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FROM DELIBERATIVE TO RADICAL DEMOCRACY? SORTITION AND POLITICS IN THE 21ST CENTURY

INTRODUCTION

John Gastil and Erik Olin Wright present Legislature by lot as a real utopia which would push a step further a long democratic tradition coming from Athens and revitalized by contemporary mini-publics at the end of the 20th century.¹ A number of convincing arguments tend to demonstrate that this is a promising way of democratizing the political system. However, some questions should be raised. What kind of democracy is at stake: deliberative democracy, as most of the proponents of mini-publics advocate? Radical democracy, as induced by the frequent reference to Athens? A mixt between both—or even something quite different? What is the specific value of sortition? Although defending a mixt constitution and a complex vision of democracy,² Aristotle famously wrote: “It is considered democratic that offices should be filled by lot, and oligarchic that they should be elective.”³ Jacques Rancière go in the same direction when he writes: “The scandal of democracy, and of the drawing of lots which is its essence, is to reveal [...] that the government of societies cannot but rest in the last resort on its own contingency”⁴. The political scientist Bernard Manin, in his seminal book on representative government, seems to share the same idea.⁵ This article advocates for a much more complex narrative. The idea that sortition in politics has sustained a trans-historical democratic logic is more a myth than a historical fact, as political sortition has been used in quite different functions along history⁶.

I will defend four claims, two historical and two normative ones. The first historical claim, which will be central in this article, is that when analyzing the experiments that have taken place in the last decades, two waves have to be differentiated, based on partly different concrete devices, embodying different social dynamics and pointing towards different kinds of democracy. To a large extent, the rationale of political sortition has changed from the first wave to the second one. The second historical claim is that the rationale of the first wave of democratic innovations based on randomly selected mini-publics largely differs from the dynamic of political sortition in Athens, as it embodies a logic of deliberative democracy rather than a logic of self-government and radical democracy. Conversely, the second wave is more differentiated and more compatible with a Neo-Athenian perspective empowered sortition processes that have emerged during the second wave better capture the spirit of radical Athenian democratic traditions than consultative mini-publics. My third claim is normative: these empowered sortition processes are promising for a real

¹ John Gastil and Erik Olin Wright, “Legislature by Lot”, in John Gastil and Erik Olin Wright (eds.), *Legislature by Lot. An Alternative Design for Deliberative Governance* (London: Verso, 2018, forthcoming).

² Hubertus Buchstein, “Countering the “Democracy Thesis”—Sortition in Ancient Greek Political Theory”, *Redescriptions*, Vol. 18, No. 2 (Autumn 2015), pp. 126-157.

³ Aristotle, *The Politics*. (Harmondsworth: Penguin, 1962, p. 168; translation modified).

⁴ Jacques Rancière, *Hatred of Democracy* (London: Verso, 2009, p. 47).

⁵ Bernard Manin, *Principles of Representative Government* (Cambridge: Cambridge University Press, 1997).

⁶ Yves Sintomer, *From Radical to Deliberative Democracy? Random Selection in Politics from Athens to the Present* (Cambridge: Cambridge University Press, 2018, forthcoming); Liliane Lopez-Rabatel, Yves Sintomer (eds.), *Sortition and Democracy. Practices, Tools, Theories* (Imprint Academic, Exeter, 2018, forthcoming).

democratization of democracy. My last claim is that any proposal of a legislature by lot has to rely on this lesson when trying to defend a normatively convincing and politically realistic perspective.

In what follows, I will take a critical approach, which studies real democratic experiments (historical and present) to better understand the normative and political claims that come from society, rather than trying to assert pure philosophical principles. I will first describe the initial wave of experiments, composed by deliberative pools, citizen juries, and consensus conferences, that have used sortition in politics at the end of the 20th century. These experiments have been mostly top-down consultative mini-publics. They have complemented representative democracy with deliberative democracy, and the later has been differentiated from, or opposed to, radical democracy and social movements. These devices have been sort of what Europeans call “protected designations of origin (PDO)”: carefully designed, closely monitored and often patented by their inventors. I will briefly oppose this logic of deliberative democracy based upon randomly selected mini-publics to the logic of radical democracy and self-rule that characterized Athens.

In the second part, I will present the second wave of experiments. It has been much more plural than the first one. From citizen assemblies to Oregon citizens’ initiative, from the Students’ Association of Lausanne University to the Left-wing party Morena in Mexico, from the use of sortition between 2011 and 2016 by Occupy-like social movements such as the Syntagma place in Greece, 15.M in Spain or Nuit Debout in France to the new French President Macron’s political movement (“En Marche”), the devices have been hybridized and inventive, offering spaces for creative imagination to both practitioners and theoreticians. Most of them have been directly linked to some real decision making and may therefore be analyzed as empowered processes. They have been coupled to representative government, but also to direct democracy and to grassroots democracy. They often have articulated deliberative democracy with radical democracy.

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

1. THE FIRST WAVE OF MODERN POLITICAL SORTITION: DELIBERATIVE MINI-PUBLICS

Over the last two decades, tools that bring selection by lot back into politics, such as citizen juries, consensus conferences and of deliberative polls, have spread to other countries and resulted in many new experiences. Thousands of citizen juries have been held around the world⁷. Between hundred and fifty and several hundred consensus conferences have been held, nearly half of them in Denmark⁸. Dozens of deliberative polls have been conducted in the United States and in all the world.⁹

Citizen juries, deliberative pools, consensus conferences

These trends can only be understood in relation to the social upheavals of the 1960s and 1970s and a broader push for democratic change. The ideas of participatory democracy or self-

⁷ Antoine Vergne, “Le modèle *Planungszelle*-citizen jury,” in Marie-Hélène Bacqué, Yves Sintomer (eds.), *La démocratie participative inachevée. Genèse, adaptations et diffusions* (Paris: Yves Michel, 2010, pp. 83-100).

⁸ Simon Joss, and James Durant (eds.), *Public Participation in Science. The Role of Consensus Conference in Europe* (London: Science Museum, 1995).

⁹ James Fishkin and Cynthia Farrar, “Deliberative Polling. From Experiment to Community Resource,” in John Gastil, Peter Levine (eds.), *The Deliberative Democracy Handbook* (San Francisco: Jossey-Bass, 2005, pp. 68-79).

management began to inspire activists, finding an echo in the academic world. These themes built on old arguments about the elitist character of representative democracy and sounded the charge against the existing political system. However, random selection came to public attention only gradually. Its advocates were concerned with giving institutional expression to the critique of representative democracy but took a distance from radical left-wing tendencies that were modelled on the workers' councils of 1905–1920. Sortition appealed to ordinary citizens, and its attraction increased as the fascination for vanguards began to wane. The title of one of the first volumes to defend the idea of broadly using selection by lot in politics, *After the Revolution?*, is thus quite revealing.¹⁰

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

The idea of random selection in politics re-emerged separately in Germany, where Peter Dienel argued in 1969 for "planning cells" (*Planungszellen*), the first ones being tested out in the winter of 1972–3, and in the United States, where Ned Crosby created a similar structure in 1974 that he called the "citizen jury".¹¹ In 1988, James Fishkin invented "deliberative polling" and in 1994 experimented with it for the first time in Britain. All three of these men were political or social scientists, and because they had no initial support from a movement, party or institution, all three endeavored to found an institution that would disseminate, or indeed, commercialize the concept. All three moved quickly to patent it, even if Ned Crosby continued to work from a more activist perspective. Independently of these experiments, the *Teknologiradet* (Danish Board of Technology) decided in 1987 to open up consensus conferences to "lay" citizens, after a period during which they had been used in medical circles in the United States. Only in the late 1990s did political and academic figures begin to consider the consensus conference, the citizen jury and deliberative polling as largely convergent procedures, and the first moves were made to produce both conceptual and empirical hybrids.

Meanwhile, whereas the earliest conceptual justifications of random selection in politics had been closely tied to an experimental urge, a more theoretical process of reflection began to gather steam. From the 1990s on, three fast-developing currents independently helped to give theoretical nobility to these procedures, at first indirectly and then in more direct ways. One of these currents has based itself on the work of John Rawls and Jürgen Habermas to theorize the practice of deliberative democracy in politics.¹² The work and action of James Fishkin has been important to link deliberative democracy (whose main authors initially did not speak about random

¹⁰ Robert A. Dahl, *After the Revolution? Authority in a Good Society*, Yale University Press, New Haven, 1970.

¹¹ Peter Dienel (1997) *Die Planungszelle*, Wiesbaden: Westdeutscher Verlag; Ned Crosby, *In Search of the Competent Citizen* (Plymouth: Center for New Democratic Processes, 2005); Denis C. Mueller, Robert D. Tollison, Thomas Willet, "Representative Democracy via Random Selection", *Public Choice*, (1972), 12, pp. 57–68.

¹² Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge (MA): MIT Press, 1996) ; John Dryzek, *Discursive Democracy. Politics, Policy and Political Science* (Cambridge: Cambridge University Press, 1990) ; Jon Elster, (ed.), *Deliberative Democracy* (Cambridge: Cambridge University Press, 1988).

selection) and sortition.¹³ The other trend of literature, central for consensus conferences, has concentrated on the vast realm of “technical democracy”, drawing theoretically on the social history of the sciences.¹⁴ On a less massive scale, a few books and articles that defend or indirectly legitimize the reintroduction of random selection in politics helped to further awaken interest in the subject, especially in English-speaking and French-speaking countries.¹⁵

Height common features

Beyond their differences, eight features characterize these devices of the “first wave”. (i) They constitute mini-publics, i.e. randomly selected representative samples, or at least “fair cross-section of the community.¹⁶”. Most often, they are composed through some kind of stratified random selection in order to increase their representativeness. (ii) Most of these experiments are top-down. Those who organize them are public authorities, or in some cases foundations, in collaboration with social scientists. They are not linked to social movements. They can even be opposed to grassroots democracy. (iii) These devices have been what Europeans call “protected designations of origin (PDO)”: carefully designed, closely monitored and often patented by their inventors. They function well, and are highly interesting for a scientific analysis of the ordinary deliberation between lay citizens. The dark side of the “protected designations of origin (PDO)” is that the political imagination of actors remains limited and the diffusion hindered. (iv) Most of these devices have been one-shot events. The number of institutions that have organized such mini-publics several times is quite reduced compared to those which have organized them once or twice. The only exception is the *Teknologiradet* (Danish Board of Technology) and its citizen conferences. But even in this case, the mini-public has not become part of the “constitution”: in Denmark, the experiments are nearly over now. (v) Random sortition is linked to a high quality deliberation. The mini-public is a place where a high quality deliberation can take place, with carefully balanced briefing materials, with intensive discussions in small groups and in general assembly, with facilitators helping an equal and inclusive discussion, and with the chance to question competing experts and politicians. (vi) Most of these devices are only consultative. They give a recommendation to public authorities, and/or provide them a counterfactual enlightened public opinion. They complement representative democracy. The aim is not to take decisions, but to improve the decision-making process with a device that enable a sophisticated deliberation of lay citizens. The mini-publics allow to know “what the public would think, had it a better

¹³ Julien Talpin: “Deliberative Democracy and Sortition in Politics: A Critical Assessment”, in Liliane Lopez-Rabatel, Yves Sintomer (eds.), *Sortition and Democracy. Practices, Instruments, Theories* (Exeter: Imprint Academic, 2018, forthcoming).

¹⁴ Richard Sclove (1995), *Democracy and Technology* (New York: Guilford Press, 2015); Michel Callon, Pierre Lascoumes, Yannick Barthe, *Acting in an Uncertain World: An Essay on Technical Democracy (Inside Technology)* (Cambridge (Mass.): MIT Press, 2011).

¹⁵ Benjamin Barber, *Strong Democracy: Participatory Politics for a New Age* (Berkeley/London: University of California Press, 1984); John Burnheim, *Is Democracy Possible?* (Cambridge: Polity Press, 1985); Ernest Callenbach, Michael Philips, *A Citizen Legislature* (Berkeley: Banyan Tree/Clear Glass, 1985); Lynn Carson, Brian Martin, *Random Selection in Politics* (Westport: Praeger Publishers, 1999); Robert A Dahl, “The Problem of Civic Competence” (*Journal of Democracy*, 3, 4, October 1992, pp. 45–59); John Gastil, *By Popular Demand: Revitalizing Representative Democracy through Deliberative Elections*. University of California Press, Berkeley, 2000; Barbara Goodwin, *Justice by Lottery* (New York: Harvester Wheatsheaf, 2012); Bernard Manin (*ibid.*); Yves Sintomer, *Le pouvoir au peuple. Jurys citoyens, tirage au sort et démocratie participative* (Paris: La Découverte, 2007); Hubertus Buchstein, *Demokratie und Lotterie. Das Los als politisches Entscheidungsinstrument von der Antike bis zu EU* (Campus, Frankfurt/Main, 2009); David Van Reybrouck, *Against Election* (New York: Seven Stories Press, 2016).

¹⁶ “The Jury Selection and Service Act”, 28 U.S.C., secs 1861-69.

opportunity to consider the questions at issue”.¹⁷ (vii) The mini-public are not embedded in everyday social and political relations. Citizens have no link with each other, nor are they organized or mobilized. They discuss in an artificial institution. (viii) These devices are concrete embodiments of deliberative democracy. In most books of political theory, deliberative democracy is differentiated or even opposed to participatory democracy.

The contrast with Athens: representative sample vs. self-government of the people

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

The close link between sortition and democracy in Athens is well-known. Athens had a “mixed system” of aristocratic and democratic elements, and sortition was crucial for the second dimension. Each citizen could stand for selection by lot. This operated in three major types of institution. First, it served for the yearly constitution of the Boule, the main council of Athenian democracy. Second, most of the magistracies were filled by random selection.¹⁸ Finally, all the judges were selected by lot. Citizenship entailed the unalienable right to participate in the assembly and to become a juror and selection by lot became a routine activity.¹⁹ The *kleroterion*, the allotment “machine” most likely mentioned by Aristophanes as early as 393 BC²⁰, made the procedure quicker and more straightforward, while simultaneously protecting it from any attempts at manipulation.

In Athens, however, the link between random sortition and deliberation was complex. On the one hand, the Greeks theorized a form of public debate that would involve all citizens. Nevertheless, the concrete dynamic of deliberation was differentiated according to the institutions. In the people’s assembly, an essentially contradictory debate unfolded, wherein orators attempted to convince the audience: a practice conceptualized by Aristotle as rhetoric.²¹ Nonetheless, the public could actively express their feelings speaking loudly. The practices of the *Boule* were doubtless more interactive, whereas one-on-one political discussions took place in the various public spaces of the agora. In the courts, on the contrary, juries were required to form their opinion by listening to the various parties but without deliberating, as all discussion among jury members was prohibited.

The coupling of rotation of the functions of power with selection by lot became a highly rational procedure which was particularly effective in warding off the professionalization of political activity and the monopolization of power by experts in a realm cut off from the citizenry.

¹⁷ James Fishkin, *The Voice of the People. Public Opinion & Democracy* (New Haven/London: Yale University Press, 1997, p. 162).

¹⁸ Mogens Herman Hansen, *Athenian Democracy in the Age of Demosthenes* (Oxford: Basil Blackwell, 1991, pp. 231-232).

¹⁹ Aristotle, *The Politics* (Harmondsworth: Penguin, 1962, III: 2, 1275a); Aristotle, *The Athenian Constitution* (Harmondsworth: Penguin, 1984, pp. 110-112).

²⁰ Liliane Lopez-Rabatel (2018), “Sortition in Athens: Instruments and Words”, in Liliane Rabatel, Yves Sintomer (eds.) *Sortition and Democracy. Practices, Instruments, Theories* (Exeter: Imprint Academic, 2018, forthcoming).

²¹ Bernard Manin, “Comment promouvoir la délibération démocratique ? Priorité du débat contradictoire sur la discussion,” *Raisons politiques*, 42, 2011, pp. 83-113.

Of course, the Athenian city-state excluded women and slaves from political life, and used its strength to subjugate allied cities. Within those and other important limitations, however, the Athenian way of life revolved around political activity, and citizens participated on a highly egalitarian basis in comparison with other systems known to history. Nearly 70 per cent of citizens aged over thirty were *bouletai* at least once during their lifetimes,²² and a still higher proportion were called upon to be jurors. These institutions functioned as schools of democracy, in a society with a developed civic culture where face-to-face contact made mutual checking easy to achieve. Within the relatively narrow circle of citizens, power was largely exercised *by* the people.

A crucial difference opposes Athens use of sortition and contemporary practices: the representative sample.²³ In Athens, sortition and the rapid rotation of offices enabled citizens to govern and be governed in turn. This is why, in classical political thought, random selection has been associated with democracy and elections with aristocracy. Compared to present representative democracy, Athens embodied an example of radical democracy. The contemporary use of random selection is quite different. The real likelihood of being selected for a citizen jury, a deliberative pool or a consensus conference is very low. The idea is to use sortition to select a microcosm of the citizenry, a group that has the same features and the same diversity as the citizenry, but on a smaller scale. A group of hundreds of randomly selected citizens tends to be statistically a representative sample of the citizenry as a whole. A smaller group of twelve to twenty five persons cannot be truly representative, but this “fair cross-section of the community” incorporates some of the people’s diversity. Both types of panels embody a specific kind of descriptive representation.

The notion of representative sample is familiar to twenty-first-century readers thanks to decades of its intensive use in statistics and opinion polls. This is why it seems “quite rational to see lotteries as a means to the end of descriptive representation”.²⁴ However, the representative sample is a late 19th-century invention. It was first introduced in politics with the opinion polls in the 1930s, it only became an instrument for selecting trial juries at the end of the 1960s.²⁵ and the political mini-publics in the 1970s. There could be no relation between random selection and descriptive representation in Athens, as the idea that random selection statistically leads to a cross section of the population was not scientifically available at the time. Chance had not yet been scientifically “tamed”.²⁶ Descriptive representation was important during the age of the French and North-American revolutions. Mirabeau argued that the assembly should be “for the nation what a scaled-down map is for its physical area; whether in part or in full, the copy should always have the same proportions as the original.”²⁷ But because it was impossible to rely on the notion of a representative sample, promoters of descriptive representation ignored sortition and put forward other technical solutions. Mirabeau suggested the separate representation of different social groups

²² Moses I. Finley, *The Invention of Politics* (Cambridge: Cambridge University Press, 1991, pp. 73f.)

²³ Anja Röcke, *Losverfahren und Demokratie. Historische und demokratietheoretische Perspektiven* (Münster: LIT, 2005); Yves Sintomer, *Petite histoire de l'expérimentation démocratique. Tirage au sort et politique d'Athènes à nos jours* (Paris: La Découverte, 2011).

²⁴ Peter Stone (2009), “The Logic of Random Selection” (*Political Theory* 37, p. 390).

²⁵ Jeffrey B. Abramson, *We the Jury. The Jury System and the Ideal of Democracy* (3rd edn. Cambridge (Mass.)/London: Harvard University Press, 2003).

²⁶ Ian Hacking, *The Taming of Chance* (Cambridge: Cambridge University Press, 1990).

²⁷ Mirabeau (1789) “Discours devant les états de Provence,” in *Œuvres de Mirabeau* (1825) VII:7, quoted in Pierre Rosanvallon, *Le peuple introuvable. Histoire de la représentation démocratique en France* (Paris: Gallimard, 1998).

through what we could call today corporatist methods. The Anti-Federalists proposed small constituencies.²⁸

Bernard Manin²⁹ was the first to wonder why selection by lot disappeared from the political scene along with the modern revolutions. He gave a two-part answer. On the one hand, the founding fathers of the modern republics wanted an elective aristocracy rather than a democracy, and so it was logical that they should reject random selection. On the other hand, the theory of consent, deeply rooted in modern conceptions of natural law, had gained so much ground that it seemed difficult to legitimize any political authority not formally approved by the State's citizens. These two arguments are important, but they do not tell the whole story. In particular, they fail to explain why radical minorities did not demand the use of selection by lot in politics, even though they campaigned for descriptive representation.

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

Conversely, the present comeback of random selection is also related to representative sampling. Random selection as it is practiced in politics today is inseparably bound up with that concept. In modern democracy, the deliberation of a fair cross-section of the people is not the same as the people's self-government. It gives anybody the same chance to be selected; but because this chance is very small, it does not allow all citizens to hold public office in turn. It leads instead to a mini-public, a counterfactual opinion that is representative of what the larger public opinion *could think*. John Adams wrote that the microcosmic representation he was claiming for “should think, feel, reason, and act” like the people. For contemporary deliberative democrats, the statistical similarity between “descriptive” representatives and the people is only a starting point. The mini-public has to deliberate, and during this process, it changes its mind. It begins to think somehow differently, and this is precisely the added value of deliberation.³⁰

2. THE SECOND WAVE: LIBERATING DEMOCRATIC IMAGINATION

The inventors of the first wave of deliberative mini-publics had hoped that these techniques would soon or eventually come into general use, but up to now they have had no standardized application on a large scale. This, according to Hans-Liudger Dienel, the leading expert on citizen juries in Germany, is partly due to the fact of the promoters' concern to preserve the “purity” and seriousness of procedures: “I wonder whether the protagonists of deliberative democracy, with their societal approach, with their academic and ideological culture, might be a major obstacle for

²⁸ Bernard Manin, *Principles of Representative Government* (*ibid.*).

²⁹ Bernard Manin (*ibid.*).

³⁰ Yves Sintomer, “Random Selection, Republican Self-government, and Deliberative Democracy” (*Constellations*, 17/3, 2010, pp. 472-487).

mass application of citizens juries and other direct deliberative instruments. Do they, do we, really want to leave the niche and join new coalitions to see mass application of deliberative democratic tools?³¹”

Another reason was the position of those who wanted to promote participatory democracy in politics and in the academy. They were more interested in other mechanisms and processes, such as Latin American participatory budgets, which were bound up with the social mobilization of subaltern classes or challenges to the existing order. Although advocates of participatory democracy have been attentive to the deliberative quality of new participatory procedures, they have thought of them mainly as instruments in the service of social change; they initially ignored or had a rather skeptical attitude towards mechanisms based on random selection, since by their very nature they give little scope for citizen mobilization and are mainly introduced top down³².

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

Randomly selected mini-publics and direct democracy

The first direction of innovation tends to couple deliberative democracy, embodied by mini-publics selected by lot, and direct democracy. Citizen assemblies are the most well-known examples of this trend. The first experiment was the British Columbia citizen assembly (2004), followed by the Ontario experiment the year after. British Columbia became a source of inspiration for other regions. In November 2009, Iceland was profoundly shaken by the financial crisis. Huge social movements imposed new elections and a new deal between business and unions. A citizen assembly of 950 randomly selected individuals and a few hundred qualified persons was created. The assembly was tasked with identifying the most important points for constitutional reform. Iceland repeated the process with a new assembly, this time entirely selected by lot, before using universal suffrage to elect a kind of jury from among the population, composed of twenty-five ordinary citizens responsible for elaborating a new fundamental law based on the material produced by the previous assembly. This process has led to a dead-end due to the opposition of the new ruling parties. Another experiment, in Ireland, has been more successful. Following an initiative launched by a NGO movement, a citizens’ assembly of 150 individuals met in February 2009. Calling itself the Citizen Parliament, the group sought to make suggestions for constitutional

³¹ Hans-Liudger Dienel “Les jurys citoyens: pourquoi sont-ils encore si rarement utilisés?”, in Marie-Hélène Bacqué, Yves Sintomer (eds.), *La démocratie participative inachevée (ibid., p. 105)*.

³² Tarso Genro and Ubiratan de Souza, *Orçamento Participativo. A experiência de Porto Alegre* (São Paulo: Fundação Perseu Abramo, 1997); Archon Fung and Erick Olin Wright (eds) (2003), *Deepening Democracy. Institutional Innovations in Empowered Participatory Governance* (London/New York: Verso, 2003); Boaventura de Sousa Santos (ed.), *Democratizing Democracy. Beyond the Liberal Democratic Canon* (London/New York: Verso, 2005).

reform. It was met with significant response in the media. After the 2011 election, the new government accepted the idea supported by the majority of the different parties and organized a Constitutional Convention, 67 of whose 100 members were ordinary citizens randomly selected from the electoral register. The others were politicians, in order to avoid the negative pushback from political parties that had made the adoption of the proposals coming from the citizens' assemblies in British Columbia or Ontario more difficult. From the work of the Convention emerged the proposal to legalize same-sex marriage, which was ultimately validated by a referendum in May 2015. One of the most ambitious attempts to combine deliberative and direct democracy was thus ultimately a great success³³. The process is being repeated in 2017-2018, this time about abortion and with a constituent committee entirely selected by lot. Other examples have been organized bottom-up, the most well-known being the G 1000 in Belgium³⁴.

In Oregon, one of the most interesting experiments with citizen juries has been conducted, called the Citizens' Initiative Review. Following a grassroots movement calling for deliberative democracy to be reconciled with the existing forms of direct democracy,³⁵ and benefiting from the expertise of Ned Crosby, the inventor of citizen juries, members of government from both sides of the aisle decided to institutionalize the use of randomly selected citizen panels. The Citizens' Initiative Review was officially adopted in 2011. Its principle is the following: once a collection of signatures meets with success but before voting takes place, a panel of citizen voters is organized to debate and evaluate the ballot measure in question. The panel's decision is then shared with citizens, as well as the informational material usually distributed (opinions from both an initiative's supporters and opponents). With this kind of procedure, deliberative democracy does not short-circuit direct democracy but rather increases its rational component. Moreover, it should be noted that at the end of deliberations, the panels are forced to elaborate a majority position, rather than find consensus. The proposals submitted to the jury and the popular vote have ranged from a ballot seeking to introduce a mandatory minimum sentencing measure, officially designed to deter crime, to another legalizing medical marijuana dispensaries, passing through the legalization of non-tribal casinos and corporate tax reform. The evaluations that the procedure has received have been largely positive: overall, the quality of its deliberations has been touted,³⁶ and the impact of the juries' opinions on voting has been non-negligible.

³³ Jane Suiter, David Farrell and Clodagh Harris, "The Irish Constitutional Convention: A Case of 'High Legitimacy'?", in Min Reuchamps, Jane Suiter (eds.), *Constitutional Deliberative Democracy in Europe* (Colchester: ECPR Press, 2016), pp. 33-52.

³⁴ Didier Caluwaerts, *Confrontation and Communication: Deliberative Democracy in Divided Belgium* (Brussels: European Interuniversity Press, 2012); Inge Henneman et al., *G 1000, le rapport final. L'innovation démocratique mise en pratique* (Brussels, 2012); Vincent Jacquet et al., "The Macro Political Uptake of the G1000 in Belgium" in Min Reuchamps, Jane Suiter (eds.), *Constitutional Deliberative Democracy in Europe* (ibid., pp. 53-74).

³⁵ John Gastil, *By Popular Demand: Revitalizing Representative Democracy through Deliberative Elections* (Berkeley: University of California Press, 2000).

³⁶ Katherine R. Knobloch et al., "Did They Deliberate? Applying an Evaluative Model of Democratic Deliberation to the Oregon Citizens' Initiative Review" (*Journal of Applied Communication Research*, 2013, 41 (2), pp. 105-125); Katherine R. Knobloch et al., *Evaluation report on the 2012 Citizens' Initiative Reviews for the Oregon CIR Commission* (State College: Pennsylvania State University, 2013); Katherine R. Knobloch, John Gastil, Tyrone Reitman, "Connecting Micro-Deliberation to Electoral Decision-Making Institutionalizing the Oregon Citizens' Initiative", in Stephen Coleman, Anna Przybylska and Yves Sintomer (eds.), *Deliberation: values, processes, institutions* (Frankfurt/Main: Peter Lang, 2015), pp. 21-40).

Randomly selected mini-publics and participatory democracy

A second trend of innovations make use of randomly selected mini-publics within larger participatory dynamics. Randomly selected mini-publics have been combined with participatory budgeting. The citizen juries of Berlin, organized between 2001 and 2003, were one of the most interesting examples, where Peter Dienel's planning cells have been hybridized in an interesting way (Peter Dienel himself was not satisfied with this innovation). In each of the capital's 17 districts federally targeted for urban renewal, a sum of 500,000 euros was made freely available to a group of inhabitants for the support of local projects. They were composed half of people selected by lot from the list of residents, and half of citizens organized or active in their local area. They were given decision-making powers, and the local authority endeavored to follow their advice to the limits of its jurisdiction and the legislation then in force.³⁷ The random method has also been used in the participatory budgets of other German and Spanish cities and in Pont-de-Claix (France) during the period 2001–2008.³⁸ Since 2005, and with moderate success, the Chinese borough of Zeguo has even mixed the participatory budgeting taking place in the city of Wenling (an eastern Chinese city with a population of over one million inhabitants) with a version of the deliberative polls.³⁹ Later, a quota was established to allow for the over-representation of entrepreneurs, so that this social class, important for local economic development, could wield more influence than its demographic weight would otherwise allow.

Randomly selected permanent councils within institutions and associations

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

Following a cooperation with Jams Fishkin's Stanford's Center for Deliberative Democracy, Mongolia passed a law in 2017 which makes it compulsory to organize a deliberative poll before any constitutional amendment. On April 2017, the Mongolian parliament did just that when it brought together 669 randomly selected citizens from across the country to Ulaanbaatar for the first-ever national deliberative poll on the future of the Mongolian constitution. Although negatively affected by a number of procedural defects⁴⁰, this initiative could launch a new era of institutionalization at national level for one of the most well-known mini-publics.

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

³⁷ Anja Röcke, Yves Sintomer (2005), "Les jurys de citoyens berlinois et le tirage au sort", in Marie-Hélène Bacqué, Henry Rey, Yves Sintomer (eds), *Gestion de proximité et démocratie participative*. Paris: La Découverte, pp. 139–60.

³⁸ Yves Sintomer, Carsten Herzberg, Anja Röcke, *Participatory Budgeting in Europe; Democracy and Public Governance* (London: Ashgate, 2016).

³⁹ Baogang He, "Participatory budgeting in China. An overview", in Yves Sintomer, Rudolf Traub-Merz and Junhua Zhang (eds), *Participatory Budgeting in Asia and Europe. Key Challenges of Deliberative Democracy* (Hong Kong: Palgrave, 2011); Joseph Cheng, Yu Sheh and Fan Li, "Local Government's Consultative Budgetary Reforms in China: A Case Study of Wenling City" (*China International Journal*, 13/1, April 2015, pp. 115–118).

⁴⁰ Munkhsaikhan Odonkhoo, "Mongolia's (flawed) experiment with deliberative polling in constitutional reform" (06/29/2017, <http://www.constitutionnet.org/news/mongolias-flawed-experiment-deliberative-polling-constitutional-reform>).

composed half of representatives from student associations and half of representatives supposed to speak on behalf of the Federation as a whole. Until 2011, the latter were elected. Lists were drafted by the youth chapters of the various political parties on campus and their debates were not aligned with those of the student association representatives, who were more likely to discuss the everyday problems of students than issues of partisan politics. In 2012, it was therefore decided that representatives would be randomly selected. Several variations were tried out but the general principle remained that a lottery was organized among students who voluntarily presented themselves. The first evaluations to emerge show that discussions within the Federation have become more peaceful and more constructive, but the presence of less politically informed students simultaneously strengthens the influence of the bureau, composed of more politicized volunteers who henceforth have no true political counterweight within the Federation.⁴¹

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

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

Random selection in party politics

A last trend makes use of sortition in order to select new kinds of representatives, instead of a mini-public. A series of experiments have used random selection in order to select party candidates in the frame of competitive party elections. A first experiment, inspired by the procedure of the deliberative poll, took place in 2006 in Marousi, a medium-sized town in the suburbs of Athens. 131 randomly chosen local citizens voted for who should be the mayoral candidate of

⁴¹ Maxime Mellina, *Démocratiser la démocratie? Le tirage au sort de l’assemblée des délégué.e.s de la fédération des associations d’étudiant.e.s de l’UNIL* (Master’s thesis in political science, Lausanne University, January 2016).

⁴² Dimitri Courant, *Tirage au sort et concertation dans l’armée française. Le cas du Conseil Supérieur de la Fonction Militaire (1969–2015)* (Master’s thesis in political science, EHESS, September 2015).

PASOK, the Greek Socialist Party⁴³. At the beginning of the 2010', the local Metz chapter of the French Greens randomly selected its candidates for local and legislative elections.⁴⁴

It is ultimately in Mexico that the most ambitious form of random selection has been used to choose election candidates. The procedure was intensely discussed for several years in academic circles but also in politics. It was then proposed by the *Movimiento Regeneración Nacional* (Morena), the party of the former and future left-wing presidential candidate, Manuel López Obrador, and one of the opposition's main political organizations.⁴⁵ Morena decided to select two-thirds of its candidates for the legislative election on June 7th, 2015 by using a combination of election and lottery (the other third was reserved for external candidates who were not members of the party). In each electoral district, party supporters met in assemblies to elect 10 individuals (5 men and 5 women), from which the candidates were in turn selected using a giant lottery system. This experiment has already had a significant impact throughout Latin America's second-largest country, allowing outsiders who would never have been selected to become candidates and, for some, members of the new parliament.

This mix of sortition and elections remembers the way in which a lot of electoral processes took place during the Middle-Age and Early modern period in Italian and other European communes, and at the beginning of the 19th century in Mexico. Conversely, there is no historical precedent for another innovation that introduce random selection in order to select members of party assemblies or central committees. In Spain, regional sections of the left-wing parties Izquierda Unida and Podemos also have introduced sortition within their internal procedures. In Andalusia, Izquierda Unida has randomly selected 15% of the delegates of its 2017 assembly. In Valencia and Murcia, Podemos has randomly selected 17.5% of the members of its standing committee, and the procedure should be extended to Baleares and Aragon. In France, 25% of the central committee of "République en marche!" ("Republic get started"), the new French President Macron's political organization, were randomly selected among members in 2017. The radical left-wing political movement "Les Insoumis", also used sortition in order to select among the members the 1200 delegates to its 2017 national convention, while smaller parties randomly selected their legislatives candidates or the members of their standing committees.

Selection by lot as a tool for radical democracy?

What are the main differences between the first and the second wave of experiments? A very serious challenge of randomly selected mini-publics concerns the tension between their deliberation and the wider public sphere⁴⁶. By definition, deliberative mini-publics aim to reach a counterfactual opinion of what public opinion could be – they are better informed and enjoy a reasonably satisfactory setting in which to be formulated -- that may well differ from wider popular opinion. Deliberation and participation may be presented as opposite models of democracy.⁴⁷ This must not be the case, but some trade-offs are inevitable.⁴⁸ A majority of deliberative mini-publics

⁴³ Mauro Buonocore, "Un weekend deliberativo all'ombra del Partenone" (*Reset*, 96, July-August 2006, pp. 6-8).

⁴⁴ Yves Sintomer, *From Radical to Deliberative Democracy?*, *ibid*.

⁴⁵ José Antonio Aguilar Rivera, "Las razones de la tómbola" (*Nexos*, 04/01/2015).

⁴⁶ Robert E Goodin., John Dryzeck, "Deliberative impacts. The macro-political uptake of mini-publics" (*Politics and Society*, 34, 2006, pp. 219–244).

⁴⁷ David Held, *Models of Democracy* (3rd edn. Cambridge: Polity Press, 2006).

⁴⁸ Yves Sintomer, "Délibération et participation : affinité élective ou concepts en tension ?," (*Participations. Revue de sciences sociales sur la démocratie et la citoyenneté*, 1, 2011, pp. 239-276).

of the first wave did not have much impact on the wider public sphere and in the worst case scenario, the democratic deliberation of a small circle of randomly selected citizens could replace a deliberative democracy including all citizens.⁴⁹ In such circumstances, deliberative mini-publics could be implicated in a kind of elitism, at the antipodes of radical Athenian democracy. This deliberative elitism would argue that the implication of lay citizens in politics could only ever take place within the managed arena of mini-publics, other forms of participation being suspected of contributing emotional and non-reasonable elements. The first wave of experiments were also top-down and consultative (and most often, they were only for one-shot experiments). This limited strongly their potential impact on social change. They have been successful in demonstrating the possibility of a reasonable deliberation among lay citizens – but they have not been efficacious in substantially changing the real life of citizens. Given that their existence has stemmed solely from the willingness of public authorities, it was unlikely that they could really be subversive with regard to power structures and massive injustice.⁵⁰ Reasonable discussions in modest committees are not enough to impose positive change in a world where the structural resistance of dominant interests is enormous.

Had mini-publics not entered the second wave, their legitimacy would have remained weak. We needed these bodies to become more than “just talk.” This happened with the second wave, which has opened the floor to more dynamical experiments. Because they have been characterized by hybridizations, the political imagination of practitioners has been liberated. Often, concrete experiments have not been pure examples of deliberative democracy, and deliberation has not been perfect, but a lot of them have been empowered. This is a major difference with the first wave. In addition, random selection has also been advocated within social movements such as the 15. M in Spain, Syntagma square in Greece and Nuit debout in France. There are now real grassroots movements that reclaim “real democracy now” and include in this perspective the reintroduction of random selection in politics and even Legislature by lot. For many of activists who advocate the coming back of random selection in politics, such as Etienne Chouard in France or David Van Reybrouck in Belgium, the legitimacy of this device has to do with some radical democratic quality it is supposed to have. In some cases, as in Mongolia, the sortition device has been institutionalized and rulers now *have* to organize randomly selected mini-publics. This could lead to major breakthroughs: In 2006, Ségolène Royal – who was to become French Socialist Party candidate for the 2007 presidential elections – envisaged “popular scrutiny” of political leaders and a requirement that these should “regularly give an account of themselves to citizen juries selected by lot”.⁵¹ She lost the elections but had planned to revise the constitution and introduce sortition in case of success. Important is also the fact that sortition is no more a mere supplement to representative democracy. A number of experiments have coupled deliberative with direct or participatory democracy. It is also striking that random selection has been introduced within party politics in order to make it less elitist, but has at the same time been proposed as a new path to democratization in authoritarian contexts: the well-known Chinese intellectual Wang Shaoguang, one of the most prominent figure of the “New Left”, has advocated Legislature by lot instead

⁴⁹ Simone Chambers, “Rhetoric and the Public Sphere: Has Deliberative Democracy Abandoned Mass Democracy?” (*Political Theory*, 37, 3, June 2009, pp. 323–350).

⁵⁰ Archon Fung, “Deliberation before Revolution. Toward an Ethics of Deliberative Democracy in an Unjust World” (*Political Theory*, 33, 2005, pp. 397-419).

⁵¹ Yves Sintomer, *Le pouvoir au peuple (ibid.)*.

through Western-like elections in order to make China more democratic and its political system more representative.⁵²

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

⁵² Shaoguang Wang, *Democracy, Republic and Sortition: From Athens to Venice* (in Chinese; Beijing: CITIC Press, 2018).

⁵³ Fishkin, James, “Reviving Deliberative Democracy: Reflections on Recent Experiments” (in Stephen Coleman, Anna Przybylska and Yves Sintomer (eds.), *Deliberation: Values, Processes, Institutions*, *ibid.*, pp. 99-108).

Table 1. Comparing political sortition in Athens and in the two waves of contemporary experiments

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

Source: compilation by author

3. FROM MINI-PUBLICS TO THE LEGISLATURE BY LOT

In Switzerland, starting in 2015, a group of activists called “Génération nomination” has been preparing a citizen initiative that would propose to replace the lower chamber by a sortition chamber. Although it will probably not succeed, it shows that Legislature by lot is not only a proposal from theoreticians. This was also manifest in France with *Nuit Debout*, when Legislature by lot was considered as a natural and self-evident dimension of democracy. The invention of the Welfare state in the 19th and 20th century was the outcome of quite different actors: the revolutionary labor movement and statesmen such as the German chancellor Bismarck, churches who wanted more solidarity and businessmen who wanted to sell their products to their workers... The return of random selection in politics could follow a similar path. As grassroots NGOs and social movements make their voice heard, the perspective of transforming the political system and society becomes more credible, as organized citizens embedded in their social world are necessary to impose a real democratic changes. They could encounter theoreticians interested in democratic theory, entrepreneurs or scientists disgusted with corruption and short-term political games, and politicians in search of a new profile. The Ancients thought mixed government as coupling the virtues of democracy, aristocracy and monarchy. A sortition chamber could become part of a new kind of mixed government that would couple deliberative democracy with direct, participatory and representative democracy. When linked to social, economic and ecological changes, this new mix could be understood as part of a radical democratic turn.

However, as contemporary schemes based on random selection rely on representative samples and not upon the self-rule of citizens, legislature by lot should have specific features that differ from Athenian democracy. Gordon Gibson, the creator of British Columbia’s Citizen Assembly and former councilor of the Prime Minister, justified the experiment in the following manner: “We are... adding new elements to both representative and direct democracy. These new elements differ in detail but all share one thing in common. They add to the mix a new set of representatives, different from those we elect... The idea of deliberative democracy is essentially to import the public interest, as represented by random panels, as a muscular third force. The traditional representatives we elect are chosen by majority consensus, for an extended period, as professionals, with unlimited jurisdiction to act in our name. The new kinds we are talking about are chosen at random, for a short period, as lay citizens for specified and limited purposes.”⁵⁴ When widely used: for a sortition chamber, in party politics and in social movements, sortition could be even more significant by coupling strong participatory elements to the deliberative ones. It should contribute to the pluralization of the forms of democratic legitimacy.⁵⁵ Focusing on a sortition chamber, and drawing the lessons of the two waves of experiments, I will conclude by highlighting some of its key features.

Randomly selected bodies should be institutionalized: their organization cannot be let to the arbitrary of rulers. These bodies should be empowered and have a real decision-making power: a counterfactual and merely consultative enlightened public opinion alone will not be able to really change the life of citizens. There will not be one perfect model which could apply everywhere: democratic innovations are always hybridized and highly influenced by the context and path-dependencies. To give an example: in a federal system, a sortition chamber should probably be a

⁵⁴ Gordon Gibson, “Deliberative Democracy and the B.C. Citizens’ Assembly”, speech delivered on 23 February 2007.

⁵⁵ Pierre Rosanvallon, *La contre-démocratie* (*ibid.*).

third chamber. This is why the following lines wish to indicate more a direction rather than a rigid standard.

Legislature by lot empowers a random selection of the people and not the all citizenry; its concrete institutional design should take this crucial feature into account. First of all, experience shows that randomly selected mini-publics work much well when they have to focus on a specific issue rather than on general topics. This is why a sortition chamber should take the form proposed by David Owen and Graham Smith: As the Athenian popular courts, the sortition chamber should be a popular body of 6,000 citizens, and pools of members will be frequently randomly selected for participation in mini-publics working on concrete issues. The 6,000 body would itself be rotated on a regular basis of one to a few years.⁵⁶

What would be the topics at stake? History shows that selection by lot have had a clear advantage over other forms of selection, including elections, when the imperative of impartiality is high (either because a conflict of interest is probable, such as in the case of an elected chamber reforming the electoral law, or because of massive tradeoffs and complex modeling of dynamic systems, such as those involved in long-term environmental policies). In modern democracies, elected officials, experts and organized interests have a strong tendency to defend particular interests. Conversely, legislature by lot will tend to recruit non-partisan people without career interests to defend, encouraged by the deliberative procedural rules to reach a judgment tending towards the public interest. In addition, when both representative and direct democratic have difficulties to represent the values at stake, legislature by lot is a good alternative. This is the case when it comes to dealing with the preservation of the ecosphere and living conditions for future generations. This is why a sortition chamber should have three main tasks: defining the rules of the political game, proposing solutions to highly controversial issues, such as the lesbian and gay marriage or abortion in Ireland, and legislating upon the long term.⁵⁷ In order to increase the legitimacy of its most important decisions, it is probable that they should be validated by referendums at large: the coupling of a sortition chamber and direct democracy that has been experimented several times seems promising.

What would be the legitimacy of the sortition chamber? In addition to its impartiality, its democratic nature will be crucial. As Lynn Carson and Brian Martin put it, “The assumption behind random selection in politics is that just about anyone who wishes to be involved in decision-making is capable of making a useful contribution, and that the fairest way to ensure that everyone has such an opportunity is to give them an equal chance to be involved.”⁵⁸ In addition, the deliberative quality of randomly selected mini-publics focusing on a specific issue is high, and usually much better than the one of elected chambers. Deliberation by lay citizens conducted in good conditions leads to reasonable results. A representative sample or a fair cross section of the people has epistemological advantages over representative government and committees of wise men: good deliberation must include diverse points of view, so that the range of arguments considered will be

⁵⁶ David Owen and Graham Smith, “The circumstances of sortition” (in John Gastil and Erik Olin Wright (eds.), *Legislature by Lot*, *ibid.*).

⁵⁷ Dominique Bourg *et alii*, *Pour une sixième République écologique* (Paris: Odile Jacob, 2011); Rupert Read, *Guardians of the Future. A Constitutional Case for representing and protecting Future People* (Weymouth: Green House, 2012); Michael K. MacKenzie, “A General-Purpose, Randomly Selected Chamber” (in Iñigo González-Ricoy and Axel Gosseries (eds.), *Institutions for Future Generations*. Oxford: Oxford University Press, 2017).

⁵⁸ Lynn Carson, Brian Martin, *Random Selection in Politics* (*ibid.*, pp. 13–14).

broader and discussion will be more inclusive.⁵⁹ Randomly-selected mini-publics have the advantage of being socially – and therefore epistemologically – richer than committees of experts or of political leaders, but also than publics where participants come purely from volunteers or from already organized civil society. This input is important in a world of increasing complexity. Last but not least, a specific kind of accountability will be developed in the sortition chamber. It is often claim that the advantage of election compared to sortition is that elected politicians are accountable to their constituency, when randomly selected citizens are not. In fact, this is far from evident, and not only because the real accountability of politicians is questionable. Sociological observation of contemporary mini-publics clearly shows that citizens who have been randomly selected feel to be strongly accountable. Firstly, to the public authority that initiates the process. Secondly, to each other: a distinctive feature of the mini-publics is that those who are perceived as speaking for a particular interests rather than for the common good are quickly marginalized; either they rectify their behavior, which happens in most cases, or their voice does not count anymore. Thirdly, citizens who take part in a mini-public feel accountable to the wider public that they represent. When dealing with the future of the ecosphere, a sortition chamber could bring a clear benefit compared to an elected one: when the later feels accountable to its electors (and in some cases to the donors who finance the elections), the former would more easily be accountable to future generations, a group that does not exist yet.

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

⁵⁹ Landemore, H. (2012) *Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many*. Princeton: Princeton University Press; Elster, J. (2013) *Securities Against Misrule. Juries, Assemblies, Elections*. Cambridge: Cambridge University Press.

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