

Schmooze ticket

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[My ticket aims to provide an additional argument in favor of lotteries as an alternative selection method for representatives, as advocated by various “sortinitas” (including our very own Sandy Levinson).]

Lotteries have recently been explored as an alternative to elections on many grounds: equality, fairness, representativeness, anti-corruption potential, protection against conflict and domination, avoidance of preference aggregation problems, and cost efficiency, among others (e.g., Elster 1989, pp. 78–103; Guerrero 2014; Mulgan 1984, pp. 539–560; Goodwin 1992; Carson and Martin 1999; Duxbury 1999; Leib 2004; Levinson 2012: 124-131; McCormick 2011; Sutherland 2004; Stone 2007, 2009, 2011; Sintomer 2007). To give just a few examples of the proposals for institutional reform that go with such reflections, Ethan Leib advocates a plan for a lottery-populated fourth branch of the US government, which would replace the initiative/referendum processes as a mechanism of popular political power. Keith Sutherland has similarly suggested having the British House of Commons chosen by lot. Alex Guerrero even more radically suggests giving full legislative power to various single-issue lottery-selected assemblies, creating a de facto “lottocracy” in lieu of our current representative government. More modest proposals, such as that by Kevin O’Leary, suggest having lottery-selected local assemblies that would comprise a deliberative-polling network and a People’s House, also selected by lottery, that would have a veto power on major legislation that passed the

Senate or House of Representatives.

In this brief essay, my aim is to provide additional theoretical ammunition for the proponents of these various reforms aiming to reintroduce lotteries as a perfectly viable and legitimate democratic selection mechanism by rehearsing my own “epistemic” argument for the superiority of randomly selected assemblies over elected ones (see also Landmore 2013a and b). I argue that the superiority of randomly selected assemblies over elected ones is that they are more likely to be characterized by a property that has been shown to be essential to the problem-solving abilities of any group, namely cognitive diversity, or differences in the way individuals see the world and conceptualize and address problems in it. By contrast, elections tend to select representatives along homogenizing dimensions (socio-economic, racial and gender criteria in particular) that are bound to considerably limit cognitive diversity and thus limit the potential collective intelligence of the resulting assembly. To the extent that we care about the problem-solving abilities of Congress, or whatever popular assembly we are considering, we would be better off switching from elections to random selection. I will also briefly consider two common concerns about such randomly selected alternatives: alleged lack of legitimacy and accountability.

1. The epistemic case for randomly selected assemblies or “mini-publics.”

My previous work has consisted in an effort to demonstrate that there is an a priori plausible correlation between the inclusiveness of a political decision-making process, particularly if it is deliberative and oriented toward problem solving, and its “epistemic” performance, that is its ability to produce “smart” outcomes (Landmore 2012, 2013, a

and 2013b)¹. This correlation, I have argued, is due to the fact that at least up to a point and under certain reasonable assumptions, including more people means introducing more cognitive diversity into the decision-making process, where cognitive diversity is, roughly, the difference in which individuals see the world and conceptualize problems in it, as well as a systemic property of the group that has been shown to be essential to the phenomenon of collective intelligence (Page 2007). According to Page's "Diversity Trumps Ability theorem" indeed, cognitive diversity is more essential to the problem solving abilities of a group than is the other, more familiar component of collective intelligence, namely individual ability (Hong and Page 2004, Page 2007). In other words, and quite counter-intuitively, it will generally matter more for the problem-solving abilities of a group that it contains average people who think differently than that it contains really smart people who think alike.

While Page's results are technically only supportive of introducing more diversity in the pool of decision-makers ("more diverse is smarter"), I have proposed to extend the conclusion towards full democratic inclusiveness ("more is smarter"). I argue that this generalization is justified in the political context because of the uncertainty and unpredictability that I argue characterize political issues. In the absence of knowledge about the questions and problems that any given political group or representative assembly will have to address over the length of its tenure, it is equally impossible to know the kind of knowledge or perspectives that will be relevant and select for the right group composition. If what we want is to maximize cognitive diversity, the key

¹ By "smart" outcomes, I mean outcomes that aggregate all the relevant information and knowledge and, to the extent possible, track the "truth," whether factual, political, or moral.

ingredient of collective intelligence, the best solution is thus to include everyone in the group. If including everyone is not an option (because deliberation then becomes unfeasible), the next best thing is to draw a random sample of the larger group (Landemore 2013a). In the context of mass democracies therefore, where direct inclusion of all in the decision-making process is not really an option, a random sample of the larger group is what we want in order to maximize the epistemic properties of the group of decision-makers.

The epistemic argument for democracy—the idea that “the more, the smarter”—thus quite naturally translates into an argument for the selection of representatives through lotteries. Notice that the descriptive or statistical representation that lotteries achieves would not elevate the level of individual ability in the assembly, as by definition the expected individual ability of the randomly selected individuals would be average, but it would reproduce in miniature the cognitive diversity of the larger group. Besides other possible advantages (anti-corruption effects, low cost, etc.), random selection thus holds the promise of an important epistemic improvement for the quality of deliberation among representatives.

By contrast, from an epistemic point of view, it appears that elections wrongly focus on maximizing the less important ingredient of collective intelligence, namely individual ability, by aiming to select an elite of “best and brightest.” While nothing in theory precludes elections from selecting for cognitive diversity as well, the observed practice is that the “best and brightest” are typically selected from rather homogenous sociological categories (white, male, lawyers, millionaires) that are more likely than not to think alike on a variety of subjects. In practice, elections thus retain an aristocratic

flavor. Even in theory, though, it is not clear that the principle of election can be fully reconciled with the goal of cognitive diversity, as the persons most likely to run for office are likely to share some personality traits (a type-A personality, say), or other homogenous characteristics that may reduce the overall cognitive diversity of the assembly. So in theory and practice, elections can be expected to produce assemblies of possibly smart but rather cognitively homogenous individuals, instead of an assembly of cognitively diverse individuals. As a consequence, even if the average individual ability of the members of such elected assemblies can be high, the cognitive diversity of the group will not be as high as it could be and we won't get the highest epistemic performance possible.

2. Legitimacy

This novel argument for sortation or lotteries over elections faces the same problems that competing arguments have ran into. One of them is that the randomly selected representatives would not have the legitimacy of elected representatives, simply in virtue of the fact that they were not chosen by the people on behalf of which they are supposed to make decision and so the crucial element of "consent" is lacking. This objection is typically put forward by people who distrust randomly selected mini-publics (e.g., Lafont 2014).

This would be a powerful objection is the concept of political legitimacy was indissolubly tied to that of elections or, even more importantly, predated or mattered more than, democracy itself. In reality, though, the concept of legitimacy postdates by a few hundred years the democratic invention of randomly selected assemblies in Ancient

Greece (Woodruff 2006). Further, even if political legitimacy is historically tied to “the triumph of election” (Manin 1997), this does not establish that there is something essential about the connection between election and legitimacy, let alone between election and democracy. Elections, as a matter of fact, are not all that democratic, at least according to Bernard Manin who characterizes them as “Janus-faced” (that is aristocratic in their elitist principle, yet democratic in the transmission of popular consent they supposedly ensure). By contrast, random selection, a staple of Ancient Athens and later Italian republics like Venice, is arguably the more genuinely democratic procedure of the two. If the Anti-Federalists’ ideal of a legislature as a “mirror-image” of the country at large had won, we might have an easier time today reintroducing lotteries as a legitimate selection mechanism.

The concept of legitimacy invoked by advocates of election is thus a historically contingent one. One can imagine a more plausible concept of legitimacy, whereby legitimacy is a function of multiple factors, whose weight may well vary according to context. Some of these factors have to do with consent, some with epistemic performance, some with procedural fairness, some with the satisfaction of basic human rights etc. In any case, it certainly does not follow from the fact that elections have a certain kind of legitimacy, derivative essentially of consent, that random selection cannot have its own legitimacy, based on different and equally respectable criteria. (such as statistical representativeness as well as, possibly, the epistemic benefits attached to that property, as argued above).

Finally, one could also argue that random selection is not in theory inimical to consent per se, if consent is given to the principle of random selection itself, rather than,

directly, the individuals selected by the procedure. Conversely the empirical question of whether elections truly allow for the meaningful expression of popular consent seems to be more and more answered in the negative. There is thus no essential connection between the concept of democratic legitimacy and that of elections. We need to move past that false belief and open our minds to new possibilities.

3. Accountability

Another more practical objection raised against random selection is the lack of accountability that would arguably characterize the resulting assembly. People chosen to be on the assembly would not be accountable to the rest of the population, it is assumed, because they cannot be incentivized by the prospect of re-election to act on behalf of the common good rather than on that of some lobbyist willing to bribe them. Further, the assembly would run the risk of being composed of incompetent, perhaps morally corrupt people. One might remark, first, that it is dubious today whether the prospect of re-election itself is all that efficient in ensuring accountability.

More importantly though, one can perfectly imagine other ways of ensuring accountability than the incentive of re-election. Looking back to Ancient Athens, one thus finds that lotteries were widely used, entrusting to randomly selected citizens most of the functions not performed by the Popular Assembly (the Ekklesia). As Manin remarks (1997: 10), this suggests that Athenians thought the advantages of the procedure outweighed its risks and that they had found ways of guarding against its main demerits, including incompetence. He thus goes on to list a variety of ways in which accountability was ensured.

1) *Vetting process of the randomly selected magistrates.* Here is how Manin describes it: “Those whose names had been drawn by lot had to undergo examination (dokimasia) before they could take up office. This test examined whether they were legally qualified to be magistrates; it also checked whether their conduct towards their parents had been satisfactory and whether they had paid their taxes and had performed their military service. The test had a political side to it, too: an individual known for his oligarchical sympathies might be rejected. In no way, however, did dokimasia seek to weed out incompetents, and usually it was a mere formality.”

2) *Constant monitoring of the magistrates while in office.* Here is again how Manin describes the accountability mechanism: “Not only did they [the magistrates] have to render account (*euthynai*) on leaving office, but during their term of office any citizen could at any time lay a charge against them and demand their suspension. At Principal Assemblies (*ekklesiai kyriai*), voting on the magistrates was a compulsory agenda item. Any citizen might then propose a vote of no confidence against a magistrate (whether appointed by lot or by election). If the magistrate lost the vote, he was immediately suspended and his case was referred to the courts, which then had the responsibility of either acquitting him (whereupon he would resume his functions) or condemning him.”

3) *Self-selection at the gate:* because all these constraints and risks were common knowledge, only the individuals confident they would pass the various tests and be unlikely to face impeachments or punishment volunteered to have their names inserted into the lottery machine, the *kleroteria*.

The first and last accountability mechanisms mentioned here are perhaps problematic for the epistemic argument presented above because they certainly reduce

the scientific representativeness of the resulting sample. That said, these mechanisms of accountability are just examples. One could imagine modern alternatives that would ensure accountability while preserving representativeness.

Let me finally briefly rehearse a quick calculus of what a worst-case scenario would be like in the case of an entirely unaccountable randomly selected assembly (see also Landmore 2013a and 2013b: Chapter Four). The probabilities are not nearly as bad as critics would have us believe. Consider for example the pessimistic scenario of a population where 25% of the population consists of terribly incompetent and morally corrupt people—let us identify them as “dumb white supremacists”—and we aim to randomly appoint an assembly of, say, 50 representatives, to be renewed every four years.²

The first time we use the random sampling mechanism, the probability of drawing an assembly in which there is at least a simple majority of white supremacists (that is, 26 of them or more) is ridiculously low: 0.0038%. Over time, however, as we keep using the procedure, this probability will, as the objection points out, rise to 100%. This will happen, however, over an infinite amount of time. How many years would it take for this probability to rise not to 100% but, say, 50%? The answer is: 72,924 years. For the risk to go up only to 10%, we would still have to wait 11,088 years. For the risk to rise to 1%, it would take 1,060 years. No democracy has lived that long, and at least some representative democracies based on the election principle have managed to

² The calculus grows more unwieldy as the size of the assembly increases, hence the choice of that relatively low number. The point is, in any case, that it would take even more time for the probability of drawing a “bad” assembly consisting of several hundred individuals to reach any dangerous threshold so the argument that follows applies a fortiori to the case of most existing representative democracies, whose representative assemblies are generally ten times as numerous as in the example considered here.

produce much worse assemblies in much shorter periods of time.

It is true that we could be terribly unlucky and, against the odds, draw the dangerous assembly on the first trial or soon after. In a well-designed democracy, however, there should be institutional safeguards that limit the damage potentially caused by a particularly bad, if unlikely, draw. Constitutional checks and the existence of a second, non-randomly selected chamber, for example, may come to mind. While the objection thus raises a genuine, though highly theoretical, problem, when this problem is weighted against the potential and comparative benefits of random selection, it does not seem to be enough to justify throwing out the baby with the bathwater.

Bibliography

- Barnett, A., & Carty, P. (2008) [1998]. *The Athenian option: Radical reform for the house of lords (luck of the draw: Sortition and public policy)*. Charlottesville, VA: Imprint Academic.
- Carson, L., & Martin, B. (1999). *Random selection in politics (Luck of the draw: Sortition and public policy)*. Westport, CT: Praeger Publishers.
- Duxbury, N. (1999). *Random justice: On lotteries and legal decision-making*. Oxford: Oxford University Press.
- Elster, J. (1989). *Solomonic judgments: Studies in the limits of rationality*. Cambridge/Paris: Cambridge University Press/Editions de la Maison des sciences de l'homme.
- Fishkin, James. 2009. *When the People Speak: Deliberative Democracy and Public Consultation*. Oxford: Oxford University Press.
- Pettit, Philip. "Representation, Responsive and Indicative," *Constellations* 17 (2010), pp. 427-28.
- Goodwin, B. (1992). *Justice by lottery*. Chicago: The University of Chicago Press.
- Hong, L., & Page, S. (2004). Groups of diverse problem solvers can outperform groups of high-ability problem solvers. *Proceedings of the National Academy of Sciences*, 101(46), 16385–16389.
- Lafont, Christina. 2014. "Deliberation, Participation, and Democratic Legitimacy: Should Deliberative Mini-Publics Shape Public Policy?" *Journal of Political Philosophy*. Article first published online: 22 JAN 2014 | DOI: 10.1111/jopp.12031
- Landmore, H. (2013). *Democratic reason: Politics, collective intelligence, and the rule*

of the many. Princeton: Princeton University Press.

Landemore, H. (2012a). Democratic reason: The mechanisms of collective intelligence in politics. In H. Landemore & J. Elster (Eds.), *Collective wisdom: Principles and mechanisms*. Cambridge: Cambridge University Press.

Landemore, H. (2013). "Deliberation, cognitive diversity, and democratic inclusiveness: an epistemic argument for the random selection of representatives" *Synthese* 190(7): 1209-1231.

Leib, E. (2005). *Deliberative democracy in America: A proposal for a popular branch*. Pennsylvania: Pennsylvania State University Press.

Levinson, Sanford. 2012. *Framed. America's 51 Constitutions and the Crisis of Governance*. Oxford: Oxford University Press.

Manin, B. (1997). *The principles of representative government*. Cambridge: Cambridge University Press.

McCormick, J. (2011). *Machiavellian democracy*. Cambridge: Cambridge University Press.

O'Leary, K. (2006). *Saving democracy: A plan for real democracy in America*. Stanford: Stanford University Press.

Page, S. (2007). Diversity trumps ability theorem. In *The difference: How the power of diversity creates better groups, firms, schools, and societies* (pp. 131–174). Princeton, NJ: Princeton University Press.

Rehfeld, A. (2005). *The concept of constituency: Political representation, democratic legitimacy and institutional design*. Cambridge: Cambridge University

Stone, P. (2007). Why lotteries are just. *The Journal of Political Philosophy*, 15(3), 276–

295.

Stone, P. (2009). The logic of random selection. *Political Theory*, 37, 375–397.

Stone, P. (Ed.). (2010). *The luck of the draw: The role of lotteries in decision-making*. Oxford: Oxford University Press.

Stone, P. (Ed.). (2011). *Lotteries in public life. A reader*. Exeter: Imprint Academic

Woodruff, Paul. 2006. *First Democracy: the Challenge of an Ancient Idea*. Oxford: Oxford University Press.