Policy Institute

THE LOTTERY AS A
DEMOCRATIC INSTITUTION

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INTRODUCTION

On October 11-12, 2012, "The Lottery as a Democratic Theory" was held at Trinity College Dublin. This workshop brought together an interdisciplinary research team from across Europe to consider the role of lotteries in a vibrant and well-functioning modern democratic polity. In particular, the workshop considered how the careful use of random selection in politics might contribute to the revitalization of democracy in the 21st century. The event was jointly organised by Gil Delannoi (Sciences Po), Oliver Dowlen (QMUL) and Peter Stone (Trinity College Dublin) in collaboration with The Policy Institute (http://www.tcd.ie/policy-institute/events/Lottery_workshop_Oct12.php).

The large and growing problems facing modern democracies have led many to reconsider the idea of selecting some political officials by lot. The randomly-selected jury remains widely regarded as a model of bringing ordinary people together to make vital public decisions. As a result, there are now many proposals to use the lottery as a democratic institution more expansively. This is increasingly seen as a way to restore life to dysfunctional democracies in the wake of recent crises, from the "War on Terror" to the banking crisis.

But while the idea of selecting political officials by lot is receiving more and more attention, it still strikes many people as unrealistic and utopian. This is in part a reflection of the fact that the ideal of democracy has been closely associated with elections for the past two centuries. Any attempt to move away from voting by the citizenry—either for representatives or for policies via referenda—is viewed as anti-democratic. This association overlooks the close association between democracy and random selection that prevailed up until the 18th century.[1] Indeed, Aristotle famously proposed that elections were inherently aristocratic, while selection by lot was the democratic way of filling public offices. Nevertheless, it is understandable that people would be skittish about large-scale changes to their political institutions, particularly when they have little direct experience with lotteries in politics.

The workshop sought to address these concerns. It did so in two ways. First, it brought together both proponents of random selection and political scientists broadly concerned with democratic institutions. Second, it invited both of these groups to examine what is

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1 Manin (1997) carefully examines the history of democracy, its early association with random selection, and its later association with representation and elections.

currently known about lotteries and what questions still remain to be investigated. To orient these discussions, the workshop asked the following three questions:

1) What can lotteries contribute to politics?
2) How can lotteries best be incorporated into modern democratic institutions?
3) What questions regarding lotteries remain for future research?

The organizers of the workshop circulated a draft document to the participants which proposed answers to these three questions. This draft document was then revised in light of the discussion at the workshop, as well as subsequent feedback. This report is the result.[2]

2 The authors would like to stress the report's status as a discussion document, designed to stimulate the exploration of the ideas expressed in the seminar series which generated it. It does not represent any common or defined position taken by the authors as a group

BACKGROUND

There is a growing interest among both academics and ordinary citizens in random selection as a means of allocating social goods and assigning public responsibilities. Economists, legal scholars, political scientists, philosophers, and sociologists have investigated the many historical uses to which lotteries have been put. They have also examined the arguments for and against the use of lotteries, as well as the specific circumstances under which lottery use may be advisable.[3]

This growing interest in lotteries has generated an international working group for scholars and non-scholars with an interest in random selection. This group calls itself the *Kleroterians*, after the device employed by the Athenians to select their juries. Founded by economist Conall Boyle, this group brings together proponents of lottery use from Australia, France, Germany, Ireland, Israel, the Netherlands, Spain, the United Kingdom, the United States, and other countries in a truly international and interdisciplinary network. The group currently maintains a blog, entitled Equality by Lot (http://equalitybylot.wordpress. com/), as well as a Facebook page and a Google Group. It has also brought members together in a variety of settings. The first two of these organized activities were a session at the 2008 Manchester Workshops in Political Theory and a conference entitled "Selection by Lottery: Theory and Practice," held at Sciences Po, Paris, on November 27, 2008.

In 2011, Gil Delannoi, Oliver Dowlen, and Peter Stone began organizing a series of workshops as part of an ongoing Research Program on Sortition. (The term "sortition" refers to the practice of selection by lot.) The goal of these workshops was to advance the study of random selection in politics, understand its advantages and disadvantages, and explore the contribution it can make to politics today. It sought to bring political theory to bear on the problem of institutional design, a task attempted all-too-rarely in the academic world today (cf. Waldron 2013). The first of these workshops was held at Sciences Po, Paris, on October 6-7, 2011, under the title "Sortition and Direct Democracy." The second session, entitled "Sortition and the State," took place on November 18-19, 2011, also at Sciences Po. The third session was devoted to Bernard Manin's classic work *The Principles of Representative Government* (1997). It was held at Sciences Po on May 24-25, 2012.

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3 Important books in this literature include Elster (1989), Carson and Martin (1999), Duxbury (1999), Goodwin (2005), Burnheim (2006), Dowlen (2008), and Stone (2011). Many of the central papers on the topic of lotteries have been collected in Stone, ed. (2011).

The October 11-12, 2012 Dublin workshop was the fourth in this ongoing series. Stone, as the local organizer of the event, took responsibility for the workshop's theme. He was particularly anxious to expand the circle of people involved in the dialogue surrounding random selection in politics. This had been one of the organizers' goals throughout the series of workshops; at each event, a point was made to invite both established Kleroterians as well as fresh faces to take part. Stone wished to take this process a step further. He did this by inviting political scientists broadly concerned with participatory and deliberative democracy but without specific interest in lotteries. He invited these newcomers to come together with Kleroterians and other established lottery advocates in a dialogue on the role of lotteries in the democracy process.

To this end, Delannoi, Dowlen, and Stone produced a draft document for discussion by the workshop participants. (The draft report can be found at http://www.tcd.ie/policy-institute/assets/pdf/Lottery_Report_Oct12.pdf.) The document addressed three questions regarding the lottery as a democratic institution. *First*, what can random selection contribute to politics? *Second*, how can random selection best be incorporated into modern democratic institutions? *Third*, what research questions on lotteries still need to be addressed? The document was presented at the workshop, and the presentations, along with the discussions that followed, were recorded by Dowlen. The conversation generated by this draft document at the workshop formed the basis for the revision and expansion of the document into the present report.

In addition, Stone presented drafts of this report at the Séminaire de Recherche, Département de Science Politique et Relations Internationals, University of Geneva, March 11, 2013; and at the Political Science Department Writing Workshop, Trinity College Dublin, April 2, 2013. Comments and suggestions received at these two events were also incorporated into the final version of this report.

Delannoi, Dowlen, and Stone plan to continue organizing additional sessions of the Research Program on Sortition. A session is scheduled to be held at QMUL on October 10-11, 2013. Hopefully, this report will contribute to the ongoing dialogue generated by the Research Program, and spark further interest in the potential contribution lotteries can make to democracy.

SUMMARY OF FINDINGS

Proponents of random selection in politics have identified at least eight potential contributions that the practice can make to the political process. These are: descriptive representation, prevention of corruption and/or domination, mitigation of elite-level conflict, control of political outliers, distributive justice, participation, rotation, and psychological benefits. We argue that random selection makes its strongest contribution when it selects citizens to function as impartial guardians of the political system. This means selecting citizens at random, not to make policy or enact laws, but to protect the integrity of the political process—by making and enforcing legislative ethics standards, for example. Random selection's strongest contribution is to the prevention of corruption and/or domination; the fact that it enables descriptive representation, while undeniably true, is less important to politics.

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PART 1: WHAT CAN LOTTERIES CONTRIBUTE TO POLITICS?

Lotteries have been used to make an incredibly wide variety of decisions. They have, for example, been used to decide who gets admitted to a desirable school, who gets drafted, and which person stranded in a lifeboat gets eaten or thrown overboard. They have been used to admit people to jury duty, military service, performances of the Mormon Tabernacle Choir, and Michael Jackson's funeral. They have been used to determine the order of candidate names on ballots, as well as the order of author names on published articles. (For an extensive list of real or hypothetical lottery uses, with documentation, see Stone 2011, section 1.2). One of the most common and consistent uses to which lotteries have been put is the assignment of public responsibilities. Random selection has been incorporated into a wide variety of schemes to fill public offices, and an even wider variety of schemes have been proposed in recent years. In this report, we will deal mainly with the use of lotteries for this specific purpose. We will refer to this use of lotteries in this report as *sortition*.[4] We focus upon the problem of identifying and defending the proper use of sortition in the contemporary world.

Sortition has been widely used in the past by small city-states, notably in ancient Greece and Renaissance-era Italy. But it has been effectively eclipsed by electoral democracy in the modern world, despite the continued survival of the jury in the Anglo-American world. Nevertheless, the many deficiencies of contemporary democracy have led to a growing revival of interest in sortition over the past few decades. Vergne (2010) catalogues this revival, demonstrating a clear increase in academic studies devoted to random selection in politics since the 1950s. Moreover, each year seems to generate new theoretical and empirical findings on the topic of sortition. The blog Equality by Lot offers a review at the end of each year of the latest work on the topic; its latest review can be found at http://equalitybylot.wordpress.com/2012/12/29/2012-review-sortition-related-events/.

The idea of sortition has a certain intuitive appeal. One politician, when confronted with the idea of selecting Congress by lot, for example, quipped, "The idea of a lottery is at first

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4 The term "sortition" has historically had a wider meaning than this. The Shorter Oxford English Dictionary defines "sortition" as "The casting or drawing of lots; selection, choice, or determination by lot." There is disagreement among current proponents of lottery use as to how the term ought to be used today. Stone (the main author of parts I and III) favours a refined definition of the term as denoting the selection of citizens for public office. Dowlen (the main author of part II), on the other hand, favours maintaining the traditional use of the term as referring to the mechanism or act of drawing of lots itself. In most cases this has little effect on the meaning of the text as the report's focus is on the selection of citizens for office, but the reader should be aware of this distinction.

thought absurd, and at second thought obvious" (Callenbach and Phillips 2008, p. 75).[5] But this intuitive appeal has not yet led to a single unified understanding as to when and why sortition makes sense. Rather, it has led to a diversity of arguments that do not necessarily fit together well. A careful scrutiny of this diversity will demonstrate the extent to which proponents of sortition agree, as well as identify points of disagreement that have yet to be resolved. Both of these results will advance the study of sortition; moreover, the identification of points of disagreement will provide a clear focus for future research.

This report will scrutinize the existing state of play in the study of sortition. It will begin by cataloguing the major benefits that sortition, in the eyes of its admirers, can bring to politics. It will not, at this stage, examine the plausibility of those benefits, or the conditions under which those benefits can be realized. It will simply provide a list of the reasons sortition proponents have put forth in defence of the practice. It will then inquire whether there is any unity underlying these reasons, whether there is anything about lottery use that explains why sortition should prove capable of providing all of these advantages. It will ask, in other words, whether there is, or could be, such a thing as a general theory of lottery use. The performance of these tasks will enable us to answer the question, what can lotteries contribute to politics.

Answering this question is the goal of this section of our report. The second section will then apply the answer generated in this section to the problem of identifying the best ways to bring sortition to bear in contemporary politics. In other words, it will address the question, how can lotteries best be incorporated into modern democratic institutions. The final section will ask what questions regarding sortition still remain for future research. It will accomplish this by reconsidering the list of benefits generated by sortition. It will tentatively evaluate this list. This requires asking two further questions: 1) how strong a connection can be established between sortition and each benefit, and 2) is each benefit really a benefit. The third section can offer no firm answers to these two questions; rather, it will offer some suggestions that will hopefully provide a good starting point for future, more detailed inquiries into these topics.

We begin, then, by considering the various virtues attributed to sortition. Proponents of sortition evoke at least eight distinct contributions that lottery use can make to the political process. Some of these contributions receive more attention than others in the

5 When we presented the draft report at a seminar at the University of Geneva, one audience member commented that sortition was "one of the sexiest ideas in political theory" today. We concur.

literature, with others receiving attention sporadically or hardly at all. Many of these contributions result in the improvement of the quality of political decision-making; some, however, constitute "side benefits" to the political process not directly related to decision-making proper. Not everyone agrees that sortition can generate all of these contributions. Moreover, not everyone agrees that all of these contributions constitute genuine benefits. Put another way, sortition may or may not generate all of these effects, and these effects may or may not all be good. We list these contributions here in roughly descending order of the amount of attention they receive in the literature surrounding sortition:

a) *Descriptive representation.* Sortition ensures that any property appearing in the general population will also appear in roughly the same proportions on a randomly-selected decision-making body. This property of sortition is very robust so long as two conditions hold. *First*, the decision-making body must have a significant number of members (ideally, several hundred). Obviously, descriptive representation is a meaningless standard to apply to an office occupied by only a single individual; one president cannot, in any meaningful sense, be said to represent descriptively the entire country. But this is not a serious objection to sortition; there are no examples in the historical record of lotteries being used to select single officeholders, and virtually no live proposals today to attempt this.[6] Still, sortition has been employed to select small decision-making bodies that are minimally capable of ensuring descriptive representation; it was used, for example, to select various 10-member administrative boards in classical Athens, and it is used to select 12-member juries in the Anglo-American world today. Such uses of sortition cannot robustly be justified in terms of descriptive representation. *Second*, random selection must proceed from a pool consisting of the entire population it is supposed to represent descriptively. Adding additional selection criteria—by requiring citizens to volunteer for duty, for example, or even by allowing citizens to opt out of the selection process—will alter the population to be represented. Efforts to ensure that officeholders possess motivation, experience, ability, or any other criteria not possessed by the entire population threaten to work against the ideal of descriptive representation.

b) *Prevention of corruption and/or domination:* The democratic process can be severely undermined when officeholders use their offices to benefit themselves. Sortition hampers this process by ensuring that those anxious to obtain office for venal purposes

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6 Lotteries have, however, been incorporated into voting schemes to select single officeholders—the Doge of Venice, for example. They have also been employed to fill largely ceremonial offices. In democratic Athens, a single member of the Athenian boule (council) was randomly selected every day to serve as "president" of Athens.

cannot obtain it more reliably than anyone else. (Obviously, sortition can do nothing if the majority of the population desires office for such venal purposes, although other institutions can be adopted alongside sortition to address the problem.) More seriously, the process can be undermined when outside interests suborn officeholders so as to make the latter advance the former's agenda at the expense of the general interest. This can happen either because the special interests influence the selection process (ensuring that only those favouring the special interest cause obtain office), or because they influence those selected according to other criteria (through bribes and/or threats). Sortition obviously prevents special interests from influencing the selection process; it can also prevent bribes and threats provided that the random selection process is suitably insulated.[7] By preventing objectionable reasons from influencing the selection process, random selection—a process which excludes reasons from decision-making, can ironically enable more reasoned behaviour on the part of public officials, behaviour untainted by special interests. (Yann-Allard Tremblay stressed this last point during the workshop.)[8] This may also have the more general effect of limiting the effects of economic power upon political power, a point made by Ètienne Chouard during the workshop. Domination, according to Michael Walzer, occurs when inequality in one sphere of life inappropriately leads to inequality in another sphere (Walzer 1983). Sortition may help limit economic domination of this sort.

c) *Mitigation of elite-level conflict:* Political competition, like economic competition, is desirable only when it serves the interest of the broader public. Market competition between firms can do this by producing lower prices, higher quality, etc. But market competition founders if firms either form cartels to restrain competition, or engage in destructive forms of competition (e.g., blowing up rival factories). Similarly, political competition between elites can benefit the public when educated, informed, and motivated politicians compete for public support by offering socially desirable policies. But this competition founders when elites either compete too little (by establishing

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7 This requires, for example, that the selected officials assume office immediately, and that either they are sequestered or access to them is suitably controlled or monitored. If the public enjoys full public access to randomly-selected officials, as they do with many public officials, then additional forms of protection against corruption will of course be required.

8 Those who remain sceptical of this point should take care not to run afoul of the fallacy of composition. Reason may fail to obtain in one stage of the political process without preventing the entire process from being reasoned. Indeed, the former might even be a prerequisite for the latter.

"political cartels") or too much (at the limit, by engaging in civil war).[9] The former effect can be curtailed through sortition by preventing elites from controlling the selection process. This is the "protection against domination" effect described previously. The latter effect is similarly curtailed through sortition; because no faction of the elite can stack randomly-selected bodies with its supporters, no elites need fear such a faction taking control of the entire political system. (One could also dub this the mitigation of *partisanship*.) This motivation was surely present in the selection process used in Renaissance-era Venice to select its head of state, the doge. The selection process was incredibly complex, involving multiple levels of election and sortition. Whatever the process's defects, it survived for five hundred years (Finlay 1980).

d) *Control of political outliers:* Small groups with outlier preferences may be highly motivated to suborn the political process. They may thus gain a measure of political influence totally disproportionate to their size. Sortition can mitigate this by ensuring that such outlier groups cannot obtain vastly oversized representation; at the limit, when perfect descriptive representation is attained, no such group can obtain political office in numbers larger than its presence in the general population. Deviations from proportionality will of course weaken this effect; if sortition is used to select only among volunteers, for example, an outlier group might become radically overrepresented.[10] And sortition can only mitigate the effects of outlier preferences; if a majority or a large minority has despicable preferences, sortition can do little to mitigate this fact. (But then again, no democratic process can do much better.)

e) *Distributive justice.* The citizens of classical Athens regarded public office as a good, one to which all citizens had equal claims (Mulgan 1984). Most modern citizens are

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9 Shapiro sees this as the essential insight of Joseph Schumpeter (2010). "The underlying logic," Shapiro writes, "of his [Schumpeter's] argument is disarmingly simple. It reduces to a double claim: (1) that structured competition for power is preferable both to Hobbesian anarchy and to the power monopoly that Hobbes saw as the logical response to it, and (2) that the choices among anarchy, monopoly, and competition are the only meaningful possibilities" (Shapiro 2003, p. 55).

10 This may, of course, be regarded as a strength. John Burnheim, in his book *Is Democracy Possible?* (2006), defends sortition from a pool of volunteers as a way of ensuring that those who care the most about issues are the ones who make decisions regarding those issues. This might have the effects of increasing stability and ensuring that decision-makers are knowledgeable. But the mere fact that volunteers want something different from what the public as a whole wants poses a challenge to democratic theory, even if volunteers have no venal motivations (cf. Walzer 1970). And the beneficial effects are far from certain. If volunteers are sharply divided on an issue, then empowering them could decrease stability. And those who care the most about an issue may be motivated to become knowledgeable about the subject, but they also may not (e.g., creationists).

not so covetous of officeholding; witness the lengths to which people will go to avoid jury duty. But if public office were, not a valued social benefit, but a genuine social burden, then one might make the argument that the avoidance of public office is a good to which all citizens have equal claims.[11] Either way, a lottery is a fair way to distribute benefits (burdens) among those who have equal claims to them (avoiding them) (Stone 2007; Stone 2011, part II). But neither of these positions is widely held today; most citizens of modern democracy tend to think of political equality as an equal right to select political officials, as well as an equal right to pursue office, but not an equal right to office itself (Manin 1997). This understanding fits well with the idea of a society-wide division of labour, which allows some to specialize in politics while leaving others free to pursue other goals (Constant 1988). Most modern proponents of sortition share this view. While they recognize the limits of making politics a vocation (not to mention its dangers—those most motivated to obtain political expertise are often those with the most to gain by corrupting the political process), and tout the advantages of a certain amount of political amateurism, few defend the idea of political office as a good in itself.[12]

f) *Participation.* While few proponents of sortition explicitly argue that political office should be regarded as a good, many share the widespread concern with declining political participation and citizen apathy. They believe it is important both for political systems to provide genuine opportunities for participation and to ensure that such participation takes place. (This is sometimes described as the problem of making the system "inclusive.") Rarely, however, do they explain why political systems should do this, although many participatory democrats endorse John Stuart Mill's case for the educative effects of participation (Bachrach 1967; Pateman 1970). Again, the counterargument is that politics is a profession, like any other, and best left to the experts. There is therefore no reason to fret if many refuse to get involved with politics, any more than if many took no interest in particle physics or chemical engineering or patent law. The political process may work better if politics is not left to the professionals, but this fact is properly captured by the other advantages to sortition

11 On the avoidance of a burden as a benefit, see Sher (1980).

12 Equality and impartiality are sometimes expressed as separate values advanced by a lottery. But it is difficult to see how both values could be specified in a manner that leaves them distinct. Impartiality, on most accounts, involves keeping irrelevant factors out of the decision-making process. (This is what is normally meant by the saying, "Justice is blind.") But if equality is a democratic value, in the sense that all citizens are equally entitled to hold office, then all distinctions between citizens are irrelevant for purposes of filling those offices. Conversely, if there exist legitimate reasons for distinguishing between citizens in assigning public responsibilities, then citizens should receive unequal but impartial access to those responsibilities.

listed above. More important for the purposes of the argument here is that participation is, in a very real sense, zero-sum. Given a fixed number of offices, only a certain number of citizens can obtain the participatory benefits of office-holding, no matter what the selection method used. Sortition may be said to enable participation by allowing *different*, as opposed to *more*, people to participate—specifically, people traditionally excluded from the political process due to poverty, race, etc. Also, sortition may be used in conjunction with an expansion in the number of offices, enabling a greater total quantity of participation.

g) *Rotation.* Proponents of sortition also frequently tout the fact that the practice ensures rotation of political office (e.g., Goodwin 2005, ch. 6). Rotation is sometimes conflated with participation, but this is a mistake. Rotation simply means that there is turnover in office, that the people in power today are not same as the people in power tomorrow. It reflects the Aristotelian ideal of ruling and being ruled in turn. It is unclear how distinct is the contribution to politics made by rotation. If rotation is desirable, for example, because it lets more people participate in politics; or because the it allows the benefit/burdens of political office to be shared widely amongst the citizenry; or because it prevents of domination of politics by elite groups; then rotation can likely be reduced to one or more of the other advantages catalogued here.

h) *Psychological benefits.* It is transparent that officeholders selected by lot are not selected on the basis of any personal quality, positive or negative, they might possess. Therefore, it is difficult for those who win office to feel any special entitlement to office,[13] or for those who lose office to feel any special deference to those who win. It is an open question how strong this effect really is, although its existence seems very likely.[14] This effect does, however, seem parasitic on the others described here. Other psychological effects are possible, a point made by Hubertus Buchstein during the workshop. Participation via sortition may, for example, promote a sense of reciprocity, as well as personal autonomy and confidence. But care must be taken here; while some of these effects may be tied specifically to sortition, others will likely follow from any procedure that brings traditionally marginalized citizens into the political process.

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13 But not impossible, if the lottery is interpreted as expressing the will of some higher power, such as God or fate. To see the lottery this way, however, is to see it as not being a real lottery at all. See Stone (2010a).

14 Kleroterian Jan-Willem Burgers has stressed the importance of this sortition-related benefit in past work. See in particular Burgers (2011). He has, however, since distanced himself from this position.

We regard this list of proposed benefits generated by sortition as fairly comprehensive. There may be a case to be made for reclassifying these benefits, perhaps lumping two of them together or splitting one of them into two sub-benefits. There may be a case for eliminating one or more of these benefits as purely derivative from the others. But this list exhausts the current reasons for favouring sortition in the contemporary debates surrounding the topic.[15]

Scholars concerned with sortition thus recognize a number of contributions that the practice can make to the assignment of public or political responsibilities. They disagree, however, whether these contributions can all be explained by a general theory of lottery use.[16] There are two positions on this subject, which can be described as the "monist" and "pluralist" positions (Burgers 2013, ch. 3). Both monists and pluralists agree that decision-making by lottery will, depending upon the nature of the decision in question, offer numerous advantages and disadvantages. But monists argue that lotteries possess a single property that accounts for all of these advantages and disadvantages, and that this property accounts for all of these advantages and disadvantages in roughly the same way. They accordingly attempt to offer what amounts to a general theory of lottery use. Pluralists, in contrast, deny that any such general theory is possible, or that there is any single property that can account for all of the things (good or bad) that lotteries can do.

Both Oliver Dowlen, in *The Political Potential of Sortition* (2008), and Peter Stone, in *The Luck of the Draw: The Role of Lotteries in Decision Making* (2011), defend the monist position (see also Dowlen 2009 and Stone 2009, 2010a). Their accounts are similar. Both point to the fact that lotteries, due to their unpredictable nature, make decisions in a manner unconnected to rationality or reasons. Dowlen speaks of the "arationality" of lotteries as the fundamental contribution they make, whereas Stone argues that lotteries provide the sanitizing effect of a process unaffected by reasons. Dowlen and Stone do have some disagreements (Dowlen 2012; Stone 2010b, forthcoming). Both, for example, agree that lotteries have "weak" uses (in which the primary property of lotteries—the lack of connection to rationality/reasons—contributes nothing, even though it does not detract from decision-making) and "strong" uses (in which the primary property makes a positive

15 Hubertus Buchstein argued at the workshop for including legitimacy and stability on this list. Yann Allard-Tremblay also invoked the idea of legitimacy as a separate contribution sortition might make. We are not convinced that these constitute additions to the list. Whatever contribution sortition makes to legitimacy or stability probably takes place through the other contributions described above.

16 The discussion here applies more generally, to decision-making by lottery in general, not just to sortition. We will, however, maintain our focus on sortition here.

contribution). The use of lotteries as a cheap, quick, and convenient decision-making tool, for example, is a weak use. But while both Dowlen and Stone acknowledge that lotteries can be used to ensure descriptive representation (to be discussed further shortly), Dowlen describes this use as weak, whereas Stone regards it as strong (see also Stone 2010b).

The distinction between strong and weak uses of lotteries is crucial to the monist position. For neither Dowlen nor Stone denies that lotteries can be used in ways that make no use of their essential property. A knife, for example, could simply be used as a paperweight, but if it is so used, it is not being used *as a knife*. Similarly, one could make a decision by rolling a die simply because it's quick and cheap. But doing so does not use the lottery *as a lottery*; it makes no use of the property that distinguishes lotteries from other decision-making methods.[17] There are also, quite obviously, arguments one could make for or against lottery use that do not refer to the property that lotteries share. A wealthy eccentric might try bribing a local government to select a zoning commission by lot; this might give the local government a reason to employ lotteries unrelated to the essential property of lotteries, but it does not defeat the claim that such an essential property exists.

Proponents of the monist position have surveyed numerous proposed contributions that lotteries might make, in order to show that they can safely be described in terms of a single contribution made under different circumstances. Peter Stone, for example, has critically scrutinized two major works on lotteries—Jon Elster's *Solomonic Judgments* (1989) and Barbara Goodwin's *Justice by Lottery* (2005)—and argued that all of the advantages and disadvantages discussed in these works can be expressed in terms of the sanitizing effect of a process unaffected by reasons (Stone 2009, 2010a). Other scholars, however, remain sceptical of the idea of a general theory. And so they continue to offer lists of distinct contributions that lotteries can make to decision-making. A good example of such a list appears in Gil Delannoi's "Reflections on Two Typologies for Random Selection" (2010), a list organized around the three central principles of equality, impartiality, and serenity. In his contribution to the workshop, Hubertus Buchstein also strongly endorsed the pluralist position and questioned the plausibility of a general theory of lottery use.

The contrast between monist and pluralist accounts of lottery use is, we believe, of serious theoretical importance, and worthy of further theoretical investigation. For the purposes

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17 Stone (2011, pp. 33-34) compares lotteries to elections in order to make this point. He also argues (ibid., pp. 42-44) that the ancient practice of divination via lottery (as in the *I Ching*) does not properly constitute decision-making via lottery (see also Stone 2010a, p. 159).

of this report, however, we will set this particular debate aside, and focus our attention upon the list of advantages of sortition catalogued in this section. We will proceed both to the application of this list of advantages to the problem of democratic institutional design in the contemporary world, and to the theoretical problem of justifying and defending the various elements on this list. These tasks will be the focus of the second and third sections of this report, respectively.

PART 2: HOW CAN LOTTERIES BEST BE INCORPORATED INTO MODERN DEMOCRATIC INSTITUTIONS?

It is difficult to address this question without first considering *why* it is that we might value sortition in the context of modern democracy. The question of *How* then follows logically as the means of achieving the desired solution.

One approach is to see the current interest in sortition as a response to perceived deficiencies or problems with the current paradigm of liberal democracy. There is a sense that the magnitude of the perceived need for sortive measures is in direct proportion to the dissatisfaction with liberal elective politics. A severe critic would like to see majority voting *replaced* by sortive measures, at least for some vital decision-making bodies (See Callenbach and Phillips 2008; Mueller et al. 1972; Sutherland 2004). A less severe critic would prefer to see sortition as a means of complementing and enhancing existing elective measures. A mild "improver", on the other hand might envisage sortition as useful only on the margins of the body politic exiled to the judiciary (as it currently is) or confined to local municipalities.

The main line of critical thought—prefigured by writers such as Michels (1915) and Schumpeter (2010) and taken up more widely after the post WWII triumph of liberal democracy—is that the liberal democratic form encourages government, not by the people, but by competing elites. Despite electoral rights and the right of free political expression, a gap opens up between a professional political caste and the people at large. Citizen participation is limited to periodic voting and cheapened in that activity by the use of modern image-based advertising. Voting systems themselves are seen as unfair to entrenched minorities; the political process itself is seen as dominated by self-interested partisan groups, extra-political industrial lobby groups and career interests. The current interest in sortition can be seen first and foremost as a response to this situation, and the primary quality that sortition can bring to this context is seen as the delivery of much needed citizen participation to an arena dominated by these forces. In this respect the interest in sortition is part of the same political impulse that brought us participatory democracy and deliberative democracy.[18]

A closer understanding of the qualities of the sortive process (the focus of this report's first section) and the history of its use leads us to a somewhat different viewpoint. The

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18 Pateman (1970) and Barber (1984) are important examples of this.

process of random selection is one that cannot be interfered with. It is strategy-proof and corruption-proof (at the level of selection, at least—the subsequent corruption of officials via lobbying, bribery, etc. is a different matter). It denies the power of appointment to political actors and thus it can contribute to the breakup of concentrations of power within the body politic. This anti-factional, anti-partisan role is manifest in its use in the late medieval city republics of north Italy and (arguably) underpins its systematic and widespread use in Ancient Athens (Dowlen 2008). From this point of view sortition has the capacity to generate citizen participation, but the random mechanism has the capacity to bring other attributes with it.[19] The proposition to use sortition merely and simply to facilitate citizen participation would constitute, in fact, a weak use of sortition since, stated thus, there is no real need to use an arational decision-making procedure.[20]

Understanding this enables us to approach the *Why?* question from another direction. If we want to see improvements in the quality of the political process, fairer politics, more open politics, politics insulated against factional intrigue, partisan manipulation and authoritarian domination, then the carefully managed use of sortition can help to realise this vision. Randomly-selected political bodies can function, in effect, as *impartial guardians of the political system*, provided they are properly constituted and assigned the right tasks. It is difficult to think of a selection method more suitable for this function than sortition.[21] What is more, because an appointment by sortition is unmediated by any third party or interest group, widespread use of sortition can create a new direct relationship between citizen and state. This can be one in which, by careful constitutional planning, the citizenry can be instrumental in protecting the integrity of the political system itself.

We start, therefore, from the premise that citizen participation may be a desirable good, but that citizen participation in defence of an open, fair, inclusive, rule governed polity is a desirable good more commensurate with the qualities of the lottery process. The question of *How?* can now be addressed with greater clarity.

19 See Stone's "sanitizing effect" (Stone 2011) and Delannoi's highlighting of the quality of serenity (Delannoi 2011).

20 See Dowlen (2008, pp 11-30) for the formulation of the distinction between weak and strong use.

21 Traditionally, courts are viewed as agents for this form of impartial guardianship (cf. Shapiro 2003, p. 64). But the limits of the "apolitical" nature of courts are also well-known. This raises an important issue for proponents of sortition—the virtues and disadvantages of appointed judges versus randomly-selected juries. There is a vast literature on this topic that is worthy of detailed exploration.

The first question that demands attention is whether sortition should be used *instead* of, or *in combination with* election. There may well be better arguments in support of a combination. If we are seeking a fairer system of government, with a greater emphasis on the rule-governed control of political power, then it is clear that here are many aspects of the process of consent by election that serve to promote these ends (Manin 1997). Moreover voting, despite all its defects in the aggregation of votes, is a system that involves the conscious decision-making capacity of the citizen body. This would be denied by a totally sortive system. It should also be recognised that sortition and liberal democracy belong to the same tradition of open participatory government; to this extent they are not in competition with each other (Dowlen 2010). Furthermore in historical practice they were invariably used *with* each other, each taking a distinct role in the entire process of selecting officers, or each used to select a different type of officer. The arational is used in combination with the rational. A move to an entirely sortive scheme might constitute a step in the dark and would therefore only be justified by the existence of an overriding reason to adopt an arational mechanism in preference to a rationally based system *in all its aspects.* Such a reason might be the complete bankruptcy or corruption of electoral politics. Even then an exclusively sortive scheme could be resorted to as a temporary measure rather than as a permanent institution.

One of the most straightforward ways that sortition and election could work well together would involve a bicameral system where election was used for one legislative chamber and sortition for the other.[22] In such cases it might make sense that each chamber should have a constitutionally distinct role so that it would be very clear where legislative sovereignty lay (Barnett and Carty 2008). An alternative to this would be a single chamber with members selected by sortition sitting alongside elected members (Peonidis 2010). This could, indeed, temper some of the excessive partisanship of the elected members, but

22 Proposals of this nature have been made for the U.S. by Mueller et al. (1972), McCormick (2006); O'Leary (2006); Callenbach and Phillips (2008); and Zakaras (2010); for the UK by Barnett and Carty (2008) and Sutherland (2004, 2008); for France by Sintomer (2007); and for the EU by Buchstein and Hein (2009).

the presence of citizen members amongst professional politicians could also work to the detriment of the citizens unless each were given specific roles and duties.[23]

A proposal for such a bicameral system would make the most sense if the two legislative chambers had distinct functions, with the randomly-selected chamber taking on a "non-political" role of maintaining the integrity of the political process as a whole. A good example of such a proposal would be Barnett and Carty's (2008) proposal to reform the UK's House of Lords. Barnett and Carty would have a randomly-selected body of "Peers in Parliament" (PPs) empowered to reject legislation sent to it by an elected House of Commons on three specific grounds. The PPs would be entitled to 1) "reject legislation that undermines the principles of constitutional democracy;" 2) "return non-fiscal legislation that it believes will not achieve the objectives the government claims and to insist that the government reformulates either its aims or its legislation;" and 3) "insist that legislation be drafted in a way that citizens can understand" (ibid., p. 37; see also Stone, forthcoming). A legislative house with such powers might well strengthen the ties between citizen and government without unduly interfering with the legislative process.

A further option could be to use randomly-selected citizens, not in direct (or even indirect) competition with elected members, but in a support role. Here again the role of randomly-selected bodies as guardians of the political process comes to the fore. A development of Ségolène Royal's scheme for citizens' juries to hold elected officers to account would fit in this category. (Royal included this proposal in her manifesto for the 2007 French presidential campaign.) Instead of being cast in an adversarial role, however, a group of citizens could be selected both to oversee and to assist the elected member. This could be done by the citizens acting as the interface between the member and the constituency, handling appointments, public appearances, press releases, receipt of petitions etc. In this way citizens would begin to have a greater insight into the work of their representatives, and the sitting member would have closer links with the constituency without always working for party advantage. In this role the citizens would be members of the state rather

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23 In 2010, a group called Repair California called for a referendum that would create a convention to overhaul the state constitution. The convention would have been comprised of professional politicians, representatives of Native American tribes, and randomly-selected citizens. The effort to place the proposal on the ballot failed due to lack of funds, but some critics claimed that the complex and unwieldy convention proposal made it difficult to justify to voters. In December 2012, Ireland convened an Irish Constitutional Convention to make non-binding recommendations on possible constitutional reforms. This convention also features both elected representatives and randomly-selected citizens, and has met with criticisms similar to those directed at Repair California's proposal. On the Irish case, see https://www.constitution.ie/.

than of government: they would help to ensure the probity and smooth-running of the system rather than make decisions in a representative capacity.

One of the main arguments for this type of arrangement is that the role of the citizens as impartial guardians of the political system is entirely commensurate with their method of selection. The role of the MP's oversight committee is similar to that of the tribune in the Roman Republic. They act as citizen witnesses to inner workings of the political system. Once this principle is grasped it is possible to envisage numerous similar applications. Randomly-selected citizens could be incorporated into the management boards of nationalised industries or other state owned concerns; secret services could be monitored for acts against the interests of the citizenry; the rules governing legislative ethics could be created and enforced by either standing or occasional allotted chambers; elections in emerging democracies could be monitored by randomly-selected citizens; the decision whether it would be in the public interest to disclose certain confidential matters of state could be made by citizens juries.[24] A randomly-selected constitutional convention might also reasonably be included in this category, and indeed sortition is often mentioned as a device appropriate for this purpose. (Ètienne Chouard stressed this point during the workshop.)

Where this category of use differs from the use of randomly-selected citizens in legislative or executive bodies is that citizens in the former would be expected to represent the general interest in their protection of open participatory government. In a randomly-selected chamber based on the principle of descriptive representation, citizens would be expected, in some sense, to act according to their self-interest or the interest of the grouping(s) of which they were a part. This point is, of course, a contentious one. It has both theoretical and empirical components. Theoretically, it raises the question of which model of politics best accounts for the (hypothesized) importance of descriptive representation—a liberal one, a republican one, or some other possibility (Habermas 1994). Empirically, it raises the question of how different models of democracy predict different forms of political

24 We acknowledge Dr Keith Nilsen for this idea along with the proposal to use randomly-selected monitors for the secret services. See preface to Dowlen (2008).

behaviour, and which predictions are best borne out by the facts. Both types of question, we believe, are worthy of careful future investigation.[25]

There is another sense in which the role of citizens as impartial guardians of the political system is commensurate with random selection. One of the most devastating criticisms made of electoral democracy is that it generates a massive problem of *rational ignorance*. Citizens have a negligible chance of influencing which candidates get elected, and an equally negligible chance of influence those candidates once elected. Citizens thus have no incentive to become well-informed regarding political affairs (Downs 1957). If sortition were used to fill certain political offices, the probability that a citizen would win office would be very small, and the possibility of influencing the selection process (however small it may be under election) would become zero. But citizens selected for office would have every incentive to become well-informed about political topics relevant to the office in question. This suggests that sortition should be reserved for public offices which do not require a lifetime of political experience, where the relevant training can be handled by highly-motivated amateurs in a short time. The roles associated with the guardianship of the political process fit this bill quite well.[26]

Even when guardianship requires expertise, this expertise need not come directly from the relevant decision-makers. Suppose, for example, a randomly-selected committee faced the task of drawing or redrawing the boundaries of electoral districts. This task seems easy to classify as one of impartial guardianship of the integrity of the political system. But it also seems to call for a certain political expertise. There is no reason in principle, however, why such a committee could not simply commission several such plans and then select the most attractive one. The successful function of such a committee will, of course, depend upon the proper selection of other institutional features besides sortition.

25 It is worth adding, as Stephen Elstub pointed out during the workshop, that interests require legitimate expression in any well-functioning political process. If randomly-selected bodies are not the appropriate place for this expression, some other forum must be devised. This provides yet another reason to envision a variety of political institutions—some constituted via sortition, some not—complementing each other.

26 In addition, a system with many such guardian roles would provide many opportunities for citizens to participate. While the probability that a citizen will be selected for any one role at a given time will remain low, the probability that a citizen will be selected for some such role at some point in her life could become substantial. That may provide citizens with some incentive to acquire political knowledge. But because of the nature of the offices in question, and because the citizen has no of telling which office she will take up, she cannot systematically pursue political knowledge for venal purposes.

A further difficult question concerns the nature and extent of necessary training. The old aristocratic argument against sortition was that those selected in this manner would lack the specialist skills needed for government.[27] This is not, however, a coherent argument against the sortive principle itself for it is the duty of the rational designer of any scheme to match the general capacities of those in the pool with the requirements of the post for which they might be selected. Another variable in this scheme is the possible simplification of the tasks of office to suit the wide range of abilities that would be found in citizen-wide pool. The Athenians, in fact, adopted this solution and arranged that magistrates should work in boards of ten so they could assist each other (Headlam 1933). The provision of training is also a means by which those in the pool, or those selected, can be made ready for the demands of the office in question.

Here again there is a contrast with the assumptions underlying the use of sortition for descriptive representation. With descriptive representation it is necessary that those selected take office without training so that they bring the diversity of their educational backgrounds into the decision-making of the chamber. Special training for the tasks of office could be seen as interfering with that principle. Callenbach and Philips (2008), in their defence of a randomly-selected U.S. House of Representatives, make precisely this point. Indeed, they go so far as to defend the fact that members of this House will be lazy and inattentive in direct proportion to the number of lazy and inattentive members of the general public!

The question of the content of the training could be problematic, but if citizens were selected to protect what they could recognise as *their* political institutions, then this would provide an incentive for them to do the job to the best of their abilities. The content of training in such a context would present no problems since it would reflect the impartial nature of the office rather than having any specific partisan ideological mission.[28]

Participation in sortive offices would therefore be a two way process: the citizens would bring their diversity, experience and new energies to the body politic, while the office itself would educate the citizen in respect to means and methods of their political system.

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27 See Socrates' criticism of sortition along these lines (Dowlen 2008, pp. 57-58).

28 Cf. Fishkin (2009), who strongly defends the idea that randomly-selected public officials can be provided with training and support in an impartial manner. Critics of Fishkin are less sanguine on this point.

In addition the very existence of citizen offices would sharpen and place new demands on the provision for citizenship training within the general education system.

Another important question concerning the incorporation of sortive methods within modern democracies is whether sortition should be voluntary or compulsory. In other words, should those selected by lottery be *required* to serve in the office for which they were selected, or should the pools for office consist only of those who put themselves forward for the post in question. If sortition was to be used for the purpose of descriptive representation this would require compulsory selection, but for other functions of sortition the question is more open. An argument against the voluntary principle is that the offices would end up being staffed by those who were already committed or active, and these people might be merely bringing their own pre-determined interests and ambitions into the body politic. In these circumstances there would be no lowering of the threshold of participation so that "ordinary" citizens could hold office and the potential for diversity generated by the lottery principle would be lost. On the other hand there could be real problems if sortive offices were entirely staffed by reluctant conscripts.[29]

One of the difficulties with this question is that it is normally formulated in the context of today's non-participatory society where any compromise to an individual's free time and personal liberty is regarded as a burden. We would envisage that any society that implemented a comprehensive programme of sortition for public offices would also address the question of how citizens could be suitably motivated and rewarded. We do not see sortive schemes operating successfully in a vacuum or in a hostile environment, but in circumstance where a general ethos of the duties and responsibilities of citizenship has a high profile.[30] Sortive offices could operate easily in a system where, for instance, compulsory social conscription was the norm and in which a system of tax breaks and special payment provisions could act as incentives for those taking and holding office.[31] In such circumstances it could be possible to combine compulsory offices of shorter duration with offices that required greater long-term commitment that operated on a voluntary or quasi voluntary basis. The guiding principle should be that the point of entry to the body politic should be compulsory (whether it be an office or a special course) and that joining

29 A discussion along these lines took place on the final day of the November 2011 Paris seminar.

30 A note should be made here of the importance of rotation in combination with sortition. Clearly different terms of tenure for office could be used to make a range of offices from "entry level" to "advanced commitment."

31 It is an open question how serious a challenge such participatory demands would pose to the idea of a liberal society. Space prohibits us from doing more than mentioning the issue here.

the pools for subsequent offices could be voluntary. In this way the diversity and the low threshold can be maintained. To organise this efficiently, however, some sort of ranking of the pools for different offices and the careful stipulation of the requirements for any pools that were not simply citizen-wide would be necessary.

We will conclude this section by separating two distinct problematics governing the question of applying sortive based schemes in modern democracies. The first involves sortition as a mechanism for solving specific, discrete political problems. In this arena the central principle is that sortition should be used when a positive use can be made of the one or more of the essential qualities of the lottery procedure in respect to the task in hand. This judgement would also involve assessing whether the positive advantages of using an arational, nonhuman mechanism outweigh the possible disadvantages, and whether these disadvantages can be addressed by other aspects of the procedure as a whole. As in all design thinking, a clear assessment of objectives is an absolute prerequisite, and the arational lottery process then becomes an option in a process of clear, deliberate, rational calculation. Presented in this way, sortition could command more consideration as a serious political problem-solving mechanism.

The second problematic relates to the larger picture of the trajectory of liberal democracy and its perceived limitations. The questions raised under this heading are more profound, far reaching and fundamental in their nature. Rather than asking how we can select members for this or that committee or choose monitors for this or that governmental operation, problems in this arena involve complex questions such as whether there is an inevitable trend towards oligarchy in party electoral politics (Michels 1915; but see Alford 1985), whether more elements of direct democracy should be introduced and to what effect, and whether the interface between civil and political society operates fairly. These, and more, questions form the background to the inquiry into the value of the wider advocacy of sortition as a new re-regenerative element in modern world democracy.

We started to answer the question *How?* with the question *Why?* We then raised the issue of participation. It is easy to see participation as a good in its own right and to see sortition as a tool by which this can be put into effect. Our response would be to invert the argument and suggest that in the greater task of protecting the integrity of the open, fair political process, citizen participation is an incredibly powerful tool, particularly because a citizen-wide pool is almost impossible to corrupt or to bring under the will of any powerful individual or party. This is a largely instrumental view of democracy, but one that is consistent with the acknowledgment of important democratic rights. Once

this central principle has been grasped, the question *How?* can be answered in numerous inventive ways.

PART 3: WHAT QUESTIONS REGARDING LOTTERIES REMAIN FOR FUTURE RESEARCH?

The first section of this report offered a list of eight potential contributions that sortition might potentially make to politics. The second made a case for the use of randomly-selected bodies of citizens as guardians of the integrity and impartiality of the political process. In this final section, we will use this case in order to re-examine and re-evaluate our list of contributions. This re-examination and re-evaluation will be tentative. It will provide, not a conclusive argument, but a tentative one designed to motivate future research into the theory and practice of sortition. Such research would usefully advance, not simply our understanding of sortition, but our understanding of democratic theory as a whole.

As noted in the first section of this report, one can ask two vitally important questions about each of the eight contributions associated with sortition. First, does sortition indeed provide the contribution in question? Second, is the contribution in question really of value, and why? Convincing answers are needed to both questions for each contribution before one could reasonably endorse sortition as a means to that contribution.

It should be clear by now that the largest contribution we believe sortition can make to modern democratic politics is the prevention of corruption and domination. We would conceive of sortition as a means to select officials charged with preserving the integrity of the political process. We believe that sortition, properly institutionalized, can make such a contribution (although further empirical study here is definitely warranted), and that such a contribution would go a significant way towards addressing the widespread dissatisfaction with democratic institutions today. We also believe that some of the other contributions, notably the mitigation of elite-level conflict and the control of political outliers, are closely related to this one. (The psychological benefits of sortition might well fit into this category, but this is more of a speculative possibility at this time, and further research here ought to be conducted.) Other contributions, particularly participation, rotation, and distributive justice, are less important, unless construed in such a way as to tie them to the prevention of corruption and domination.

Take, for example, the question of rotation. There is no doubt that random selection can generate regular turnover among officeholders. This is true even if, for some reason, officeholders were permitted to enter the random draw repeatedly. In any large-scale polity, the probability that any single person will be selected twice for the same office in her lifetime (let alone twice in a row) is vanishingly small. But sortition is simply not

necessary to accomplish this purpose. Elections, when combined with term limits, can accomplish this aim just as easily, as can any other selection methods with short terms of office and a bar upon reappointment. The use of sortition as a method for attaining rotation is thus a weak use of the lottery at best.

The most controversial potential contribution of sortition to democratic politics is, we believe, descriptive representation. The controversy does not reside in the connection between sortition and descriptive representation. There is no denying that sortition can, under the appropriate conditions, advance this value. (These conditions include, for example, the requirement that participation in the random selection process be mandatory.) Indeed, sortition arguably accomplishes this task better than any other procedure.[32] Rather, the controversy lies at the level of the value of descriptive representation. Why, in other words, does descriptive representation matter for democratic politics? Why should it be a good thing for democracy that a decision-making body "mirrors" the general population?

The answer to this question is, we believe, key to establishing a defensible account of sortition's contribution to democracy. Sortition proponents frequently disparage electoral democracy's democratic credentials. And while some recognize that political systems employing lotteries need not be democratic,[33] most share Aristotle's view that election is an inherently aristocratic selection process, while sortition is in inherently democratic.[34] Ètienne Chouard, in his contribution to the workshop, went so far as to dismiss representative democracy as an "oxymoron." And the connection they perceive between sortition and democracy—a connection they do not perceive between election and democracy—runs through descriptive representation. Descriptive representation makes it possible for political bodies to mirror the general public, and this is enough to make them second-best to direct democracy, whose democratic credentials are of course impeccable. But why should this mirroring relation be so critical to democracy?

Typically, the answer offered to this question is that a body that "looks like" the population as a whole will make decisions that have some positive relation with the population as a

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32 As noted in the first section, Dowlen believes the connection between sortition and descriptive representation to be weak; Stone contends that it is strong.

33 Hubertus Buchstein stressed this point during the workshop.

34 We are more sympathetic to Bernard Manin's (1997) contention that elections have an aristocratic and a democratic side to them.

whole. But what precisely is this positive relationship? How might one individual or group relate to another in a positive way? The possibilities include the following:[35]

a) I am like you.
b) I share your interests.
c) I represent your interests.
d) I make good decisions.
e) I do what you want me to do, or I do what you would have done.
f) I do what you would want me to do, or what you would have done, in some hypothetical set of circumstances (e.g., if you were better informed—this is sometimes described as the achievement of "enlightened public opinion").
g) You selected me to make these decisions.
h) I have been authorized to act on your behalf.
i) I have been authorized by you to act on your behalf.

Typically, the case for descriptive representation presupposes some systematic relationship among these elements. The case, for example, might be that a) implies b), which in turn implies c), which is defined to be equivalent to d). If I am like you, then I share your interests, therefore I represent your interests. And if I represent your interests, my decisions will be good. One might also add to this the idea that d) implies f), or vice versa. A good decision might simply be defined as the decision you would have made under the right hypothetical circumstances. The challenge would then be to make sure that I, as your representative, make this "good" decision for you. Finally, Keith Sutherland has in recent work suggested that a) might imply i), or at least h), even though it is more typical for g) and i) (as well as g) and c)) to be connected via elections. Typically, we think of elections as authorizing representation—you select me, and that is why I am authorized to represent you, but Sutherland argues (following Fishkin) that I might be authorized to represent you simply by virtue of being like you.

Many of these connections, however, are far from obvious. For example, it will be very difficult to connect f) and a) except through c). If I make the same decision as you would make in some hypothetical scenario, it is presumably because that decision properly advances your interests, and under that hypothetical scenario you would figure this out. This point is important, because if the interests of an agent and the goals of an agent come

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35 For a similar consideration of descriptive representation, see the exchange in Griffiths and Wollheim (1960).

apart, one must decide which is most important to the political process. (The two will come apart any time an agent decides to sacrifice its interests in order to advance some other goal—e.g., when a wealthy polity decides to send money to help AIDS orphans in Africa.) Moreover, it is very difficult to evaluate the claim that I *would* do something under some hypothetical set of circumstances unless the circumstances are specified very clearly—and even then, it will be much harder to evaluate the claim for a collective body. The situation is clearer, though still theoretically complex in the collective case, if the goal is simply to connect likeness to the advancement of interests.

It is, however, the connection of i), or even h), to a) that poses the most problems. Why should the mere fact that I am like you convey any kind of authorization to act upon your behalf? Admittedly, the connection of g) to i) is tenuous at best, despite the efforts of the social contract theory tradition. My ability to select my representatives provides at best a very weak form of authorization. For according to the social contract tradition, I am taken to have authorized a government to make various decisions affecting me even if:

- I did not vote in any election determining the composition of the government;
- I voted for a variety of candidates for the government, and they all lost;
- I voted for a variety of candidates for the government, but none of them became part of the new government;
- I voted for a variety of candidates for the government because they promised to take certain actions, and while those candidates did become part of the government they failed to take any of those actions; or even
- I voted against the enactment of the constitution creating the procedures for authorizing the government, and have not voted in any way since then.

Many of these conclusions seem counterintuitive, even absurd, as they attribute my authorization to actions or inactions that would never be understood that way in any non-political sphere.

But descriptive representation makes matters even worse. With voting, there is at least a chance that I will vote for a candidate who both wins and is willing and able to fulfil his campaign promises. There is at least some sense in which I can be said to authorize such a candidate to act for me. But even this sense does not exist when sortition is used to generate descriptive representation, for sortition ensures there will be *no* relationship between the candidates that I want and the candidates that are selected.

There are two potential ways out of this, neither very promising. On the one hand, one could point to the constitutional procedure that authorizes sortition. If I vote for the procedure, then one could claim that I have indirectly authorized the candidates selected by it. But this does not help the case for sortition. The problem of authorization by those who vote against the procedures, or refuse to vote at all, remains the same as before. Moreover, whatever authorization that constitutional enactment provides does not favour sortition in any way. If a constitutional ratification process can be said to provide collective authorization for sortition, then that same process would surely provide collective authorization for voting, or hereditary monarchy, or any other selection procedure that might survive the ratification process.[36] But on the other hand, one could try to articulate a positive case for why descriptive representation produces some sort of authorization. As with voting, this type of authorization would never happen outside a political context; other people are not authorized to sublet my apartment, or buy my groceries, without my consent simply because they resemble me, however closely.

The problem of descriptive representation runs deep. It is one of the most commonly evoked reasons in favour of sortition (understandably, given how efficiently sortition achieving this goal). Yet there remain deep questions regarding just why descriptive representation is supposed to be important—what values it represents and advances—and how those values fit with other values. Most importantly, as the discussion here indicates, descriptive representation raises the question of just what democracy is all about, whether there even exists a single democratic value or closely-connected set of democratic values. Most commonly, the attempt to define democratic values focuses upon authorization in some form or another. Democracy is defined in terms of self-government, which is taken to mean government by the consent of the governed. Elections were supposed to enable such government, and some proponents of sortition propose sortition as a response to the failure of elections to accomplish this goal. But the argument so far has shown why both sortition and elections fall so far short of accomplishing this goal as to raise the question whether the goal is achievable at all. And if the goal of government by the consent of the

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36 Goodwin (2005) envisages a sortition-based constitution enjoying this form of collective authorization. Stone (2011, section 3.3) critiques Goodwin's argument.

governed is not achievable, then the question becomes what sort of story about democracy is both feasible and desirable, and how does sortition fit into that story.[37]

For this reason, we are sceptical of the case for descriptive representation. We do not have a knock-down argument against it. Rather, we believe that descriptive representation is one of the weaker theoretical foundations upon which erect the case for sortition in the modern world. But this is not a reason to neglect the case for the lottery as a means to descriptive representation. Rather, it provides a reason for rethinking the foundations of democratic theory, in such a way as to illuminate the connection sortition has to these foundations. That connection may or may not involve descriptive representation, but we are far more confident that it will involve advancing other democratic values, such as the prevention of domination.

Before proceeding, we hasten to add that we in no way reject the goal of ensuring that voices from all segments of society are able to find their way into the political process. But the connection between this goal and descriptive representation is less clear than is commonly assumed. This goal is important for several reasons, most notably the epistemic benefits provided by cognitive diversity. But these benefits require that a variety of voices in the general population be heard, not that voices from the general population be heard in proportion to their presence in the general population, as descriptive representation demands. Indeed, the demands of cognitive diversity might require the overrepresentation of certain small and marginal social groups with a vital stake in the decisions at hand. (The opinion of gays and lesbians on gay marriage would be an example of this.) The representation of *opinions* or *discourses* might matter a lot to democracy (Dryzek 1994), but this does not straightforwardly generate a case for descriptive representation (Stone (2012a). One can, in short, reject the goal of *descriptive representation* and still embrace the goal of *diversity* in the decision-making process. The latter goal can be sustained and defended in ways that the former cannot.

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37 Cf. Plamenatz (1968, p. 3; see also pp. 23-24): if both direct and representative democracy

are only to a limited extent governments by consent, it will necessarily follow either that consent is not the sole basis of the duty of the governed to obey their rulers or else that there exists in every state, however democratic, a large number of persons under no obligation to obey its laws. The latter conclusion is suspect from the start, for no state could perform its functions if it contained a large number of citizens exempt from obedience to its laws. There remains, therefore, only the former conclusion, that consent cannot be the sole basis of the duty in question, thought it may well be one of them.

Sustained reflection upon the contributions that sortition can make to democratic politics (reflection at which we can only gesture here through our brief exploration of descriptive representation et al.) is important for two reasons. First, the decision to use sortition is always accompanied by a myriad of other institutional design decisions. Getting the first of these decisions right is critically important if the other decisions are to be made correctly as well. Second, sortition is always one of several options on the table for selecting political officials; if sortition is to be selected over its rivals, the advantages and disadvantages it offers must be made crystal clear. By way of a conclusion to this report, we will elaborate upon and defend both of these claims.

First, consider the question of what institutional features should be used in conjunction with sortition. The simple recognition that random selection has properties that may prove desirable in democratic politics does not straightforwardly generate a case for sortition. For democratic institutions are complex things. Random selection can fit into them in numerous ways, and in conjunction with numerous different design features. Moreover, the selection of one design feature cannot be made independently of the selection of other design features. In his book *Equalities*, Douglas Rae argued that the concept of equality has numerous dimensions that any meaningful egalitarian theory of justice must specify. If a theory gets even one of these dimensions wrong, it could completely negate the value of the theory even if choices are made correctly along all of the other dimensions (Rae 1981). Democratic institutional design, we believe, works in a similar way. A democratic institution has numerous features that must be selected properly, and improper selection of any one of them could conceivably sabotage the proper selection of the rest.

The most important institutional question is, of course, just what is supposed to be selected by lot. Virtually all proponents of sortition answer, "political officials." None, to the best of our knowledge, would select policies at random. But some are attracted to the idea of *lottery voting* (otherwise known as the "random dictator" rule). According to this rule, people make decisions by voting, but the votes are not counted; instead, a single vote is selected at random, and that vote determines the outcome. This rule has some surprisingly attractive properties. In particular, it is strategy-proof; it provides voters with no incentive to vote for any candidate other than the one they most prefer (Gibbard 1977). For this reason, it has a number of partisans (e.g., Amar 1984), but it has received little attention by proponents of sortition.

Assume, then, that random selection is to be used to select political officials. Then the second most critical question to answer regarding sortition is just what sorts of tasks are

best performed by randomly-selected officials. The possible answers are numerous. The policymaking process has many stages to it, including agenda formation, debate, record-keeping, implementation, and review. Randomly-selected bodies could be employed to try cases, make or implement administrative decisions, enact laws, or nominate and/or elect candidates for other offices. This last usage has attracted little recent attention among proponents of sortition, but it is historically important; Renaissance Venice used sortition for this purpose, in a political system that survived for half a millennium and was the envy of republicans throughout the western world (Finlay 1980). It certainly merits further attention; it might fit well into the category of "guardians of the political system" that we believe might properly be associated with sortition.

Once the decision has been made to select randomly a body of officials to perform a task, numerous other institutional features must still be chosen. Should candidates be volunteers? Should they be *allowed* to volunteer? Should they be nominated by others for including in the random selection, but given the opportunity to decline? Should *everyone* be included in the random draw, whether they like it or not? And once the body has been selected, how should it make its decisions? Should it be required to deliberate? Should it be *allowed* to participate? With what sources of information should it be provided? Should it be empowered to select its own sources? Should others have the right to speak to it, or provide evidence? If so, under what conditions? Will those selected be required to attend? If so, how should attendance be enforced? Should other performance requirements be enforced upon them? What mechanisms, if any, might be required to hold them accountable for their actions? Should the body vote, or pursue consensus (as with the Anglo-American jury)? Should it vote secretly or openly? Should its vote be recorded? Should it simply make decisions, or should it be compelled to present reasons for its decision? And finally, should its decisions be binding or merely advisory? This last question currently attracts a great deal of attention; it lies at the heart of the debate between defenders and critics of James Fishkin's deliberative opinion polls (Fishkin 2009).

Consider one of these questions in further detail—the question of accountability (an issue raised by Ètienne Chouard during the workshop). Representative democracy has long been based upon what Judith Shklar called the "liberalism of fear" (Shklar 1998), with elections providing the accountability that ensures even less-than-saintly politicians will behave themselves. Elections may not provide this accountability as reliably as the founders of representative democracy believed (Shapiro 2003, p. 60), but the fact remains that sortition has no conceptual connection with a similar accountability mechanism. This does not imply that sortition inherently leads to accountability, but it does imply that care must

be taken in generating the appropriate mechanisms for accomplishing this task. Scholars concerned with democracy have begun to devote attention to the various mechanisms available to ensure accountability (Przeworski, Stokes, and Manin 1999). Sortition should be considered as part of this research programme, which considers the general problem of motivating public actors to serve the public interest.

The question of accountability brings us to the second of our two concluding questions. Just as one must consider what institutional features should be used in conjunction with sortition, so must one consider how sortition compares to other methods for assigning public responsibilities. Sortition is, of course, only one of several alternative methods of selecting political officials. Elections are another. Appointment is another. Indeed, these three methods are the primary alternatives considered appropriate today for selecting political officials (Stone 2012b). And of course, each of these alternatives involves countless variations—elections, for example, can be conducted using any one of a vast array of possible voting rules. Is one of these alternatives demonstrably superior to the others in all cases? Unlikely. If not, which alternative is appropriate under which circumstances? When can voters make good decisions in selecting officials, in the sense of doing markedly better than pure chance? When does randomization make a positive contribution to the selection process? Is it possible to specify appointment procedures that avoid the pitfalls of election and outperform sortition? Modern democratic theory has taken the superiority of elections for granted. Proponents of sortition should not repeat this mistake by presuming the superiority of sortition. Democratic theory must truly be comparative, examining impartially and dispassionately the respective contributions and limitations of all alternative methods compatible with its basic values.

Any comparative investigation of alternative selection mechanisms must remember that political positions are not filled in a vacuum. How well randomly-selected office X functions will depend critically upon both the existence of office Y and the selection mechanism employed by Y. One typical complaint made against randomly-selected legislatures, for example, is that they would greatly increase legislative amateurism. Whatever the other virtues of such amateurism may be, they would (according to this argument) result in a massive transfer of power to the bureaucracy, which can be assumed to have much more stable long-term interests of its own. Elections, by contrast, create opportunities for career politicians with the expertise to discipline and control bureaucrats. This argument, of course, makes several critical assumptions. It assumes, for example, that elected officials can be effectively disciplined by voters, and that those officials will through this disciplinary process share more interests with voters than with bureaucrats. But whatever

its validity, this argument raises the critical question of how randomly-selected bodies will interact with elected and appointed officials. This question must be addressed if democratic institutional design is to be studied in a truly comparative manner.

Investigation of both of these questions regarding sortition will require theoretical work, historical research, as well as continued use of small-scale experiments involving sortition (Fishkin 2009).[38] Research into sortition should remain interdisciplinary, and be integrated more fully into the study of democratic politics. For while this report can offer some tentative lessons about the proper role of sortition in modern democracy, there remains much work to be done.

38 During the workshop, however, Peter Stone cautioned against drawing ambitious conclusions about sortition solely from the small-scale experiments. Institutions may function one way on the periphery of society and quite another way when they become mainstream. See Elster (1993) on this point.

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ACKNOWLEDGEMENTS

APPENDIX 1: PROGRAMME FOR "THE LOTTERY AS A DEMOCRATIC INSTITUTION: A WORKSHOP"

Thursday 11 October, 2012	
8.45 – 9.00am	Registration
9.00 – 9.15am	Welcome by Peter Simons
	Head of School of Social Sciences and Philosophy
9.15 – 10.00am	"From Gambling to Sortition:
	A Proposal for a Typology of Random Selection" - Antoine Vergne
10.00 – 10.30am	Tea/ Coffee

Session 1: 10.30 – 12.45pm
What can random selection contribute to politics?

10.30 – 10.50am	Speaker - Peter Stone
10.50 – 11.10am	First Respondent - Hubertus Buchstein
11.10 – 11.30am	Second Respondent - Yann Allard-Tremblay
11.30 – 12.45pm	Discussion
12.45 – 1.45pm	Lunch (sandwiches provided)

Session 2: 1.45 – 4.00pm
How can random selection best be incorporated into modern democratic institutions?

1.45 – 2.05pm	Speaker - Oliver Dowlen
2.05 – 2.25pm	First Respondent - Stephen Elstub
2.25 – 2.45pm	Second Respondent - Étienne Chouard
2.45 – 4.00pm	Discussion

Friday 12 October, 2012	

Session 3: 9.15 – 12.00pm
What research questions on sortition still need to be addressed?

9.15– 9.35am	Speaker - Gil Delannoi
9.35 – 9.55am	First Respondent - David Farrell
9.55 – 10.15am	Second Respondent - Jane Suiter
10.15 – 10.45am	Tea/Coffee
10.45 – 12.00pm	Discussion

APPENDIX 2: SUMMARY OF PROCEEDINGS FOR "THE LOTTERY AS A DEMOCRATIC INSTITUTION: A WORKSHOP"

Note: This summary was prepared by Oliver Dowlen and Berenice Benjelloun from a Dictaphone recording of the conference proceedings.

The workshop opened with a welcome by Peter Simons, Head of the School of Social Sciences and Philosophy at Trinity College Dublin, and with a presentation by Antoine Vergne entitled "From Gambling to Sortition: A Proposal for a Typology of Random Selection."

In section 1 of the workshop, Peter Stone presented the first section of the draft report, addressing himself to the question, "What can random selection contribute to politics." In order to address this point, he inquired how best to understand what random selection does and how can it be put to use.

In respect to the first question, there seems in the recent discussions to be a division that has emerged. On one side of the divide is the "monist" view that the lottery has one primary property and that when an application is considered the appropriateness of the lottery is judged by whether this property is required in any given situation. This interpretation has been ascribed to the work of Oliver Dowlen in *The Political Potential of Sortition* (2008) and to Peter Stone's *The Luck of the Draw* (2011). The pluralist view, on the other hand, is a view that accepts that a lottery by a multitude of properties, and therefore a multitude of possible applications.

There is a sense, however, that neither Stone nor Dowlen are ruling out diversity, but rather that they are seeking to draw clearer lines of division between claims in order to facilitate a more focussed discussion. Some claims for the lottery are very similar, and it is the job of analysis to clarify this. The view of the author of this section of the report (Peter Stone), for instance, is the centrality of the quality of unpredictability.

In respect of the second point of inquiry—how lottery can best be put to good use—the report puts forward the following eight possibilities:

1) To aid descriptive representation by creating a governmental or decision-making body that constitutes the population in miniature. Whether or not descriptive representation is a valuable idea is another important but complex question, but a position that commanded greater consensus was that where a diversity of voices was necessary, sortition could deliver.

2) To prevent corruption or domination of the political process by powerful groupings.

3) To mitigate politically destructive competition amongst elites by creating shared procedural norms.

4) To control political outliers (so as to allow possible inclusion, but to prevent domination by extremist groupings).

5) To allocate the benefits and burdens of society fairly (distributive justice).

6) To increase participation in the political process.

7) To generate rotation in political participation. A lottery could contribute to this, but much depends on the central institutional design.

8) To provide various psychological benefits. Lotteries obviate the triumphalism of the winners and assuage the shame of the losers. By the same token, if entitlement on the basis of personal merit and its opposite (the exclusion and shame of the less-than-competent) were seen as wholly desirable, the use of lottery would be problematic.

Hubertus Buchstein provided the first response to Stone's presentation. He questioned the creation of too strong a link between sortition and democracy. Lotteries were not inevitably connected to democracy and could actually fulfil anti-democratic roles. There was also a question of why a general theory of sortition was needed; a perspective which involved comparisons with other forms of political decision-making might be better. There was also a problem with the monist/pluralist classification. Better, he argued, to proceed on a more principled basis by looking at concepts such as procedural autonomy and seeing how a lottery, as a procedure immune to interference, confirms or promotes this.

On the subject of the number of possible benefits, Buchstein argued that what was needed was a strategy for understanding what should be included and which excluded. Lotteries can be used to stabilise pre-democratic political settlements through general political consolidation. This we can also see as part of transformative scenarios, as opposed to being related to some distinct form of polity. In respect to future research we should look more at empirical evidence. This could come from areas outside politics, such as secondary school applications or from computer simulations.

The second response to Stone's presentation came from Yann Allard-Tremblay. He identified the importance of a procedure in which the absence of reason allows us to look at reasons and not at interests, to avoid domination and control, and to counteract the interest of naked power. It is this that gives sortition its democratic legitimacy; it is acceptable because it is not part of the politics of interest and bias. A lottery is arational, but not unaffected by the operation of reason in its application and its background conditions.

There is 'intentionality' in the application of a lottery; it is not absolute unreason, but can have a rationality which connects it to democratic legitimacy.

On the subject of descriptive representation, Allard-Tremblay argued, we should look at the primary alternative, voting, and enquire about its legitimacy. Elections have many defects, but they certainly connect the government to the people. Since lotteries reduce the capacity of political power, sortition could be viewed as fair, while descriptive representation would improve the epistemic features of democracy through the generation of diversity (and it would do so in a fair way). We would also have to realise that there could be problems of accountability and inexperience in a political set-up that had descriptive representation as its rationale and featured lottery selection with strict rotation. Schemes based on descriptive representation could be combined with rational means, such as the voluntary expression of views to make up for imperfections in the descriptive representation paradigm. Allard-Tremblay noted here Josiah Ober's examination of how random selection in Athens facilitated the redistribution of practical and social knowledge. Descriptive representation might be important for some institutions, but the case for using sortition as an anti-domination measure is stronger.

Allard-Tremblay argued that there were several points missing from the draft report:

1) Participation has the effect of boosting deliberation, contributing to the creation of a people—a network of interrelated interests where information can be pooled and social barriers broken down.
2) The use of lotteries to make decisions should not be dismissed. Forms of lottery voting could be valuable in a number of contexts. We need to be clear why we find it more acceptable to choose officials by lot than to make decisions by the same method.
3) It was not always clear how effective sortition actually is at preventing corruption. How does it compare with majority voting, for instance?

Descriptive representation, Allard-Tremblay concluded, is not the main reason for the development of lotteries, but it can contribute to the primary capacity of sortition to promote shared social knowledge and robust, legitimate, democratic policies.

The workshop then entered into wide-ranging discussion focused upon section 1 of the draft report. A number of topics received extensive attention in this discussion. These included the relationship of sortition to democracy; the monist/pluralist aspect of the presentation and its relation to descriptive representation; the need for empirical evidence;

the comparison between deliberative forms and direct democracy; decision-making by lot in general; and the capacity for lotteries to disrupt the activities of interest groups.

Some agreed it was wrong to associate sortition solely with democracy, but the point was made that the appropriateness of sortition as a democratic institution depended on what definition or theory of democracy was alluded to. The answer would be different for different conceptions of democracy. The idea of government operating in the interests of the people or that democracy included the need for political expression could be seen as commensurate with sortition. But democracy as government by the wise on behalf of the unwise would not be.

There was also discussion of the relationship between the Athenian *polis* and the modern political context. The principle of the circulation between the ruler and ruled could be seen as a central justification for sortition, although Aristotle did not expressly make that connection. The notion that this type of circulation would be possible in a large modern polity was challenged. There was however, no clearly expressed ancient rationale for the use of sortition. Reconstruction was needed to achieve this.

The idea of a totally pluralistic, relativist opposition to the use of sortition was attacked on the basis that this created semantic chaos. Citizens would need clear reasons why sortition could be valuable. Advocates of a more pluralistic approach were worried about the centrality of the arational and arationality in theories justifying the use of sortition. One way of expressing this was to distinguish positive uses of sortition from negative or preventative uses. Descriptive representation was a positive use; the inhibition of corruption or the limiting of power was a negative use. Putting unpredictability at the centre of lottery theory should be challenged by the value of the lottery in descriptive representation; in this case its use becomes predictable, based on *ratio* and operating at the group rather than the individual level. Against this view, it was suggested that this form of predictability merely served the politics of interest; moreover, it could be argued that the preventive action of sortition was itself part of the promotion of positive, principled, inclusive politics.

It was also suggested that there was a tacit coalition forming between advocates of deliberative democracy and those of descriptive representation. Sortition was being incorporated to bolster a pure theory of deliberative democracy.

There was general agreement on the need for more empirical research, especially on

people's attitude to existing or recent lottery schemes. What do British MPs think, for instance, of the use of lotteries to select private members bills for debate? Do we have evidence of attitudes to the United States' Vietnam-era draft lottery? Do we know if there were citizens juries with mandatory rather than advisory powers? We should look to some of the non-political uses of sortition, such as lotteries for higher education places, to serve as strong examples. This could help us to evaluate the emotional reactions to sortition. It was also noted that the prospect of sortition for office could stimulate positive attitudes to participation.

Direct democracy, often based of the Swiss example, featured strongly in the discussion. It was cited as a better alternative to the use of deliberative groups and was a direct expression of citizens' views compared to the indirectness implied in descriptive representation. It was also noted that many of the eight points could be addressed by non-random means. There was some discussion on the question of decision-making by lot; whether it was possible to define a corrupt decision; whether we should follow Condorcet and see the majority as necessarily morally right; and whether we were "epistocrats" and placed all our political eggs in the basket of "rightness."

While not a major theme in the discussion, the importance of sortition in breaking the link between government and economic class was stressed, as was its value for breaking up the political habits of debate by placing members of a deliberating group in new relationships with each other.

After a break for lunch, Oliver Dowlen opened Session 2 of the workshop by inquiring how random selection might best be incorporated into democracy. The idea of the draft report, Dowlen said, was to establish where the current arguments have led us, and also to outline the sort of lottery theory that has underpinned the discussions up to now. The second section of the report offered an attempt to integrate this with ideas of institutional design.

The best starting point for both lottery theory development and the prospective application of lotteries to politics is with the qualities of the lottery process itself. Once these qualities are grasped, we can then adopt a design approach to match the qualities of the lottery with the task that we wish the lottery to undertake. This helps us to assess whether the lottery is the right tool for the job. One way of looking at this is to think of the lottery as a mechanism that deliberately excludes the human. If we wish to use a lottery we do so because we wish to use one or more of the non-human attributes of the procedure.

On the question of how random selection methods might best be incorporated into democracy, it might be better to consider the complementary question, "Why?" With respect for participation, the desire for participation comes historically from the perceived deficiencies of liberal democracy. If we now consider the use of sortition to engender participation as a desired good we have to ask what more is added to this good by the use of this particular mechanism.

The first point about incorporation is the idea that sortition should be used in combination with existing democratic institutions rather than in opposition to them, or to their exclusion. The second chamber scenario, where each chamber has a different function, might be ideal. Citizen monitoring of, and assistance for, elected officers would fit this complementary pattern, as would "citizen witness" schemes. This role of monitoring and protecting the political system fits with the use of sortition as an impartial mechanism and has an existing pedigree of operating in this capacity.

Other important points discussed by Dowlen included the question of whether lotteries should be voluntary or compulsory; what sort of training should be given to office-holders; and what sort of remuneration could be given to citizen office-holders.

One of the main difficulties in assessing how these schemes might operate is the tendency to view potential sortive measures through the prism of the current position of the non-participatory citizen in a largely disconnected, self-interested society. Along with the measures themselves, the context for application would need to be developed. Finally, it might be useful to separate analysis of the particular problem-solving facility of sortition from explanation of how more systematic use of the mechanism might change or challenge our ideas of democracy.

Stephen Elstub offered the first response to Dowlen. He began by acknowledging that this was a new area of investigation for him, although he had had experience of deliberative democracy and mini-publics. On the question of descriptive representation, overreliance on descriptive representation could be problematic, but it could be relevant for certain sorts of system and could be a principle that could extend the range of ideas in any deliberation. People could also have great trust in "people like us." On the prevention of corruption, he stressed, it is important to remember that manipulation could still occur with sortition. On the subject of impartiality, he argued that the expression of partiality and the voices of stake-holders are necessary parts of the political process. The complementary role of

sortition within mixed institutions seems to offer the most likely way forward. Institutions could be designed to deliver the democratic values that were wanted.

Elstub concluded with a few reflections on the problem of institutional design. Further research regarding institutions could best be achieved in a full comparative framework, using both empirical evidence and nominative analysis. Rotation has to be seen as an independent mechanism in its own right. We have to ask why participation might be considered a desirable good, recognising that the ideal government should reflect all the interests in society. Voluntary schemes are preferable to compulsory, and this principle should govern institutional design. Finally, we would need to look carefully at questions of incentive and accountability.

The second response to Dowlen came from Ètienne Chouard. His response dealt mainly with the potential of sortition for rectifying social injustice. The main cause of social injustice is the powerlessness of ordinary good people. The interests of the poor are systematically excluded from most modern constitutional arrangements, although the institution of constitution itself has the capacity to weaken concentrations of power. Similarly, representation, while currently misused, has the capacity to prevent the domination by the strongest. Within this framework there are a variety of potential uses for sortition: a second chamber to offer a counterweight to an elected legislative body; the control of judges; the control of the executive; the control of the media; the control of the legislature so as to limit the influence of lobbyists. All of these would fit under the general aim of improving representative government.

It is difficult to see how any arrangement of this sort could come about through elected governments. It is important to convince ordinary people of the value of this sort of arrangement, and also to see the benefits of having amateur rather than professional representatives.

We can get a further perspective on these matters by comparing the 200 years of Athenian government by the poor with our 200 years of government by the rich. We should not think of sortition as the only way of achieving social justice, but it is certainly one way of improving representation and breaking the identification of government with the richest social class.

Discussion of section 2 of the draft report then ensued. In this discussion the following themes were pursued: 1) the disentangling of sortition from the concept of deliberative

democracy and its different elements; 2) the type of transformative process that would be needed to introduce and evaluate sortive measures; 3) the nature of democracy in its ancient and modern guises and its relation to sortition in both; 4) how sortition and deliberative democracy relate to direct democracy.

Some contributors felt that descriptive representation could usefully be de-coupled from deliberative democracy. Others were keen to point out differences in the interpretation of deliberation—a Habermasian emphasis on speech versus an emphasis on "weighing" derived from Fishkin, for example. There was some confusion as to the exact meaning of "sortition." The term seemed to some contributors to signify a future system as a whole, rather than simply the lottery mechanism. This impression was corrected, and it was also pointed out that in Athenian practice the main deliberative body, the Assembly, was not selected by sortition.

This raised the question of whether a deliberative assembly needed to be selected by lottery, and a subsequent suggestion that deliberative democracy and sortition should be viewed as independent and separate. Similarly it was felt that it would be useful to separate participation from deliberation, since the former encompassed a wider range of possible activities.

On the question of descriptive representation it was stressed that this concept could not be realised individually but only collectively. Descriptive representation offered the possibility of cognitive enlargement and promoted cognitive diversity. Those selected need not act solely in their own interest for the system to operate successfully. It was also pointed out that descriptive representation would soon reduce to active representation as dentists (for example) asked their parliamentary members to take an active role on their behalf.

The question of evaluating sortition with respect to possible future use generated discussion about the relationship between theory and practice. There was a clear need to examine places where sortive schemes were operating successfully and there were strategic questions about the transformative path to greater use of the mechanism. Certain decentralised federal structures such as the United States and Germany could offer opportunities for experiment beyond the local level.

It was pointed out, however, that it would not be a simple matter to infer the success of a nationwide scheme from a successful local one. There were however, some aspects of modern democratic rule, such as the dangers of factionalism, that paralleled ancient

experience and this could be used as empirical evidence if care was taken to compare the historical context with modern conditions. The need to present sortition as part of a whole package of measures was stressed; assessing sortition outside the particular schemes in which it was to operate could also be problematic.

In response to the question of where there were any randomly selected schemes currently operating successfully, the example of the jury was cited. This was important because of its operational position within the constitutions where it was used, because of its potential law-making capacity (in common-law systems), and because of its role as the guardian of political freedom. Many modern citizens' jury schemes were "crisis led." The response rates of members of the public to such sortive and deliberative schemes were not always favourable, and many of those most likely to be affected by the proposals in hand were the most uninterested.

There was much discussion about the term "democracy" and how ancient practices differed from modern representative government. It was noted that there was nothing intrinsically democratic about sortition, but it did have the potential to break the links between social and economic power and political power.

It was thought by some that the name "democracy" was misleading since in the ancient democracy the poor could, to some extent, control the rich, whereas the opposite was true with modern representative democracy. The idea was even expressed that the term "representative democracy" was a contradiction. It had to be recognised that the inventors of modern representative democracy, particularly the Americans in the late 18th century, did not use the term, but saw themselves as founding a republican system. As a modern "desirable good," the term was also shrouded in rhetoric. In earlier periods it was a pejorative term, denoting the poor gathering in a threatening manner. It was also pointed out that in Athens sortition and other methods developed in a pre or proto-democratic phase which helped to promote a role-governed, stable, participating polis. It was felt that representation itself was not flawed, but needed to be controlled. If the existing checks and balances were inadequate to control the experts, then tribune-type systems might be a valuable addition. In this respect the difference between parliamentary and republican constitutional arrangements needed to be recognised. The idea that liberal democracy was not sufficiently accountable was challenged, but it was also pointed out that the Athenian system incorporated a wide range of popular anti-corruption and accountability measures far beyond those of the modern liberal paradigm.

There was a brief discussion of direct democracy at the close of this session. This discussion focused on whether direct democratic measures would be preferable to sampled min-publics.

Session 3 of the workshop opened the next morning. Gil Delannoi offered some reflections on part 3 of the draft report and on the report in general. He noted that the current workshop was part of a series launched two years ago which included sessions on democracy and direct democracy and on the advent of representative government as the use of sortition was on the decline. Next year there were two sessions planned, one on sortition in transition to democracy, and another (to take place in Switzerland) on a theme to be announced. Any suggestions of subject matter for the future, Delannoi added, would be welcome.

Delannoi himself once advocated sortition for the selection of an important university chairperson. This proposal was rejected, but a proposal to elect without candidates was accepted. This story demonstrates how sortition, or at least the threat of sortition, could work in mysterious ways.

What we need to look at now, Delannoi concluded, is what institutional measures need to accompany sortition; how different measures of selection compare to each other; and what bundles of democratic values can be promoted by the use of sortition. There is always hope that funding will be found for experiments that we could then examine and observe or that local government officers somewhere might be persuaded to collaborate.

David Farrell and Jane Suiter responded to Delannoi's remarks. Farrell reported on work that he and another colleague had undertaken in the previous year. In terms of the wider context, this work is linked to theoretical work concerned with the current health of representative democracy. This work led to arguments about how to define "democracy," but it was judged easiest to go with Dahl's notion of *polyarchy*. Central to this notion was the idea that citizens needed only to be active at election time. Even this minimal notion of democracy is affected today by declining turnout, dwindling support for parties, and a general sense that representative democracy is failing. Nonetheless, there is a widespread sense that there still exists space in representative democratic structures for more citizen involvement between elections. Farrell was particularly interested in temporary institutions of a deliberative type set up with a particular purpose in mind, especially the "We the Citizens" project in Ireland.

Suiter asserted that the key question concerning large-scale deliberative projects is that of *participation*. This meant talking about the recruiting methods employed for such

projects, as well as the differences in perception between those who were willing to take part and those who, for whatever reason, were indifferent to political questions. There is a discernible difference, Suiter argued, between dissatisfied democrats—those who had already had some political experience, but had become disenchanted with the status quo—and those who had never taken any interest in the political process. This latter group amounted to some 20% of the population.

The "We the Citizens" project, with which both Farrell and Suiter were involved, involved sortition, but while the citizens were initially chosen randomly they took part only if they then agreed to do so. Recruitment was by random digital dialling. In some senses it was a mock citizens' assembly. Its object was to explore possible reforms to the current system, based on the premise that a promise of reform had been made by the last government.

The group chosen for "We the Citizens" could be described as fairly representative, but it included some surprising elements, such as people in their 40's who had never voted. Discussions in the project followed a small group format in an informal "café"-type environment. Of the 1200 positive telephone respondents, 100 actually took part. Information packs were sent out to all and regular phone calls were needed to maintain involvement. Much of the academic interest lay in when and how people changed their minds during the deliberative process, how shifts of understanding took place and the extent to which participants' views remained fixed.

The project aroused interest from professional politicians and members of the government, and shortly afterwards the government announced its own convention. 66 randomly-selected members of the public, plus 33 MPs, would meet to discuss the reduction of the voting age from 18 to 17, a proposal to reduce the term of the president from 7 to 5 years, and other topics.

Most of the discussion that followed in this session focused upon the "We the Citizens" project. There were also more general questions or inquiries about the value of the process as a whole and its relationship to other sortive or democratic procedures

In the first category there were questions about the aggregating of voices in the discussion and whether it could be determined when people changed their minds. Additional knowledge appeared as the instigator of greatest change, and because some non-attendees had been sent information packs it was theoretically possible to determine the effect of attending the deliberative sessions.

People with left-wing views seemed more open to change than those with right-wing views. In answer to a question about whether recruitment was from the entire population (which would give the process legitimacy), it was explained that the random dialling system delivered a 99.5% coverage.

Other questions concerned the long-term effects of these types of forums and whether people retained their newfound interest in politics. There was not much evidence either way on this, but politicians paid attention to the results of deliberation forums and this might help frame future agendas. Another direct question concerned who was representing who in a forum of this type. In other words, could we be justified in assuming that those who attended were somehow representing those who didn't? The response to this was that the effect of these forums should not be overestimated; there was a sense that these forums were simply one way of trying to represent a fragmented and disorganized society and to give some sort of voice to those who did not have one.

The relationship between deliberative forums and referenda was also discussed. Was it right, for instance, that the final decision should be made on any issue by those who had not taken part in the forum? One response to this was to question the assumption that there was no deliberation amongst the public during a referendum.

The difference, it was explained, between deliberative forums and referenda was that the former sought a more controlled, more informed, and more balanced discussion. Whatever the nominative value of each, it was useful to draw a distinction between these artificial agoras and their natural counterparts. Many articulated the view that people might prefer referendums to deliberative forums, but others thought some mini-publics could become leaders of public opinion. While deliberative forums had direct access to information, full public information provision was essential for referenda. It was pointed out that Switzerland was a very divided society yet somehow it managed to develop and maintain such a system. This was, in some respects, a response to an earlier question about how sortition could develop in a divided society like Northern Ireland (which was denied the right of trial by jury), and how deliberative democracy forums could work when there were so many pre-decided views.

There was some discussion about experts. In larger deliberative democracy forums, citizens themselves took greater responsibility for the choice of experts. It was also noted that in some constitutions, such as the United States, judges were assigned to their cases by sortition. This suggested other similar schemes involving experts could be developed.

Questions were raised about the legitimacy of sortive forms and whether this representation by proxy, by "people like me," could be seen as legitimate as the consent of the people in referendums. If "people like me" possessed the legitimacy to represent in the legislature, would others submit to their role if they formed part of the executive? This was a complicated issue, and part of a wider discourse on social contract theory. It was, however, pointed out that expressions of consent operated as political capital for political decision-makers, and gave them the opportunity and encouragement to pursue certain issues. An example was deliberative forms in China which never really challenged authority.

There was a small amount of discussion as to whether sortition could help provide checks and balances in a polity. The subject of exclusions was explored, as well as and the need for transparency in random-selection procedures (especially in an age of computers). The G1000 forum in Belgium was briefly discussed and the systematic use of electronic media in that event was noted. Computer simulation might supply a different sort of empirical evidence for sortive schemes.

The relationship between sortition and power was suggested as a topic for further research. There was a similar interest expressed in comparative studies between sortive and elective schemes, as well as the use of random selection for social housing and/or immigration systems. The view was expressed that it might be useful to see sortition as part of a political narrative, especially amongst those nations who were new to democracy and were looking for new options. It was also pointed out that deliberative democracy had a strong profile in the academic community, whereas interest in other sorts of sortition was relatively low and should be encouraged.

The workshop closed with the conclusion of this session.

APPENDIX 3: SPEAKER BIOGRAPHIES

Yann Allard-Tremblay recently completed his Ph.D. in the joint programme in Philosophy of the University of St Andrews and the University of Stirling. His thesis addresses the relationship between a procedural epistemic theory of democracy and constitutionalism. His main research interests are on theories of democracy, various notions of jurisprudence such as authority and legitimacy, and epistemology. He has recently published a paper in *Res Publica* on the epistemic edge of majority voting over lottery voting. He also has a paper forthcoming in the *Oxford Journal of Legal Studies* on the topic of judicial review within a procedural and epistemic theory of democracy.

Hubertus Buchstein is Professor and Chair of Political Theory and the History of Political Ideas at Greifswald University, Germany. He studied Political Science, History, Philosophy and German Literature at the Freie Universität Berlin and completed his dissertation on the History of Political Science in Germany there in 1990. He later took positions at the Freie Universität Berlin and was Affiliated Faculty member at the New School for Research in New York between 1995 and 2003. Since September 2009 he is serving as President of the German Political Science Association (DVPW). He was a Fellow at the Wissenschaftskolleg zu Berlin in the 2012-2013 academic year. His main research topics are procedures of political will formation and electoral rules, modern theories of democracy, the history of political ideas, and right-wing extremism in Germany. Recent publications include his books *Demokratie und Lotterie* (2009), *Demokratietheorie in der Kontroverse* (2010), and *Demokratiepolitk* (2011), as well as the articles (with Michael Hein) "Randomizing Europe. The Lottery as a Decision-Making Procedure for Policy Creation in the EU" (*Critical Policy Studies*) and (with Dirk Jörke) "The Argumentative Turn toward Deliberative Democracy: Habermas's Contribution and the Foucauldian Critique." (In *The Argumentative Turn Revisited: Public Policy as Communicative Practice*, ed. by Frank Fischer and Herbert Gottweis). He has a website at http://www.hubertus-huchstein.de.

Ètienne Chouard teaches Economics in Marseille. Since the French referendum on the Constitution for Europe, he has been investigating the cause of the causes of social injustices, with particular concerns for the constitutional process and the creation of money. He has become a strong advocate for the centrality of selection by lot in any democracy worthy of the name. He has a website at http://etienne.chouard.free.fr/Europe.

Gil Delannoi is a Fellow of the Centre de Recherches Politiques and Professor of political theory at Sciences Po, Paris. He has served as a visiting professor at various universities. He

offered lectures in 2013 on "The History and Theory of Democracy" and "A Comparison of Political Forms." His interests include political philosophy, political theory and history of ideas. His most recent publication on sortition is "On Several Kinds of Democracy," which appeared in *Direct Democracy and Sortition*, a volume in the series Cahier du Cevipof. (www.cevipof.com/fichier/p_publication/978/publication_pdf_cahier.56.23.pdf)

Oliver Dowlen is an independent scholar specialising in the random selection of citizens for public office. After working as a teacher and practitioner in the arts, he took a part time M.Phil. in Politics in 1999 at the University of Hertfordshire and then a full-time D.Phil. at New College, Oxford, graduating in 2007. The subject for his M.Phil. was "Marx's Concept of Alienation." For his doctorate, he investigated the political value of selecting citizens for public office by lottery. His doctoral thesis was joint winner of the Sir Ernest Barker prize for best thesis in political theory for 2006-7. It has since been published as *The Political Potential of Sortition* (Imprint Academic, 2008). In recent years he has been joint organiser of the CEVIPOF seminar series on the political use of sortition funded by Sciences Po, Paris. In October 2012 he took up an ISRF Early Career Fellowship at Queen Mary, University of London to study the benefits of using randomly-selected citizens in transitions to democracy.

Stephen Elstub is a Senior Lecturer in Politics at the University of the West of Scotland. Stephen's research interests are on the cusp between democracy in theory and practice, particularly in relation to deliberative democracy and its institutionalisation in practice. He has both conceptual and empirical research interests in multi-level governance, with particular emphasis on the role of civil society within these processes, and he has published broadly on these topics. His current and previous research has focused on civil society organisations and their contribution to deliberative and democratic processes in relation to an array of institutions, including quangos, the European Union, the voluntary and community sector, partisan forums and minipublics. He is currently researching elite deliberation in the UK Leaders' Debates in the 2010 general election campaign. He is the author of *Towards a Deliberative and Associational Democracy* (Edinburgh University Press, 2008) and the editor of *Democracy in Theory and Practice* (Routledge, 2012). Since 2009 he has convened the UK Political Studies Association Participatory and Deliberative Democracy Specialist Group (www.uws.ac.uk/PDD). In 2008 he accepted an invitation to join the Royal Society of Arts and has been a Fellow since.

David Farrell is Head of Politics and International Relations at University College Dublin. He was appointed to the Chair of Politics there in 2009. Prior to that he was Professor and

Head of School of Social Sciences at the University of Manchester. A specialist in the study of electoral systems, political parties and parliamentary representation, Professor Farrell's most recent books include *Electoral Systems* (a six-volume reader, co-edited with Matthew Shugart, Sage 2012), *Political Parties and Democratic Linkage* (co-authored with Russell Dalton and Ian McAllister, Oxford University Press, 2011), and *Electoral Systems: A Comparative Introduction* (second edition, Palgrave Macmillan, 2011). He is the co-editor of *Party Politics* and of the Oxford University Press book series on "Comparative Politics." Professor Farrell's most recent project was as research director of the We the Citizens initiative that ran throughout 2011 and was funded by Atlantic Philanthropies.

Peter Stone is Ussher Assistant Professor of Political Science (Political Theory) at Trinity College Dublin. He received his Ph.D. from the University of Rochester in 2000. Before moving to Trinity, he taught Political Science at Stanford University and held a Faculty Fellowship at Tulane University's Center for Ethics and Public Affairs. He works in contemporary political theory, with particular interest in theories of justice, democratic theory, rational choice theory, and the philosophy of social science. He is the author of *The Luck of the Draw: The Role of Lotteries in Decision Making* (Oxford University Press, 2011) and the editor of *Lotteries in Public Life: A Reader* (Imprint Academic, 2011). He has also published articles in such journals as the *Journal of Political Philosophy*, the *Journal of Theoretical Politics, Political Theory, Rationality and Society, Social Science Information*, and *Social Theory and Practice*. He is an occasional contributor to the blog Equality by Lot (http://equalitybylot.wordpress.com/).

Jane Suiter is a lecturer in the School of Communications at Dublin City University. She has a particular research interest in new communication methods and in deliberative and participative democracy and was an academic member of the We the Citizens initiative in 2011.

Antoine Vergne studied Political Science in France and Germany. He earned his Ph.D. from a binational doctoral training program run by the Freie Universität Berlin and the Institut d'Études Politiques in Paris. His work focuses upon the theory and practice of Aleatorian Democracy. He is currently a consultant at the French firm Missions Publiques, which supports public authorities in the design, implementation and facilitation of processes of public participation and deliberation.

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