

G.P.S.
Guide to the People's Senate:
a Sortitionate Manifesto
by
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for Pablo

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Note to reader: words appearing in italics are defined in the Glossary chapter.

INTRODUCTION

Democracy: noun, rule by the people. From Ancient Greek δημοκρατία: (δῆμος, demos ‘people’) + (κράτος, kratos ‘rulership, power’)

“It is accepted as democratic, when public offices are allocated by lot, and as oligarchic when they are filled by election” (Aristotle, *Politics* IV. 9, 1294b8)

Around the world, the idea of democracy is in crisis and at risk of being swept away by forces of fascism, demagoguery, technocracy & autocracy. In the English-speaking vanguards of ostensible democracy, a general resentment of politics has been fermenting for some time. Large swathes of the working and middle classes have been abandoned by political parties to great transformations, leaving them in precarious places without work or security and producing gaping resource disparities in society. Meanwhile, the elected officials not only fail to address mounting social, ecological and economic upheaval, but often seem to enable & exacerbate them. All this has led to a deep disillusionment with democracy.

It is arguable that what we have so far called democracy falls woefully short of a promise to let the people rule. The deficit in our present democratic model lies with its limited and flawed ability to engage the people or ‘demos’ in their rule, ‘kratein.’ In the current electoral form of representative democracy, the individual does not deliberate, nor does she engage in any way with the others in deciding what representative is best suited to govern all the affairs of her life. Individuals, without even having to come face-to-face with each other, cast their votes. A majority emerges, united merely by the appeal of the most promising promises made by the most representative representative, or perhaps the least unpromising promises made by the least unrepresentative representative. The vote, once considered a tool of empowerment to partake in shared visions of the future, has become a symbol of impotence and fatigue on one side, and polarization on the other.

This very tenuous connection between represented and representative maintains a disjunction that disenfranchises and alienates the citizens. Attempts to bridge this gap by means of the system that created it, have proven futile. If votes, the main tool of engagement in present democracies, can’t remedy its crisis, then what possibly could?

One answer is an alternative to the system of elections, one that is as old as the Ancient Greek ideal of democracy itself. That approach is called sortition, or lottery democracy: to choose representatives at random. Whereas in the electoral system of democracy, individuals are appointed to public positions through the adversarial process of party campaigning for votes, sortition appoints them by a drawing of lots. Within this form, anyone that would qualify to vote in today’s system, could volunteer to be part of a political lottery. A willingness to participate, and chance, are the two qualifications which replace the many obstacles that presently set apart the citizens and their representatives. Instead of saying: “we need a qualified elite to decide for the people,” this system proposes: “the people themselves should be able to

decide on the questions at hand.”

The great drawback to sortition is thought to be that irresponsible and untutored persons will be given power to which they are not qualified. Essential, therefore, to this new exercise of power is *deliberation*: random choice alone is harmful, if it doesn't create a forum for speaking and listening among those chosen randomly, before decisions are made.

A dangerous idea? If you think so, we encourage you to think again. Many trials currently underway with this form of governance have shown: if you put a randomly chosen group of people in a room together, to deliberate on important issues, with access to a panel of experts for consultation, they will produce decisions that are more farsighted, more inclusive and take into account a much wider set of considerations than the current and partisan elite. The ultimate outcome is a wiser political process.

In a deliberative democracy, chosen by lot, it is not a random assortment of citizens that decides *who* governs, it is a random assortment of citizens *that* governs. Their randomness ensures a uniquely broad array of views on whatever questions are at hand. People may enter the room with polarised opinions, but entering the light of the public discover a new sensation: political belonging. With that comes a sense of social responsibility (*responsible reasoning*), which has been shown to have a profoundly *moderating effect* on even the most stubbornly opinionated. A process of deliberation ensures that the individual is exposed to the needs of others, their viewpoints and their interests. So their raw beliefs, opinions and interests are put to the test. They may come to discover that their individual needs are less important, or less pressing than those of others. They also are likely to see that they didn't have a full understanding of the scope of the issue at hand. A whole picture emerges, formed by a broad set of viewpoints, giving rise to *commons sense* and thereby allowing for an exceptionally legitimate decision-making process. *Legitimacy* here derives from a unique process of consensus-building by a broad sampling of ordinary

citizens. Arguably, a deliberative decision is the very basis for legitimate exercise of power in a democracy.

While sortition was widely practised in Ancient Greece and many subsequent European city-states, it was abandoned by the founders of all modern governments in favour of rulership by an elected elite. Only in recent decades, has there been a systematic reconstruction of how the Ancient Greeks practiced sortition and an interest in its present-day application. It should be noted that there are very different ways in which it could be implemented today. Some researchers propose replacing electorally composed decision-making bodies, while others suggest complementing these with sortitionate ones for a further separation of powers, i.e. a broader base of power. Conventions composed of citizens drawn by lot have already been held, to consult on policy questions in over 25 countries, including Ireland, Japan, France, the U.S. & Brazil. Meanwhile, Mongolia has already enshrined a permanent use of sortition within its constitution. In this pamphlet, we will narrate the history of sortition, define some of the concepts most relevant to the idea, showcase some of its possible applications, answer the questions and respond to the objections it may raise, compare its attributes to those of the electoral system and provide resources for those who wish to get more deeply informed about it.

As you read this guide, please keep in mind: we put forward the idea of deliberative democracy by citizens allotted at random, as a way to improve and revive democracy. This means, we are not advocating a wholesale replacement of existing structures, but of specific organs. In some cases, even a supplementation of existing structures may be sufficient. We understand that democracy is an ongoing project, which is by its nature evolving and we simply wish to contribute to the attainment of its ideal. Though we compare sortition to elections, and often criticize the latter, we firmly believe that both are necessary: elected politicians and allotted citizens.

SORTITION: A HISTORY**The Ancient Athenians**

Sortition was used in ancient Athens to allow for democracy in a society, which like our modern one, was composed of people with different levels of education, different levels of wealth and different levels of social standing. It must, however, be pointed out that Athenian political society was artificially homogenous, given that only free males of military-serving age, without a criminal record, made up the citizenry and had any political rights. Slaves, women, criminals, were entirely barred from politics, as they were for a further 2,000 years or more. Nevertheless the Athenians also had diverse political viewpoints within their homogenized citizenship and ran into the common political conflicts of war, taxes, social responsibility between the people and the elites and between the people themselves. Whether what was practiced by a narrower definition of 'citizen' can flawlessly be applied to the expanded definition of 'citizen' of our modern age is a question that Greek history cannot answer. What can be said, however, is that a widening range of participants was a tendency initiated at the birth of sortition, but not completed. As contemporary experiences with this idea have shown, an adequately inclusive definition of citizen is not only favourable to prudent decision-making, but wholly in the spirit of political freedom through collective equality, which motivated the Athenians.

But what was (/is) democracy?

The idea of democracy is the rule of the people. That means the people are equal to one another in the political sense. To be politically equal means that the citizens are equal in their potential to influence policy. The Ancient Greek scholar Josiah Ober (Stanford) defines democracy as follows: *"Demokratia is the celebration by the demos of a way of life centered on the freedom of the citizen and political equality."*

According to Ober, the *demos* was free and equal, in the sense that the citizen was equal in his potential of influencing policy, and free in the sense of having the power to do so or not to do so. The decisive formula would be something like: *Only if we are all politically equal are we also equally free.*

When and how was democracy practised?

The first instance where the *demos* “ruled” was probably around 508/7 B.C. and marks for Josiah Ober the beginning of democracy. In 508/7 B.C. the Athenian elites had colluded with the Spartan king who came to Athens with 300 warriors to take over power. Cleisthenes, another member of the Athenian elite, opposed this change of power and subsequently was ostracised by the colluding elites. But instead of leaving the city, he turned to the people - the *demos* - and persuaded them of the injustice of his ostracisation and the collusion between the Spartan king and the other elites. The people acted, expelling the king, his warriors and a large number of treasonous elites.

Ober argues that expelling the Spartan king and his Athenian allies, was the first time in Greek history that the “*demos*” acted in unison, the first time that the people recognized themselves as a unified political force. In the ancient texts, it is documented that “It,” the *demos*, then nullified the expulsion by way of ostracism of Cleisthenes and his followers, who became, or maybe already were, the elite advocates for democracy. Therefore, democracy was born out of the sudden emancipation of the *demos*, acting politically (expelling the foreigners and their allies) and thus gaining *krate* (power). *Demos + krate = demokratia.*

What is the *demos*? Why is it described as “it”?

Daniela Cammack (Yale), another Ancient Greek scholar, points out the two intriguing aspects of this narrative: Firstly, the *demos* is referred to as a single entity, (“it” in English). Secondly - and this puzzled Ober as well - there is no record of a leader figure in the uprising of the Athenians in 508/7

B.C. - which Cleisthenes could catalyze but not lead. Cammack explains that throughout Ancient Greek texts the *demos* is referred to as either a singular collective agent, an independent political agent, or as partial agent. Cammack thus wonders what “*demos*” meant, when “it” acted in singular verb form, when “it” had political agency, and when “it” often excluded the elite. She concludes that *demos* signified a corporation, in the sense of an *assembly* of lower class citizens. Democracy then simply meant that the assembly or group received power, that is, - the *demos* received *krate*. This is the meaning of democracy.

What was the Assembly? How did it work?

By the age of Demosthenes, the Assembly was a monthly meeting of about 4000 to 8000 citizens in the *ekklesia*, an open piece of land close to the southern wall of Athens in which the people gathered to govern the city. Whoever wanted to speak and was called upon could climb the “*Bema*” - an elevated stone at the center of the meeting place - and thus address, from a slightly elevated position, the gathered community. Once all who wanted to speak on a given topic were heard, the people would vote, administrators would roughly count the vote, and the topic was closed.

While all citizens assembled technically had a right to speak up, whether one gained access to the podium (the *Bema*) depended on whether one was seen, that is, called upon by the administering officials. One could argue that personal connections may have been the deciding factor, but the amount of people present makes that unlikely. Rather, whether one was called upon or not may have felt like it was dependent on chance.

Speaking up in the Assembly was mostly done by the oratory elite, who had the job of advising the citizens in the legislative process. Both the physical implications of the space (loud winds from the valley below plus the need to reach up to 8000 people) as well as the rhetorical implications (achieving understanding with at least a majority of the 8000

people) suggests the need for experience and education in addressing the public. These elites, however, were merely advisors and did not themselves have the power to decide policy. Neither was their advice given lightly, since every orator could be personally held responsible for the law they proposed.

The Athenians barred the elites to the outskirts of the decision-making process, to guarantee the power of the demos, that is, to ensure democracy. At the same time, however, they used the elites' demonstrated and necessary skills in forming laws. Allowing members of the elite to suggest policy, to argue their positions and to compete with one another resulted in a serious debate of how to best administer the city. In this way the Athenians used the consultative skills of experts, while at the same time sustaining the equality of power in all; democracy in practice.

How did democracy become practice? How can a city be administered if everyone is equal?

Even though the events of 508/7 B.C. marked the beginning of democracy through the act of the Assembly (expelling the Spartans and their allies) the Assembly alone could not administer the city. It was and is impractical to involve everyone - or even everyone willing - in all possible decisions, when administering a city. Some questions have to be decided on immediately, some tasks have to be performed on a regular basis, some offices demand a training period, etc. To involve everyone every time would be chaotic, inefficient and unfeasible. Thus, the Greeks had to assign some offices and tasks to certain individuals or smaller groups.

The need to assign some offices and tasks to some people and not others, however, threatened the political equality of all. If some received power over certain things and others did not, how could the demos keep them from abusing their power? The Greeks found two ways to maintain political equality. First, the offices that were necessary in administering the city were almost always delegated to a group of people,

only very rarely to an individual. Thus, even if one had an elevated position of power, one rarely held this position alone. Collegiality was intended to mitigate power of the individual. But still the fact remained that some citizens gained office and others didn't. There was only one way of delegating power that did not immediately suggest a distinction (*principle of distinction*) in political equality, between the office holder or holders and the demos, the general people - and this way of delegating power was sortition.

Being appointed through sortition meant being appointed by chance. Since appointment by chance meant that there was no exterior distinction between the office holder and the other citizens, no representative could justify challenging the supremacy of the General Assembly and thereby the community. The representative chosen by lot was not considered better or worse than his peers, but was in fact just one of them. Conversely, sortition was a way of delegating power that would not discriminate any other way than if the matter had to be discussed in the General Assembly.

Interestingly, the Greeks did not have a mathematical conception of probability. Bernard Manin (NYU) therefore argues that the proceedings in the Assembly inspired the use of sortition. The two-stage process "of volunteering to be heard" and then "to be called upon" when one wanted to speak up in the Assembly, was the same praxis that came about in using sortition. In order to become a court member, a councilman or a magistrate, one had to put one's name in the *Kleroterion*, a machine that would randomly select a name. A twofold process of voluntary participation and random selection characterized the *allotment* of offices. The equal probability of being called on in the Assembly was repeated by the equal probability of being drawn. This two-stage process of voluntarism and chance invokes an interesting sense of political equality. Only those who volunteered were politically equal, but when they thus were, the equality could not be negated by any outside distinction.

By the Age of Demosthenes, specifically

between 384-22 B.C., almost all public offices were distributed using sortition: the offices of the courts, administration of cities, the jurors and those responsible for setting the agenda of both the General Assembly and the courts. Only offices for financial and military positions were either appointed or elected.

Why were the Greeks unable to use elections for democracy?

Elections do not reiterate the possibility of equality within the population. Contrarily, they create distinction between candidate and voter. The candidate is politically active, by actively campaigning and actively ruling. The voter remains fairly passive, firstly in voting between a limited number of choices and secondly, being ruled by one of these choices. This hierarchical distinction between candidate and voter would have risked the egalitarian legitimacy of the Athenian community.

Furthermore, elections would have risked the requirement of rotation that comes along with the use of sortition. Through frequent rotation, more people get a chance to spend some time in office. With elections however, there is no reason, if someone does a good job, that they should not be reelected. Additionally, the costs of running a campaign would be prohibitive of frequent rotation.

What happened to sortition?

In the development of modern representative government, sortition gave way to elections - despite or maybe even because of the democratic character of sortition itself. In Athens, sortition allowed for the demos to extend its reach into all offices under the principles of freedom and equality. In the world today, sortition is at most still present in the jury system. In the historical debates of our current constitutions, sortition does not find a single mention. Sortition was, however, very much part of the republican theory of government. Aristotle, as an exact contemporary to Demosthenes, wrote about the use of lot during his time. Montesquieu, who was interested in the

necessary relations behind political conceptions, commented in the 18th century on the use of lot in democracies and the use of elections in aristocracies. Rousseau, around the same time, considered it worthwhile to discuss the properties of lot in relation to his concept of the social contract. And even Carl Schmitt makes one last mention of lot, before sortition leaves the cannon of political thought.

As Bernard Manin pointed out, most writers of the republican tradition who have considered lot, even if only peripherally in their writings, considered its main aspect - that it does not distinguish - also as the reason for which it was inapplicable. The argument is that lot would only be applicable, if every citizen was the same, so that choosing some of them at random simply wouldn't constitute a choice. But this understanding of sortition is terribly limited and steeped in a reductivist view of human faculties. This reductivism is also shown in a shift of thinking about political representation that focuses increasingly on the qualities of the representatives and decreasingly on the qualities of the citizens. Where Aristotle and Montesquieu thought about how to create a virtuous body politic - by developing positive notions of teaching the citizens what it means to rule - Rousseau already focused on the negative contract, of what it means to be governed. He emphasized the need of separating sovereignty from government through the procedure of elections, so that elections endow the latter with the general will of the former. The citizen then not only shifts from being the subject of education to being the object of *liberty*, but also from being considered as a qualitative agent, to not bearing any quality but the ability to consent to government.

This principle of consent carried through the Putney debates in Cromwell's England and formed the basis of authority in the legalist writers like Rousseau, Hobbes and Locke. A century later, we find this principle in the opening lines of the American Declaration of Independence:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator

with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness - That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."

The connection between consent and government is explicitly stated by John Locke's *Second Treatise on Government*, when he writes that "...men being, as has been said, by Nature, all free, equal, and independent, no one may be taken from this Estate and subjected to the Political Power of another but by his own consent." Three pages later he continues, "And thus that, which actually constitutes any Political Society, is nothing but the consent of any number of Freemen capable of a majority to unite and incorporate themselves into such a Society. And this is that and that only which did, or could give beginning to any lawful Government in the World." Any dissent to the principle of consent is not possible, as any breach of the law established by the general will be seen as a breach against society. Obviously, the citizen can technically revoke their consent to the system, by 'leaving' society, but this option is futile if done alone. With consent as the main focus of political legitimacy, the citizen can only reiterate either their implicit consent without option of revoking it, or try to change the general will. These are the two powers they are endowed with. The act of affirming one's implicit consent (assumed by being born into the system) is rendered meaningless by the absence of an ability to revoke one's implicit consent, that is, to manifest one's dissent; and to change the general will is unfeasible for the individual (*freedom*).

Sortition in Ancient Athens offered a way of temporarily elevating the individual to a public persona. It allowed for this individual to try herself as political being *and* it allowed for the public to hear diverse and personal experiences of the citizens chosen. This elevation was not much different from taking the floor in the Assembly, except for the fact that sortition would allow this elevating to be transposed to smaller political bodies. In the present system, we do not allow for such elevation. We want the democratic citizen to be pragmatic and well informed, but we give her little opportunity to show these qualities.

We want the democratic citizen to behave reasonably and understanding, but we do not offer a space where such reason could be tried or such understanding achieved (*audience democracy*).

QUESTIONS & ANSWERS

I. Q: “What’s wrong with elections and are elections truly democratic?”

A: Historically, elections are considered aristocratic, rather than democratic. Elections are used to retain and mitigate power within and between elites, a fact the founding fathers were certainly aware of. This system has traditionally favored an educated elite and has been invoked as an effective defense against the so-called “tyranny of the masses.”

There are actually two main non-democratic aspects to elections:

1. The representative: within an electoral system, in order to run for office, let alone win, the time, money and support are required that invariably are reserved for a fraction of the population and mostly found within a wealthy, educated elite. The system of elections thus errs automatically on the side of an elite.

2. The issues: winning requires garnering the most votes. Thus, a program needs to be offered that appeals to the greatest number of people. Appealing to a majority within a competitive system of elections means framing the full gamut of policy issues in such a way that you speak to as many people as possible at once, while offending the fewest. Creating such a narrative that a majority can back, will subsume the contradictory viewpoints that are inevitable among such a broad sample of citizens. In a system that cannot engage the people themselves in reconciling their opposing viewpoints through deliberation, these issues must be whitewashed or generalized to the point of becoming indistinguishable from each other. The easiest way to do this is to shift the focus away from fundamental issues within the body politic and

toward nonmaterial or extraneous issues that can be discussed at a superficial level without breaching the contradictions that exists amongst a raw, unfiltered, unmediated, undeliberated constituency. This process of deference explains why people running for elections will often invoke impossibly generalizing narratives to complex problems, while contradicting themselves countless times on policy details. An easy way to detract from this dilemma is to build consensus within a majority of the voting public, through scapegoating of other politicians, minority groups or populations outside the voting pool. A tendency toward divisive, xenophobic and even fascist rhetoric can therefore be said to be an inherent design flaw of party politics. Similarly, it is clear that electoral politics favors an irrational economic system. A politician depending on majority approval to gain incumbency, after all, will not risk addressing the uncomfortable truth that individual interests cannot be reconciled to limited resources without compromise. Appeals to temperance & moderation do not win votes, whereas support of a system that magically promises unlimited growth, does.

2. Q: “Is sortition more representative of the represented than the electoral system of representation?”

A: When a large sample of the same group of people is disproportionately represented as decision-makers, the decisions they make will inevitably be heavily influenced by the viewpoints, opinions and possibly even interests of that demographic. This would not necessarily have to be intentional. Even a representative that seeks to make decisions representing the views of the wider population, spends most of the time being exposed to and exchanging viewpoints with other representatives, of a similar demographic: with the education, money and support to run for office. Sortition, on the other hand, in its random appointment of representatives, ensures that they represent the widest possible diversity of backgrounds, viewpoints etc. Sortitionate assemblies are therefore far more representative of the represented, being composed of them, than the elected, who are representatives often in name only.

3. Q: “Why, within the present system, can elected representatives never keep the promises they make?”

A: Promises made to win an election need to appeal to as many people as possible with a campaign narrative free of contradictions. Elected representatives could only be able to keep their promises, if the promises they made were made to a majority that is in agreement with itself. Such a level of agreement can not be achieved within a system that is adversarial, in the sense that there must be a winner and a loser (*zero-sum*). In order to win, therefore, the candidate must outcompete the other in the scope of promises made. Promises based on reasonable possibilities are sure to fall short of the majoritarian appeal needed to win an election. And without a process of deliberation to encourage voters to see the good sense in promises made on a reasonable basis, the debate is sure to escalate into the realm of the unreasonable. This, in short, can be called *passion politics*.

4. Q: “Why does it seem that elected representatives rarely address questions that matter, and often seem to actively avoid them?”

A: There is no agenda-setting or prioritization requirement to campaign politics. Furthermore, as discussed in the answer to question 1, the need to maintain majority approval induces incumbents to favor general topics and questions with easy answers, over uncomfortable, but possibly much more important ones. Additionally, elected representatives tend to get caught up in partisan posturing around issues that, because of party policies or party voting history, are polarised or otherwise caught in zero-sum manoeuvring. Even if a possible compromise were in sight, the need of either party to appear as the sole “winner” on the topic - as the party that is and was always right in their proposals - makes such compromise strategically undesirable. Decision-making processes do not usually produce zero-sum outcomes: “my win is your loss and your loss is my win.” Rather, they evolve around compromise and dialogue, producing more meaningful decisions and capable of reaching consensus, which in a zero-sum approach is

not possible. Please see *Zero-Sum Thinking* in Glossary

5. Q: “If majoritarian politics is supposed to address the most broadly relevant issues, then why is climate change not on the table?”

A: See above answer. Additionally climate change is a notoriously dangerous issue to campaign on, because moving from: “we need to fight climate change” to actually implementing such policy, would threaten to inconvenience and upset many accepted arrangements of civic life. This, in turn, draws ire and disapproval among a population that has no chance to discuss and deliberate on these outcomes. This could well be enough to turn voters to candidates who promise the moon, unconditionally.

6. Q: “Is there a form of democracy that can put issues on the table that matter most to people, and leave them on the table until they’re resolved? Is there a way that the people, not the representatives can set policy priorities?”

A: Yes. Where the agenda is set by a random sample of the population, the diversity of viewpoints this allows for makes for a system uniquely apt to capture all issues of importance and keep them on the table until resolved.

7. Q: “Why do referendums not work?”

A: Referendums do not necessitate deliberation and therefore can only reflect the raw opinions of the population. Also, referendums are usually introduced through established channels by ruling parties and therefore rarely if ever provide the opportunity for the citizens to set the agenda, but merely to vote on a question that has been decided & framed without their consultation.

8. Q: “It is often said that common sense no longer figures in politics. Can common sense be reinstated to the decision-making processes of our so-called democracies?”

A: Common sense reemerges in a deliberative decision-making forum as ‘*commons sense*.’ When people come together to exchange views about issues of mutual importance, they will begin to listen and talk with an awareness of shared responsibility. Whereas electoral politics often seeks to suppress the individual’s common sense in pursuit of *passion politics*, true deliberation allows for each participant to exercise their individual common sense. Thus coming to the table, each individual has the opportunity to sincerely explore their own political opinions in light of others’. This sincere application of an individual’s common sense to the wider debate, is what can be called commons sense. Commons sense is common sense as exercised deliberatively, in the round, with view to effecting outcomes favourable to the community as a whole.

9. Q: “What about the tyranny of the masses? If you put random people directly in charge, they may get carried away with their power and make decisions that trample civil liberties etc. Don’t we need a qualified elite to make decisions for us and protect us against rule of the mob (ochlocracy)?”

A: Sortition can and should work within a separation of powers. This implies a republican design of government, i.e. separation between a judiciary, legislative and executive branches of government would remain intact. The basic idea is that if you multiply the sources of power, they serve to balance out each other and guard against the abuse of power. Power is the only thing that can check power (*federalism*). In a permanent & institutional implementation of sortition (chapter Different Possible Implementations), therefore, the power held by the members of a people’s senate, would be balanced by the other bodies: house of representatives, the executive and the judiciary. In a sortitionate decision-making body formed on case-by-case & temporary basis, power also checks power internally by means of deliberation. See definition *hive thinking* on how this works.

10. Q: “So could sortition check the power of a wacko in the executive?”

A: It depends on what power the sortitionary body is endowed with. With the power of the senate, it could put limits on such a wacko's decisions. Thus, for example, it could overturn laws passed by the house and the executive. Additionally, it could propose its own laws and promote an entirely different agenda and public discourse.

11. Q: "So does that mean, if you are picked you have to take part, even if you don't want to?" / "So what are the qualifications?"

A: The only qualification for sortition is: a will. People who don't want to partake cannot be forced, nor would that yield usable results. Volition is the foundational qualification of sortition.

12. Q: "So how can this system take the power of lobbies and moneyed interest out of politics?"

A: A randomly chosen body of citizens does not depend on financed campaigning or endorsements for composition. This means that any laws it would enact would be free of such corrupting influence. Furthermore, it would be almost impossible to influence randomly chosen people before their time in office, since their appointment could not be predicted by those wishing to establish influence on prospective representatives.

13. Q: "How do you compose the panel of experts?"

A: "The panel of experts could be composed of all those that have a reasonable stake in the outcome of the decision, as well as proven authorities on the subject matter of the questions up for debate. They present substantive arguments, meaning: the facts are checked and the arguments are rational. This component of sortition, which not being formed by the drawing of lots, is the most in need of exploration and experimentation. Please see diagram in chapter The People's Senate & the foldout page.

14. Q: "What about facts? Who checks them?"

A: The experts, as well as the facts, could initially be put forward by volunteering academics from a broad selection of universities. The facts are checked by these volunteering academics. If there is a disparity in facts, the reasons for this disparity has to be disclosed to the deliberative body. Later, the Research Council will take up this task. Please see chapter The People's Senate.

15. Q: "Does this mean, if you are picked, that you have to stop working your job? What about the money?"

A: Positions would have to be compensated for monetarily. James S. Fishkin, director of Stanford's Center for Deliberative Democracy and author of *Democracy When the People Are Thinking*, has concluded that stipends are a necessary component of any deliberation, as many people must take time away from work to attend them, as well as travel, eat and board in that time. For longer-term engagements, a system should be put in place that can protect the job security of that individual upon completing their term.

16. Q: "Moderation / facilitation, who does that?"

A: In the experimental phase, this would be volunteers eager to experiment with this. In the implementation stage, it could be an Administrative Council. Please see chapter The People's Senate.

17. Q: "How can it be ensured that chosen people are not corrupted in their decisions by outside interests?"

A: In the process of deliberation within a randomly chosen body, every special interest will be submitted to the scrutiny of public debate and therefore weighed against all other ones. As for the possibility of purposeful corruption of representatives through bribes, blackmail or other forms of corruption, there are two main and intrinsic preemptive approaches: Firstly, as in jury duty, it would be seen to that chosen representatives remain anonymous up until the point of entering the deliberation. Secondly, a vow akin to the juror's oath would be required of representatives. Additionally, the 'Rules Council' would oversee all drawn representatives and ensure to the best of their

ability that the representatives keep to their ordained role. Please see chapter The People's Senate.

18. Q: "If sortition were implemented on a local level, and within a community with a high preponderance of racism or bigotry, would that not result in racist outcomes?"

A: Whereas in most communities, sortition would ensure a sufficient variety of backgrounds to moderate extreme positions, sortition at a local and demographically homogenous level might produce racist outcomes. However, common mitigating factors would continue to apply as they might today: the rule of law, the invalidation of racist arguments by their usual lack of rational foundation & the inability to legally define a minority. Furthermore, for racist policies to federate (graduate to higher rungs from local to state to national etc.) is almost impossible, given the variety of representatives that would compose decision-making bodies at higher levels. See *deviation*.

19. Q: "How, in such a system, can we balance executive or federal interests against local interests? Is there a mechanism for protection? And vice versa?"

A: The application of sortition within the federal system upon which the American government is based, has to be explored further. *Political interests* generally exist in an aggregate state. That means only a group of people can hold a political interest. We are well familiar with this fact through the system of elections, where interest groups try to gain power and impose their interest on the rest of the federation. There is however, another form of political engagement beside political interest. And that is *political opinion*. Some decisions simply depend on opinions, i.e. abortion. The political question of abortion is one that every individual has to decide for themselves. Political opinions become inauthentic when they are aggregated and become confused with political interest. The very nature of political opinion is that it is your own. So in an electoral federal system, local interest can federate and overbear on the local interests of other localities. People are likely to vote on matters of policy that will

never affect their own lives. Within sortition there is no process of aggregation, so much as there is the exploration of individual opinions in the search of a consensus or compromise. A body of sortition at the local level could ensure that aggregation does not proliferate. Where it does, however, a sortitionate body at a federal level can ensure that individual opinion is guarded against aggregation, and the power to devolve decisions back to the local level is preserved.

20. Q: “Is this system more expensive than the current system? Does it mean more government or less?”

A: We don’t know. What we do know, however, is that the federal electoral system has increased federal spending from around 3 % of GDP per year in 1900, to about 20 % in 2017. Furthermore, the proportion of government spending has gone from around 57.8 % local & state in 1900 to more than twice as much on federal as on local & state combined, today. With budgets subject to the scrutiny of deliberative bodies, spending at a federal level (like wars) would almost certainly be reeled in and revert to the much neglected local & state level.

GLOSSARY

Allotment: The appointment of individuals to decision-making bodies by means of sortition.

Audience Democracy: Term coined by Bernard Manin in *The Principles of Representative Government*, describing the problematic state of electoral democracy under the conditions of low turnout, low participation and low public engagement. In an audience democracy, the people are passive and only rarely act politically. Instead of the people governing themselves, the people become the audience to government. This can, at least in part, be explained by the absence of possibilities for direct inclusion in political process, giving rise also to *rational ignorance*.

Commons Sense: The process of deliberation is what

refines the disparate wills of people, producing the emergent, general will. This can be called commonsense - what can not come about in isolation but only through a public test of ideas. The less this happens, the more you are sure to have ideas formed based on individual interest, prejudice, short-term needs, limited experience and the frustration of political agency that comes from not being heard by others.

Individual opinion prior to deliberation is crude and gives rise to *rational ignorance*. Commonsense is what emerges from the refining process of deliberation. The wider the scope of voices involved in the formation of that sense, the finer it is likely to be. Furthermore, it must be acknowledged that an overwhelming statistical majority of people have a healthy capacity for sympathy and empathy. Sympathetic tendencies can only really be denied through isolation. When placed in the same room as others, it becomes difficult and counterintuitive for most people to do so. Thus, it is not only the act of deliberation that produces commonsense, but the sharing of space that prompts a reckoning with the needs and feelings of others within that forum. Commonsense therefore describes not only the ascension of the more rational argument, but, likewise, of the argument that best addresses the emotional needs & intuitions of the group.

Deliberation: Long and careful consideration or discussion, usually taking place over many sessions and days. Effective deliberation requires facilitators and access to a panel of experts for consultation by the deliberators. The greeks used the word 'bouleomai' to describe deliberation, which meant 'thinking about something' but always also 'deciding something.' (See answers to questions 13 & 14) Deliberation allows the individuals to try themselves as political beings, express their viewpoints, argue their position and eventually come to a consensus that is more than the sum of its parts. This consensus, by its evolution through discussion and compromise, is uniquely legitimate as it exemplifies the communal act of creating government, creating a consensus, creating a law in which everyone present had a share. This moment of creation that inheres in deliberation is a defining aspect of sortition, and the source of its legitimacy. Sortition arguably

constitutes the most legitimate form of democracy achievable, in that it gives voice to the most refined expression of a people's will.

Deliberative Democracy: According to James S. Fishkin, deliberative democracy is “a practical answer to the question: What would the people think should be done if they could consider key issues under good conditions for thinking about them?” He offers it as the workable alternative to electoral democracy, which “risks substituting the whims of the people for the will of the people and the methods of Madison Avenue for the values of James Madison.” - James S. Fishkin, *Democracy When the People Are Thinking*, OUP, (2018)

Democratic Disjunction: The inconsistency of present governments that call themselves ‘democratic’ yet fail to effectively include members of the demos in their political process, to act in the interest of said demos and to be accountable to said demos. The democratic disjunction can only be remedied by rejoining the demos to power.

Deviation, Liberty to / Tolerance of: Any political union that seeks to legitimately mobilize action at the highest level, based on a consensus of its component parts, must likewise be able to preserve multiplicity at all levels, where such a consensus cannot be found. This function of safeguarding the right to remain unaffected is what we here call liberty to deviate. Within the federal conception of governance, policies should be able to emerge (federate) from local, to state, to the federal level. At the same time, no local policy or interest should become so powerful that it would tyrannize all other localities. The founding fathers, therefore, had to find a way to balance emerging local interests for policies with the *absence* of policies, that is with the liberty of the other localities to deviate. This balancing took place within the two bodies of the legislative branch, by asking: “do we pass a law, or do we have to exercise tolerance as this is a topic for a state government?” The House was designed to channel the emergence of local interests to the federal level via direct elections. The Senate was designed to balance those interests via direct appointments.

Together they were supposed to create a balanced state. Over time, the arbitrate quality of the Senate became obscured, because, as opposed to how it was originally intended, senators were no longer appointed by the individual states but voted for directly by the people. Thus, suddenly also the Senate came under the control of interest politics, strategic voting and passion politics.

A sortitionate senate, allotted not elected, would possibly allow for the recreation of arbitrate function necessary in a balanced state. The allotted individuals would, like the historical senators, not depend on elections, and the need to advance certain interests, but be free to exercise their best deliberative judgement in arbitrating the freedom of the nation.

Echo-chamber Effect: This effect describes how the internet has failed to replace the Greek Assembly or the town hall as a space for democracy. Unless brought together by other means (happenstance, sortition) people tend to associate by some form of affinity. This is in our nature. Offline, this may mean we form cliques or clubs dedicated to shared interests. Online, the internet responds according to what we request. Based on algorithms, social media and search services will show us others that share our opinions and affirm our beliefs. We may also encounter contrary positions. But when that happens, the result is more often than not an escalation of absurdity and insults. Why does this happen? It's a combination of anonymity and a lack of palpable outcomes within such virtual spaces. In a real room, however, we are not anonymous and there are palpable outcomes. We become a person in light of the public, and, suddenly, our words and actions carry responsibility (see *responsible reasoning*). If nobody can leave the room until a decision is made, it is obvious that escalation and polarisation are undesirable. Only in a space that is dedicated to decision-making on issues that affect the community, can true democratic deliberation take place. No longer in the comfortable presence of the like-minded, people are challenged and confronted with other perspectives. New views invariably emerge. In deliberation, all the algorithmic affinities that the virtual world has fostered, make way for the two affinities that matter: a willingness to

participate and being in a common space to address common issues. To ensure that there are as few other affinities at play as possible, those present should be chosen at random.

Federalism: A system of government in which several states or subsidiary parts form a unity, but remain independent in internal affairs. To balance power in a federal system, *liberty of deviation* has to be preserved. In order to do so, an arbitrating body must exist to decide whether decisions can be made at a federal level, or power must defer back to the subsidiary parts - including the people - where a decision made at the federal level would infringe upon the liberty of the subsidiary and of the people.

Freedom, Political: The word 'freedom' is widely used, but its meaning is ambiguous. Nevertheless freedom is somehow closely linked to politics and therefore needs to be treated to a discussion here. Political freedom, according to Hannah Arendt, but also according to how we want to use it in relation to sortition, requires political power. That means: in as much as you can act politically, you are also politically free. Free speech, for example, is a kind of political power. You can speak your mind, persuade people of your ideas, criticize publicly other ideas, exercise the power of speech. You have the freedom to do that. But having this freedom to speak necessitates having the power to speak as well. What use is a freedom if you cannot exercise it? No political freedom exists that does not come at the same time with political power, even if the power is somewhat "to ignore" what other people want, - i.e. '*liberty*'. Conversely, political freedom can be measured in political power, which throws an interesting light on the freedom to vote, the freedom to run a campaign for political office, the freedom to organize a party, which by an absence of power become quite limited freedoms indeed.

Hive Thinking: The smaller the pool of those consulted in the prioritization of policies and making of decisions, the smaller the demographics that these decisions are likely to benefit. This is not necessarily intentional: it is natural to assign greater importance to those issues

in one's immediate scope, than those further removed. But by widening the pool of consultation, we will inevitably grow the demographic that these decision will benefit. And once we get to the largest possible scope, including voices from all cultures, all strata of society, we begin to frame policy priorities that are of the most universal import. Like the superorganism that is an ant colony or beehive, suddenly, we are dealing with the big questions that must be addressed for the survival of the entire civilization. Universal needs and universal desires begin to be expressed through such a political system. This happens naturally, if we give everyone a voice. And once we are working on this scale of inclusion, the mobilization of action on a scale equal to the challenges will become feasible. To say, therefore, that deliberative decision-making by sortitionate groups allotted from the widest possible population pool with access to panels of experts - real democracy - is our key to addressing and fixing global warming in the political sphere, is not a hopeful or hyperbolic statement. It is an accurate statement.

Kleroterion: A stone mechanical construction used in the Athenian polis to select citizens at random to join various decision-making bodies. Citizens' tokens - pinakia - were inserted into slots and specialised dice used to determine which row of pinakia was to be chosen.

Legitimacy: The justification of a political system, as derived from a coherence between what is expected of it to do and what it does. Approval is one indication of legitimacy, whereas disapproval may indicate illegitimacy. James S. Fishkin states that "In broad terms, governments can achieve legitimacy through process and outcomes. Faith in the democratic process is in decline. If other systems deliver the goods, and provide prosperity and other results people care about, then the democratic method faces a serious challenge on the basis of the outcomes it produces." That democracy may reaffirm its claim to legitimacy, Fishkin offers deliberation: "For deliberative democrats, the response to democracy's legitimacy problem, whether from process or from outcomes, is to invigorate the public capacity for thoughtful self-rule. The laws and

policies which the people are seen to impose on themselves - after full consideration and based on good information - have a unique claim to legitimacy.” James S. Fishkin, *Democracy When the People Are Thinking*, OUP, (2018) pg. 7

Liberty: Liberty constitutes the preservation of political freedom against incursion by the exercise of political power or authority from others, a balance which must always be determined by a third party. Please see *deviation*.

Moderating Effect: David Van Reybrouck, author of *Against Elections*, tells a useful anecdote for understanding the moderating effect of deliberation. Someone sitting alone in a car and stuck in traffic is likely to get frustrated rather quickly and may begin to manifest their frustration by shouting, cursing and generally seething in isolated rage. Meanwhile, that same person stuck on a stopped train might, in the same space of time, have struck up friendly conversation with fellow passengers and shared their water with the mother and child sitting across from them. This anecdote illustrates the invaluable function of a shared physical space for exchanging opinions and forming decisions. It explains in part the failure of the internet as an analogue for the physical forum of deliberation (see *echo chamber effect*) but in the wider sense also shows how the insularity of the one-man polling booth is an entirely inadequate tool for the healthy expression of will and exercise of power by the people and curtails the moderating effect that deliberation in a shared space allows for.

Non-zero-sum: The inverse of *zero-sum*

Passion Politics: To gain a voting majority within an electoral system, a candidate must outcompete the other in the scope of promises made. Promises based on reasonable possibilities are sure to fall short of the majoritarian appeal needed to win an election. And without a process of deliberation to encourage voters to see the good sense in promises made on a reasonable basis, the debate is sure to escalate into the realm of the unreasonable.

Political Interest & Political Opinion: The difference between political opinion and political interests, is one that emerges from the contexts in which they are understood and tend to be used in political discourse. Interest can be understood as a form of will expression that always appears in aggregate. This derives from its usage in the context of majoritarian politics, where interests are bundled before they can effectively be pitted against those of others. While individuals can be said to have interests of their own, these only become meaningful and gain leverage in the aggregate state. Furthermore, articulated interests are often the result of attempts to assign groups and categories to the mass of civil society, that can then be effectively represented by politicians. Thus, more often than not, it is the group that has a political interest, and the individual that adopts the political interest of the group. These might be political interests of those renting out apartments, or those riding bicycles in a certain part of town, or those owning dogs.

Political opinion, however, can be understood as the individual expression of political will. The unique personal approach of the individual towards politics is his or her political opinion. While political interests are usually aggregate, political opinion is usually singular. Whenever opinion is presented as group opinion, i.e. appearing in aggregate, there is likely a process of interest-formation at play. Thus, the appearance of group opinion merits deeper scrutiny, with view to revealing the political source and motivation of such a generalizing tendency.

Political interests, by their existence in an aggregate state, lend themselves to consent-based, majoritarian representation. Since the group gathered around the same interest is coherent in its political vision, it is easy for its members to find or be found by one representative that stands for all. Conversely, political opinion does not lend itself to aggregate representation. Political opinion can only be represented by the individual and turned into policy by the filtering process of deliberation. In order to include political opinion in public discourse, it is therefore important to find another possible way of representation. Sortition offers one such possibility.

Principle of Distinction: Under an electoral system of representation, what must qualify a politician for election? They must stand out, make impossible promises, compete for distinction with other politicians. This is a lot more about charisma & personality, adversarial prowess & showmanship than substance and follow-through. In short, 'saliency' seems to be a very important factor in electoral competition, which may be a major reason for the election of the 45th president of the U.S.A.

Rational Ignorance: "I only have 1 vote so why bother thinking about these issues?" Rational ignorance is the natural result of a political process that disenfranchises the individual and gives them no political agency beyond the occasional vote or referendum. In this system, it makes sense that people will not inform themselves properly, as without access to ways of applying this knowledge, there is no reason for having it. Under this system, opinions tend to be contrarian, flippant and polarized. Rational ignorance is the result of the very limited power and thus *freedom* that voting affords. To have the freedom to vote, is to have the power to vote. But the power that results of the freedom to vote is so small that most people choose not to make use of it. Please see chapter What Happened to Sortition?

Representation, Attitudinal: "If the sample is a representative microcosm of the viewpoints in the population, then it is more plausible to argue that as participants weigh the arguments from these competing perspectives, their views would represent the hypothetical - the conclusions the population would come to, if its members could weigh the arguments with comparable engagement, seriousness, and high-quality information." James S. Fishkin, *Democracy When the People Are Thinking*, OUP, (2018) pg. 74

Representation, Demographic: "To support the hypothetical inference that the population as a whole would likely come to similar conclusions if it were to deliberate under comparably good conditions, the microcosm needs to be representative at the start. It needs to be a version of the whole country or the whole city (or whatever the relevant population may

be) in miniature, usually in one place. (...) Demographics in all the standard categories - class, gender, education, income, ethnicity - are usually among the most prominent. Some approaches to creating a deliberative microcosm view such representativeness in demographics as sufficient.” James S. Fishkin, *Democracy When the People Are Thinking*, OUP, (2018) pg. 73

Representative Sample: A randomly chosen sample, representative of the socio-economic composition of the (represented) population. To assure congruity between sample and population, at least one control sample is necessary.

Responsible Reasoning: “I may be picked for office, so I should inform myself on political issues.” While we all have responsibility towards each other and the community at large, this fact is one the electoral representative system makes us blind to. This is so, because elected representatives have divested citizens of their responsibility. A general awareness of personal responsibility toward the community would be nourished by the system of sortition. Knowing that everyone has the chance of being appointed to a public role, encourages people to inform themselves and think about politics through the lens of anticipated duty. In this way, rational ignorance in the old system gives way to responsible reasoning in the new.

Subsidiarity: An organizing principle, originating in the Roman Catholic Church, which states that social and political issues should be dealt with at the local level, by the smallest relevant authority or such authority most directly familiar with the issue. The devolution of power to the smallest appropriate unit. Subsidiarity, if applied to pressing environmental matters, would ensure speedier and more prudent resolutions to local problems than centralised government can provide. Similar to federalism, with an emphasis on local liberty to make decisions unfringed by federal bodies.

Swarmwise: Honeybees, when looking for a new home, will go out on scouting missions. Before the swarm swarms (relocates) it will hang out and wait until all the scouts that have gone on their scouting mission,

have returned to share their findings with the swarm. Not until a consensus is reached, is the swarm able to relocate. After each scouting mission, each bee returns to the swarm with what she considers to be the best site of a new home - a tree hollow, log etc. Accordingly, she will communicate all the features - distance, size, depth, height above ground etc. - via her so-called 'waggle dance.' The amazing thing is, that even though a scout will return doing her own waggle dance, she can be convinced by the waggle dance of another. After all, this bee only scouted one particular area. Her knowledge of all the possibilities is therefore only partial. If another bee has found a better site, that other bee will recognize this and stop doing her own waggle dance, adopting the other one's instead. They switch to doing the waggle dance for the more promising site. Eventually, the waggle dance that converts the most bees becomes the site of choice for the swarm's new hive. Swarmwise, therefore, is the bee analogue of commons sense that emerges from a lengthy process of deliberation among all the members of a group, regarding a decision that affects all. Individuals may enter the discussion convinced about the best course of action. But if, in the public test of ideas, the reasoning of others shows them a better way, they are likely to adopt it. Thus, deliberation takes the unrefined opinions of people and processes it into a refined decision, i.e. *commons sense* or *hive wisdom*, emerging from a healthy and open exchange of ideas.

Voting: In a government based on electoral democracy, the main expression of consent to governance is through votes. By voting, the individual exercises their political agency and hopes that this choice receives majority approval. However, even when their choice does not receive majority approval, but remains in a minority, the individual still is assumed to assent complicitly to being governed by that person they did not vote for or the policies they disagree with. The legitimizing mechanism under this system is the act of voting. The altogether uncertain hope that it joins with a majority position is secondary. The measure of legitimacy within a sortitionate system of deliberative democracy is the approval of decisions by a sample of the people that is representative of as broad a

set of viewpoints and interests within the demos as can practically be achieved. The practice of voting remains an integral part of sortition, as the method of ascertaining the majority preference on decisions after deliberations.

Zero-sum Thinking: Term borrowed from game theory to describe a situation in which whatever is gained by one side must be lost by the other side. Mutually beneficial outcomes are structurally curtailed by zero-sum games or scenarios. Electoral representation is set up in this manner, in that incumbents and the party they run with must fashion their policies in opposition to those of other parties and their incumbents. Though winners often go on to rule by compromise policies and coalition power-sharing, they must maintain their hold on the voting majority by playing the charade of the winner. This duplicity between winner-vs-loser appearances and the compromise & coalition reality of party politics, hides an underlying truth: decision-making is a non-zero-sum game. Whereas it is impossible to acknowledge this within the adversarial framework of elections, the non-zero-sum nature of politics emerges organically in a system that reaches decisions through a process of rationed deliberation where nobody holds sway and authority is ultimately shared.

REAL-LIFE EXAMPLE

The following is an analysis of findings published on the Center for Deliberative Democracy website. For the facts, please visit *Hard times, Hard choices, Michigan Citizens Deliberate*:

<http://cdd.stanford.edu/2010/hard-times-hard-choices-michigan-citizens-deliberate/>

With the depressed economic situation that resulted out of the crash '08, Michigan was facing a dismal outlook on the future well-being of the state. The Michigan government, in cooperation with the Center for Deliberative Democracy, Stanford and The Kellogg Foundation, decided to involve the Michigan

residents directly, in making some difficult choices to ameliorate conditions. In 2010, a deliberative poll was held in Michigan with 314 randomly chosen residents. The chosen sample was found to be very representative of Michigan's demography, in terms of age, race, gender, income, geography and even of political affiliations and pre-deliberation attitudes on the issues to be discussed. As such, it can be said that a microcosm of the entire state was gathered in a room.

Residents met in Lansing, Michigan for a long weekend to think, talk and decide on questions of unemployment, education and taxation. Through small group discussions and larger presentations of competing experts in plenary sessions, the citizens deliberated on what the best course for Michigan's economics would be.

After deliberation, 45% voted for an increase in income tax, up from 27% percent prior to deliberation. Among other things, the preference to decrease business tax went from 40% to 67%, and the "making Michigan a greener economy" proposal experienced an approval-rating hike from 55% to 67%.

What is especially interesting is that the "the factual based knowledge index" overall increased 7.7%. This last increase by 7.7% is small compared to the shift in income tax, etc.. It shows that actual knowledge barely increased (7 points), while all other data significantly shifted (between 12 and 27 points). This suggests that it may not be so much an increase in information that causes people to change their mind, but rather the chance to deliberate itself.

DIFFERENT POSSIBLE IMPLEMENTATIONS

Most suggested approaches to the practical implementation of sortition are of two forms: temporary & permanent. The temporary is a policy-or issue-based approach, whereas the permanent is a more legislative, constitutional approach. The first version is usually based on the need to resolve a specific topic. Thus did the question of same-sex

marriage get raised by the Irish citizens' assembly of 2012, whose well-publicised overwhelming endorsement of a YES vote by deliberators (with some spectacular and dramatic changes of heart) arguably produced the 62% YES vote in the subsequent national referendum. As in Ireland, within most temporary implementations of sortition, a randomly chosen citizen body is convened for a short period of time, i.e. a week, or multiple weekends. This body then listens to experts, debates on the topic and, at the end of the convention, formulates and votes on a suggested policy. This outcome, as well as the process of deliberation and first-hand impressions thereof, are usually made accessible to the public in the form of live tv. The temporary version of implementing sortition is then often followed by a public referendum in which the 'suggested policy' either finds public approval or denial. To date of publication, most modern implementations of sortition have been in the form of temporary bodies, acting 'consultatively' and without the binding authority to enact new laws & policies.

The permanent, constitutional approach to sortition seeks to implement the system within the legislative branch of a given government, or even to altogether replace existing governing bodies based on election with it. Such bodies would be vested with the power to change laws, make new laws, arbitrate on existing laws and possibly even change constitutions, all, of course, within the republican framework of checks and balances. Most advocates of sortition would likely agree that the implementation of some form of permanent sortitionate body or bodies is a reasonable next step, where trials with temporary assemblies have been shown to yield prudent policy recommendations. The many forms that permanent sortitionate governance can take, however, call for an expanded discussion of these possibilities as well as trials. In the following chapter, we put forth a proposal for what we call the 'People's Senate,' which would replace the present Senate, the upper chamber of the United States Congress. Though there may be many imperfections in this blueprint, the authors believe it is generally the most effective and feasible way to improve the American political system and imbue its

decision-making with more wisdom and accountability. We further believe that sortition should be tried and established at all the levels subsidiary to the federal, from state to county and even to the Jeffersonian ‘ward.’

THE SORTITIONATE SENATE: A PROPOSAL

Please see the diagram illustrating the sortitionate Senate in the foldout at the back of this booklet.

Disclaimer: Within this chapter, the authors of this pamphlet lay out a proposal for a sortitionate Senate, as developed by a process of deliberation between two. As this clearly is an insufficient sample size for producing politically legitimate policy, we merely make a proposal. We would suggest, for a full measure of legitimacy, that a randomly allotted deliberative council be convened to debate and decide on what form a multi-body Senate should ideally take.

Inspired by Terrill Bouricius, former member of the Vermont House of Representatives and advocate of multi-body sortition, we suggest the following design for a multi-body Senat, Bundesrat or House of Lords. The reason why we believe sortition should be used to select representatives to the “upper” houses, is because these houses have been theoretically designed and historically used to represent opinion rather than interest. The Senate, as well as the Bundesrat or the House of Lords, originally were bodies of appointed, rather than elected, individuals. As such, they did not have to campaign on or attach themselves to a specific set of political interests, but rather were “... a constitutional recognition of the portion of sovereignty remaining in the individual states and an instrument for preserving that residuary sovereignty [of the states and its people.]” - *Federalist Papers*, Madison, No. 62.

In the design for the People’s Senate we offer seven distinct bodies that collectively make up the Senate. All bodies are chosen randomly from among the population, after different criteria.

In our design of the People's Senate there are two Agenda Setting Councils. They are both randomly chosen from the population, though the time of incumbency differs. The first is chosen for 2 years with yearly rotation of half the representatives. The other council is chosen for 6 years with bi-yearly rotation of one third of representatives. The different periods of incumbency in each council shall facilitate the proposition of issues of both a short term and long term character. The rotation requirement in both councils shall facilitate a continuous flow of new members with both short- and long-term suggestions for policy issues.

A third body shall be the Research Council, chosen randomly from among the population of volunteering citizens, with at least a college degree and at least 25 years of age. The Council is chosen for four years, with a yearly rotational frequency of a quarter of the representatives. The Research Council finds & appoints all experts that reasonably have information or experience to offer about an item the Agenda Setting Councils have decided on.

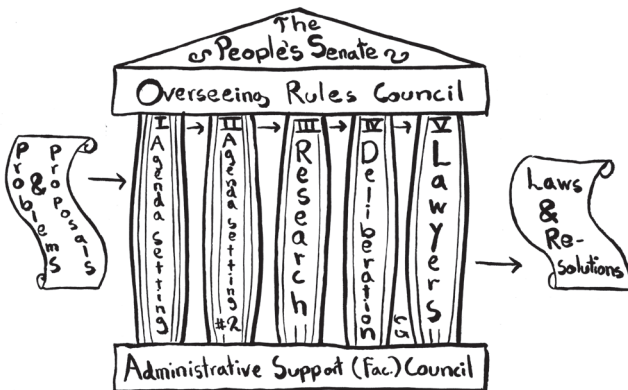
A fourth body shall be the Deliberation Council, the real lawmaking council, chosen from among the population, with 2-year terms on a yearly rotational frequency of half the representatives. The Deliberation Council listens to the experts found by the Research Council on the topic decided by one of the Agenda Setting Councils. The Deliberation Council listens to all who reasonably have a stake in the new regulation as well as experts on the topic, discuss among themselves, go into a second or third round of expert presentations, and finally decide on a regulation concerning the topic.

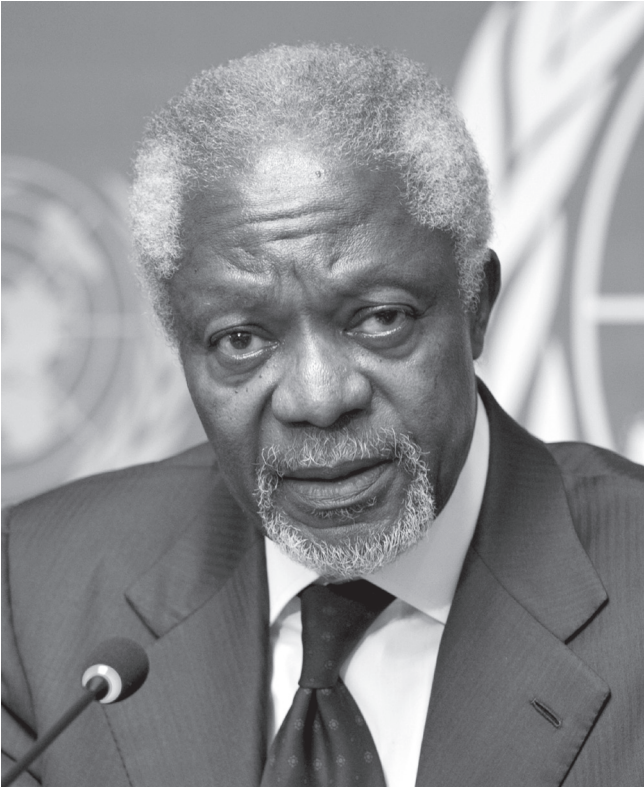
A fifth body shall be the Law Council, randomly chosen from among the population with a law degree or knowledge about law, to help the Deliberation Body in an advisory function to transform their decision into law. Members of the Law Council are chosen for three years with a yearly rotational frequency of one third.

A sixth body shall be the Rules Council, which ensures that each body only keeps to their ordained role within the process. The Rules Council is chosen randomly from among the population for a period of 5 years with a yearly rotational frequency of 1/5 of its members.*

And finally, a seventh body shall be the Support Council, which supplies administrative aid to all other bodies and helps them realize their respective roles. The Support Council has to be the most numerous body, chosen for 4 years with a yearly rotational frequency of 1/4 of its members.*

Within this design, power is separated along the legislative process. The first question - "what needs regulation?" - is addressed by the Agenda Setting Councils. These two councils only decide what the legislature talks about. The next body, the Research Council, only decides: "how do we talk about it?" The Deliberation Council alone decides: "what is the rule?" and finally the Law Council helps the Deliberation Council to proclaim: "this is the law!" If each body keeps to its assigned role, nobody alone can make a law, only all together can they rule. This separation of power works a little like when two people share a pastry - one person cuts, the other person picks - so that no one alone can decide who gets the bigger piece. Or in this case, no body alone can make a law. The Agenda Setting Council cannot decide what the rule is or how we think about it. The Research Council cannot decide what we think about nor what rule we





Kofi Annan, 1938-2018, seventh Secretary-General of the United Nations from 1997-2006

make, but only who is important in understanding the question. The Deliberation Council can only decide what the rule is, but not the Agenda or the experts. And finally the Law Council can only help to decide what the law is, but not the rule, nor the agenda, nor the experts. If each body keeps to its role, the separation of power in the decision-making process remains intact. In order to detect and control possible breaches of this separation, the Rules Council has the power to oversee each step in the legislative process. In order to facilitate collegiality and cooperation among the different Councils, the Support Council outfits them with support personnel.

This proposed design for the People's Senate is neither sufficient nor satisfactory. Should there be educational requirements for Council X? Where and

on what scale can this be trialled? Should there be an age requirement for the Council X? How many people per Council? For what period of time? etc. - all these questions demand further deliberation, research and empirical evidence. We invite you to join the discussion!

*We believe that both Rules as well as the Support Council should have some form of 'seniority' made up of individuals that voluntarily accept to serve in either council for about 15 years. This kind of seniority would do well because these two councils do not depend on innovative ideas or approaches, but rather depend on a conservative and efficient workflow. The possibility for 'seniority' would further offer a tentative career opportunity in those positions that do not themselves hold the sway of 'ruling.'

Addendum: There is the option of a Revision Council as being separate to the other seven councils, or as subsumed in the remit of the Agenda Councils. The function dispatched as revision would be to look at policy decisions made by the sortitionate senate, which the Agenda Councils wish to deliberate on again. It might look at the agenda proposal and what the underlying question really is and how it should be reframed.

KOFI ANNAN EXTOLLS SORTITION

In a speech titled "The Crisis of Democracy" given to the 2017 Athens Democracy Forum, the late, great former Secretary-General of the United Nations Kofi Annan has endorsed the use of sortition as a tool for "mak[ing] our democracies more inclusive".

"We need to tackle inequality, both economic and political. As I have said, increasing inequality is one of the drivers of resentment, especially since economic inequality leads to political inequalities as well, as several studies have confirmed. There is a growing perception that the priorities of the extremely wealthy take precedence over the well-being of the middle class, thanks to campaign contributions and

lobbying. At the other end of the spectrum, the poor and minorities are, or at least feel, excluded from the political system. Governments must respond by redistributing fairly the benefits of globalisation by restricting tax avoidance and evasion schemes, and most importantly, discouraging tax havens. Fortunately, democracy is one of the only systems in which the concerns of the majority can overturn the interests of the wealthy if the majority harnesses the mechanisms at their disposal. But this demands more participation, not less.

This means that we need to make our democracies more inclusive. This requires bold and innovative reforms to bring in the young, the poor and minorities into the political system. An interesting idea put forward by one of your speakers this week, Mr. Reybrouck (David Reybrouck, author of *Against Elections*) would be to reintroduce the ancient Greek practice of selecting parliaments by lot instead of election. In other words, parliamentarians would no longer be nominated by political parties, but chosen at random for a limited term, in the way many jury systems work. This would prevent the formation of self-serving and self-perpetuating political classes disconnected from their electorates.”

ATTRIBUTES OF SORTITION (WHAT DOES IT BRING TO THE TABLE THAT NO OTHER FORM OF DEMOCRACY / DECISION-MAKING HAS)

Sortition...

- enables maximum randomness in the range of voices around the table / in the room
- provides an experience of being heard by others - which can temper the frustrations of political impotence that might otherwise lead to more contrarian, reactionary positions
- addresses the deep-seated need for belonging, through social responsibility
- arguably constitutes the most legitimate form of democracy achievable, in that it gives voice to the most refined expression of a people's will

- nurtures a culture of discussion and knowledge-exchange
- preserves liberty of deviation

ELECTION 1-01 SORTITION

This section seeks to show the progression of concepts from electoral democracy (at left) to lottery democracy (at right). In each case, we find that an attribute, operating principle or focal point shifts as we transition from the status quo of democracy to the revived form of democracy.

Leadership 1-01 Stewardship

Adversarial 1-01 Conciliatory

Passion politics 1-01 Commons sense

Ruler vs. Ruled 1-01 Citizen co-rulers

Zero-sum game 1-01 Non-zero sum

Aggregate interests 1-01 Filtered opinions

Rational interest 1-01 Responsible reasoning

Echo-chamber effect 1-01 Moderating effect

Individual ignorance 1-01 Collective wisdom

Disenfranchised voters 1-01 Empowered deliberators

Democratic disjunction 1-01 Democratic coherence

Principle of distinction to win over voters 1-01 Good arguments to win over deliberators

Democracy when people aren't thinking 1-01
Democracy when people are thinking, and talking and listening

Voting representatives is the main expression of power 1-01 Deliberation & voting on

issues directly is main expression of power

OBJECTIONS & RESPONSES

What are some valid arguments against sortition/
potential critiques against those trying to instate it?

Objection 1: Not everyone wants to be involved in politics and you are trying to force them into it: *“You are basing your pursuit of lottery democracy on a premise: that everyone’s true nature is toward being involved in decision-making. You want to get everyone to the table, give everyone a chance. Your assumption is that once you’ve put them in a room together they suddenly enjoy this process, like their desire to remain outside politics was dumb and that everyone has the same basic nature at the end of the day that will be proven out by this process. But this is normative: you are attempting to impose your paradigm of how people should interact socially/civically/politically, condition them to that experience and then claim that it is the true expression of human nature. But you will have molded them just as, say, social media molds them today. And if both are based ostensibly on ‘consent,’ why should social media or the present political system be any less valid than the one you offer to replace it?”*

Response: This objection is flawed, in that it claims that an inclusive system of human organisation can only be as valid as any other. By a sort of rhetorical relativism, it suggests that all systems of social organisation are interchangeable in so far as they impose a worldview on others. What this argument overlooks altogether, however, is that social and political systems can be organised to flatten discourse or to give voice to individual expression. The wider the margin for individual self-expression within a political framework, the more likely we are to move from normativity and a wanton fear of alternatives (Consider the paralyzing power of Margaret Thatcher’s neoliberal austerity party slogan: “There is No Alternative”) to discovering the great variety of possibilities that inheres in our nature, as political animals. And keep in mind, lastly, that sortition is based on volition. The proof of this system’s validity will not lie in how many people volunteer to the draw, but in how many people of the

voting population approve of the system as a whole and to compare that to voter participation numbers.

Objection 2: Let technology take over:

“We have shown that people like to associate virtually. We can make the algorithms that harvest the people’s true political orientations etc. They don’t need to discuss, we can determine based on their preferences. It’s easy enough to work. Everyone likes the convenience. The process is online, the tools are out there. In fact, it allows for standardization - nobody gets an unfair turn. Blah blarf blarf.”

Response: The problem with data and technology as a whole, is, that wielded as a tool to probe political will, it only ever probes the will of the people in isolation. Thus, the echo-chamber effect is always going to be at play, and the *moderating effect* of face-to-face public deliberation altogether missing. There are so many facets of human communication in the physical round that cannot be accounted for and conveyed fully by digital means. This fact will never change, thus the need for physical deliberation remains vital.

Objection 3: We do not know enough about sortition or how it would change society. This gamble is too big, I would rather stick with what we have:

“We do not know if a legislative body based on sortition is efficient enough to resolve our immediate political crisis or any immediate political question that arises out of a rapidly changing world. It might be less democratic and maybe not sustainable, but right now I’d rather have a few, usually highly educated people make the necessary decisions, and not a randomly chosen sample of the population. Who cares about legitimacy, I want effectivity.”

Response: There is an extent to which the introduction of this new system constitutes a ‘gamble.’ Considering, however, that the present electoral democracies have an increasingly tenuous hold on the credulity and imagination of their citizens, leaving them unchallenged is now the riskiest gamble. We must be careful not to conflate the failings of that brand of democracy with a failure of democracy itself. Nor should we see it as a failing of complexity in politics. From the lens of a status quo that is burdened with a long history of

bad complex politics, the prospects for an effective complex political process may seem hopeless. As problems mount, politics devolve into gridlock and bureaucracy, the illusory appeal of 'strongman' unitary leadership experiences a revival. Technocrats and experts - some well-meaning and others opportunistic - would readily step up to the plate and decide based on their expertise what needs to be done. The only problem is this: many of the problems of our day, culminating in an ecological crisis, were brought about by a situation in which a few were tasked with making decisions for the many. In countless cases, these few were readily ethically compromised while in office or arrived there thusly. Some of the biggest problems of our day can be said to have derived from a situation where responsibility was not shared widely enough, and power not checked from enough sources. Now, what if we were to put into power the foremost experts of each field as it relates to a particular aspect of a problem, ensuring they are incorruptible, and let them decide? Well, firstly, responsibility would still not be shared widely enough and power not checked from enough sources to guarantee a process above moral reproach. Secondly, if these experts were to make the decisions, they could end up blundering terribly by making scientifically informed decisions that overlook vital insights from the experience of an engineer, the ingenuity of an inventor, the pragmatism of a farmer etc. If, however, we were to allow such experts to make recommendations for decisions, then we would be looking at the panel of experts that every good deliberative council should have. The complexity of a now global ecological crisis requires thinking of a complexity on the same order of magnitude. This is only achievable through hive thinking, as embodied by the deliberative democratic process in sortitionate decision-making bodies with the vested power to enact policy.

OKEY, I GET IT, SORTION IS THE WAY FORWARD. WHAT CAN I DO NOW?

1. Take the gamble for a better world, tell all your friends about sortition and stay tuned for a chance to

join a sortitionate body.

2. Sign up and help us spread the word. The website, in progress at time of printing, is hac.bard.edu/birds. Meanwhile, we are already reachable at birds4democracy@gmail.com

3. We would gratefully accept any donations to further our research. Please visit: <http://hac.bard.edu/membership/> and write BIRDS into the designation or send us an email.

RESOURCES & READING

Against Elections: The Case for Democracy (2016) by David Van Reybrouck *Etnofoor* 26, no. 2 (2014) “Participatory Governance - The Case for Allotment” by Josine Blok

Democracy When the People Are Thinking: Revitalizing Our Politics Through Public Deliberation (2018) by James S. Fishkin

Journal of Public Deliberation: Vol. 9, Iss. 1, Article 11
“Democracy Through Multi-Body Sortition: Athenian Lessons for the Modern Day” (2013) by Terrill Bouricius

The Principles of Representative Government (1997) by Bernard Manin

When the People Speak (2009) by James Fishkin

Who Acts? Community through Chance • Senior Project Submitted to The Division of Social Studies of Bard College (December, 2017) by Jonas Kunz

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Most of the writing in this pamphlet is based on research done for the thesis *Who Acts? Community through Chance*, a Senior Project Submitted to The Division of Social Studies of Bard College (December, 2017) by Jonas Kunz. For a pdf, please contact the author at jonaskunz@protonmail.com. Also, look out for Jonas' forthcoming book on sortition.

To learn more about hive thinking and the role lottery democracy plays in a burgeoning worldwide environmental movement, please consult Hans Kern's [Re]cyclopaedia or his forthcoming book on global swarming, or write the author at hans.kern@gmail.com.

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