

Should Democracy Work Through Elections or Sortition?

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The current state of representative democracy in many countries is deeply troubling. For many progressives, reforming the national legislature has meant establishing proportional representation and strict campaign finance regulation. The former serves to increase the representativeness of the electoral system, and the latter tries to limit the distorting effects of money on politics.

Yet in recent years, a number of bolder proposals have emerged, whose advocates argue that the defects of representative democracy would be better cured by establishing a legislature by lot. As with Gastil and Wright's lead essay in this volume, such proposals would have us select members of the legislature at random from the population at large. Some have argued for a bicameral system involving an elected chamber alongside a sortition chamber.¹ Others have argued more radically, and often more polemically, for the exclusive use of sortition, with the abolition of elections altogether.²

On hearing such suggestions, most contemporary democrats will be skeptical of the idea of a legislature by lot, as they share the conventional view that democracy fundamentally *means* elections. Yet it is instructive to recall that for more than 2000 years, from Pericles to Montesquieu, democracy was associated with lot, whereas elections were thought to go hand-in-hand with oligarchy. It is only in the last couple of hundred years that our culture has become certain that democracy means elections.³ One of my central goals in this paper is to help us unlearn this relatively recent certainty.

The question for progressives, and really for everyone who believes in democracy, is this: Are democratic ideals better served by elections or sortition? Is the ideal national legislature elected, chosen by lot, or some combination thereof?

To properly answer this question, I hope to provide a careful, balanced, and systematic comparison of the strengths and weaknesses of each alternative. In particular, I will emphasize the tensions and tradeoffs that may exist when designing institutions to satisfy a variety of democratic values.

There is too little comparative work in the contemporary literature. Of course, almost all of the discussion of sortition involves at least some commentary on its supposed advantages vis-

¹ In addition to the lead essay of this volume, see Ernest Callenbach and Michael Phillips, *A Citizen Legislature* (Exeter: Imprint Academic, 2008); Alex Zakaras, "Lot and Democratic Representation: A Modest Proposal," *Constellations* 17, no. 3 (2010); Kevin O'Leary, *Saving Democracy* (Stanford, CA: Stanford University Press, 2006).

² Terry Bouricius, "Democracy through Multi-Body Sortition: Athenian Lessons for the Modern Day," *Journal of Public Deliberation* 9, no. 1 (2013); Alexander A Guerrero, "Against Elections: The Lottocratic Alternative," *Philosophy & Public Affairs* 42, no. 2 (2014); Brett Hennig, *The End of Politicians* (London: Unbound, 2017); David Van Reybrouck, *Against Elections* (London: The Bodley Head, 2016).

³ Bernard Manin, *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997).

à-vis electoral democracy, but there are very few attempts to systematically compare the two.⁴ Moreover, much of the work on sortition that involves a contrast with elections suffers from a deep methodological flaw of comparing the *contemporary empirical reality* of the US electoral system, warts and all, with a *future ideal* of sortition.⁵

Thus, to understand the pros and cons of elections and sortition, I will contrast an imaginary, well-functioning, realistic, and imperfect electoral body (with proportional representation and strong campaign finance regulation) with an imaginary, well-functioning, realistic, and imperfect sortition body (with a membership drawn from the population randomly, who undertake carefully moderated learning, deliberation, and, public consultations).⁶ In doing so, I will distinguish between features of these rival systems that are *contingent* (i.e., those that good institutional design might mitigate) versus aspects that are *inherent* (i.e., those that flow from the very logic of the system itself).⁷

I begin by outlining the key values that democrats want their systems to possess. These values will be the measuring sticks for the comparison that follows. On the basis of these values, we compare a purely elected legislature with a purely sortition legislature, with the assumption that each have the full decision-making powers normally possessed by national legislatures. This big-picture analysis will allow us to get a clearer view of the strengths and weaknesses of the respective systems, the tradeoffs, as well as the open questions that still exist.

In what follows, I compare elections and sortition on the basis of their ability to fulfill key democratic values:

1. *Political Equality* (meaning that each adult has roughly similar access to influence over government policy). In order to assess this, we examine the issues of (i) the descriptive representation of the population in the legislature; (ii) the reduction of the influence of money, and the power of the rich, on politics.
2. *Popular Control* (meaning that the legislature is responsive and accountable to the people).

⁴ Probably the works that come closest to this are: Anthoula Malkopoulou, "The Paradox of Democratic Selection: Is Sortition Better Than Voting?," in *Parliamentarism and Democratic Theory*, ed. Kari Palonen and José María Rosales (Toronto: Budrich, 2015). Peter Stone, "Sortition, Voting, and Democratic Equality," *Critical Review of International Social and Political Philosophy* 19, no. 3 (2016). And Arash Abizadeh, "Representation, Bicameralism, and Sortition: Reconstituting the Senate as a Randomly Selected Citizen Assembly," (?) Yet even these are quite different from the systematic comparison attempted here.

⁵ See, for instance, Hennig; Callenbach and Phillips.

⁶ The analysis here cannot be fully comprehensive. A comprehensive account would need to consider all three of the main mechanisms of democracy: elections, sortition, and referenda/initiative, as well as complicated combinations thereof.

⁷ This is not meant as a hard-and-fast distinction, rather as a useful heuristic.

3. *Deliberative and Impartial* (meaning that government decisions are based on good deliberation, and so are reasonable, open-minded, thoughtful, and aimed at the common good, or at least a fair compromise).
4. *Competency* (meaning that decision makers are able to come to well-informed decisions).

Political Equality

In considering political equality, I look first at descriptive representation and then at the influence of unevenly distributed wealth on the political system. Both bear on the argument for sortition, but in very different ways.⁸

Descriptive Representation

Across the world, electoral systems tend to produce low levels of descriptive representation, with wealthy, middle-aged males being overrepresented. This descriptive unrepresentativeness appears to be an inherent feature of electoral democracy. Empirically, we see it even in places like Sweden, with well-functioning proportional representation systems. In the Swedish Riksdag, the young (age 18-40) make up only 10% of MPs, yet 44% of the electorate; blue collar workers make up 9% of MPs and 41% of the electorate; and the low-educated make up 12% of MPs and 44% of the electorate. Moreover, while there has been progress over the years in getting more women into parliament, other groups have seen no progress at all. Over the last fifty years, the number of working-class members of parliament has actually decreased.⁹

The very logic of election leads to unrepresentativeness because those who have the time, money, connections, and profile required to run successful campaigns are likely to be, on average, wealthy, educated, and from dominant social positions. This is the Janus-faced nature of elections that Manin points to: The democratic aspect that everyone can choose, co-exists with the undemocratic aspect that it is elites who invariably tend to be chosen.¹⁰

By contrast, sortition would be much more descriptively representative, as a random sample (presuming it is large enough) or a stratified sample would produce what John Adams memorably referred to as an assembly that is “in miniature an exact portrait of the people at large.”¹¹

To see how dramatic a change this would be, consider what would happen if the US Senate were to change overnight from an elected to a sortition house. The number of males would go from 79% down to 49%, while the number of females would go up from 21% to 51%; the number of whites would go down from 90% to 77%, and the number of Blacks and Hispanics

⁸ Also of relevance here is the important issue of the political equality of minorities, which I must bracket for space constraints, but see footnote 43.

⁹ Peter Esaiasson and Soren Holmberg, *Representation from Above: Members of Parliament and Representative Democracy in Sweden*, trans. Janet Westerlund (Aldershot: Dartmouth, 1996).

¹⁰ Manin.

¹¹ James Fishkin, *When the People Speak* (Oxford: Oxford University Press, 2009), 17.

would go up from 3% and 4% to 13% and 18%, respectively. Sortition members would be significantly younger (the average Senator is 62 years old), and less educated (76% of Senators have more than a bachelor's degree). Finally, the Senate would cease being a club for millionaires; the median Senator is worth \$3,100,000, and the chamber consists mainly of lawyers, professional politicians, and business people. These would be replaced by wage workers, caregivers, unemployed youth, retired seniors, and others – with a median net worth of \$45,000.¹² This government of caregivers and workers has, at least rhetorically, been a longstanding goal of socialist activists and parties, but it is one that has never come close to being realized through elections.¹³

If an electoral body would be less descriptively representative than a sortition body, does this matter? The evidence shows that, compared to white politicians, racial minorities are more supportive of legislation that is important to such minorities.¹⁴ Compared to male legislators, female politicians are more likely to support feminist public policy.¹⁵ Working-class politicians are more likely to support progressive economic legislation than are their upper-class counterparts.¹⁶ In sum, those groups underrepresented in electoral bodies are likely to have their interests better represented by a randomly selected body. With regard to political equality, this is a major point in favour of sortition.

Political Equality and the Influence of Money

The distortions caused by uneven distributions of wealth hamstring ostensibly democratic systems. A well-functioning electoral system will have stringent regulations around money in politics, such as contribution limits, campaign spending rules, public financing, disclosure

¹² Most of these statistics refer to the 115th Senate, except for the median wealth, which refers to the 114th. Tami Luhby, "America's Middle Class: Poorer Than You Think," CNN. Jennifer E. Manning, "Membership of the 115th Congress: A Profile," Congressional Research Service. Open Secrets.org

¹³ Thinking along these lines, Bouricius approvingly cites Marx's famous comment that "the working class cannot simply lay hold of the ready-made state machinery, and wield it for its own purposes." Terrill Bouricius, "Why Hybrid Bicameralism Is Not Right for Sortition," (?).

¹⁴ David E Broockman, "Black Politicians Are More Intrinsically Motivated to Advance Blacks' Interests: A Field Experiment Manipulating Political Incentives," *American Journal of Political Science* 57, no. 3 (2013); David T Canon, "Race, Redistricting, and Representation," (Chicago: University of Chicago Press, 1999); Kenny J Whitby, *The Color of Representation: Congressional Behavior and Black Constituents* (Ann Arbor: University of Michigan Press, 1997).

¹⁵ Michael B Berkman and Robert E O'Connor, "Do Women Legislators Matter? Female Legislators and State Abortion Policy," *American Politics Quarterly* 21, no. 1 (1993); Kathleen A Bratton and Leonard P Ray, "Descriptive Representation, Policy Outcomes, and Municipal Day-Care Coverage in Norway," *American Journal of Political Science* 46, no. 2 (2002); Michele Swers, "The Difference Women Make: The Policy Impact of Women in Congress," (Chicago: University of Chicago Press, 2002).

¹⁶ Nicholas Carnes, "Does the Numerical Underrepresentation of the Working Class in Congress Matter?," *Legislative Studies Quarterly* 37, no. 1 (2012); Nicholas Carnes and Noam Lupu, "Rethinking the Comparative Perspective on Class and Representation: Evidence from Latin America," *American Journal of Political Science* 59, no. 1 (2015); Nathalie Giger, Jan Rosset, and Julian Bernauer, "The Poor Political Representation of the Poor in a Comparative Perspective," *Representation* 48, no. 1 (2012).

requirements, and restrictions on certain types of third-party campaigning. Reforms like these can mitigate the influence of money but never eliminate it. Though outright corruption or bribery will grab occasional headlines, the real problem stems from the very DNA of elections themselves. An absolute precondition of getting elected is for politicians to become well-known. Yet all else equal, those with more money will inevitably fare better at communicating their message and mobilizing their base than their rivals. Therefore, it seems likely that electoral democracy, regardless of the campaign finance rules, will always be somewhat biased towards the rich.

What about a sortition chamber, which has—as Gastil and Wright suggest—full legislative power, and membership tenure lasting several years? Advocates of sortition often take for granted that such a system would result in far less corruption or policy distortions favoring wealthy interests.¹⁷ Indeed, choosing political representatives by random selection could immediately break up the networks of power, influence, lobbying, and patronage surrounding elections.¹⁸ This fact, however, in no way guarantees that sortition representatives will *continue* to be insulated from financial influence over time.¹⁹

Unfortunately, we have no clear analogies or empirical evidence to guide us here. Though Gastil and Wright point to minipublics as precedent, there is, in fact, a vast difference between the Citizens' Assemblies convened in British Columbia and Ontario and a full bore sortition chamber. I call this the *scale-transformation* problem: whereas the Citizens' Assemblies only had the power to suggest a proposal to be voted on by the electorate, a sortition chamber would have full legislative authority to levy taxes, criminalize dissent, democratize workplaces, or even declare wars (albeit alongside an elected chamber in Gastil and Wright's proposal). Such powers mean that wealthy individuals and powerful corporations would have enormous incentives to influence how sortition members vote. In the US today, for example, there are roughly twenty lobbyists per Congressperson.²⁰ Another major difference is the long tenure. Whereas the Citizens' Assemblies met for less than thirty days in total over the course of a year, sortition members would be in power for much longer—up to five years in Gastil and Wright's proposal. The danger here is that the longer the period in which one is in power, the more susceptible to corruption one becomes.

Imagine that through selection by lot, a number of people get selected who we might call Cynical Self-Seekers. They participate purely for personal financial advancement and seek bribes or more indirect rewards, such as offers of future employment. With neither an interest in politics nor a concern for the common good, what prevents them from putting their votes up for sale?

On the one hand, I believe this danger is greater than most commentators have assumed. The temptations will be great. Moreover, sortition members would not have the standard

¹⁷ Gil Delannoi, Oliver Dowlen, and Peter Stone, *The Lottery as a Democratic Institution* (Dublin: Policy Institute, 2013); Abizadeh.

¹⁸ Oliver Dowlen, *The Political Potential of Sortition* (Exeter: Imprint Academic, 2008).

¹⁹ David Owen and Graham Smith, "The Circumstances of Sortition,"? (?).

²⁰ Hennig, 71.

restraints of accountability to constituents or to a political party, which can discipline individual members who threaten its collective reputation.

On the other hand, good institutional design could address these dangers. Protective measures could include: a significant initial training period, which stresses norms of public service, honesty, and transparency; requiring members to take an oath to serve the public interest; allowing members to recommend the removal of other members who demonstrably lack integrity and commitment (e.g., by not showing up to meetings or participating in the deliberation, or being drunk, disruptive, or disrespectful); increasing the size of a sortition chamber to, say, 1,000 people to dilute the utility of bribing a given individual; requiring members to disclose their personal finances during their term in office and for five years following; banning members from accepting any public office for five years following their term; and having strong penalties, including jail terms, for both the briber and the bribed. If all of these measures were in place, I suspect that most Cynical Self-Seekers would decline to serve, given the difficulties of gaming the system and the severity of the risks involved.

Overall, the main difference between the systems is that elected politicians are systemically biased towards money because they must campaign for election or re-election, whereas sortition members are free from such pressures. Though money will have indirect influence on any system of government, the sortition body again fares better in this second dimension of political equality.

Popular Control

In many ways, the heart of democracy is the ideal of popular control and accountability. When a political system's scale is so large that the people cannot directly govern themselves, democracy requires representatives to act on the public's behalf. For this to work properly, accountability is essential. So let us now consider the strengths and weaknesses of elections and sortition in this regard.

For an electoral system, the major limit to accountability stems from the independence that elected politicians have from their constituents when making decisions. One problem is that elected politicians have little to no incentive to respond to constituents from other parties. Moreover, a vote for a candidate—or even for a party—is a blunt instrument to signal one's complex policy preferences. Party discipline, which candidates owe to the party that then steers their votes once in office, further limits a candidate's responsiveness to constituents. Finally, most policymaking involves both opacity and complexity,²¹ which makes it difficult for constituents to grasp the consequences of representatives' votes on their behalf.

Nonetheless, a well-functioning electoral system still provides a certain degree of blunt accountability.²² Whereas party discipline does restrain individual representatives, it also allows for accountability in a collective sense by transforming platform promises into policy. Political

²¹ Guerrero.

²² Adam Przeworski, Susan Stokes, and Bernard Manin, eds., *Democracy, Accountability, and Representation* (Cambridge: Cambridge University Press, 1999).

parties can also tackle complexity and opacity by foregrounding its broadest contrasts with opposing parties. At their best, parties give constituents real choices in terms of broad values and policy priorities. Elections then give voters the chance to hold parties accountable for delivering, or failing to deliver, on those promises. Indeed, anyone doubting the significance of such choices is insensitive to the consequences of electing, say, Donald Trump as opposed to Hillary Clinton.

What about sortition? Since members are not elected, there are no direct mechanisms of accountability in the usual sense. However, Phillip Pettit has argued that sortition does provide a kind of popular control, which he refers to as “indicative.”²³ To borrow Pettit’s example, if I want to have some accountability over, say, a new university committee that has been convened to investigate how to make philosophy more appealing to female students, one way to do this is to have the committee members run for election. But another way is to establish a system (such as sortition or stratification) which ensures that some of the members are “like me” in that they share my values and principles and are likely to make the same decisions I would make if I were on the committee. If such people really are similar enough to me, then Pettit is right that ensuring their presence really does give me some influence and control over what happens. The argument is similar for a sortition body: If the descriptive representation works well so that some of the members are “like me” in their values, then there is indeed a kind of popular control here. Granted, I do not have any direct control over the decision makers, but if I can ensure that the process includes people “like me,” then I do gain some indirect control over the decisions made.

The difference between election and sortition is that while both provide popular influence over representatives at the initial time of selection, as time goes by there is no way for regular people to continue to exert real influence over sortition members. Citizens can try to participate at a public consultation, but only a small number of members will be able to listen to a very small proportion of the citizenry, and even those citizens who do get the chance to participate have no power to make members listen; sortition members are always free to ignore them without consequence. The difference with elections, of course, is that they give representatives continual incentives to be sensitive and responsive to the desires of their constituents. Another problem with sortition in this regard is that in such a system regular citizens do not get to participate in the formal political system at all. A vote once every few years is not a lot of political participation; but it is meaningful. Under sortition, there is a sense in which the people would be disenfranchised from the political process. What is particularly worrying here is the lack of clear, formal channels for citizens to transform their dissent into political power, and the frustration this might generate. If citizens cannot collectively mobilize through elections to get what they want in a legal, non-violent way, the incentive to look to extra-constitutional means becomes that much greater.

Another issue relevant to the idea of accountability is whether the deliberations and the final vote should be public or held in secret. There is a difficult tradeoff here: secrecy may improve the quality of deliberation, as it makes it easier for members to give up old positions and change their minds; secrecy of final votes may also help with the problem of corruption, since prospective bribers would be unable to verify how any representative voted; secrecy can also

²³ Philip Pettit, "Representation, Responsive and Indicative," *Constellations* 17, no. 3 (2010).

protect the decision makers from the embarrassment of being shamed or ridiculed (a real prospect in the age of social media). On the other hand, the more that decisions are made in secret, the less accountable the decision-making process.

There is no easy answer here, and I would not pretend to have total confidence in the solution, but my considered judgement is, contra Gastil and Wright, that while occasional deliberations may be confidential, final legislative votes should probably be public. This is because the central weakness of sortition is its lack of accountability, and so we should not exacerbate the problem further. It seems hard to believe that the general public could accept having major decisions made in secret. That would mean having a legislature where not only can we not throw the scoundrels out, we cannot even know which scoundrels are making the decisions that are impacting us. That strikes me as a step too far. Allowing sortition members to stay barricaded behind the walls of secrecy does protect them from ridicule, but it also removes them too far from the push and pull of the public sphere. In a democratic society, accountability requires transparency: the right to know precisely who is making decisions, to look them in the eyes and demand the reasons for their actions. An important aspect of accountability is lost if we cannot expose actual human decision makers to public scrutiny and contestation, and to put pressure on them to take account of what the people think.

If the decision makers are known, then members of the public can try to exert the pressures of public discourse. The public can try to persuade, convince, shame, encourage, support, and morally exhort sortition members (though threats, malicious slander, and hate speech should be illegal). Decision makers will know and feel that their final votes are being watched.²⁴ If, on the contrary, the decision makers are unknown, then activists cannot communicate with them, cannot write letters, cannot invite sortition members to participate in public debates, cannot send representatives of social movements to reason with them, cannot hold protests or vigils outside their office, and so on. In this way an important avenue of accountability is lost.

This would mean that sortition members have to account to the public and media for their votes. That would certainly be an intimidating thing for regular people to do. But note that the pressures on them are somewhat different than for elected politicians. Before a vote takes place, it would be completely acceptable for a sortition member to avoid media questions by simply saying, “I don’t yet have a firm opinion; we are still learning and deliberating.” That is legitimate in a way that it would not be for elected politicians, who are always supposed to have a confident answer to every question. This fact would significantly ease potential embarrassment. After the vote, however, sortition members should have to face the music, and explain to the public why they voted the way they did.

In sum, elections offer blunt accountability—perhaps more via parties than individual candidates. Sortition gives the public a kind of control over the selection process, but it lacks the

²⁴ This knowledge by itself may be enough to alter behavior. Consider the famous psychological experiment where merely having an image of a pair of eyes near a donation box encouraged people to behave more responsibly in paying for the coffee and tea they were drinking. Kahneman, D. (2011). *Thinking, Fast and Slow*, Toronto: Doubleday, p. 57-58.

disciplining function provided by elections. Making sortition members' final votes public would somewhat help with accountability, though it also risks opening up members to ridicule and censure. All in all, elections do better on this score.

Deliberation and Impartiality

Ideally, a democratic body should make decisions through high quality deliberation. The people's representatives should be honest, thoughtful, open-minded, impartial, and public-spirited—asking not, “what is best for *my group*?” but “what is best for *all of us*?” A chamber populated by such persons would establish consensus where possible, fair compromises when appropriate, and always let the unforced force of the better argument prevail.

How well do elections serve this end? One problem is that the public who does the electing is often extremely uninformed.²⁵ The inherent logic of electoral competition undermines the possibilities for good deliberation. There are at least four reasons for this. First, the skills and traits most useful in elections are in many ways the opposite of those of good deliberators. Second, electoral competition creates a strong and continual incentive to “score points”—to never give one's opponents “a win,” even if doing so would better serve your own constituents' interests. Indeed, few things can deflate one's enthusiasm for democracy more than watching parliamentary discussion, with its incessant mudslinging, booing, clapping, and stomping. Third, electoral competition leads representatives to focus on short-term solutions, for which they can claim credit.²⁶ Such competition also stunts political learning, since veteran politicians can be punished by party and voters alike for changing their minds.

What about sortition? We cannot simply assume that bringing people together results in good deliberation. Designing the conditions for quality deliberation is a difficult task—part art, part science, as Lyn Carson shows in her contribution to this volume.²⁷ Using this knowledge, it is plausible to envision a well-functioning (though imperfect) sortition chamber, divided up into the major branches of public policy, where members engage in periods of learning from diverse experts, regular public consultations, and on-going small-group deliberation. Skillful moderation and facilitation can foster relatively equal member participation and a respectful, caring, atmosphere, especially if some discussions happen in closed sessions, free from the pressures to perform that come from publicity.

None of this will happen automatically; it will require a carefully managed infrastructure of resources and support, skillful facilitators, and administrative oversight. Since the administrators and facilitators must play a key role in the sortition body, we must carefully structure this background infrastructure (which we might call the Office of Deliberative

²⁵ Ilya Somin, *Democracy and Political Ignorance* (Stanford, CA: Stanford University Press, 2013).

²⁶ Guerrero.

²⁷ See also, John Dryzek and Carolyn Hendriks, "Fostering Deliberation in the Forum and Beyond," in *The Argumentative Turn Revisited*, ed. Frank Fischer and Herbert Gottweis (Durham: Duke University Press, 2012); Fishkin; David M Ryfe, "Does Deliberative Democracy Work?," *Annu. Rev. Polit. Sci.* 8 (2005); Lyn Carson, "How to Ensure That a Randomly-Selected Legislative Chamber Functions Successfully,"? (?).

Administration). It will need to be staunchly neutral on all ideological and policy questions and concern itself only with the practical matters of deliberation, such as procuring experts.

How exactly this Office should operate remains an open question of utmost importance for future research, since it must not be allowed to influence the sortition chamber (for instance by only selecting experts from one side of an issue) or be captured by partisan interests.²⁸ One possibility might be to require the Office to prepare regular reports of its activities, then appear before a committee of the sortition chamber to justify and explain its actions. The sortition members could have some authority to hire, fire, or reconstitute aspects of the Office, since the sortition body itself has a vested interest in maintaining its legitimacy by showing itself to be a rigorously deliberative and non-partisan space.

Advocates of sortition insist that a legislature by lot would perform significantly better than an elected chamber in terms of deliberation and impartiality. Without party discipline or the need to pander to any constituency, members would be free to listen to each other, learn, change their minds, and be guided by the force of the better (and, I would hope, more caring) argument. Moreover, the descriptive representation of the body means that it would be much more socially varied—encompassing the experiences of not just rich, white men, but women, the poor, renters instead of owners, and employees instead of employers. As a result, it would be epistemically richer. Indeed, a wealth of recent experiences with minipublics shows that, under the right conditions, citizens can engage in high-quality deliberation.²⁹

Beyond this, there is one serious caveat to the deliberative potential of a legislature by lot, which is whether the long tenure of members would lead to factions or parties emerging, thereby undermining the quality of deliberation. Recalling the scale-transformation problem, minipublics have little to say on this issue, given their short lifespans and limited authority.

In bicameral sortition models like the one proposed by Gastil and Wright, there are several sources of pressure pushing toward factionalization. Elected politicians will have a strong interest in actively lobbying sortition members to join their party—if not formally, then at least as informal political allies. A long tenure means that sortition members themselves will have an incentive to self-organize into factions and coalitions, to be more effective in getting their preferred legislation passed.

On the other hand, one of the strongest motivations to form parties in the first place—winning elections—would be absent. The sortition chamber would have a deliberative structure of small group discussions, learning, and facilitated exchange of ideas. These encourage people to not just stick to one position, but to evolve in an open-minded way. Additionally, the members themselves have at least some motivation to not form political parties or obvious coalitions, as their own legitimacy (and hence power) depends on being able to convince the public that they are impartial deliberators. Overall, it seems unlikely that a sortition chamber would become as

²⁸ This is a difficult, but not impossible. Consider, for example, the functioning of the Congressional Budget Office in the U.S. Congress, and other such similar bodies, that manage to perform an important technical service while staying quite ideologically neutral.

²⁹ For an overview of this evidence, see Fishkin.

rigidly factional as electoral chambers, so we can expect sortition's deliberation to be somewhat better. Yet we should take note of the tradeoff here: Longer tenure leads to more competency (as members become expert in their various policy areas), but it may also increase the likelihood of rigid factions forming and deliberation deteriorating.

In sum, electoral systems rarely create the conditions for good deliberation. A sortition chamber has greater potential to deliberate impartially, with less posturing and factionalism. It is fair to say that advocates of sortition are justified in having some optimism on this score, though the lack of evidence from really existing sortition bodies means that it should be optimism of a cautious sort.

Competency

Every now and then, a politician will get elected who is strikingly incompetent. Donald Trump is a paradigmatic example,³⁰ but such cases are the exception, not the rule.

Getting elected usually requires a long period—often years—of participating in local politics, working one's way up the party ladder, hosting events and fundraisers, engaging in debates and interviews, persuading other party members to select you as a viable candidate, then convincing tens of thousands of strangers to trust you. This grueling process usually weeds out incompetent people. Political parties also play an important role in generating policy expertise. It is not necessary (nor would it be possible) for individual politicians to be experts on all of the different policy areas; belonging to a party provides politicians with a massive infrastructure of knowledge and shared policy goals. Thus, while we should not exaggerate the competency of elected officials, electoral systems tend to generate competency.

By contrast, this criterion poses a challenge for sortition. Will random members of the public prove capable of understanding and making sound decisions on complex policy problems? Consider two types of people that could be problematic for a sortition chamber, who I refer to as the Unknowledgable (e.g., a high-school drop out with a learning disability) and the Ideologue (e.g., a committed white supremacist or doctrinaire Leninist).

The Ideologue poses a manageable problem, as it would become obvious to other members that such an individual is close-minded, unwilling to work in a deliberative spirit, or disrespectful. In extreme cases where the Ideologue becomes altogether disruptive, members should be able to recommend their expulsion. In more common instances, the sortition body can work around such a person, or simply ignore them.

The issue of the Unknowledgeable sortition member is more difficult. It seems likely that most would not volunteer to participate in the first place. Those that do might be educated in general knowledge and helped to develop their capacity for judgement—but only partially. The

³⁰ By competency I mean, loosely, the possession of general political knowledge of how society works (how the basic institutions function and what the major conflicts and fault lines in society are), as well as the ability to arrive at rational judgements (by understanding new information, learning, and drawing conclusions that coherently reflect underlying values).

sortition chamber faces a tradeoff in that it could impose some basic competency requirements (e.g., basic literacy, or a high-school diploma) to prevent the worst problems of incompetency, but this would also reduce the descriptive representativeness of its membership.

In addition to the problem of the Unknowledgable, another deep competency problem flows from the scale-transformation issue. Since a sortition chamber would be so much more complex than a minipublic, such as a Citizens' Assembly, even its more knowledgeable members may not prove competent—at least by comparison with the average elected official.

Consider some of the details about what an all-purpose sortition chamber would have to do. Every year there would be hundreds of bills to discuss, from very different policy fields, each with their own histories and problems, and each requiring its own expertise. Moreover, bills from one policy area would invariably affect very different areas, which means that amending and voting on such bills will require competency *not only* in one's own policy area but in all the connected areas. This is likely to be a frequent problem because issues often interact with others, and commonly—indeed *very* commonly—bills will affect others because of budgetary constraints.

Almost every political issue affects the budget because policy solutions compete for the use of limited revenues. This is precisely where a Citizens' Assembly diverges from a sortition chamber. Citizens' Assemblies have, for good reason, generally focussed on the rare political issues that do not involve money, such as electoral reform or gay rights. This makes them vastly easier to handle competently because they do not involve weighing fiscal tradeoffs with competing issues. But imagine trying to do a Citizens' Assembly on any normal political issue, like daycare policy, education, or environmental protection. How could lay citizens possibly decide what kind of daycare system to implement if they do not grasp the larger budgetary issues it involves? How could they come to a rational decision about whether it is better to provide expensive publicly-provided daycare centres, or cheap tax credit to partially support families providing their own private childcare, without knowing the relevant tradeoffs? Is it only possible to provide universal daycare by slashing welfare rates? Can we raise taxes on the rich, or what if we reduce military spending?

For this reason, I believe it is impracticable for sortition members with knowledge solely of their own areas to come to rational policy decisions. This is why proposals for single-policy sortition bodies are unlikely to work well.³¹ Such bodies cannot deliberate meaningfully if they are barred from weighing the ramifications of policy solutions for other issues beyond their agenda.

This problem presents defenders of sortition with a serious design question. How could one envision a sortition body that enables competency? Others will have to take up this challenge, but I want to suggest one possible solution. Imagine if sortition members had a tenure of, say, four years, of which the first two years were training—without any legislative powers. The first year could involve: training in budgets, debt, taxation, and distributive justice; exposure

³¹ See, for example, Bouricius; Guerrero; Ethan Leib, *Deliberative Democracy in America: A Proposal for a Popular Branch of Government* (University Park, PA: The Pennsylvania State University Press, 2004).

to the major fields of public policy and the functioning of government; and learning how to deliberate, with empathy, and with a sense of responsibility to the public good. In the second year, members could be selected by lot into one of the major ten or so fields of public policy (Environment, Health, Military, Economy, etc.), in which they would spend the rest of their training period “interning,” so as to develop familiarity and competency in the area that they will spend the next two years making decisions.³²

Also, such a body should be large enough that it can divide itself into departments big enough for diverse deliberation and to remain statistically representative of the population. (As noted earlier, this larger size also limits bribery and corruption.) One possibility would be a 1,000-person body, divided into ten 100-person departments. Each department would focus on policy in its own area before submitting legislative proposals to the entire body. For proposals to become law, the departments would present the results of their deliberations, as well as their recommendation, before a general vote. It would be the job of the entire sortition legislature to weigh the costs and benefits of each proposal against those of other departments before making a final decision.

In sum, electoral systems tend to produce political competency, due to the weeding out functions of elections and the intellectual support of parties. A full-bore sortition chamber faces difficult issues of unknowledgeable people, as well as the problem of complexity arising from the cross-cutting nature of issues—almost all of which have budgetary implications. In theory, a sortition body might overcome such difficulties through having significant periods of prior training, being large enough to allow specialization, and by retaining final authority in a larger body that can weigh the costs and benefits of various proposals. Nevertheless, humility in the face of uncertainty compels me to score electoral systems as faring better in this regard.

Conclusion

Reflecting back on all four criteria, the main strengths of the electoral mechanism are accountability and competency, whereas its main weaknesses are generating political inequality (via descriptive unrepresentativeness and a systemic bias towards wealthy interests³³) and a systemic propulsion towards partisanship that undermines deliberation and impartiality. The virtues and vices of a not-yet existing sortition chamber are more speculative. Nevertheless, such a body would surely perform better in terms of political equality due to its enhanced descriptive representation and its better insulation against the influence of wealthy interests. In addition, a

³² It would be useful to do the selection by lot so as to prevent members from going into the area in which they already have fixed views.

³³ Another issue of political equality is that of protecting the rights of minorities. The problem with electoral systems in this regard is that they are aggregative systems and so enable majorities to continually outvote entrenched minorities. Moreover, the electoral system may at times provide perverse incentives for politicians to actively stigmatize minorities (such as black people, Muslims, or welfare recipients), when doing so can bring overall electoral benefits. A sortition legislature may well perform somewhat better at protecting minorities due to its deliberative nature, since members, even prejudiced ones, would have no structural incentive to stigmatize minorities, and on the contrary would be encouraged to talk to each other and hear each other’s experiences. This will not guarantee mutual understanding or respect, of course, but it may well help.

sortition chamber would likely outperform its electoral counterpart at deliberation and impartiality, while getting lower marks for accountability and competency.

Three important conclusions follow from this. First, elections are not the only game in town. In many underappreciated ways, sortition has much to offer democratic theorists and practitioners.

Second, neither election nor sortition *by itself* can satisfy the full range of democratic values. This implies that an optimal democratic system would need to combine both mechanisms, such as through the bicameral system advocated by Gastil and Wright. An additional reason for doing so is that elections and sortition each offer a crucial type of representation. In an elected chamber, the aim is to have representatives of the *entire population* take into account their *actually-existing interests*. In such a chamber, discussion would ideally take the form of bargaining among fixed interests, amongst MPs who are highly monitored and revocable (playing a role as delegates, with limited independence). In a sortition chamber, by contrast, the aim would be to have a descriptively accurate sample of the population engaged in quality deliberation to learn what *a representative sample would want* in ideal deliberative circumstances (with members who are not delegates and so have substantial independence to change their minds). In other words, combining both mechanisms would allow us to profit from having representatives of our actually-existing interests as well as our hypothetical post-deliberative interests—both of which are valuable, and neither of which we would want to do without.

Third, it is likely that a sortition chamber will lead to more progressive policy than an elected chamber. This is because there would be less elite representation in government (i.e., fewer bankers and lawyers, more caregivers and workers), as well as less systemic bias towards money.

Our comparative analysis has also sought to identify the tradeoffs that would exist in building a sortition body, which all future designers will have to grapple with. These are:

- Should terms be longer or shorter? (Longer terms allows for more competency but also more potential for corruption, as well as more potential for the emergence of factions which are likely to undermine the quality of deliberation).
- Should deliberation be secret or public? (Secrecy can enhance deliberation, prevent corruption, and protect members from embarrassment, but it risks undermining accountability).
- Should there be some bar for competency, even if this undermines descriptive representativeness?³⁴

³⁴ Though we haven't discussed it here, there is also an interesting question as to whether sampling should be random or stratified? Stratification ensures proportional representation, but raises uncertainties about which specific characteristics should be stratified for.

In addition to these tradeoffs, there are also a number of open questions for future research into sortition:

- Who sets the agenda?
- How can the administrative overseers themselves be overseen?
- What would be an ideal relationship between an elected and a sortition body? (Should there be asymmetries of power between them, and/or different functions or different issues that they focus on?)
- Can a powerful, high-stakes sortition body successfully restrain corruption, and maintain quality deliberation?
- Is a full-bore sortition chamber really feasible? (Small scale experiments, such as at the municipal level, will be vital in helping to assess this question).

In conclusion, contemporary democrats are wrong to simply assume that democracy requires elections and only elections. Our democratic values cannot be well satisfied by the electoral mechanism alone. Nevertheless, that does not mean that we should leap to the false conclusion that elections are worthless. Neither electoral fundamentalism nor abolitionism is an appropriate response to our complex political situation and clashing democratic values. Sortition has significant democratic potential, and democrats should be open to exploring it. However, the largely untested nature of a national sortition body (and subsequent uncertainty regarding its virtues and vices) leads me to conclude that a piecemeal, small-scale, step-by-step approach to introducing sortition bodies would be wise.

Overall, democrats should be more willing to consider implementing sortition mechanisms than they commonly are. Being a democrat means having a number of values, but one of them is the belief that regular people, in good situations of nonviolence, learning, support, and deliberation, can arrive at quality political decisions. In this sense the radical democrat Ella Baker was right: give the people a light and they will find a way.³⁵

³⁵ Barbara Ransby, *Ella Baker and the Black Freedom Movement* (Chapel Hill: The University of North Carolina Press, 2003), 142.