consent is more relevant for the modern world, where individual autonomy is realized through universal suffrage, which did not exist in Locke’s time (Sutherland 2011b: 204-205). A second possibility for legitimizing the lot is grounded in the social contract tradition, which holds constitutions as symbols of universal consent: if sortition becomes part of constitutional provisions, authorization of office-holders selected by lot may be indirect through

the a priori consent carried in the constitution (Delannoi et al 2013: 36; Landemore 2011: 43). Hence, the problem of authorizing allotted officers can be resolved with reference to ex post or a priori symbolic authorization acts.

Yet, given the lack of an explicit person-to-person authorizing act, whose interests do allotted officers represent? There are two possibilities here. On one hand, citizen's assemblies can be compared to judicial tribunals, representing the general interest of society as a whole. Conversely, if we assume that individuals only know and always tend to promote those interests they have best at heart (i.e. their own), allotted officers may be representing their self-interests; but since they are 'like me' they represent my interests too, simply because they share them (Sutherland 2011b: 203-204). Hence, consent may derive from the assumption that allotted representatives share the same interests with the people they 'stand for'.

In any case, consent granted to allotted representatives differs from the one enjoyed by electoral representatives in one significant way. Because of the lack of an authorizing act, there is an unavoidable dissociation between on one hand citizen assemblies, which –however representative- are still *parts* of the citizen body, and on the other the citizen body *as a whole*. Even Fishkin (1997) admits that the lack of institutional or active connection to constituency deprives random samples of the people from being *political* representatives. Sortition does away with the momentum of discursive interaction and contestation, which the experience of elections provides. As a result, it promotes a form of de-politicization, which eliminates the political socialization and action enabled by partisanship. It also undermines the spirit of group formation on common ideological goals (i.e. parties) and breaks down collective power into purposeless individualistic inaction.

Losing the time and space of public deliberation that elections bring about has a detrimental effect on political accountability, public responsibility and popular trust. Electoral representation is not only about competing and choosing the best and brightest to govern, but also about creating a relationship between the assembly and the people, which “enables the demos to reflect

upon itself and judge its laws, institutions and leaders. The spatial and temporal gap opened by representation buttresses trust, control, and accountability if it is filled with speech (an articulated public sphere)” (Urbinati 2006: 761). Unless there is a space and moment for direct communication between those in power and the ruled, there is no meaningful way of constructing a relationship based on trust. Because trust depends on coherence between words and deeds, commitment to agreed principles and mutual understanding, all of which require effective communication, it is very unlikely to emerge automatically through the mere ‘likeness’ of representatives.

Contrary to this claim, it is argued that electoral accountability is overrated, too general and ineffective, since it occurs infrequently and cannot address every law and policy that governments pass. Resolving this impasse, a citizens’ assembly can act as a full-time overseeing agency that exerts public control over elected authorities (Zakaras 2010: 456, 460). From this point of view, accountability of the citizens’ assembly is not necessary or it is assumed to be automatic by virtue of embodying the people, because all that matters is to hold into account the elected office-holders. However, this may become a circular argument, when the elected legislature is the one who mandates such citizens’ assembly, compromising its independence. Indeed, in the famous case of the British Columbia Citizens’ Assembly, which was convened by lot to assess and design an electoral system, *institutional* accountability for their decision was established towards the Canadian Legislative Assembly, which had defined and delivered its mandate (Warren 2008: 63). Even if such mandate is narrowly defined and does not affect the content of decisions, a certain amount of institutional control may be exerted on them through the authorizing legislature.

Another example is from ancient Athens, where a negative type of ex post accountability for allotted officers existed in the form of judicial control in case of misconduct (*dokimasia*). “During service, they were held accountable if an accusation for misconduct arose. Finally, they were again reviewed by the Court upon leaving office accounting for conduct during service, especially if they were in control of public funds” (Tridimas 2012: 4-5). Indeed, citizens selected

by lot could be punished with fines and loss of political rights at the end of their duty. Hence, they were accountable for their performance and decisions to the judiciary according to pre-existing rules of conduct.

Still, for advocates of allotted public office, the type of accountability that matters even more than formal, constituency or mandate-dependent accountability is discursive accountability. The low accountability to specific interests and constituencies enjoyed by allotted office-holders provides a deliberative freedom, which is actually beneficial for developing arguments and positions that aim at discovering and serving the common good. Accountability is then secured when representatives “continue to communicate in terms that make sense within that discourse” (Dryzek and Niemeyer 2008, 490), in other words when they remain loyal to the thematic focus and their own initial language of justification. In addition, because the final goal is to communicate these arguments to the wider public with the aim of creating a public will, some sort of public accountability is at play (Warren 2008: 59-65). This conception of accountability tries to do justice to the need for discursive interaction between allotted officers and citizens; however, it neglects to include a tool that channels approval or disapproval of decisions or recommendations of the former by the latter. Thus, it reduces political ‘discourse’ to a one-sided monologue similar to the rhetoric of acclamation, whereby the majority of citizens are seen as passive onlookers, whose opinion both essentially as well as practically does not count.

Conclusions

Sortition is considered a more democratic means for selecting public officers than elections. Yet, its democratic credentials are a matter of interpretation that can be construed in comparison with elections in ancient and contemporary contexts. My first point in this chapter was to establish the need for sortition, as a method for renewing the elected personnel that tends to be socially homogenous today, often self-interested and corruptible. This may be a superior alternative to selection by quotas or unstructured inclusion of representative claims, if anything because it

recognizes the unpredictability of political questions and the dynamic formulation of the public will.

However, the inclusionary function of sortition is a challenge for contemporary democracies that feature broad citizenship and universal suffrage. The recognition of equal competence of all for office-holding may be too optimistic, neglecting real-life inequalities between citizens with regard to education, interest and commitment to public affairs. One way to solve this problem is to look at random participation as a channel of republican education. The expectation of holding public office will not only educate citizens in thinking about political issues, creating arguments and engaging in political deliberations with others, it will also distribute their political knowledge to the wider society through a multiplier effect. In addition, the use of lot can be seen as an indirect call for intensifying other channels of republican education that will train citizens, in advance and regardless of their selection for office, to make sure they will all develop office-holding skills in case they will be requested from them.

In any case, a serious issue to be addressed is voluntary candidature in political lotteries and the problems that this creates. These regard not only the inclusiveness of the process, but also the question of equal recognition of competences, as has been noticed above. In addition, it is more difficult to ensure the transparency and incorruptibility of the process, if those participating are only the ones who have an increased interest in doing so and may have been politically active before. Perhaps even more important is the contribution that required inclusion can make to the representativeness, or rather descriptiveness, of allotted assemblies. Mandatory political participation can be seen as the essential ingredient for a political system that accurately reflects the diversity of social backgrounds, knowledge, skills, experiences, opinions and interests that are present in society (Malkopoulou 2014). It is impossible that such assemblies fulfill their representative purpose unless they are accompanied by a legal obligation that will ensure full participation.

Still, elections remain the most preferable political system today, if only because they offer a chance for effective political engagement to all. Unlike anticipating selection by lot, voting in elections constitutes a permanent structure of political participation. As such, it offers a real and continuous relationship between government and citizenship, which aided by the excitement of competition produces a higher incentive to stay informed and form an opinion about general political issues. To the contrary, random exclusion, the loss of partisan empowerment and the ensuing atomized fragmentation may reduce the political literacy of the many. Ultimately, the recognition of equal office-holding rights and competences may remain merely symbolic. In fact, the promise of a chance for substantial contribution to decision-making may backfire and instead of involving everyone more in politics increase the passivity and alienation of the masses.

Finally, replacing partisan competition with consensus-aimed deliberation poses the risk of conflating individual political differences and silencing shy voices. As a result, it may encourage new forms of domination within citizens' assemblies that are going to be more 'legitimate' and therefore more difficult to detect. Besides, the lack of real accountability mechanisms may put these assemblies in a dominant position vis-à-vis other institutions or the population as a whole. Without a moment of connection with the citizen body through a channel of direct control, it is impossible to win over their trust. Detached from the majority, allotted officers or assemblies could be more tempted to promote their self-interests than current elected legislators. Therefore, if sortition is to make a valuable contribution to contemporary democracy, it ought to include in its institutional design the proper elements that will compensate for its limitations.

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