

# **Bringing direct democracy in a representative assembly: The case of allotted MPs**

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***Abstract:** It is widely believed among political theorists that the prevailing form of representative democracy seriously undermines the very foundation of democracy, popular sovereignty. Various proposals have been made to enhance citizens' participation in democratic politics. Nevertheless, even if most of these suggestions are adopted, the greatest part of important decisions concerning legislation and other crucial issues will still be taken by a purely representative body, the parliament. Is it possible to bring direct democracy into this body? The only way to do this is to allow a certain number of MPs to be selected by lot from a list of citizens who have volunteered for the job. These allotted MPs will act *mutatis mutandis* as members of the Athenian ecclesia and under certain circumstances they could counter the authoritarian tendencies of a party-dominated system. I discuss a particular method for choosing MPs by sortition that is democratically legitimate as well as certain objections that can be raised against this radical innovation.*

I will start with the following assumption: any conception of popular sovereignty worthy of its name must grant people the power to participate, as far as it is possible, in decision-making procedures that concern major political issues as well as the power to authorize representatives to decide issues of lesser political importance on their behalf. This means that the idea of popular sovereignty supports a mixture of direct and representative democracy. Until recently representative democracy has been for various practical and ideological reasons the prevailing form of government in most states, but many political theorists and activists have started to become critical of its predominance. They argue that popular sovereignty has been replaced by party or elite sovereignty and propose a variety of measures to increase

citizen participation.<sup>1</sup> Political elites usually do not welcome radical changes in the institutional status quo, but even when they are willing to transfer control of certain decision-making procedures to the body politic, the institutions usually employed to this effect (including citizens' initiatives for setting the agenda) allow all citizens to collectively determine a very small subset of crucial political issues let alone those handled by executive officials and non-representative or supranational bodies. The rest are left to be decided by elected representatives in legislative bodies. Parliaments continue to pass laws that heavily affect everyone's well-being, but it is impossible for everyone to play an active role in parliamentary proceedings. It could be argued that modern technology could allow all citizens to express their preference on every bill introduced in the parliament.<sup>2</sup> But even if a reliable and efficient electronic voting system is established, citizens could not deliberate face to face as MPs do. It is impossible for everyone's voice to be taken into account and for the government's operation not to come to a standstill.<sup>3</sup> In addition, given that the majority of ordinary citizens could not devote sufficient time to become acquainted with all the complex considerations that bear upon any proposed bill, their choices run the risk of being biased and misinformed.

One way out of this is to turn citizens into real parliamentarians who will act *mutatis mutandis* as members of the Athenian ecclesia. However, although no citizen *qua* citizen can be excluded in advance

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<sup>1</sup> For an excellent overview of the various proposals to increase citizen participation see Graham Smith, *Democratic Innovations: Designing Institutions for Citizen Participation* (Cambridge: Cambridge University Press, 2009).

<sup>2</sup> One of the first relevant proposals is found in Robert Paul Wolff's *In Defence of Anarchism* (New York: Harper and Row, 1970).

<sup>3</sup> As Goodin maintains, one of the reasons for party democracy is that parties reduce the multiplicity of possible views and opinions on particular laws and policies to a few manageable ones thus offering citizens rationales for their acceptance. Robert E. Goodin, *Innovating Democracy: Democratic Theory and Practice after the Deliberative Turn* (Oxford: Oxford University Press, 2008) chapter 10.

from participating in a legislative assembly the decisions of which significantly affect his or her life, the available seats suffice only for a handful of them. The obvious solution to this practical problem is to use a lottery. This is the only fair device to fill a position sought by a multitude of equally qualified candidates. The citizens who enter the assembly via this particular procedure will be called *allotted* MPs to be distinguished from elected MPs.

The idea of using civic lotteries to select citizens to participate in major decision-making bodies has gained momentum among supporters of democratic innovations.<sup>4</sup> Hence, before moving to the details of the proposed scheme I would like make a critical remark regarding some relevant proposals from the recent literature.

Barnett and Carty proposed a radical reform of the House of Lords on the ground that democracy in Britain suffers from the existence of an upper chamber consisting of hereditary peers. Their suggestions are twofold: (a) they include the enhancement of the legislative role of this assembly by giving it the power to secure that laws are drafted in a clear and comprehensible language, do not contradict the stated aims of government and are not profoundly unconstitutional. (b) They urge for the replacement of all Lords by a body of ordinary citizens selected by lot from the electoral register. Their purpose would be to help the government and the elected representatives of the House of Commons to

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<sup>4</sup> See among others Oliver Dowlen's works *The Political Potential of Sortition: A Study of the Random Selection of Citizens for Public Office* (Exeter: Imprint Academic, 2008) and "Sorting Out Sortition: A Perspective on the Random Selection of Political Officers," *Political Studies* 57 (2009): 298-315, Richard B. Mulgan's "Lot as a Democratic Device of Selection," *Review of Politics* 46 (1984): 539-60, and Benjamin Barber's *Strong Democracy: Participatory Politics for a New Age* (Berkeley: University of California Press, 1984), 290-93. For the reasons that made election preferable to sortition in modern times see Bernard Manin, *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997), chapter 2.

make laws that follow closely the mandate they were given by the people.<sup>5</sup> Sutherland has presented a complex and detailed plan for changing beyond recognition the whole British political system which cannot be discussed here. What interests us is that his blueprint includes a lower house (the Commons) consisting of various juries who would be randomly selected from the electorate. Their job would be to approve or reject, after hearing the relevant arguments but without further discussion, bills introduced to them by a crown-appointed government or a mixed upper house (the Lords).<sup>6</sup> Finally, Callenbach and Phillips argued for the replacement of the 435 members of the US House of Representatives by an equal number of citizens selected by lot from a wide “master national list”. This is necessary to fulfill the Founding Fathers’ ideal that “the legislature ought to be the exact transcript of the whole society...to bring the whole people’s voice to Washington”, which has been lamentably forgotten in the subsequent course of the American democracy.<sup>7</sup>

The problem with these schemes is that they rely on a descriptive or statistical conception of representation to force legislatures to become concerned about the citizens’ interests. We can draw a small sample from an electoral register or the phone book that would be an accurate “transcript” or “map” of the composition of a given population, but government by this sample is not government on behalf of the people. This group has no authorization to pursue certain policies or to promote anybody’s interests and is accountable to no one. It is a mistake to use

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<sup>5</sup> Anthony Barnett and Peter Carty, *The Athenian Option: Radical Reform for the House of Lords* (Exeter: Imprint Academic, 2008).

<sup>6</sup> Keith Sutherland, *A People’s Parliament* (Exeter: Imprint Academic, 2008). He also suggests (143-44) that a minimum IQ level could be a necessary condition for entering the database from which the jury MPs will be drawn. I do not find this a good idea as IQ tests do not evaluate the epistemic and moral qualities necessary for judging the merits of a bill. Also intelligence could potentially be used as property was used in the past to unfairly disenfranchise large segments of the population.

<sup>7</sup> Ernest Callenbach and Michael Phillips, *A Citizen Legislature* (Exeter: Imprint Academic, 2008), 17, 25.

sortition to make a legislative assembly more representative, that is, to render it more susceptible to the views, desires and needs of those who are not present in it, but this is a point to which I will return later.<sup>8</sup>

Let's now examine how our proposed scheme works bearing in mind the obvious fact that only practice can be the final judge of radical innovations of this type.<sup>9</sup>

*Stage One.* At the beginning of the electoral campaign a list will be formed of all those citizens who have expressed their interest in the office of the allotted MP.<sup>10</sup> The same qualifications holding for elected MPs apply in their case. In addition, they should not have served in parliament before and they should not be active members of political parties. There is undoubtedly room for additional qualifications, but this scheme will not work if allotted MPs think and act as party members. There is no foolproof method to avoid this eventuality, but at least some measures are necessary to make it more difficult for political parties to have control over allotted MPs.

*Stage Two.* During Election Day there will be a special ballot paper for allotted MPs which could be cast by those citizens who wish to bring

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<sup>8</sup> In the words of Pitkin descriptive representation “has no room for any kind of representing as acting for, or on behalf of, others; which means that in the political realm it has no room for the creative activities of a representative legislature, the forging of consensus, the formulating of policy, the activity we usually designate as ‘governing’”. Hanna Fenichel Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1967), 90. Cf. also the critical remarks of Peter Stone in his introduction to *A Citizen Legislature*. Sutherland (157-59) acknowledges this shortcoming and concedes that a number of the members of his upper house should be party-elected. But still the final decision-making power concerning legislation remains with the randomly selected Members of Commons.

<sup>9</sup> Needless to say that the implementation of this innovation must be combined with several other institutional changes aiming at increasing citizen participation.

<sup>10</sup> I consider this list necessary as I believe that citizens have only a qualified right and not an *obligation* to take part in the aforementioned civic lottery. It would be a very heavy burden to demand that an unwilling individual serve in such an important position and his or her performance would probably be below expected standards.

an element of direct democracy in the very institution of representative government. When the election is over, a system a direct proportional representation is used to determine the number of allotted MPs. The whole country is regarded as one constituency and the quota is calculated by dividing the total valid vote by the number of seats in the parliament. Then the total number of votes cast in favor of MPs is divided by the quota. Once the number of the allotted MPs is known, an equal number of persons are selected by lot from the list of citizens who volunteered for the job. The remaining seats are divided among political parties (and perhaps independent candidates) according to the electoral system in force. Thus, the number of the allotted MPs is made dependant on the people's will.

To give an example, in the 2009 parliamentary election in Greece the total valid vote was 6,858,342 and the number of seats 300. Thus the quota is 22,816.14. Suppose now that there were 155,000 valid votes in favor of the allotted MPs scheme. It follows that there would be six allotted MPs in the new parliament and 294 elected ones. Note that the percentage of allotted MPs is proportional to the percentage of citizens who made explicit their preference for this scheme, even if the seats gained by the parties are not proportional to the votes they have received.

Once in office they will remain there until the next election and after that they would not be allowed to be re-elected in any capacity in the parliament. Becoming an allotted MP is regarded as a public service and not as a career opportunity. They should also receive a generous remuneration and have sufficient funds at their disposal to hire advisors and staff who will brief them about the complex issues they are about to handle.

Moreover, there must be some provisions for their replacement during their term in office. It is important to establish parliamentary rules to deal with exceptional cases (i.e., when an allotted MP is always absent from parliamentary sessions or suffers from a disease that severely impairs his or her political judgment, cases of corrupt behavior, etc.). These rules would also discourage any citizens who might see the office of an allotted MP as a means to promote their unlawful interests and ambitions. Finally, provisions should be made to return back safely to their jobs when their term in office is over.

The allotted MPs scheme needs no further justification apart from its contribution to the realization of a robust conception of popular sovereignty. Nevertheless, there are reasons to believe that it will prove beneficial in more ways.

First, most of them will make decisions based on their own best reasons without having to prove their allegiance to a party or a political ideology. This does not imply that they will always make correct or unbiased decisions, but the political integrity most of them are likely to display will improve the quality of the existing democratic culture. The belief that allotted MPs are more likely to show more decency and impartiality in their political dealings is supported by the following considerations. They do not have to manipulate or deceive the electorate or even treat a segment of its members preferentially to secure their re-election. They would have no clientele and there would be no need to support organized political networks. Finally, they would not be burdened by the promises usually given by candidates to those who finance or back them during their electoral campaign. As Dowlen points out “[w]hile it is

always possible for a citizen to become corrupted or to take bribes once in office, the fact that he or she owes their office to no one means there is no one in the potential position to call in the favour at a later date.”<sup>11</sup>

Second, when bills are scrutinized, they will put forward arguments expressing perspectives and viewpoints possibly ignored by mainstream political parties. Moreover, party officials in their effort to gain the allotted MPs support will be forced to address them in a language they understand and to offer them non-partisan reasons. This will make parliamentary deliberation more accessible and attractive to interested citizens.

Third, they could take initiatives for a public discussion of issues about which the people have a right to be informed but government and opposition may not want to touch for reasons of expediency. This might increase transparency in the exercise of political power which is one of the distinguishing marks of good government.

It is crucial to emphasise that according to the approach adopted here allotted MPs do not enter the parliament as representatives of any particular group or ideology. They enter as citizens who will have an active part in lawmaking without any prior commitment apart from paying deference to the constitution and the laws of the state. By the same token the citizens who voted for this scheme understand that they did not give to the office seekers finally sorted any mandate whatsoever, and thus they do not regard them accountable to them. The opposite would be absurd, since there has been no prior communication and deliberation

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<sup>11</sup> Oliver Dowlen, *Sorted: Civic Lotteries and the Future of Public Participation* (Toronto: MASS LPB, 2008), 43.

between the citizenry and those interested in taking part in the draw. And even if some candidates are informing the public through their website or another medium about their political identity and the policies they intend to pursue if they become MPs, why should voters leave to chance such an important matter as their representation in the legislative assembly? Isn't it more prudential for the latter to make a clear political statement and vote for well-known party or independent candidates? After all, there are no legitimate means or ways to influence the outcome of a lottery; in contrast, expressing your preference for a particular candidate in a political election slightly increases his or her probability of reaching office. Thus, voting for this scheme simply legitimizes those finally sorted to argue and act on their behalf at the legislative assembly. Of course nothing prevents them from occasionally deciding to act as representatives of certain groups, but this is something left to their discretion, and it does not emanate from any mandate they have received.<sup>12</sup>

At this stage I would like to briefly address two crucial objections, the first of which is about a possible consequence of this innovation and the second about one of its latent presuppositions.

What would happen if allotted MPs become the major political force in the parliament reducing the number of elected MPs to a minimum? It is theoretically possible that the electorate might become as frustrated with the policies and the ideology of the major parties as to decide to vote massively for the allotted MPs scheme. This would

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<sup>12</sup> This form of representation bears some resemblance to what political scientists call *surrogate* representation, that is, "representation by a representative with whom one has no electoral relationship". See Jane Mansbridge, "Rethinking Representation," *American Political Science Review* 97 (2003): 522 ff.

considerably affect the composition of the legislative assembly, as most of its members would now be ordinary citizens. In a situation like this the worst scenario is to have a government consisting only of allotted MPs. Undoubtedly a government of this type will take a considerable amount of time to be formed, given the co-ordination problems between all these politically unrelated independent MPs. However, it is not impossible for a viable scheme to emerge especially if there is a charismatic allotted MP who manages to rally the rest around him or her and organize them into a political group with common policies. The problem with this government is that it would have no specific mandate from the electorate, something that allows it to follow any kind of policy it likes on condition that it is not manifestly unconstitutional. In addition, the fact that its members and its backbenchers know that they will not have any chance to have such political power in the future might make them bluntly insensitive to people's needs and views. Thus, it is possible for such a government to yield to the temptation to serve – as Bentham used to say – only its “sinister interests”, but even if it rules in a benevolent and just manner it lacks democratic legitimacy.<sup>13</sup> The laws it passes cannot be regarded as the *citizens' laws* in any sense of the world. Presumably it could be retorted that the citizenry viewed as a collective entity cannot complain, since it was the votes of the majority of its members that produced this result. However, from each citizen's point of view it is not necessarily true that an expressed preference for the allotted MPs scheme amounts to

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<sup>13</sup> This is much worse than the usual case of a traditional party that ascends into power based on a vague platform with no specific commitments. Its officials can still claim that the people have voted *for them* with full knowledge about *who* is going to govern them. Rule by allotted MPs it is not rule by the people. It is rule by a few hundred randomly selected citizens, and one must be a compulsive gambler or totally desperate to let chance decide the political future of one's country. It has been suggested to me by Vagelis Sakas that the allotted MPs can still, under certain circumstances, determine which party will rule the country by supporting a motion of confidence or of no confidence without having any relevant authorization from the electorate. This is true but the same thing could happen with political parties and independent MPs who decide to co-operate with or back a particular political party in parliament, although this was not part of their electoral program. I cannot see any reason why we should be in principle more worried when such a decision is taken by allotted MPs.

a preference to be ruled by a government of allotted MPs. The citizens who just wanted to put an end to the excesses of partisan politics or to exert indirect pressure on a political party to reform have fallen victims to the merciless logic of collective action. I think that the only way to avoid this unwelcome outcome, which could possibly compromise the very idea of popular sovereignty, is to adopt constitutional provisions to prevent allotted MPs from forming their own government. Perhaps there could be an upper limit to their number or a constitutional clause prescribing a new election even when a government of allotted MPs could take a vote of confidence.

At any rate, in less extreme situations where the number of allotted MPs simply increases at the expense of elected MPs, there is not much to fear. On the contrary, political parties who see their power shrinking will receive a clear message that many members of the electorate are deeply dissatisfied with the way they operate and that they have to do something to reverse this trend. For their leadership it is a change or perish situation. They will take efforts to re-establish contact with and regain the confidence of the people, to become more democratic and less paternalistic, and to come up with more attractive ideas and policies. There is no doubt that developments will these help building up a healthy democratic environment.

However, I believe that there is a deeper second objection to the allotted MPs scheme which, although it has been raised in a different context in the past, might still have some influence, even if it is seldom publicly expressed. The idea is that ordinary citizens are unable to act as legislators, a task reserved to a handful of virtuous and enlightened representatives. In Madison's words "a society consisting of a small

number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction”.<sup>14</sup> Allotted MPs cannot even be regarded as a society, so, if there are plenty of them, there is a grave danger of preventing legislative assemblies from functioning smoothly, thus undermining the latter’s ability to work for the common good. This idea can be easily paired with Montesquieu’s belief that ordinary individuals could be entrusted to choose the most meritorious candidates but they are incapable of “conducting public business” and are “incompetent enough to be elected”.<sup>15</sup> People’s legitimate desire to hold office is something that has to be ignored.<sup>16</sup>

This means that there is a small pool of citizens that are capable of holding political office and a multitude of ordinary citizens who only can elect the best from this pool. I cannot tell whether this distinction made sense in 18<sup>th</sup> century Europe where most people were illiterate and exposed to various forms of social and economic domination, but even then one had to grant ordinary citizens certain political qualifications such as the ability of roughly understanding major political issues in order to select the most fitting candidates. Successful judgments about individual merit should be preceded by a correct assessment of the political situation and the nature of the problems elected officials are about to handle. Otherwise, it would be a matter of sheer luck to send the most virtuous and able individuals to parliament.

Almost two and a half centuries later the situation has radically changed. In advanced western democracies many ordinary citizens are

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<sup>14</sup> *The Federalist Papers*, Number X, edited by Isaac Kramnick (London: Penguin, 1987), 156.

<sup>15</sup> *The Spirit of Laws*, translated and edited by Anne M. Cohler, Basia Carolyn Miller and Harold Samuel Stone (Cambridge: Cambridge University Press, 1989), 11-12.

<sup>16</sup> Manin, *op. cit.*, 92-3.

reluctant to see politicians and parties as supreme authorities or sources of wisdom and virtue whose decisions they have only to approve or even follow unquestionably. Rather in parliamentary elections they tend to give their support to those who seem willing and able to do all those things they themselves would do if they ever had the chance to attain power. So why do they prefer to permit someone else to do the job for them? I suppose that most of them would answer that they have more pressing concerns and commitments. However, there might be a few who would like to run for parliament but, given their lack of resources and party connections, are prevented even from giving it a serious thought. In addition, they might dislike the idea of joining one of the existing parties, since their involvement in partisan politics might entail compromising their moral integrity. It would be mistaken to suppose that the above individuals are *in principle* less capable of becoming legislators than party-nominated candidates.<sup>17</sup> In addition, when interested citizens were offered the opportunity to act as legislators, they did not fare worse than traditional legislators. Democratic innovations like the 2004 British Columbia Citizens' Assembly, where a randomly selected group of citizens proposed a new electoral system after long and informed deliberation, bear witness to this.<sup>18</sup>

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<sup>17</sup> It might be objected that here I am relying on an idealized picture of civic competence. However, this is not accurate, since recent empirical data on the American public suggest that ordinary citizens may not reason like philosophers or social scientists, but it cannot be said that they are unreasonable or that they lack values. As Sidney Verba puts it ordinary citizens are closer to legislators: "They are policymakers and they must make decisions. The decisions are narrow; they can decide policy only for themselves...They are not sure they know what's best, but they do not think anyone else has the right to decide that for them". See his "Representative Democracy and Democratic Citizens: Philosophical and Empirical Understandings," in *The Tanner Lectures on Human Values*, edited by Grethe B. Peterson, vol. 21 (Salt Lake City: The University of Utah Press, 2000), 265, 267.

If this is the level of political competence of ordinary citizens, I suppose that the small segment of them who is disillusioned with the party establishment but still retains political ambitions will fare better than the rest, in the sense that they would be better informed and they would have broader and more concrete views. Undoubtedly, this has to be empirically verified, but it does not seem an implausible assumption.

<sup>18</sup> See Mark E. Warren and Hilary Pearse, eds., *Designing Deliberative Democracy: The British Columbia Citizens' Assembly* (Cambridge: Cambridge University Press, 2008).

In conclusion, the ideals of popular sovereignty, substantive parliamentary deliberation and non-partisan politics could be better served if we start experimenting with novel institutions that would give all citizens a minute but fair chance to participate on equal terms with elected representatives in legislative assemblies. As Mill said a long time ago, we have to bear in mind that “political machinery .... [as] it is first made, so it has to be worked, by men, and even by ordinary men”.<sup>19</sup>

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<sup>19</sup> *Considerations on Representative Government*, Collected Works XIX (Toronto: University of Toronto Press, 1977), 376.