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“The Circumstances of Democracy”: Why Random Selection Is Not Better Than Elections if We Value Political Equality and Privacy

Annabelle Lever

Abstract Elections are generally considered the only way to create a democratic legislature where direct democracy is not an option. However, in recent years that assumption has been challenged by individuals who claim that lotteries are a democratic way of selecting people for office, elections are aristocratic or oligarchic, not democratic, and that elections as we know them are inadequate if true democracy is prioritized. In opposition to this wave, my paper argues that the assertions made to support the democratic merits of lotteries are unpersuasive. Current evidence that sortition is either more egalitarian or produces epistemically better results than elections is poor. Instead, these assertions illuminate the importance of elections in enabling the constituents of a democracy to reconcile the personal and political dimensions of their lives and, therefore, better reflect citizens’ claims to privacy and equality. The paper begins by recapping the main arguments for treating sortition as a democratic way to select a legislature, outlines their deficiencies, and then turns to what these perceived failings actually suggest about the democratic value of elections.

Keywords: voting; democracy; lotteries; elections; sortition; privacy

Elections are generally considered the only way to create a democratic legislature where direct democracy is not an option. However, in recent years that assumption has been challenged by individuals who claim that lotteries are a democratic way of selecting people for office, elections are aristocratic or oligarchic, not democratic, and that elections as we know them are inadequate if true democracy is prioritized.² In opposition to this wave, my paper argues that the assertions made to support the democratic merits of lotteries are unpersuasive. Current evidence that sortition is either more egalitarian or produces epistemically better results than elections is poor. Instead, these assertions illuminate the importance of elections in enabling the constituents of a democracy to reconcile the personal and political dimensions of their lives and, therefore, better reflect citizens’ claims to privacy and equality. The paper begins by recapping the main arguments for treating sortition as a democratic way to

select a legislature, outlines their deficiencies, and then turns to what these perceived failings actually suggest about the democratic value of elections.³

The deficiencies of real democracies play an important role in the appeal of sortition, and there is no denying that elections in actual democracies are often dispiriting, especially in light of democratic principles. I am not interested, then, in defending current political practices. Instead, I am going to illuminate the individual democratic appeal of sortition and election systems on the assumption that the democratic case for sortition, like the corresponding democratic case for elections, must reflect the ways that both have been used—often in conjunction with each other—to prop up oligarchical regimes in Venice and Florence during the Renaissance and, even in nineteenth century Swiss cantons like Berne.⁴ In short, I take it that neither elections nor sortition are inherently democratic, but that the fact they can justify undemocratic forms of government does not mean they are incapable of anything better.⁵ My task throughout the rest of this paper, then, is to evaluate what promises lotteries and elections offer and show that the reality of elections is superior.

To this end, I will be assuming that democracies must protect the privacy of individuals and that failure to do so threatens the democratic values of equality, freedom, and solidarity.⁶ Hence, in what follows I presume that citizens are entitled to forms of personal freedom that cover their sexual, domestic, and familial relationships with others, although democratic citizens can legitimately disagree about their content, justification, and implications for their ability to treat each other as equals, whether in public or in private.⁷

I. Democratic Equality and the Case for Sortition

In *The Principles of Representative Government*, Bernard Manin explains that the current tendency to associate democratic representation with elections is relatively recent: elections featuring universal and impartial suffrage are fairly new in most countries. Moreover, in the ancient and Renaissance republics, they were thought of as an aristocratic, rather than democratic method of selecting people for political office. Voters could theoretically choose the candidates they thought best suited to rule, and then could reelect them repeatedly, thereby establishing an elected elite.⁸ By contrast, lotteries were deemed democratic, Manin explains, because everyone would have the same chance of being selected for office, and the repeated use of sortition created a form of rotation that shared power among the people more generally, preventing a political elite from forming.

The combination of an equal opportunity to hold office and rotation in office meant that sortition seems to speak directly and in an intuitively appealing way to the democratic idea that all citizens are entitled to take part as equals in governing their society, and are, in principle, interchangeable, in their claims on office.⁹ Random selection is particularly attractive where it is impossible to share a good equally because it avoids invidious, destructive, and unfair comparisons among individuals.¹⁰

Unequal rewards, when justified by lot instead of choice are easier for the loser to bear, and help to avoid preening or arrogance on the part of winners precisely because they imply no judgment on their respective virtues, capacities, status, needs, or desires.¹¹ Hence, unweighted lotteries might seem to be the democratically ideal way to distribute political office and other goods on which people have equal claim, but which it is undesirable or impossible for people to share at once.

Moreover, as long as the randomly selected body is large enough relative to the total population, and everyone who is selected participates in legislature, unweighted lotteries will create assemblies that are a faithful microcosm of the population. In other words, though smaller than the whole population, the assembly will be constituted by different identity groups in the same proportions as those represented in the wider whole.¹² This preservation will be true for both outwardly perceptible as well as invisible characteristics, and the smaller group can therefore be seen as an accurate replication of the total population and ideally an accurate replacement for it on occasion. Random sampling from smaller bodies is likely to result in clusters that preclude the smaller group from being an exact replica of the larger one, but as long as the assembly is sufficiently large compared to the population, this problem will be statistically negligible for the same reason that enough coin tosses will result in tails will falling face up 50% of the time, although smaller samples may not reflect the expected statistical result. So, randomization can generate microcosmic selection, or what Hanna Pitkin referred to as “mirror representation” and is now more commonly called “descriptive representation.”¹³

Of course, replacing elections with lotteries means that most people will not get to participate in creating a democratic legislature. However, every citizen will have the same chance to be selected for it and, given descriptive representation, can expect to be represented in it by people who think, feel, and live like them, in numbers that reflect how common their attributes are amongst their fellow citizens.¹⁴ Most elected legislatures, in contrast, suffer from severe forms of descriptive misrepresentation that are increasingly seen to reflect the ongoing consequences in the present of structural inequalities inherited from the past, thereby undermining the ability of elected legislatures to be able to speak for us all.¹⁵ Random selection, then, appears democratic as compared to elections, because it constructs assemblies that marry equal individual opportunities for office-holding with the group-sensitive representation—or the proportionate representation of individuals as members of distinctive, even competing, social groups.

II. Democratic Equality and the Problems of Sortition

Unfortunately, the case for sortition suffers from several difficulties, two of which are of particular concern.¹⁶ The first problem is that there is nothing particularly egalitarian about using lotteries to select people for office when they are divided amongst themselves about the desirability of legislative office itself. The second is the practical challenge that unless there are enough people who, when selected, are

willing and able to participate, the resulting legislature will lack either egalitarian¹⁷ or epistemic reasons to prefer sortition to elections. Unfortunately, making participation in the lottery as well as service—if selected—mandatory, merely highlights rather than dissolves these problems. Hence, the two issues together effectively make it impossible to reconcile lottocratic forms of legislature with the privacy and equality of its citizens.

Ancient Athens' unweighted lottery system, by which *supplementary offices* were filled, may help elucidate the first problem. This assembly, prior to the reforms of 403/2 BCE, initiated the distinction between laws and decrees, and was responsible for passing them both. Lotteries were used to distribute a desired and scarce good to which volunteers were thought to have equal claims. In those circumstances, lotteries may have been a fair way to treat equals, just as they can be a fair way to distribute burdens amongst a group of people who are *equally liable to bear them*.¹⁸ That egalitarian rationale for random selection, however, is unavailable if some people desire that the good be distributed but others see that same good as a burden. Hence, giving everyone equal opportunity to be selected for office, regardless of their attitude to office-holding, is more likely to illustrate Michael Walzer's concern that treating everyone the same renders egalitarian ideals "ripe for betrayal," rather than providing democratic reasons to favor lotteries over elections.¹⁹

If we assume that political office is a benefit or good for those who have it, and should therefore be fairly distributed to those who are equally entitled to it, we would expect participation in the lottery to be voluntary—as should service, if selected, given that people's circumstances can change between volunteering and being selected. We might want to use special forms of recruitment and support so that people from disadvantaged groups volunteer for the lottery and are therefore included in "the realisation of self which comes from a skilful and devoted exercise of social duties."²⁰ As such, voluntary participation in the random selection would reflect democratic objections to forcing otherwise competent adults to do something simply because it is good for them (therefore confusing rights with duties, and liberties and opportunities with burdens), while reflecting the democratic assumption that citizens have good reason to value political engagement and responsibility even if they are not (or not yet) in a position to exercise their rights in that respect.²¹ On the other hand, if we are concerned that political office might be a burden, not a benefit, for those who hold it, because its moral and physical demands can prove overwhelming, frightening, or difficult to bear, and are unable to rely on voluntary service to fill the gap, we would expect citizens to be required to participate in a lottery for legislative office and that they would be required to serve, if selected, with few exceptions.²²

In short, there is no egalitarian case for using random selection to distribute a good which some people want but others do not, and therefore no egalitarian reasons to insist that people should have the same chance at legislative office, whether they want to hold it or not. If office is a benefit to which we should have equal opportunities, it is unclear why those opportunities should be provided in a form—lotteries—that

gives citizens almost no chance of receiving it, and that is insensitive to the strength of our interest in receiving that good, or how beneficial our receiving it might *also* be to others. On the other hand, seeing office as a burden that must be fairly shared amongst the unwilling scarcely suggests that democracy is an appealing and valuable form of government, which citizens have reason to desire!²³ In short, the egalitarian appeal of unweighted lotteries cannot be generalized from other cases to the constitution of democratic legislatures, and disagreement among proponents of legislative lotteries as to whether they should be compulsory seems to reflect their uncertainty about whether office holding is a benefit or a burden for the office-holder and when egalitarian concerns provide a democratic justification for collective obligations.²⁴

The second problem with egalitarian claims for sortition is that unless a sufficient number of those selected by lot are willing and able to serve, there is no reason to think that our legislatures will be morally, politically, or epistemically improved over those created by elections. The core of the difficulty is that the egalitarian case for sortition, like its epistemic counterpart, turns on the *diversity* of the legislature that sortition creates—a diversity that is meant to make impartiality more likely, to promote the adequate representation of disadvantaged social groups and numerical minorities, and to limit self-serving and oligarchy. However, that diversity will only occur if enough people from all social groups actually serve if selected—otherwise, lotteries simply randomize among a small, partially self-selected group in ways that may make them no worse than elections at their worst, but hardly suggest that they are a democratic *improvement* on elections at their best.

Most people, it seems, are unwilling to take part in citizen assemblies, even though they are advisory bodies only, and it is unlikely that they will be notably more excited by the prospect of serving on legislative bodies instead. It is true that some individuals may be thrilled at the chance to be politically decisive in ways that a purely advisory assembly prevents, so whilst they might refuse the call to a citizen's assembly, they may accept service in a legislative body. On the other hand, those who are willing to play an advisory role may be averse to the idea of making legislative decisions on behalf of other people and shrink from the moral and political responsibilities involved. Guerrero and other proponents of sortition assemblies are keen to make legislative service as easy and attractive as possible with free help relocating, if necessary, excellent pay, and so on.²⁵ However, they overlook the moral and political burdens of office, which are likely to be substantial and to weigh particularly heavily on those people who have shown no particular appetite for or interest in determining the fate of their fellow citizens.

Moreover, in randomly selected citizen assemblies of 150–250 individuals, such as the Scottish assembly on climate change, only 3% of those asked to participate will typically agree. Although smaller and less onerous assemblies of fifty people or so generate much higher positive response rates, even reaching 20–40%, the existing average positive response rate for all assemblies is a bare 15% of those selected.²⁶ Even being optimistic, it is unlikely that more than 30% of those selected randomly

would be willing and able to serve, and participation in a legislative assembly might be lower, possibly substantially lower, than current rates for citizen assemblies. The organizers of the Climate Assembly U.K., for instance, sent 20% of their 30,000 letters of invitation to people randomly chosen from the lowest-income postcodes and then used stratified sampling by computer to select 110 participants from all the people who were over sixteen and free on the relevant dates.²⁷ With such disparities between those called and those who are willing and able to take part, it is easy to understand why Philippe Van Parijs' was surprised to discover that it took 50,000 phone calls to get around 700 people to turn up for a deliberative assembly, the G1000 in Brussels, which was held on 11 November 2011.²⁸

The extreme disparity between those invited and those who actually serve makes it difficult to believe that the resulting assembly is an accurate reflection of moral, political, or epistemic qualities of the population as a whole. It means that those selected and serving are much more like each other than they are like the rest of the population, and this makes it hard to believe they have the wisdom, impartiality, and range of experiences required for a randomly selected assembly to be justified on egalitarian grounds.²⁹

Replacing unweighted with weighted lotteries does not avoid these problems. Using weighted lotteries makes it easier to construct an assembly that “looks like us” on certain criteria—say, age, sex, income, education, occupation, or geographical location—than if we were to use unweighted lotteries because it enables more invitations to be sent to groups that are most likely to refuse to serve or not to reply at all, and therefore increases the chances that members from those groups will figure in the assembly. However, with weighted lotteries, one cannot argue that lotteries are democratically preferable to elections on the grounds that they give everyone *the same chance* of being selected for service, as that will no longer be true. (Unfortunately, this basic point is not always recognized clearly enough by proponents of sortition assemblies).³⁰ Moreover, if we are still selecting our legislative representatives from a small—perhaps infinitesimally small—section of the population, our legislatures will be made up by an atypical group who were both selected by lot *and* willing and able to serve. As such, our volunteers will likely share similar backgrounds and values with each other than the rest of the population.

III. Mandatory v. Voluntary Legislative Service

Some of these problems with randomization could be avoided by legally requiring participation in the lottery and making mandatory participation if selected the default, with few exceptions. However, as we have seen, turning the *right* to participate in collective decisions into a *duty* to serve turns democracy into a burden that, like military service, must be shared fairly to be justified. It is hard to see how this move fulfils the idea that democratic government is valuable and an expression of our interests in *agency* as well as equality. Of course, democracies use randomization in conjunction with compulsion to distribute some burdens—military service and

jury duty, for example, where lay citizens are used as well as professional judges to do justice in criminal and civil cases. The different justifications in the two cases, however, are important, and explain why it will be hard to justify mandatory legislative service (whether by lottery or elections) on democratic grounds.

Military service is burdensome not simply because one risks *suffering* serious death and injury but because one risks *inflicting* it on others. The latter justifies exemptions from compulsory service for citizens with conscientious objections to killing others, and the existence of such exemptions can lead to citizens volunteering for other forms of dangerous, but necessary service in the defence of their country, whether or not they would otherwise be required to take part in those ways. Conscientious exemptions for those with fundamental objections to *killing*, rather than *being killed* are therefore likely to be necessary if military service is obligatory, and some provisions for other forms of service are likely to be justified on egalitarian grounds whether service is seen as voluntary or mandatory.³¹ By contrast, the justification of compulsion in the case of jury service is primarily one of *fairness to defendants and victims of crime*. Even if we could fill our juries with volunteers, we would have reasons to worry that justice had not been done or been seen to be done because jurors are then likely to be so different from, even hostile to, defendants and victims of crime. While mandatory service, unfortunately, still means that racial, religious, economic, and dissident minorities are very likely to lack people with similar backgrounds to them on the jury,³² mandatory service plus randomization amongst the citizen population reflect the demands of imperfect procedural justice. Thus, the use of mandatory service in these two cases provides no grounds for thinking that mandatory participation in legislative lotteries would be consistent with the equality of democratic citizens, let alone that it would be consistent with treating lottocratic assemblies as an egalitarian improvement over elected legislatures.

IV. The Circumstances of Democracy: Privacy, Equality and Elections

The supposedly democratic case for replacing elections with lotteries, as we have seen, faces the seemingly insuperable hurdle that for large numbers of citizens political office is a frightening responsibility, rather than an exciting opportunity. Upstanding, public-spirited citizens, therefore, are unlikely to find lottocracy attractive even if they face no personal or professional obstacles to taking up office. But in modern democracies, as opposed to Ancient Athens, personal, as well as and professional, obstacles to public service are an unavoidable part of “the circumstances of democracy,” to paraphrase Rawls’ famous development of Hume on the “circumstances of justice.”³³ Attending to these features of democratic life, therefore, highlights the reasons why elections with voluntary participation for candidates are important to political equality in a democratic society, and a reflection of citizens’ claims to personal, as well as political, freedom.³⁴

We live in a world where women as well as men are eligible for citizenship and public office, and where parity of political participation is a major concern,

in part because of the legacy of inequality that women face in all spheres of life, as a consequence of structural sex-based disadvantages inherited from the past.³⁵ Moreover, by comparison with Classical Athens, nearly all citizens must work for a living, and political office must be consistent with the rejection of slave labor as well as the exploitation of the labor of free women, whether native citizens or not. Thus, the personal obligations that citizens are likely to have to others as employees and employers, as well as members of families, makes it easier to recognize the potential of elections “as instruments of democracy.”³⁶

Elections involve the creation of two distinct, though overlapping, political roles—that of voter and that of candidate for office, although in democracies people can and, sometimes, will fit both roles at once—being candidates for the votes of others and, themselves, eligible also to vote in an election for which they are candidate.³⁷ Elections create the *role of voter* and, in so doing, set a floor specifying the minimum entitlements of citizens to participate in legislative politics.³⁸ In democracies, citizens are entitled to take part in determining the members of their lawmaking body, whether or not they want, or are able, to take up other political roles, such as those of candidate, party member, and partisan.³⁹

The role of the voter is symbolically important but, also, of real political importance in systems where any built-in advantages of incumbents are not needlessly exaggerated by *other* advantages (as in the U.S. Senate) and where voters have multiple attractive options before them so that the outcome of elections is not a foregone conclusion. This entitlement exists whether or not citizens exercise it—hence, the case for mandatory voting is probably better interpreted in terms of its ability to place a *ceiling* on voter inequality caused by socio-economic inequalities in the willingness to vote, rather than as creating a *floor* under the right to vote, as suggested by Lijphart and Verba, Nie and Kim (discussed in footnote 39, below).⁴⁰

The second role created by elections is that of *candidate* for legislative office. It enables citizens to modulate their participation in legislative politics above the floor set by the right to vote, in ways that maximize the possibilities of combining political participation with personal duties and aspirations—at least where the right to stand is embedded in suitable institutional and support systems (such as public financing of campaigns, limits on campaign spending, salaries for legislators and so on), and where it is *voluntary*.⁴¹ In such cases, elections give people the maximum flexibility to modulate their political role in light of their circumstances, to plan ahead, in so far as they know that legislative participation is something they want to do, and to try out a role that they can drop if they find it too difficult, unpleasant, or not very good at it.

In short, because democratic politics is meant to be a politics for ordinary citizens, rather than a privileged elite or a set of unusual, often unattractively ambitious, over-confident and egoistic characters, it needs to be organized in ways that reflect the challenges to political equality that come from citizens’ personal relationships and obligations to others, whether paid or unpaid. From that perspective, lotteries are inferior to elections both in the opportunities and the recognition that they provide for

the political agency and equality of citizens who are likely to differ in their personal obligations and aspirations, as well as their political ones.

V. Conclusion

Contemporary democracies generally do a bad job at securing the political equality of citizens and some countries that are often described as democracies look more like elected oligarchies and plutocracies. In those circumstances, it is not surprising that lotteries have come to seem an attractive supplement or even replacement for elections when it comes to constructing democratic governments and selecting people to legislative office.

However, we have seen that lotteries are no more immune than elections to the difficulty of constructing democratic forms of political cooperation and decision-making against a background of deep socio-economic inequalities. As Cristina Lafont has argued, there are no shortcuts to creating a democratic society.⁴² In particular, as we have seen, there is no way to treat citizens as political peers if we abstract from the requirements to earn a living and to look after others that form a substantial part of their personal lives and shape their aspirations for themselves, for their loved ones and for their society. By contrast with lotteries, elections have the potential to enable citizens to take part in the government of their society as equals in ways that are sensitive to their personal, as well as political claims on others. There is, unfortunately, much to do in better understanding the nature and implications of that potential theoretically and translating it into democratic political practice. However, from what we have learned, it is clear that more attention to the *conjunction* of a right to stand and a right to vote is essential to improving democratic theory and practice, because it is the *combination* of equal rights to vote and to stand that defines democratic political rights: it is citizens' ability to exercise them both that distinguishes democratic from undemocratic elections.⁴³

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Notes and References

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picture. They have saved me from some serious errors. This article draws on research that was funded by the Horizon 2020 European Project No. 870996: "Reconstructing Democracies in Times of Crisis: A Voter-Centered Perspective."

2. See Arash Abizadeh, "Representation, Bicameralism, Political Equality, and Sortition: Reconstituting the Second Chamber as a Randomly Selected Assembly," *Perspectives on Politics* 19, no. 3 (Sept. 2021): 791–806; H el ene Landemore, *Open Democracy: Reinventing Popular Rule for the Twenty-First Century* (Princeton: Princeton University Press, 2020); Alexander Guerrero, "The Epistemic Pathologies of Elections and the Epistemic Promise of Lottocracy," in *Political Epistemology*, ed. Elizabeth Edenberg and Michael Hannon (Oxford: Oxford University Press, 2021), <https://doi.org/10.1093/oso/9780192893338.003.0010>; Alexander Guerrero, "Against Elections: The Lottocratic Alternative," *Philosophy and Public Affairs* 42, no. 2 (Spr. 2014): 135–178.

3. Annabelle Lever, "Random Selection, Democracy and Citizen Expertise," *Res Publica* 29, no. 1 (Mar. 2023), <https://doi.org/10.1007/s11158-023-09589-0>; Annabelle Lever, "Democracy: Should We Replace Elections with Random Selection?," *Danish Yearbook of Philosophy* 56, no. 2 (2023): 1–18; Chiara Destri and Annabelle Lever, " egalit e D emocratique et Tirage au Sort," *Raison Publique* 26, no. 1 (2023): 63–79; Annabelle Lever, "Citizen Assemblies and the Challenges of Democratic Equality," *The Conversation*, December 5, 2022, <https://theconversation.com/citizen-assemblies-and-the-challenges-of-democratic-equality-189353>.

4. Maxime Mellina, Aur ele Dupuis, and Antoine Chollet, *Tirage au sort et politique: Une histoire suisse* (Lausanne: PU Polytechnique, 2021); Gil Delannoi, *Le tirage au sort. Comment l'utiliser?* (Paris: Presses de Sciences Po, 2019); Yves Sintomer, *The Government of Chance: Sortition and Democracy from Athens to the Present* (Cambridge: Cambridge University Press, 2023).

5. For the purposes of this paper, I will be using the terms "sortition," "random selection," and "lotteries" interchangeably.

6. Anita Allen, *Uneasy Access: Privacy for Women in a Free Society* (New Jersey: Rowman and Littlefield, 1988); Boling, *Privacy and the Politics of Intimate Life* (Ithaca, NY: Cornell University Press, 1996); Jean Cohen, *Regulating Intimacy: A New Legal Paradigm* (Princeton: Princeton University Press, 2002); Corey Brettschneider, *Democratic Rights: The Substance of Self-Government* (Princeton: Princeton University Press, 2007); Annabelle Lever, "Feminism, Democracy and the Right to Privacy," *Minerva: Online Journal of Philosophy* 9 (Nov. 2005): 1–31; Anabelle Lever, *On Privacy* (London: Routledge, 2011); Anabelle Lever, "Privacy, Democracy and Freedom of Expression," in *Social Dimensions of Privacy*, ed. Beate Roessler and Dorota Mokrosinska (Cambridge: Cambridge University Press, 2015), 162–180; Anabelle Lever, "Privacy: Restrictions and Decisions," *APA Newsletter on Philosophy and Law* 13, no. 1 (Fall 2013): 1–7.

7. Unlike Thomas Christiano, I do not believe that democratic equality can be

limited to the public sphere. I bring out the significance of that difference for the ways we think about the difference between liberal and democratic rights, using the example of the right to marry as illustration. See Annabelle Lever, "Towards a Democracy-Centred Ethics," *Critical Review of International Social and Political Philosophy* 22, no. 1 (2019): 18–33.

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

9. David Owen and Graham Smith, "Sortition, Rotation, and Mandate: Conditions for Political Equality and Deliberative Reasoning," *Politics & Society* 46, no. 3 (Sept. 2018): 419-434; Landemore, *Open Democracy: Reinventing Popular Rule*, 90.

10. Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge, MA: Harvard University Press, 2002); Ben Saunders, "The Equality of Lotteries," *Philosophy* 83, no. 325 (Jul. 2008): 359–72.

11. Delannoi, *Le tirage au sort. Comment l'utiliser?*, 95-97; Charles de Secondat de Montesquieu, *De l'esprit des lois* (Geneva: Barrillot et Fils, 1748), book II, chapter 3, https://archives.ecole-alsacienne.org/CDI/pdf/1400/14055_MONT.pdf.

12. *Sortition: Theory and Practice*, ed. Gil Delannoi and Oliver Dowlen, vol. 3, 2016 (Exeter: Andrews UK, 2016), 14; Landemore, *Open Democracy: Reinventing Popular Rule*, 90.

13. Hanna Fenichel Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1967).

14. Guerrero, "Against Elections: The Lottocratic Alternative," 167.

15. Jane Mansbridge, "Should Blacks Represent Blacks and Women Represent Women? A Contingent 'Yes,'" *Journal of Politics* 61, no. 3 (Aug. 1999): 628–57; Anne Phillips, *The Politics of Presence* (Oxford: Oxford University Press, 1995); Melissa S. Williams, *Voice, Trust and Memory: Marginalised Groups and the Failure of Liberal Representation* (Princeton: Princeton University Press, 1998).

16. For other objections, see Emanuela Ceva and Valeria Ottonelli, "Second-Personal Authority and the Practice of Democracy," *Constellations: An International Journal of Critical And Democratic Theory* 29, no. 4 (Sept. 2021): 401-518; Destri and Lever, "Égalité Démocratique et Tirage au Sort"; Cristina Lafont, *Democracy without Shortcuts: A Participatory Conception of Deliberative Democracy* (Oxford: Oxford University Press, 2020); Lachlan Umbers, "Against Lottocracy," *European Journal of Political Thought* 20, no. 2 (Apr. 2021): 312-334; Dimitri Landa and Ryan Pevnick, "Is Random Selection a Cure for the Ills of Electoral Representation?," *The Journal of Political Philosophy* 29, no. 1 (Mar. 2021): 46-72.

17. Considerations of equality may take many different forms. For our purposes, however, what is mainly at issue is equality of opportunity to be selected to a national legislature.

18. Saunders, “The Equality of Lotteries.”

19. Michael Walzer, *Spheres of Justice: A Defence of Pluralism and Equality* (New York, NY: Basic Books, 1983), xi.

20. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1972), 84.

21. Lever and Volacu, “Should Voting Be Compulsory?”; Annabelle Lever, “Democracy and Voting: A Response to Lisa Hill,” *British Journal of Political Science* 40, no. 4 (Oct. 2010): 925–929; Annabelle Lever, “Compulsory Voting: A Critical Perspective,” *British Journal of Political Science* 40, no. 4 (Oct. 2010): 897–915.

22. Saunders, “The Equality of Lotteries”; Peter Stone, *The Luck of the Draw: The Role of Lotteries in Decision Making* (New York: Oxford University Press, 2011), <https://doi.org/10.1093/acprof:oso/9780199756100.001.0001>; Peter Stone, “Sortition, Voting, and Democratic Equality,” *Critical Review of International Social and Political Philosophy* 19, no. 3 (2016): 339–356; Peter Stone, “The Two Faces of Sortition,” (unpublished manuscript, Sept. 22, 2021): 9.

23. Jury service typically randomizes across people who do and do not want to serve. Entry into the draw is involuntary and one is presumptively obliged to serve if chosen. However, the point of compulsion in this case is *fairness to defendants and victims of crime*, rather than fairness to *other citizens*. I therefore differ from the account of jury lotteries given by Peter Stone, which focuses on the *right* to be a juror, but which ignores the reasons why jury service is a *duty* (Peter Stone “Sortition, Voting, and Democratic Equality,” *Critical Review of International Social and Political Philosophy* 19, no. 3 [2016]: 350). Fairness to actual and potential jurors explains why exemptions of the competent are sometimes justified, and why court boundaries should be drawn so that jurors do not need to travel excessively. But as the principal obligation of jurors is fairness to defendants and victims of crime, the selection of jurors has that as its primary focus, as does court procedure more generally.

24. David Owen and Graham Smith (in “Sortition, Rotation, and Mandate,” 431) are willing to consider compulsory service in their randomly selected legislative bodies, while Arash Abizadeh and Guerrero reject that possibility (see Abizadeh, “Representation, Bicameralism, Political Equality, and Sortition,” 10; Guerrero, “Against Elections 156; and Guerrero, “Epistemic Pathologies,” 170). Yet, their claims on behalf of random selection are otherwise very similar, although Guerrero is primarily focused on the epistemic, rather than egalitarian advantages of lottocracy, as compared to the others, and might therefore have been expected to look more favorably on compulsion in principle.

25. For example, Guerrero, “Epistemic Pathologies,” 170.

26. Jean-Michel Fourniau, “La sélection des mini-publics entre tirage au sort, motivation et disponibilité,” *Participations, Special Edition* (June 2019): 373–400;

Jean-Michel Fourniau, Bénédicte Apouey, and Solène Tournus, “Le recrutement et les caractéristiques sociodémographiques des 150 citoyens de la convention citoyenne pour la climat” (working paper, Paris, 2020), https://www.participation-et-democratie.fr/system/files/inline-files/Livret_recrutement_def.pdf; Vincent Jacquet, “Explaining Non-Participation in Deliberative Mini-Publics,” *European Journal of Political Research* 56, no. 3 (Aug. 2017): 640-659; Vincent Jacquet, *Comprendre la non-participation: Les citoyens face aux dispositifs délibératifs tirés au sort* (Brussels: Peter Lang AG Internationaler Verlag der Wissenschaften, 2020).

27. For an explanation of stratified sampling, see Van L. Parsons, “Stratified Sampling,” in *Wiley StatsRef: Statistics Reference Online* (Wiley, 2021), <https://doi.org/10.1002/9781118445112.stat05999.pub2>.

28. Van Parijs also notes his surprise that “what emerged to the outside world as the tangible outcome of the event reflected only to a minute extent the discussion on which the day was spent.” As he puts it, “Neither of these facts destroys the relevance of the experiment. But each invites to modesty as regards its potential.” See Philippe Van Parijs, “Electoral Democracy and its Rivals,” in *The Malaise of Electoral Democracy and What to Do about It* (Brussels: Re-Bel, 2014), p. 51.

29. See Guerrero, “Epistemic Pathologies.” Compare Christina Lafont, “A Militant Defence of Democracy: A Few Replies to My Critics,” *Philosophy and Social Criticism* 47, no. 1 (Jan. 2021): 69-82; Lever, “Random Selection, Democracy and Citizen Expertise.”

30. For example, Abizadeh, “Representation, Bicameralism, Political Equality, and Sortition,” 798. Alessandro Bellantoni, Claudia Chwalisz and Leva Cesnulaityte, for the OECD, also claim that “The participants should be a microcosm of the general public. This is achieved through random sampling from which a representative selection is made” and then require that “Everyone should have an equal opportunity to be selected,” as Point 5 in their guide to good practice. (See Alessandro Bellantoni, Claudia Chwalisz, and Leva Cesnulaityte, “Good Practice Principles for Deliberative Processes for Public Decision Making” *OECD*, 2020, 6, <https://www.oecd.org/gov/open-government/good-practice-principles-for-deliberative-processes-for-public-decision-making.pdf>). This confusion pervades OECD publications on random selection and “the deliberative wave,” reappearing in their accounts of “good practice principles.” (See OECD, “Innovative Citizen Participation and the New Democratic Institutions,” June 10, 2020, 118, <https://www.oecd.org/gov/innovative-citizen-participation-and-new-democratic-institutions-339306da-en.htm>). See also Claudia Chwalisz, “A Movement That’s Quietly Reshaping Democracy For The Better,” *Noema Magazine*, May 12, 2022, <https://www.noemamag.com/a-movement-thats-quietly-reshaping-democracy-for-the-better>

31. Some exemptions for those who are the sole support of their families or whose death and injury would impose unusual burdens on others might also be justified considering the first risk. It is also natural to suppose that those who have

already served before—especially if they have been injured and/or captured—should be required to serve last, if their service is really required.

32. Annabelle Lever, “Democracy, Epistemology and the Problem of All-White Juries,” *Journal of Applied Philosophy* 34, no. 4 (Aug. 2017): 541–56. Anabelle Lever, “Racial Profiling and Jury Trials,” *The Jury Expert* 21 (Jan. 2009): 20–35. See also Suja Thomas, *The Missing American Jury: Restoring the Fundamental Constitutional Role of the Criminal, Civil, and Grand Juries* (New York: Cambridge University Press, 2016); Melissa Schwartzberg, “Justifying the Jury: Reconciling Justice, Equality, and Democracy,” *American Political Science Review* 112, no. 3 (Aug. 2018): 446–58.

33. Rawls, *A Theory of Justice*, ch. 111, section 22.

34. Although I have argued that both compulsory voting and compulsory turnout are unjustified, I want to focus on *legislative* participation here, and therefore abstract from those arguments. See Annabelle Lever, “‘A Liberal Defence of Compulsory Voting’: Some Reasons for Scepticism,” *Politics* 28, no. 1 (Dec. 2008): 61–64; Annabelle Lever, “Liberalism, Democracy and the Ethics of Voting,” *Politics* 29, no. 3 (Oct. 2009): 223–227; Lever, “Democracy and Voting: A Response to Lisa Hill”; Lever, “Compulsory Voting: A Critical Perspective”; Lever and Volacu, “Should Voting Be Compulsory?”

35. Susan Okin, *Justice, Gender, and the Family* (New York: Basic Books, 1989); Anne Phillips, *Engendering Democracy* (University Park, PA: Pennsylvania State University Press, 1991); Anne Phillips, “Feminism and Republicanism: Is This a Plausible Alliance?,” *Journal of Political Philosophy* 8, no. 2 (Nov. 2000): 279–293; Phillips, *The Politics of Presence*; Iris Marion Young, *Inclusion and Democracy* (New York: Oxford University Press, 2002); Martha Minow, *Making All the Difference: Inclusion, Exclusion and American Law* (Ithaca, NY: Cornell University Press, 1990); Catherine MacKinnon, *Feminism Unmodified: Discourses on Law and Life* (Cambridge, MA: Harvard University Press, 1988).

36. Bingham Powell, *Elections as Instruments of Democracy* (New Haven: Yale University Press, 2000). For a pathbreaking discussion of the demands of democracy on electoral justice, focused particularly on the American case, see Dennis F. Thompson, “Election Time: Normative Implications of Temporal Properties of the Electoral Process in the United States,” *American Political Science Review* 98, no. 1 (Feb. 2004): 51–63; Dennis F. Thompson, *Just Elections: Creating a Fair Electoral Process in the United States* (Chicago: University of Chicago Press 2004); Dennis F. Thompson, “The Political Ethics of Political Campaigns,” in *The Routledge Handbook of Ethics and Public Policy*, ed. Annabelle Lever and Andrei Poama (London: Routledge, 2018), 229–241.

37. It is important that citizens can fill both roles simultaneously in a democracy so that they are not forced to relinquish one of the defining political rights of democratic citizenship to exercise the other—which would be unfair to unsuccessful candidates

for office, but would also ignore the fact that rights to vote and to stand as a candidate are *not a substitute* for each other, but enables citizens to do different things.

38. I take the metaphor of floors and ceilings here from Arend Lijphart, who is approvingly quoting Verba, Nie and Kim, to the effect that while “one person, one vote” constitutes the ceiling required for democratic political equality, mandatory voting is required to constitute the floor that prevents socio-economic disparities in turnout from undermining it. (See Arend Lijphart, “Unequal Participation: Democracy’s Unresolved Dilemma,” *The American Political Science Review* 91, no. 1 (Mar. 1997): 3; Sidney Verba, Norman Nie, and Jae-o Kim, *Participation and Political Equality: A Seven-Nation Comparison* (Cambridge: Cambridge University Press, 1978), 6). As I explain, it is unclear that equality always requires both floors and ceilings (Lever, “Compulsory Voting: A Critical Perspective,” 907n3; see also Matthew Clayton and Andrew Williams, eds., *The Ideal of Equality* (New York: Macmillan, 2002), especially 1–20); it is unclear why the *exercise* of the right to vote should constitute the *floor* of democratic political equality rather than the legal recognition and protection of that right itself. I therefore suppose that while “one person, one vote” can be interpreted as a *standard* or principled demand of equality; it can *function* as part of a legal floor, specifying the minimum rights of political participation required for democratic citizenship.

39. For examples of the recent literature on democratic partisanship, see Nancy L. Rosenblum, *On the Side of the Angels: An Appreciation of Parties and Partisanship* (New Jersey: Princeton University Press, 2010); Jonathan White and Lea Ypi, *The Meaning of Partisanship* (Oxford: Oxford University Press, 2016); Bellamy et al., “The Democratic Production of Cohesion: Partisanship, Institutional Design and Life Form,” *Contemporary Political Theory* 18, no. 2 (Jun. 2019): 282–310.

40. See Lijphart, “Unequal Participation: Democracy’s Unresolved Dilemma”; Sidney Verba, Norman Nie, and Jae-o Kim, *Participation and Political Equality*; Anabelle Lever and Atilla Mráz, “Synthesis of Democratic and Political Systems and Institutions in Europe,” 2021, www.redem-h2020.eu.

41. See Thompson, *Just Elections*; also see Julia Cagé, *The Price of Democracy: How Money Shapes Politics and What to Do about It* (Cambridge, MA: Harvard University Press, 2020).

42. Lafont, *Democracy Without Shortcuts*.

43. Ceva and Ottonelli, “Second-Personal Authority”; Destri and Lever, “Égalité Démocratique et Tirage au Sort”; Annabelle Lever and Atilla Mráz, “The Right to Stand for Election: A Millian Account” (working paper, 2022).