

Sortition as Anti-Corruption: Popular Oversight against Elite Capture

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Abstract: Random selection for political office—or “sortition”—is increasingly seen as a promising tool for democratic renewal. Critics worry, however, that replacing elected and appointed officials with randomly selected citizens would only exacerbate elite manipulation of political processes. This article argues that sortition can contribute to democratic renewal, but that its genuine promise is obscured by the excessive ambition and misplaced focus of prevailing models. Casting random selection as a route to accurate representation of the popular will, most contemporary proposals require randomly selected citizens to perform legislative tasks, whose open-endedness grants substantial discretion to elite agenda setters and facilitators. The real democratic promise of sortition-based reforms, I argue, lies in obstructing elite capture at critical junctures: a narrower task of oversight that creates fewer opportunities for elite manipulation. In such contexts, the benefits of empowering ordinary people—resulting from their immunity to certain distorting influences on career officials—plausibly outweigh the risks.

Amid declining faith in familiar democratic institutions, the premodern practice of random selection for public office—or “sortition”—has attracted growing attention from scholars and reformers, as a powerful corrective for elite domination of political processes (Gastil and Wright 2019; Guerrero 2014; Landemore 2020). Yet others doubt sortition-based reforms could effectively confront contemporary democratic crises (e.g., Lafont 2019), and some suspect they would make matters worse (Landa and Pevnick 2021; Umbers 2021). Weighing concerns on all sides, this article argues that sortition does have a unique and important role to play in enhancing democracy, but that its potential is obscured by the excessively ambitious models favored by contemporary proponents. It therefore advances a revisionist account of the real but limited promise of lotteries as a tool for democratic reform: *sortition as anti-corruption*.

As advocates of sortition have long pointed out, conventional methods for choosing public officials exhibit

several pervasive pathologies that could be mitigated with random selection. First, wealthy elites and other powerful private actors can often ensure that officials chosen through election or appointment are sympathetic to their interests. Second, career officials are susceptible to certain distinctive incentives, which wealthy and powerful interests can use to pressure them after they are selected. Third, the class of political elites from which officials are drawn also exhibits pervasive biases and blind spots. By insulating policy processes from all three forms of capture, random selection of officials can substantially advance democracy.

Given the risks of entrusting key political decisions entirely to ordinary citizens with little experience or expertise, however, we must also be careful not to overstate the democratic potential of sortition. As I demonstrate, more specifically, politically inexperienced citizens would need extensive preparation and training from experts in order to undertake the complex, open-ended, and tightly interconnected tasks involved in generating

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and evaluating legislation. And unfortunately, any properly comprehensive educative process would inevitably create many opportunities for manipulation at the hands of facilitators and other well-positioned, politically savvy elites—enough to overwhelm the purported benefits of sortition. As a result, I cast doubt on the standard model of “sortition as representation” embraced by nearly all contemporary proponents, which frames lotteries as a way of ensuring representative policy through some form of “legislature by lot” (Gastil and Wright 2019).

My revisionist model, by contrast—“sortition as anti-corruption”—emphasizes the ability of randomly selected citizens to render uniquely independent judgments about certain narrowly circumscribed questions, with relatively little preparation. Rather than designing policy from scratch, their role on this model is to provide public oversight, curbing elite capture at critical junctures in the policy process. Like juries in legal cases, more specifically, “citizen oversight juries” (COJs) could be asked to judge the merits of rival claimants in particular cases, on the basis of well-defined standards. Because of the limited nature of this task, participants would need very little training, leaving relatively little room for elite manipulation. At the same time, they would remain insensitive to the career-driven incentives and intraelite biases that make career public officials vulnerable to private influence—and thus retain their unique advantages.

In elaborating and defending this model, the article speaks to two discrete audiences. My first aim is to persuade existing advocates of sortition to embrace my revisionist model and thus to channel growing enthusiasm for lotteries towards a more fruitful set of oversight-oriented reforms. Against standard models of sortition as representation, that is, I first defend sortition as *anti-corruption*. In doing so, second, I also aim to convince a much wider audience—including critics of existing proposals, as well as those who are unaware of them—that sortition-based reforms have a unique capacity to disrupt certain forms of capture and corruption and can thus make a distinctive contribution to broader projects of democratic renewal. My second and more expansive aim, then, is to defend *sortition* as anti-corruption—that is, the idea that sortition-based reforms have certain key advantages over standard oversight mechanisms and could therefore enhance the overall effectiveness of anti-corruption regimes.

These two persuasive projects are grounded in the same basic set of observations and are therefore tightly intertwined. Like any method of selection, sortition has both advantages and disadvantages. When randomly selected citizens are tasked with legislation, the disadvantages loom larger, because the open-endedness of leg-

islative processes grants facilitators great discretion, and the danger of manipulation will overwhelm any benefits sortition might otherwise bring. This danger can be mitigated, however, if participants are given narrower oversight tasks instead—thus enabling the benefits of sortition to emerge. In other words, COJs and other narrowly focused reforms could disrupt illicit private influence *without* inviting elite manipulation. They can therefore provide uniquely independent forms of public oversight and play an important role in broader efforts to contest the outsized political influence of wealthy elites and other powerful interests. Despite their apparent modesty, indeed, I conclude that such oversight-oriented reforms could meaningfully advance broader democratic goals, helping to balance the demands of technical expertise and popular control across a wide range of contexts.

Building from these core observations, my argument is framed by the contrast between sortition as representation and sortition as anti-corruption. I begin by introducing the two models and their contrasting emphases on legislation and oversight, before explaining why the open-ended task of legislation would leave randomly chosen citizens especially vulnerable to manipulation by facilitators. I then explore the unique advantages of random selection in fighting capture and corruption, and discuss how COJs and other oversight bodies make use of these advantages without inviting a similar degree of manipulation. Returning to a direct comparison of the two models, finally, I conclude that the benefits of sortition-based reforms are most likely to outweigh the risks when citizens are given tasks of oversight.

Two Models of Sortition: Representation and Anti-Corruption

Many arguments in democratic theory begin by assuming that the true democratic ideal is for all to participate directly in collective decisions (Carson and Martin 1999, 13–14; Pettit 2013, 188). Rightly or wrongly, the Athenian assembly is often cited as a model here (Fishkin 1997, 4). Alas, it is lamented, expansive modern states no longer admit of such direct self-rule (Carson and Martin 1999, 39–52; Gastil and Wright 2019, 3). The promise of *representative* government, however, is that we can retain equal status as coauthors of the laws if our views are faithfully represented by those who do make collective decisions (Christiano 1996).

A growing number of critics charge that electoral democracy no longer fulfills that promise (O’Leary 2006; Reybrouck 2016, 49–54)—if it ever did (Vergara 2020).

Instead, outcomes are largely dictated by those with great wealth and power (Bartels 2009; Green 2016). Uninformed and prone to motivated reasoning (Lodge and Taber 2013), ordinary people are susceptible to manipulation (Achen and Bartels 2016), leaving elected leaders great leeway to serve powerful interests on all issues lacking exceptional salience (Culpepper 2010). Unsurprisingly, policy reliably tracks the views of the wealthy (Gilens and Page 2014; Lupu and Warner 2022)—and if they cannot prevail in this arena, elites can still get their way by capturing those meant to implement it (Carpenter and Moss 2013; Lindsey and Teles 2017).

In response, many have turned to another practice associated with Athenian democracy: lotteries.¹ Some advocates of sortition propose replacing all elected legislators with randomly selected citizens (Guerrero 2014; Landemore 2020), while others seek only to fill one house in a bicameral system by lot (Barnett and Carty 2008; Callenbach and Phillips 1985; Gastil and Wright 2019; Sutherland 2008). Yet the underlying intuition is the same: where elected officials are demographically homogeneous and ideologically entrenched, a legislature by lot would look and think more like the general population, and it would act more in line with the genuine popular will. The point of sortition, in other words, is to achieve *more authentic representation* by entrusting randomly selected citizens with the task of *legislation*.

For the people who enacted sortition-based reforms historically, however, representative ideals were typically less important than the stability and integrity of public institutions. On Oliver Dowlen's (2008, 49) account, for instance, the Athenians originally introduced lotteries primarily to aid political consolidation: choosing officials by lot made it difficult for anyone to "systematically promote themselves or their followers," and thus helped to "break up... concentrations of power." In late Medieval Italian republics, similarly, lotteries helped prevent any faction from manipulating elections and other processes—publicly protecting their integrity "against the concentrated power of tyranny" (98)—while lotteries were introduced to jury trials in England (and its American colonies) to insulate judicial processes against interference by the powerful (175ff). As Alexandra Cirone and Brenda Van Coppenolle demonstrate, finally, early parliamentary parties used lotteries to "prevent capture... by

party factions or groups of self-interested political elites" (2019, 197).

In sum, it seems, sortition's primary historical role has been to "establish a shared, rule-governed, public political process against its known enemies" (Dowlen 2008, 221; see also Cirone 2019; McCormick 2006, 148–50; Stone 2011, 127–32). Rather than achieving more authentic representation, that is, lotteries have served largely to prevent *corruption*, by enabling impartial *oversight* of political procedures.² Instead of divining and enacting the will of the people, more specifically, randomly selected officials have typically been asked to provide maximally independent arbitration in disputes among preexisting factions, thereby preventing any of them from capturing public power entirely for themselves. Where officials have been chosen from among the ranks of ordinary people, meanwhile, this is because of their relative neutrality in those intraelite disputes, not their special access to a supposed popular will.

There is substantial overlap, of course, between the demands of representation and anti-corruption. It is a mistake, however, to treat the two demands as fully interchangeable. On the one hand, representativeness is clearly *insufficient* to disrupt all forms of capture and corruption. It can often help, of course: the more Black, female, or disabled people there are in a room, for instance, the harder it will be for abled white men to make decisions that serve their interests alone. Yet no one is immune to the incentives, biases, and other systemic forces that shape the behavior of all public officials, and we should thus expect capture and corruption to persist even when those officials are descriptively representative.

On the other hand, representativeness is also *unnecessary* for anti-corruption. Historically, most lotteries drew from a relatively small pool—yielding officials who were unrepresentative of the broader population—yet they could still protect public institutions by disrupting specific forms of manipulation and entrenchment. In contemporary contexts, meanwhile, there are stark tensions between representation and other democratic goals. In large and diverse populations, for instance, it is difficult for a randomly selected body to be *both* fully representative—which typically requires a sample size in

¹Thanks to the popularity of deliberative democracy, the recent revival of interest in sortition initially focused on *advisory* bodies such as minipublics. Yet as they spread rapidly around the globe, critics noted that purely advisory bodies have limited capacity to achieve broader democratic transformations (Chambers 2009; Lafont 2019). As such, many reformers turned to *empowered* forms of sortition (Sintomer 2018). This article is concerned only with the latter.

²I use the terms "capture" and "corruption" as interchangeable umbrella terms for various processes by which wealthy and powerful actors shape public policy to their advantage. In democracies, this may include influence on the content of legislation—through funding of campaigns and lobbying, for instance—as well as influence on the bureaucrats who implement that legislation. My expansive usage follows recent accounts of capture (Carpenter and Moss 2013) and corruption (Johnston 2013), which target *the use of state power to benefit partial or private interests, at the expense of the public interest* (see also Bagg 2018b, 2021).

the thousands—and fully deliberative. Conversely, randomly selected bodies with only a few participants, such as trial juries, can still effectively thwart entrenchment and manipulation.

Although the demands of representation and anti-corruption converge at times, therefore, they often imply substantially different orientations for reform (e.g., Farrell and Stone 2020)—and given the recent dominance of the representative model, it is important for both advocates and critics of sortition to recognize where the two diverge. If we see sortition as a way of bringing collective decisions in line with the true popular will, we will naturally aim at radical reform of the legislative process: that is, replacing some or all legislators with randomly selected citizens. If we see it as a way of preserving the integrity of public institutions, by contrast, it makes more sense to focus on identifying specific junctures where ordinary people chosen by lot are most likely to provide a genuinely independent check on elite capture and corruption.

In what follows, I argue that the latter offers a more promising agenda for democratic reform. Where charging ordinary citizens with the profoundly open-ended task of legislation simply leaves them vulnerable to manipulation by various elites, in short, entrusting them with narrower tasks of oversight enables them to effectively wield power over those elites.

Legislative Complexity and the Dilemmas of Lottocracy

To begin with, my claims about the complexity of the legislative task are distinct from more general worries about the capacities of ordinary people (e.g., Brennan 2016). In my view, most people *can* capably navigate complex political questions in certain well-designed contexts (e.g., Neblo 2015). My concern arises, rather, from the amount of time and training it takes to *become* competent in a task as open-ended and wide-ranging as legislation.

Legislation has no fixed domain, meaning that its appropriate subject (i.e., the political agenda) is often hotly contested. Given resource constraints and interactions among policies, meanwhile, no legislative decision can be made in isolation from others. Instead, legislating requires tackling many issues at once, or at least managing trade-offs across different domains. In order to develop informed and meaningfully independent opinions on every issue legislatures consider, therefore, even the most gifted among us would need years of training—and this process would likely neutralize many of the purported

advantages of selecting legislators by lot (Malleson 2019, 182–86; Owen and Smith 2019, 288–95).

For one, such lengthy terms would inevitably limit participation from certain groups. Meanwhile, the necessarily intensive training would further degrade the representativeness of participants, who would *become different people* in the process of acquiring new knowledge and forging new social ties. Like their elected cousins, randomly selected legislators would likely form factions and develop political careers, thus growing more susceptible to rent seeking and influence trading (Landa and Pevnick 2021, 58). More subtly, they would also be highly vulnerable to a version of “cultural capture,” whereby social networks and institutional norms create pervasive biases favoring certain interests (Kwak 2013).

Sortition advocates recognize this basic worry, but each potential remedy brings steep costs of its own. For instance, opportunities for corruption could be reduced by limiting the *duration* of offices (Owen and Smith 2019). Yet if participants are still charged with highly complex legislative tasks, shortening their terms would only intensify their dependence on the framing provided by facilitators (Landa and Pevnick 2021, 58). This is hardly a paranoid concern: where professional bureaucrats must rely on industry actors for information, they often end up favoring industry interests by default, in a process known as “information capture” (Wagner 2010). Randomly selected citizens would hardly be less susceptible to this—and if a legislature by lot were ever created, its facilitators would become extremely powerful political players, attracting extraordinary efforts at capture by concentrated interests (Umbers 2021, 328–29).

We might also limit the *scope* of the questions considered by randomly selected citizens—perhaps sorting them into topical working groups or “single-issue legislatures” (Guerrero 2014; Owen and Smith 2019)—enabling them to acquire the requisite competence more quickly. Yet legislative activity cannot be confined to such fixed and isolated domains. On the contrary: much debate concerns how to prioritize among broadly shared goals given limited resources. In order to sort legislators into isolated working groups or single-issue legislatures, facilitators would need to resolve these issues—perhaps the most consequential of all—behind the scenes.

In an electoral system, of course, parties are responsible for such agenda-setting tasks—and although it is hardly free from capture (see Bagg and Bhatia 2021), this process is at least somewhat transparent. Elections also give political outcomes a basic appearance of fairness, providing a clear path for opponents to bring about change (Abizadeh 2021, 798; Malleson 2019, 177). Given

that organized political parties have both capacity and motivation to coordinate resistance to antidemocratic incursions, more specifically, they play a crucial role in fostering loyalty to the democratic order (Przeworski 1999). Competition between parties is thus tightly linked to other rights and freedoms, in a way that lottocracy would not be (Pettit 2013, 201–2).

As such, many recent proponents of sortition have proposed a bicameral model, in which a legislature by lot serves alongside an elected chamber (Abizadeh 2021; Gastil and Wright 2019; Zakaras 2010). Yet others worry that any hybrid system would threaten the unique advantages of lottocracy (Bouricius 2018; Guerrero 2014). In a political culture dominated by disciplined parties and professional politicians, ordinary people would most likely align themselves with existing factions. As I have argued, people with little expertise or training cannot make truly independent judgments on highly complex legislative questions: instead, their evaluations will predictably reflect the views and interests of those positioned as the relevant experts. Hybrid models do not fix this problem; they simply give that privileged role to political parties.

In my view, that *is* an improvement: in addition to retaining the other benefits of parties and elections, hybrid models ensure that the political agenda is openly contested. As such, they are relatively more promising than fully lottocratic systems—especially when the randomly selected chamber acts primarily in an oversight capacity, serving as a check on capture and corruption in the elected chamber (e.g., Abizadeh 2021; Zakaras 2010). Even if participants are charged only with approving or rejecting policies proposed by an elected chamber, however, their task is still quite complex and open-ended. After all, evaluating the overall wisdom of any individual policy still requires an understanding of how it fits into a broader policy framework. In most proposed hybrid systems, moreover, randomly selected citizens are tasked with evaluating laws across many areas, meaning that they would still need to build general competence.

Although they might mitigate some of the problems of fully lottocratic bodies, then, hybrid models cannot entirely escape the basic dilemma imposed by the complexity of legislative tasks. On the one hand, in short, participants in a legislature by lot will struggle to make informed and independent judgments about the overall merits of the laws they are asked to evaluate—even in relatively modest bicameral systems—unless they receive extensive training and information about the entire range of interrelated questions involved in legislation. On the other hand, any process for delivering such training creates myriad levers for manipulation.

Despite my doubts about the wisdom of selecting legislators at random, of course, I believe that sortition does have a crucial role to play in democratic renewal and reform. Unlike most contemporary advocates, however—who assume that citizens must be employed as legislators, in the pursuit of more accurate representation—I claim that the democratic promise of lotteries is better captured by the historically-informed model of sortition as anti-corruption, which places randomly selected citizens in narrowly circumscribed oversight roles instead. Applying this model to the context of contemporary electoral democracies, I argue that the most promising role for randomly selected citizens is to screen the decisions of public officials—especially but not only in regulatory agencies—for capture or corruption. While hardly devoid of complexity, this task is orders of magnitude narrower than that facing any lottocratic body. Even within hybrid bicameral systems, any legislature by lot must consider the overall wisdom of general laws within a complex policy landscape. By contrast, oversight bodies would be asked to evaluate concrete decisions about the *application* of laws in particular circumstances, using precise criteria that are defined in advance. As such, participants would need far less time to gain the requisite competence—on the order of days, rather than years—and would be far less vulnerable to manipulation at the hands of agenda-setters, educators, facilitators, and other well-placed elites.

Bodies of randomly selected citizens will not be appropriate or feasible in every context where oversight is required, of course, and they cannot be expected to replace all conventional anti-corruption tools. Given that they are able to make use of the distinctive advantages of random selection without granting excessive discretion to facilitators, however, sortition-based oversight bodies can insulate other elements of a broader anti-corruption regime from certain illicit influences that often threaten the independence of career public officials who are selected through election or appointment. I now explore what those influences are, and why randomly selected citizens would be immune to them, before showing how sortition-based oversight bodies can use this immunity to disincentivize certain forms of elite capture.

Sortition as a Distinctive Weapon against Elite Capture and Corruption

The model of sortition as anti-corruption emphasizes the potential for bodies of randomly selected citizens to screen out certain biasing and corrupting influences

that are endemic to conventional regulatory and oversight bodies, whose members are chosen through a mix of appointment and election.³ While each of these non-random selection methods has many advantages, each also opens influence channels that powerful actors can exploit—channels that can only be closed by selecting officials randomly. As Peter Stone (2011) puts it, any procedure that allows *good* reasons to influence decisions necessarily admits *bad* reasons as well. As such, only a random procedure that excludes *all* reasons can decisively screen out the bad reasons involved in capture and corruption. Random procedures are advisable, he concludes, whenever the benefits of excluding bad reasons outweigh the costs of excluding good reasons. And one such context, I claim, is that of insulating regulation and oversight against corruption, where sortition-based reforms would have three important advantages over existing tools.⁴

First and most simply, any nonrandom selection method creates potential avenues for illicit external influence on the *composition* of regulatory and oversight bodies. If their members are appointed, private actors can exert pressure on those who make the appointments. Meanwhile, direct election of all such bodies would be impractical—and in any case, wealthy and powerful interests can clearly shape electoral outcomes as well. Only through *random* selection, it seems, can powerful private actors be categorically prevented from influencing which officials are chosen, and thereby stacking the deck in their favor.⁵

Second, appointed and elected officials will be susceptible to certain career-driven incentives and pressures that do not affect ordinary people selected at random. Most directly, for instance, they may be tempted by the prospect of a lucrative job with firms or industries whose interests they have opportunities to favor while in office—a practice known as revolving-door corruption,

which functions widely (albeit with varying degrees of explicitness) to induce favorable treatment from regulators in a wide range of contexts. More subtly, reputational concerns open career officials to an array of social, professional, and political pressures. While some may be beneficial—inducing adherence to professional codes, perhaps—others are less benign. Officials may find that they can advance their careers most effectively by doing favors for influential figures or toeing a party line, for instance, rather than serving the public interest.

Powerful private actors can exploit these career-driven incentives to put pressure on public officials and thereby shape outcomes to their advantage. By contrast, ordinary people chosen by lot will not face such incentives, leaving powerful private actors with far less leverage. Such actors could always attempt to influence randomly selected participants with cash bribes or violent threats, of course, but these crude tools are far easier to police than the subtler career-driven incentives they can use to pressure career officials. When ordinary people are given a strictly limited set of tasks over a short period of time, moreover—as in COJs and other proposals outlined below—private actors will have very little opportunity to corrupt them in the first place.

Third and finally, appointed and elected officials typically belong to a distinct political class and therefore share certain unconscious biases and blind spots. Some of these biases reflect the fact that political elites in nearly every society are drawn disproportionately from privileged classes and groups. Yet even the most demographically diverse class of political elites will also share certain distinctive habits and beliefs—such as greater sensitivity to expert opinion, ideological coherence, and the partisan stakes of political choices—because of the common social role and cultural space they inhabit. On balance, again, many of these traits likely serve the public interest. At times, however—when expert opinion is systematically misguided or overconfident, or when polarization on ideological or partisan lines obscures potential solutions—they simply create shared blind spots. And in such cases, the political naïveté of ordinary people becomes an advantage, enabling them to see past elite prejudices.

Relative to political elites, more specifically, ordinary citizens selected at random will tend to be more demographically diverse and less deeply invested in any ideological or partisan identity (Henry and Napier 2017; Lodge and Taber 2013, 168–69). Although political elites are better informed than ordinary people, that is, their views on politically salient issues are far more central to their identity, and they are thus less likely to change in response to new information (Bagg 2018a; Bisgaard 2019;

³For simplicity, I focus on appointment and election here. However, the same arguments will also apply to self-selection and any other nonrandom methods.

⁴The existing anti-corruption toolkit typically provides for independent oversight by judges (Magill 2013) or specially appointed expert panels (Livermore and Revesz 2013) and may also include the appointment of internal “regulatory contrarians” to represent opposing views (McDonnell and Schwarcz 2011) or reimbursement for successful challenges (Schwarcz 2013). All of these tools do mitigate capture, and sortition-based reforms—which have their own weaknesses—would serve as a complement rather than a replacement for them.

⁵They could always attempt to subvert the randomness of the procedure, of course, but the extraordinary simplicity and transparency of lotteries makes cheating especially difficult. Indeed, that is precisely why it has proved so useful historically, enabling competing factions to coordinate despite mutual distrust (Cirone 2019; Dowlen 2008).

Kahan et al. 2017). When these identities inevitably create certain biases in favor of wealthy interests—whether for entirely unintentional social and demographic reasons, or at the intentional urging of wealthy elites (Teles 2012)—they can be seen as forms of “cultural capture” (Kwak 2013). And again, sortition-based oversight bodies may offer a corrective.

Whether this corrective is feasible in practice, however, remains an open question. Thus far, I have shown that bodies of randomly selected citizens are uniquely resistant to three mechanisms of capture that private actors use to shape the decisions of elected and appointed bodies: that is, influence over selection, career-driven incentives, and elite biases. Yet in addition to these distinctive advantages, there are also serious risks involved in sortition-based reforms that thrust important political decisions upon ordinary people with little experience or expertise. After all, randomly selected citizens would bring these same advantages to a legislature by lot, but I have argued that any purported benefits of such proposals would be overwhelmed by the danger of manipulation by educators, facilitators, and other well-placed elites. In order to show that implementing citizen oversight bodies could actually enhance the performance of existing anti-corruption tools—rather than simply proliferating opportunities for powerful private actors to exert pressure—I must also demonstrate that similar critiques do not apply to them.

My basic claim here is that the balance between risks and benefits will be reversed—in at least some cases—when randomly selected participants are charged with oversight rather than legislation. In other words, the risks inherent in any legislature by lot will likely overwhelm any benefits it might be thought to bring. By contrast, the risks inherent in certain kinds of citizen oversight bodies will be relatively insubstantial. Only in this latter context will the unique advantages of sortition begin to emerge.

As compared to legislative tasks, for one, oversight tasks are generally much narrower to begin with. After all, unlike the criteria we must use in judging *laws*—roughly, what best advances the public interest as such?—the parameters we use in judging concrete *applications* of law can be defined in relatively precise terms by the law being applied. Even when considering only one policy at a time, participants in a legislature by lot would need to develop informed and independent opinions about many issues, thanks to the complex relationships between different areas of legislation. By contrast, participants in oversight bodies can take the legislative framework for granted, in order to make stand-alone judgments about whether particular uses of public power violate certain well-defined public interests. As such, they could acquire

the requisite competence far more quickly, drastically limiting facilitator discretion.

Whatever training they do need, meanwhile, could be provided through the adversarial process, by the competing claimants themselves, rather than being designed and delivered by career officials whose neutrality is vulnerable to the forms of capture I have just discussed. Facilitators in a legislature by lot will inevitably have significant discretion over the agenda participants adopt, as well as the information they receive. By contrast, the agenda of citizen oversight bodies can be set largely or entirely by specific accusations of capture from third parties or anonymous government sources—yielding clear, binary questions with designated advocates on each side. Meanwhile, the requisite information can be delivered primarily by those openly partisan advocates, such that participants are less captive to any particular sources, and no one has the advantage of concealing partial interests behind a cloak of neutrality.

All of these factors substantially mitigate the risks of manipulation inherent in sortition-based reforms—so substantially, in some cases, that these risks will no longer overwhelm the advantages of random selection. This creates unique opportunities for those seeking to advance democratic values. When the risks of empowering randomly chosen citizens can be adequately mitigated—that is, because the scope of their tasks can be adequately reduced—reformers can deploy them at critical junctures to correct for the distinctive pathologies of career officials selected via nonrandom methods. By this standard, those who are responsible for the substantive direction of policy—including legislators as well as most bureaucrats, regulators, and administrators—should generally still be chosen by a mix of election and appointment. A more plausible role for randomly selected citizens, however, is to *review* particular decisions made by these policymakers and *evaluate* whether they reflect capture according to certain well-defined standards—in other words, to perform *oversight*. And because citizen oversight bodies would be uniquely resistant to influence over selection, career-driven incentives, and elite biases, instituting such bodies could plausibly limit the ability of powerful private actors to capture public power, bringing policy outcomes closer into line with the real public interest.

Given their inherent limitations, citizen oversight bodies cannot be expected to replace all other oversight mechanisms. However, my arguments in this section justify the supposition that integrating *some* sortition-based reforms could substantially improve upon the existing anti-corruption toolkit. Still, the effectiveness of any *particular* reform can only be judged on a case-by-case basis. While a *fully* comprehensive evaluation of any

single reform is beyond my scope, then, the next section examines several promising proposals in greater depth.

The Structure of Citizen Oversight: Sortition as Anti-Corruption in Practice

Perhaps the most straightforward example of sortition as anti-corruption is the citizen oversight jury or COJ (see Schulson and Bagg 2019)—in brief, something akin to a trial jury for administrative rulings (Wright 1992). On my proposal, more specifically, COJs would be convened over the course of a few days or weeks at most, and participants drawn randomly from the population would be required to serve for the entire process, so as to minimize the distortions of self-selection. As in civil and criminal trials, crucially, the role of jurors would be to make a judgment about a narrow, binary question, whose parameters are fixed in advance, after hearing arguments from designated adversarial representatives on both sides.

In standard criminal trials, of course, jurors must evaluate whether prosecutors have shown, beyond a reasonable doubt, that a defendant is guilty of a certain crime; while in civil trials, they must evaluate whether the preponderance of the evidence favors the legal position of the plaintiff or the defendant. In COJ proceedings, similarly, jurors would be asked to evaluate whether the designated opponents of a certain administrative ruling have met some reasonably well-defined burden of proof in showing that the officials who made that ruling favored some private actor or partial faction at the expense of a reasonably well-defined public interest. And as in legal contexts, the clarity of these parameters enables an adversarial process—limiting opportunities for procedural manipulations and reducing jurors' dependence on facilitators.

Beyond that basic specification of the actors and stakes, however, the details of any given COJ process would vary substantially by context. For instance, COJ review of administrative rulings on communications infrastructure, the environment, or financial rules may be initiated only if an external group with appropriate standing submits an appeal. Alternatively, COJ review could be triggered automatically by all rulings that meet a certain significance threshold, like the approval of mergers or defense contracts above a certain value. If they find sufficient evidence of capture, meanwhile, juries could be empowered to overturn the decision outright, or they

might only have the capacity to initiate further review by judges, experts, or legislators.

As this suggests, COJs might also be integrated with conventional anti-corruption tools in various ways. In designating representatives of two clearly defined positions to ensure that the contest between them is as fair as possible, COJs readily incorporate the wisdom of adversarial mechanisms such as regulatory contrarians and the reimbursement of successful challengers. In some cases, then, juries could *replace* judges or expert panels as final arbiters of capture within adversarial procedures, while *parallel* processes may be appropriate in other contexts. Either way, their role is to further insulate the entire process from illicit influence, correcting for the special vulnerabilities of officials who are selected through election and appointment. In some cases, they might serve this purpose by challenging decisions that reflect capture—either by overturning them directly or initiating further review—while in other cases, the mere *prospect* of citizen oversight would be sufficient to induce better judgments from policymakers.

In different contexts, finally, jurors would also be instructed to use different criteria for their judgments. In establishing a COJ to review defense contracts, for instance, lawmakers could specify that those alleging corruption must prove beyond a reasonable doubt that beneficiaries actively manipulated decision-makers. Similarly, they might define the public-interest outcome quite narrowly—perhaps in terms of minimizing costs for a given service. In establishing a COJ to review high-profile mergers, by contrast, lawmakers might require only that challengers demonstrate the existence of some harm to the public interest, rather than intentional efforts by the firms involved to capture regulators. As suggested by recent scholarship on antitrust law, meanwhile, “harm to the public interest” might be defined broadly to include any dangerous concentrations of power (Rahman 2016).

Depending on the breadth of these statutory definitions, then, participants in different COJs will have varying degrees of latitude to fill in their own intuitions about what the public interest means in any particular context. This concept will always be contested, of course, and no one can plausibly claim certainty. That said, we might be reasonably confident that it lies within a certain *range*—and also that certain bad outcomes are *outside* of that range. Even if there is significant uncertainty about which auction design will yield the most revenue for the state in selling rights to the broadcast spectrum, for instance, we can nevertheless be quite certain that the public-interest outcome does *not* involve bribes from telecommunications companies to the auctioneer. More broadly, we can

often make reasonably confident judgments about the concrete, *negative* question of whether a particular outcome violates the public interest, even if we are not at all certain about the more open-ended, *positive* question of what the public interest actually is (Bagg 2022). And for practical purposes, that is all COJ jurors must decide.

For similar reasons, indeed, citizen oversight bodies with somewhat broader mandates would still be far more narrowly focused than any citizen legislature. A longer-term citizen oversight body could scrutinize an entire agency, for instance, over a period of several months. As Melissa Lane (2020) points out, indeed, one notable function of randomly selected citizens in ancient Athens was to audit certain officeholders upon exiting power. The same principle could be applied to others with vast *private* power—as, for instance, in Gordon Arlen’s (2021) proposal for empowering citizen tax juries that would investigate and sanction tax avoidance by extremely wealthy actors. At the municipal level, meanwhile, sortition-based councils could review decisions about public contracts, tax incentives, or police departments (Táiwò 2020). Sortition-based reforms could also help protect the integrity of elections—reviewing districting decisions and other changes to election law (DeLannoi, Dowlen, and Stone 2013), for instance, or scrutinizing interactions between lobbyists and elected officials (Dowlen 2017). If the task given to randomly selected citizens can be sufficiently narrowed, finally, oversight councils could even be used to loosen the grip of elite donors and cross-party “cartels” (Katz and Mair 2018) on the political agenda (see Bagg and Bhatia 2021)—perhaps by evaluating a series of concrete agenda items raised by external groups.⁶

None of these proposals is without drawbacks or remaining worries, of course. As noted, however, my aim here is not to decisively establish the merits of any particular sortition-based reform, but rather to establish the general viability of citizen oversight as a broadly promising model for practical reform. Given the unique advantages of sortition as a weapon against capture, more specifically—as illustrated in the previous section—my task in this section is to demonstrate that certain citizen oversight bodies could plausibly make use of those advantages without incurring excessive risks. Although a fully comprehensive evaluation

of individual proposals must await future work, therefore, it is worth briefly addressing the most common concerns.

First, we might worry that the legislature designing COJs will do so in a biased way. While this is a legitimate concern, however, it is one that will be faced by any oversight mechanism, so it does not pose *special* challenges for citizen oversight. Similarly, oversight jurors could always be bought off by the same private actors who corrupt career officials in conventional regulatory bodies. As noted above, however, the limited tools available in this context—such as cash bribes and violent threats—are far easier to monitor and police than the subtle incentives and biases they are able to use in pressuring career officials. Democratic societies are normally able to protect jurors in civil and criminal trials from interference through anonymity, media blackouts, and posttrial monitoring, and although no system is foolproof, we can expect similar protocols to protect citizen oversight bodies from these crude forms of illicit influence.

Finally, illicit influence is not the only reason people make bad decisions. It is sometimes claimed, for instance, that randomly selected jurors cannot interpret expert evidence in trials—and in the United States, the racial prejudice of juries is also said to justify curtailing their use in criminal cases. Yet racial prejudice is arguably less likely to distort judgments about political capture—and besides, there is little reason to think that elite actors (such as judges and prosecutors) are any *less* racist (Chakravarti 2020). Claims about jurors’ inability to assess expert testimony are overstated at best (Vidmar 2005), meanwhile—and there is plenty of evidence that randomly selected citizens can make reasonable judgments about political issues too (e.g., Neblo 2015).

In my view, the most serious concern about the citizen oversight model is simply the danger that *any* additional veto player will obstruct progressive reforms and reinforce the status quo (Shapiro 2016). As such, we should tread cautiously when experimenting with citizen oversight bodies. Yet given their unique resilience to various forms of illicit influence, it seems to me that the balance of concerns weighs decisively in favor of such experimentation. In my view, that is, at least some of the citizen oversight bodies I have sketched in this section could meaningfully strengthen overall resistance to elite capture and corruption—and thereby enhance democracy.

Assuming this conclusion appears broadly plausible, however, certain lingering questions about its justification and scope may remain. Just how significant can we expect the democratic contribution of citizen oversight bodies to be, for instance, relative to the risks of such

⁶In my view, this is the best way to interpret the function of successful “Citizens’ Assemblies,” such as those that recently facilitated the implementation of marriage equality and legalized abortion in Ireland. Since the details of this argument would take us too far afield for present purposes, however, I leave a serious discussion of citizens’ assemblies to future work.

reforms? Even if we accept that citizen legislatures would involve much greater risks of manipulation than oversight bodies, we might wonder if the greater riskiness of a legislature by lot might be compensated for by the greater potential *rewards* promised by such an ambitious scheme. Perhaps the choice between our two models of sortition is best framed as a question of risk tolerance, in other words—such that the pursuit of more feasible oversight-oriented reforms might be a safer bet in certain circumstances, but ultimately represents an abandonment of the truly ideal solution: that is, a legislature by lot. If so, risk-averse actors might prefer the model of sortition as anti-corruption, yet those with more utopian ambitions—and greater tolerance for risk—may rationally prefer to pursue sortition as representation.

Whatever its initial plausibility, however, that is *not* the right interpretation of the potential risks and benefits associated with various reforms. To clarify the normative foundations and practical significance of my endorsement of citizen oversight, therefore, it will be useful to return in the final section to the orienting contrast between representation and anti-corruption.

The Prospects of Sortition-Based Reforms: Weighing Risks and Rewards

We may begin by distinguishing between two types of risk that must be considered when deciding whether to experiment with a given reform. With “transitional risks,” on the one hand, the danger is that our attempts to implement a reform will be thwarted, leading either to the failure of the reform effort or the implementation of some twisted version of the original idea. If we can avert these transitional risks, however, the assumption is that the reform would then yield its purported rewards as promised. With “inherent risks,” on the other hand, the danger is that even if we successfully implement the reform as intended, its purported rewards will constantly be threatened by endemic sources of decay and corruption.

Any practical judgment about whether to pursue a given reform must account for both types of risk. Yet there are key differences between them. Most importantly, the transitional risks involved in a reform will vary widely with initial conditions, and their relative importance will vary depending on one’s level of risk tolerance. By contrast, inherent risks are less likely to vary between contexts, and one’s level of risk tolerance does not affect the rationality of pursuing any particular reform. In-

stead, risks that are enduring over time and inherent to a given reform simply limit the benefits that can *ever* plausibly be claimed for that reform. In some cases, indeed, such inherent risks may be so large that they *overwhelm* its purported benefits entirely, making it normatively undesirable overall.

Because they require more comprehensive changes to democratic structures, the lottocratic proposals favored by most contemporary proponents would likely involve greater transitional risks than citizen oversight bodies.⁷ Yet these are not the risks I have emphasized throughout. Instead, my focus has been on the *inherent* risks that would threaten even those lottocratic bodies that were implemented successfully. Thanks to the open-ended character of legislative questions, most importantly, I have argued that the participants in any legislature by lot would be extraordinarily dependent on facilitators—and thus exceedingly vulnerable to manipulation—no matter how well it was designed.

Crucially, this threat of manipulation is inherent and enduring over time. And though the precise level of danger it poses will vary across different circumstances, it will significantly reduce the purported benefits of any legislature by lot—often overwhelming them entirely. Though citizen legislatures might occasionally outperform their elected rivals, therefore, the differences would not be nearly as dramatic as advocates like to claim—and they would often perform much worse. Even a successful transition to a lottocratic political system would thus promise minimal rewards. Without even counting the serious *transitional* risks associated with citizen legislatures, in other words, a consideration of their *inherent* risks is sufficient to reach the conclusion that the prospects of lottocracy are not particularly promising.

Conversely, we can decisively reject the suggestion that citizen oversight bodies offer lower risks only because they promise lower overall rewards. For one, it is inaccurate to say that the potential rewards offered by citizen oversight bodies are less impressive, in relative terms, than those offered by citizen legislatures. It is true that their *purported* benefits are less grandiose. As we have just seen, however, the purported benefits of citizen legislatures are unlikely to materialize at all: in legislative contexts, rather, inherent and enduring dangers of manipulation are likely to overwhelm the unique advan-

⁷We might worry, for instance, that replacing the entire electoral system with randomly selected citizens would require revolutionary upheaval, which could end up unintentionally generating a regime even worse than electoral democracy. Less dramatically, an elected legislature designing a randomly selected upper chamber to judge its own decisions might build in structural biases favoring the interests of the majority party.

tages of random selection, meaning thatlottocratic proposals are just not very attractive, all things considered. By contrast, the purported benefits of citizen oversight bodies are more likely to materialize. That is why the latter, but not the former, deserve to be tested in practice.

Indeed, citizen oversight bodies are not only desirable in relation to the baseline of citizen legislatures: their democratic promise is quite substantial in absolute terms as well. My primary aim throughout this article has been to demonstrate that at least some narrowly focused citizen oversight bodies could take advantage of the unique capture-resistant properties of sortition, without inviting excessive facilitator discretion—and that some such bodies could therefore reduce overall levels of capture and corruption at the specific junctures in the policy process where they are instituted. And if that is right, citizen oversight bodies could facilitate many democratic aims.

Perhaps the most straightforwardly *democratic* use for citizen oversight is the one that has been most prominent historically as well: that is, protecting elections and other political procedures from partisan manipulation. And introducing random selection at key junctures in processes of redistricting, for instance, could certainly enhance the quality of democracy across many jurisdictions. Yet citizen oversight bodies can also promote democratic values in an array of less obvious ways as well. In exploring examples of promising oversight bodies, indeed, I have focused more squarely on thwarting capture among administrative actors—whose ability to pursue the public interest, in my view, is just as important for democracy. By reducing overall levels of capture in such contexts, after all, citizen oversight bodies would not only prevent the state from enacting specific harms; they would also *enable* public institutions to act more affirmatively in the public interest.

The health of a democracy is mediated by public policy in a wide variety of substantive areas—from the provision of public services and the education of citizens to the restraint of business power and the redistribution of wealth. To the extent that citizen oversight bodies can protect the public character of the robust government institutions required to pursue these goals, therefore, they can contribute meaningfully to the advancement of democracy. By creating spaces *within* the state where countervailing experts and organized groups can contest the outsized influence of powerful interests, meanwhile, they could even facilitate oppositional collective action that stretches *beyond* the state as well (Bagg 2021; Rahman 2016; Rahman and Gilman 2019). Although it certainly cannot save democracy on its own, then, sortition as anti-corruption ought to be a major part of any broader democratizing agenda.

Conclusion

Nearly every popular text on sortition proclaims lotteries as the forgotten radical core of our democratic heritage. Scorned by the elitist architects of modern representative government, sortition promises to make democracy great again—returning us to its Athenian roots and enabling more authentic representation of the will of the people. Though typically shorter on drama, meanwhile, scholarly work often conveys a similar spirit.

Against this backdrop, the anti-corruption model certainly takes some of the romance out of the idea of sortition. Nevertheless, the apparent radicalism of fullylottocratic models does not necessarily translate into superior democratic potential. The problem identified by advocates of such radical solutions—that public institutions have been corrupted by distant and self-serving elites—is all too real. Yet as I have argued, ordinary people can contest this pervasive capture most effectively if they are given a task they can perform *as ordinary people*, with the knowledge and skills they already possess (or can acquire relatively quickly). As such, the appropriate mandate for randomly selected citizens is not legislation but oversight: that is, screening particular decisions for signs of capture or corruption. On this model, radical shifts in the balance of power will emerge not from a dramatic refashioning of popular sovereignty, but from the cumulative impact of many small but enduring institutions, each chipping away at the outsized influence of wealthy and concentrated interests.

In sum, the model of sortition as anti-corruption rejects the supposition that a legislature by lot would enable more accurate representation of the true popular will, and its enactment into law. What it gives them in place of this sovereigntist fantasy, however, is a genuine chance to have the final say in upholding the public character of our collective institutions. And that ought to inspire no less enthusiasm from partisans of democracy.

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