

Reviving Randomness for Political Rationality: Elements of a Theory of Aleatory Democracy

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1. Introduction

For a long time, political theory frowned upon the notion of chance; political theorists and philosophers apparently have a difficult time taming their impulse to rein in the factor of chance. For them, calling something “a chance event” amounts to evidence of intellectual inadequacy and even condemnation. In Kant’s philosophy, the term “by chance” means “only empirical,” implying that something is completely arbitrary and not thought through.¹ And according to Hegel, not only Homer’s sublime song but also the science of philosophy and the great works of bayonets and cannons owe nothing to chance and everything to the great “*Compositeur Geist*”:² “An Iliad is not just thrown together by casting dice,” reads an aphorism from Hegel’s “Wastebook.”³

For a long time, spurning any positive recourse to chance belonged to the core of basic epistemological convictions, especially in the case of the political Left. In their sociopolitical thinking, the radical Left during the French Revolution, the utopian socialists, Karl Marx and Friedrich Engels, and all the other leftist schools of thought in their time and following them have considered chance an irrational factor. The works of Marx and Engels are all permeated by a polemic against people in the capitalist system being at the mercy of the irrational forces of chance; only socialism and communism, yet to come, hold the promise of redemption from the arbitrariness of chance, and the unimpeded operation of reason and planning.⁴ August Bebel’s explanation of the depravity of capitalism being due to efficiency losses in an economic system guided by the unplanned chance decisions of the market follows the same logic.⁵ The critique of “chance” and the recourse to historical necessities or the revolutionary will, used to argue against it, also left their mark on the various schools of thought of revolutionary Marxism, from early Lukács to Trotsky, on the one hand, and the reform socialism of Wolfgang Abendroth and the Leftist wing of the Social Democratic Parties, on the other.⁶ In the meantime, it was above all conservatives following Arthur Schopenhauer, including ironic and incorrigibly optimistic skeptics such as Odo Marquard or postmodernist thinkers such as Lyotard who promoted the cause of chance.⁷ In academic philosophy, a new, difficult, delicate debate about the status of chance decisions in light of theories of justice was only able to unfold in the aftermath of controversies over the work of John Rawls.⁸ In addition, a handful of models and deliberations in the realm of economics-inspired decision theory, developed since the 1970s and 1980s, contributed to the renaissance of the topic. Jon Elster had merged them under the label “second-order rationality” in the first major study on the potentials for rationality in chance decisions.⁹

Once convinced that chance may on occasion deserve not criticism but even praise, the next step is to induce chance decisions by design. In everyday life, this is done by drawing straws or flipping a coin. In its sophisticated form, a chance decision brought about by design is called a lottery.¹⁰ In the long history of lotteries, we can find all kinds of technical

instruments and mechanisms, from marked wooden sticks, specially prepared stones and balls, all the way to special contraptions, machines and computer systems.

All around the world, falling back on chance decisions by means of lotteries has become more attractive in real-life situations in a variety of societal realms over the course of recent decades. And this goes beyond the booming gambling market or your iPod's ability to generate a randomly ordered playlist for your weekly jog. No, nowadays chance is invoked in more serious instances, too – for example to select tax returns for auditing, athletes for drug testing, and samples for hygiene checks or food inspection, to grant the rights to purchase stock in an initial public offering, to draft recruits into the military, to distribute the right to purchase tickets to highly popular events (whether the Rolling Stones in 1967 or the Michael Jackson Memorial Service in 2009), to adjudicate conflicts among heirs about disputed objects in an estate, or to allocate scarce but vital medical supplies, or sperm donations to women in Scandinavia who want to have a child.

This list is not complete, but it does sketch out the contours of how the overall picture has changed. Although falling back on chance decisions is still more the exception than the norm, compared with other methods of allocation, the lottery principle has indeed become more widespread and more widely accepted in various areas of daily life in modern societies since the last third of the 20th century.

But are lotteries therefore also suitable for politics? To be sure, chance decisions indeed have a tradition in the realm of politics – the extensively used practice of drawing lots to fill public positions in the democracy of ancient Athens immediately comes to mind. But is the “triumph of election over lottery,” as Bernard Manin called it while tracing it through the history of ideas,¹¹ not irrefutable historical evidence of the fact that the days of the lottery in politics are over once and for all, and that it is best if it stays that way? After all, politics today is ideally supposed to be a sphere of reasonable argument, decisions wisely balancing the pros and cons and responsible representation, rather than a process conducted according to the principle of chance.

In the following, I would like to show that incorporating the factor of chance might also be of interest for contemporary democracies in terms of reform policy and how it could be achieved in practice. In doing so, I can refer to a number of newer ideas and proposals designed to give chance a chance again in modern political systems, at least occasionally.¹² The following deliberations attempt to demonstrate how employing chance, so often frowned upon, can frequently strengthen the potential for reason in modern democracies rather than weakening it. I have termed this project a “theory of aleatory democracy” – derived from the Latin *alea* (dice).

To begin, I will list five potential functions of the lottery in the realm of politics; each of these functions can be spelled out in more detail as a building block contributing to the theory of aleatory democracy in terms of reform policy (2). In the following, I would like to go into at least a few of these elements against the background of current debates about the shortcomings of deliberative concepts of democracy. It is remarkable in this context that the productive role of the factor of “chance” for democracy was rediscovered a good forty years ago, beginning with the establishment of lotteries for jury selection in the USA. I would like to mention them at least briefly because of their paradigmatic significance for the deliberative theory of democracy (3). The notion of random selection later spread from jury selection to concepts of political participation. In a parallel development, the shortcomings and vulnerabilities of deliberative concepts of democracy have been elaborated more fully in recent years (4). By now a number of pilot and other projects have emerged which employ mechanisms of chance to determine the membership of political bodies. The most important

findings from these projects to date will be evaluated regarding their significance for practices of deliberative democracy (5). I would like to conclude with the thesis that the potential of aleatory democracy has yet to be fully exploited, both in terms of reform policy and in conceptual terms. Further proposals for reform worth discussion and practical testing can be developed in light of the variety of functions that lotteries can play (6).

2. The Functional Variety of Random Selection

For a long time, a radical democratic interpretation of the lottery practices of ancient Athens overshadowed mechanisms of chance in the context of politics. Yet archeology had long ago established that such a view is not legitimate. Lotteries were certainly used in ancient aristocracies as well, and even in the era of Athens that Aristotle's characterized as a "radical democracy," they were just one of many procedures that were combined with one another.¹³ The (incorrect) radical democratic image did more to damage the prospects of a renaissance of chance in modern democracies than to improve them, and even today stands in the way of their being examined in a matter-of-fact manner. The first step toward a fair appreciation of their potential in terms of democratic theory is therefore an overview of their range of functions.

The literature on the subject of drawing lots already includes a few rough attempts to sort out the various functions of lotteries, but as yet provides no comprehensive typology.¹⁴ All in all, at least the following five potential functions of mechanisms of chance in the political realm can be discerned:

- Random selection has the characteristic of being a neutral and autonomous mechanism of chance that always produces a decision. This makes it particularly suitable for breaking ties, that is, coming to a decision in the event of two sides being equal. Even Jeremy Bentham praised drawing lots to serve this function in parliamentary proceedings in an address to the French Revolutionaries,¹⁵ and today the procedure is used in this way in almost all the world's parliaments.
- Unweighted lotteries are strictly egalitarian when it comes to individuals' chances of success. This feature can be utilized in democracies to distribute not only access to resources, but also public appointments equally among citizens.
- Random selection can remove a burden both from decision-makers and those affected by decisions (which is why they are sometimes used in medicine to allocate scarce, vitally important organs for transplantation). In modern democracies, lotteries can be used (weighted or unweighted, as needed) to regulate distribution of scarce resources or limited access (for example, to kindergartens, schools or subsidized housing).
- Drawing lots produces results that cannot be determined in advance, thereby introducing an element of uncertainty. This can help combat corruption. Systematically introducing elements of chance in distributing public appointments within government bureaucracies makes it more difficult for interested actors to anticipate whom to approach and offer a bribe, which makes corruption more expensive and risky.
- Lotteries can be repeated at regular intervals to select individuals to fill public positions. Each time a lottery is carried out, participants can hope to "get their turn" at last and take over from the previous officeholder, as the outcome of each lottery is uncertain. This is how drawing lots provided political stability for centuries in the aristocratic republic of Venice, as it was more economical for all the powerful families to wait for the next round of the lottery than to provoke a civil war. This stabilizing effect can be put to use in modern democracies as well.

In light of these five possible functions it is easier to understand why lotteries have at last regained attention as a political instrument.

3. The Return of Random Selection for Jury Duty in the USA

The (re)discovery of lotteries in the political arena was triggered within the judicial branch of government. Since 1968, jury selection at the state level in the USA has no longer been a top-down process, but the result of a lottery. The controversial political debate that raged for decades and ultimately led to this reform was sparked by the fact that (white) upper-class jurors committed blatant miscarriages of justice when handing down verdicts against defendants from the (often black) lower class.¹⁶ A number of countries (such as France and England) have adopted the approach followed by the US in randomly selecting people for jury duty.¹⁷ In the USA, this system smoothed the way for giving unbiased consideration to random selection as an alternative procedure in other social contexts, e.g. for selecting recruits for military duty during the Vietnam War or for allocating scarce medical resources (donor organs, dialysis). In addition, introducing random selection for jury duty marks the point in time when a broadening of the understanding of the social preconditions for successfully conducting deliberation processes began. Here, the significance of random jury selection and the debates about such an approach lies in raising the question of the social composition of those participating in deliberative processes. The model of the randomly selected jury stands at the nexus of three key questions posed by modern theories of democracy – the issue of fair representation, the role of direct citizen participation and the requirement that the results of joint consultations be rational.

Against the background of the experience gained from random jury selection, several arguments can be given which favor the use of chance when selecting jurors.

- The first argument is based on an assumption of independence. A jury selected at random is independent inasmuch as lotteries make it almost impossible to pressure, blackmail or bribe potential jurors before a trial takes place.
- The second argument refers to concomitant effects observed in empirical research if the jurors come from as broad a range of social backgrounds as possible. One effect is that jurors from different social groups refine each other's judgment during the course of joint deliberations.
- The third argument is laid out normatively as it is based on the thesis that all citizens have the same legal right to serve on a jury and participate in the decision-making process. Serving on a jury should not be a privilege, but is to be open to all citizens to the greatest extent possible. Any form of appointment, election or co-optation would curtail equal opportunity for citizens to serve as jurors.
- The fourth argument is based on a deliberative concept of the theorem of fairness. It is the right of defendants to stand before a jury representing their communities in all their social diversity. Because juries do not merely take note of facts, but are also supposed to be able to understand motives, individuals' stories and their credibility, they cannot help but include ethical and moral aspects in their verdicts. Following this interpretation of the theorem of fairness, only socially heterogeneous juries can be considered to take all aspects into account during joint deliberations. In this view, it is necessary that, if possible, all the citizens within a particular jurisdiction can take part in the jury selection lottery, and the logic of this argument would permit fixed lottery quotas for certain groups within the population.

- A fifth argument relies on a kind of effect working back from jury duty to a country's legal culture.¹⁸ Jurors who have struggled with themselves and their co-jurors to come to as just a verdict as possible will later defend that verdict vis-à-vis their fellow citizens and in the public sphere, thereby contributing over the long term to the integration of society in terms of the culture of law.

These five arguments in favor of selecting jurors at random display certain parallels to debates on the theory of democracy about the institutionalization of deliberative political bodies. That is why I would like to follow this train of thought in more detail in the following sections before turning again to further potential functions of lotteries at the end of this paper.

4. Problems of Democracy and Deliberation in the Deliberative Theory of Democracy

The idea of seeing a connection between the institution of a jury and the process of deliberation is not new. Hegel already said as much when he characterized the activity of jurors as “deliberation of the members of the courts.”¹⁹ Today deliberation is a major topic, especially in the context of democratic theory. The theory of deliberative democracy has left its mark on the field of democratic theory since early formulations as a political project in the late 1980s. The success of deliberative democratic theory was possible above all because its representatives succeeded in building conceptual bridges to other approaches addressing the theory of democracy.²⁰ Although this certainly helped the deliberative theory of democracy gain importance, this proximity brought it into the maelstrom of the primacy of “output rationality” inherent in the other approaches to the theory of democracy.

Proponents of deliberative democracy emphasize that one of its major strengths lies in its particular suitability for offering a conceptual framework for democracy beyond the nation-state. According to John Dryzek, deliberative democracy “is particularly conducive to international society, because unlike older models of democracy, it can downplay the problem of boundaries.”²¹ During its shift in focus from civil society actors in the framework of the nation-state to international organizations and supranational bodies, deliberative democratic theory quietly underwent a revision of its legitimating point of departure as a result of which it has joined the trend of “rationalization of the theory of democracy.” Although deliberative democratic theory at first had its place in the tradition of radically democratic approaches that attempted to make a contribution in terms of reform policies that worked toward a “democratization of democracy” (Claus Offe) in the sense of strengthening forums of participation, its legitimation has successively shifted ever more toward engendering “reasonable results” as a normative point of reference. This trend can be observed especially in the context of so-called “comitology research” on the EU. After research came across the fact that the expert bodies with international membership within the multilevel European system not only negotiate interests with one another but also make numerous decisions after exchanging arguments, these bodies were presented as examples par excellence of successful political processes of deliberation.²²

Jürgen Habermas recently explained this shift to the effect that “this calls for further adjustments within the conceptual apparatus of political theory”²³ if we are to enable the theory of democracy to catch up with the realities of a world organized at a supranational level. Regarding the normative core of his understanding of democracy, this means emphasizing that “we also ascribe an epistemic function of democratic will-formation.”²⁴ In his approach of “epistemic proceduralism,”²⁵ democratic processes obtain their legitimizing power “not only

and not mainly from participation and will-articulation,” but from the general accessibility of “a deliberative process whose structure grounds an expectation of rationally acceptable results.”²⁶ The benefit that Habermas expects from this “epistemic turn”²⁷ is the particular suitability of the deliberative theory of democracy to meet the requirements of a conceptualization of democracy that transcends national boundaries. By doing so, Habermas can easily argue that understandings of democracy insisting that citizens in a democracy must, first of all, have the same opportunities to bring their authentic preferences to bear via elections or referenda are “voluntaristic.”²⁸ Habermas thus assigns the participatory element in the concept of democracy the status of a dependent variable of the rationality wished for in political processes. The logical consequence of this view is that democratic participation is subordinated to the unreasonable demands of rationality posed by modern politics. A deliberative theory of democracy interpreted in this vein has a problem concerning its democratic nature when it comes to its input dimension.²⁹

By posing the question about the “structure”³⁰ of the institutions guaranteeing rationality, Habermas has addressed a second open flank of the deliberative theory of democracy. More recent research on deliberative practices identifies three areas in which institutions of deliberative democracies have in their practice proven susceptible to falling back behind the normative expectations placed in them:

- The first difficulty is the *problem of strategic exploitation*. Even if deliberative practices sometimes gradually develop a universally normative characteristic within small bodies, they do remain susceptible to strategically-minded actors who merely simulate the mode of debate while simultaneously attempting to obtain as many benefits as possible through rhetoric. The strategic aspect intensifies if participants in deliberative processes are pressured by the expectations of their political clientele. Jon Elster concludes from this susceptibility that it is better to give up Habermas’ requirement of public scrutiny in favor of the insight that deliberative processes are at times better served if they are conducted behind closed doors.³¹
- The second difficulty is the *problem of motivation*. Not all deliberative contexts equally motivate their participants to encumber themselves with the cognitive and moral exertion required in carrying on rational discourse. Problems of motivation can partly be solved by the skillful work of professional moderators. Participants often weigh the costs and benefits of deliberative processes, though, and question whether their committed involvement is worthwhile if the result of political deliberations does not lead to binding political decisions.³²
- Finally, the third difficulty is the *problem of polarization*. The success of deliberative processes depends not least on the overall composition of those taking part. Apparently, homogeneous social settings do not invite rational communication, but, instead, triggered a repeating process of participants confirming their own and each other’s opinions.³³ If we follow Cass Sunstein’s thesis, taking the next step forward from social-psychological research, one can even formulate a “law of group polarization.”³⁴ According to this law, discussions in homogeneous groups or in groups that display clear hegemony of one point of view do not have the effect of opening up horizons, but merely of the entire group (or the group forming the majority) taking a more extreme position after the debates than before. On the other hand, researchers have been able to observe that all the participants in heterogeneous groups are more prepared to enter into a conversation about the deliberations of the other participants in the debate.³⁵

In other words, the problem of the deliberative theory of democracy is obviously not just one of democracy, but also one of deliberation.

Against the background of the two bundles of problems confronting the deliberative theory of democracy, I would like to examine more closely the proposals made by authors who have taken the introduction of random selection of jurors in the USA as an occasion to argue for the transfer of lotteries into parts of the political system. In our context, proposals of interest do not simply turn the subordination of political participation to the imperative of allegedly reasonable results around again. Rather, the proposals considered offer a reconstructive view that seeks evidence to indicate that deliberation, too, will emerge stronger if a mechanism of drawing lots is included.

5. Random Selection and Deliberative Democracy

The reconstruction of previous concepts and attempts to implement lotteries in practically oriented projects aimed at reforming democracy based on the model of random selection of juries stands at the beginning of my deliberations on a “theory of aleatory democracy.” I would like to respond to three proposals. First, Robert A. Dahl’s suggestion to establish bodies with randomly selected members to serve in advising some political institutions (1). The “deliberative opinion poll,” put forward and practiced by James Fishkin (2), as well as a few more examples of randomly selected “citizen juries” are examined next (3). The experiences with these projects to date provide evidence for how using lotteries could increasingly be used as an instrument to optimize deliberative procedures in the future.

5.1. Robert A. Dahl’s “Mini-Populus”

In light of the positive experiences from the then novel lottery system used for jury selection in the USA, Robert A. Dahl proposed expanding the use of the “democratic device of the lot” in his 1970 book “After the Revolution.” Randomly selected “advisory councils”³⁶ were to be assigned to important political officials in modern democracies. In concrete terms, he recommended such randomly selected bodies for “every elected official of the giant polyarchy – mayors of large cities, state governors, members of the U.S. House and Senate, and even the president.”³⁷ His idea envisaged the randomly selected citizens receiving financial compensation for their work on the council. According to Dahl, they were to convene at intervals of several weeks and be able to invite the politicians responsible for particular issues to their meetings. They were to discuss the topics they considered important and confront the professional politicians with their viewpoint on those problems, ask questions and offer advice. Members were to belong to such randomly selected councils for one year. Dahl himself posed the question why these bodies were to be merely consultative and why they were not to be permitted to make binding decisions. He responded by pointing out the higher democratic legitimacy invested in elected officials.³⁸

Dahl’s proposal is intriguing because he does not undermine, but rather complements the existing institutional mechanisms. It provides an additional channel of political communication that enables the general populace to articulate concerns and perceptions to professional politicians in a relatively unfiltered manner. On the one hand, this makes it possible to build up a certain amount of pressure on politicians to legitimate their actions; on the other, politicians have an additional opportunity to explain their points of view to a group of citizens at more length and to improve political communication based on the objections heard from citizens.

The final pages of his book “Democracy and its Critics,”³⁹ which was published two decades later, make clear that Dahl certainly was serious about this idea. Here, he suggests

how modern democratic systems can retain their democratic potential in the future as well. Dahl is not concerned with radical changes in the institutional structure of modern democracies in their representative and indirect form, but rather improving deliberative practices within these institutions.⁴⁰ The reform proposal that Dahl considers most promising in this context is the establishment of what he calls a “mini-populus.”⁴¹ A mini-populus consists of about one thousand citizens of a country selected at random by a computer. Their task is to discuss and develop various options for dealing with a particular issue during a longer period of time. Parliament or another institution decides on whether to convene a mini-populus and what political issues it is to address. The members of a mini-populus need not meet often, but can communicate electronically with one another as well. It is possible to work with several such mini-populi on a variety of topics and at different levels of government at the same time; they should have the possibility to consult with experts, and support staff is to be available for that purpose. A policy recommendation for the legislature is the final product of their consultative work.

Dahl considers the asset of the mini-populus to be the genuinely democratic quality of its recommendations:

The judgment of a mini-populus would ‘represent’ the judgment of the demos. Its verdict would be the verdict of the demos itself, if the demos were able to take advantage of the best available knowledge to decide what policies were most likely to achieve the ends it sought. The judgements of the mini-populus would thus derive their authority from the legitimacy of democracy.⁴²

As with his proposal twenty years before, Dahl has stayed true to his position inasmuch as a mini-populus, too, would take on merely consultative functions and has no authority to make decisions itself. What matters to Dahl is that the mini-populus generates a kind of enlightened will of the people that takes effect in an indirect manner.

He believes that modern democracies should be able to benefit from a mini-populus in two ways. First, the citizens participating in the mini-populus benefit from the opportunity to form an informed opinion about important political questions both as a group and in cooperation with experts. Second, the political system as a whole benefits by confronting professional politicians with enlightened expressions of citizens’ opinions. Dahl is hopeful that his mini-populus will strengthen the chain of legitimation between citizens and professional politicians, thus counteracting the notorious spread of disenchantment with politicians.

5.2. *James S. Fishkin’s “Deliberative Opinion Poll”*

Following on from Dahl’s deliberations, starting in the early 1990s James S. Fishkin and a subsequent number of other political scientists conducted several experiments and pilot projects in order to test the idea of the mini-populus in practice and further develop this model based on the experience gained. Peter Dienel had already undertaken similar projects in Germany.⁴³ In recent years, Fishkin and his staff as well as various other project groups in different countries have carried out more than fifty “deliberative opinion polls” – in Bulgaria, Canada, Taiwan, Hungary, Australia, the United Kingdom, Denmark and most recently and very successfully at the local level in China, of all places,⁴⁴ as well as in the USA.⁴⁵ The projects included expert advice from and related research by social scientists and were developed further by trial and error.⁴⁶ Disregarding some differences in detail, they follow the same basic pattern: First, a representative group of citizens from a particular

region or country is invited to meet for several days to discuss a current political topic, obtain information about various options and then work out a recommendation. They are paid for their time. Examples of pilot projects to date include family policy issues (USA), tax policy (England), the introduction of the euro (Denmark), the abolition of the monarchy (Australia) or the distribution of additional tax revenues at the local level (China).

The term “deliberative opinion poll” was selected clearly in contrast with conventional opinion polls. The latter usually confront uninformed citizens with questions they have previously shown no interest in and have them choose between defined response options, and the social scientists posing the questions present the results of their polls as an expression of the “authentic will of the people.” Fishkin critically argues that findings based on such polls do not genuinely express political will, but are, instead, mere artifacts of social science. For this reason, he thinks polls, or “pseudo-opinions in the echo chamber,”⁴⁷ should not be given weight in political decisions.

By contrast, one can interpret the goal of the initiators of the “deliberative opinion poll” as being the desire to determine the political will of citizens once they have been able to obtain information and think about the question under consideration. It is assumed that deliberative processes have a qualitative influence on the political opinions held by the participants. Or, as Fishkin formulates this expectation: “The challenge for the experiment was whether the participants would change over the course of the weekend. If a deliberative poll gave results identical to an ordinary poll, it would not be worth investing in such an elaborate project again.”⁴⁸ A prerequisite for being able to determine such expressions of political will is a group of citizens willing to take part in such a deliberative process constructively. In practice, this requires two things: first, selecting these citizens in a statistically representative manner along social lines (here, there is no difference at all between a deliberative opinion poll and a conventional poll); and, second, a quality of deliberative processes that actually results in additional information and reflection. In the following, I will discuss the work in the projects carried out to date in more detail in order to delineate the function random selection serves in them more precisely.

Falling back on random selection mechanisms directly fulfills the requirement of being statistically representative. In the projects to date, potential participants were selected by a computerized random generator, contacted by telephone and invited to take part in the process.⁴⁹ The second requirement of providing as constructive a deliberation situation as possible is met by carefully preparing the content and the discursive choreography of the meetings. Here, too, random selection comes into play. The pilot projects carried out by Fishkin and his team at the national level brought 300 to 500 participants together for a long weekend at one location. The number of participants was to be large enough to ensure statistical representativity, but small enough to make it possible to organize discursive processes in small groups and plenary sessions with the support of professional moderators.

In the mean time, the results of the studies accompanying a number of deliberative opinion polls have been published, providing the basis for initial conclusions about this project idea.⁵⁰ The experience gained shows that random selection has realized the goal of participants being relatively representative in terms of their social background. Although the figures differ between individual projects, they still scored better than conventional opinion polls before the latter were “corrected” after the fact.⁵¹ Even if the convening groups did not match the general population’s statistical profile exactly,⁵² they did display a significantly higher degree of social heterogeneity than all the institutions that carry on the political process.

A significant finding of the deliberative opinion polls carried out to date is that, at the level of aggregate data, the participants revised their opinions substantially in the course of the deliberations.⁵³ The individual changes were processes of “political learning”⁵⁴ with the new positions taken displaying more cognitive maturity. They are based on more factual knowledge, are more logical, do justice to the complexity of the issue being considered and are also consistent in terms of the individuals’ own basic values.⁵⁵

Against the background of internal problems of communication which deliberative bodies are prone to, a further empirical finding is worth mentioning. In his influential critique, Cass Sunstein had mentioned the “law of group polarization”⁵⁶ discussed above, according to which joint discussions have the effect that the group as a whole takes a more extreme position in the end than it did before. As evidence for this alleged “law,” Sunstein had mentioned, among other things, laboratory experiments with subjects who were to pretend that they were having a discussion as jurors. (The subjects were aware that they were taking part in a simulation.) Not only do the empirical findings from the scientific research accompanying the actual deliberations in the deliberative opinion polls reveal no evidence for Sunstein’s thesis, they even expressly contradict it:⁵⁷ the participants develop a better understanding for the positions of others to a degree which is significant and measurable, and are more willing to make concessions relative to their own convictions.

In his response to these findings, Sunstein named five positive characteristics of how deliberative opinion polls are structured.⁵⁸ First, the participants in the project do not vote as a group; instead, the votes take place individually and in secret. Second, the groups can confront experts with questions, thereby avoiding confrontations within the group. Third, the consultations in the small groups (whose membership is also determined by random selection) are regularly interrupted by sessions in which the members of the groups talk with the entire group or with experts, which brings new aspects into the deliberations. Fourth, having professional moderators facilitate group discussion ensures that a majority of the group cannot polarize group opinion against individual group members. And fifth, recruiting the participants by a process of random selection guarantees that a relatively diverse cross-section of positions and cultures of debate come up against each other. Together with the other moderating factors, the social heterogeneity of participants makes it more difficult for increasingly radicalized majority positions to take over too quickly and creates opportunity for views to be aired that were previously ignored. In other words, the process of random selection has a significant influence on the “structure” (Habermas) of deliberative processes. Apparently, the “law of group polarization” holds only for groups whose composition is relatively homogeneous and where positions deviating from the group norm get sidelined. This assumption can be corroborated by findings from other empirical analyses of deliberative processes conducted by David Ryfe and John Gastil in their comparative qualitative research. They determined that instances of homogeneous group composition tend to trigger radicalizing dynamics, while group heterogeneity is an important factor for the positive effects hoped for in deliberative processes.⁵⁹

5.3. Citizen Juries

As much imagination as Fishkin et al. displayed concerning solving practical problems in conducting deliberative opinion polls, they had little courage when it came to ascribing the functions of this form of consultation within the framework of modern democracies’ political institutions. While Robert A. Dahl at least wanted to assign his randomly selected councils direct consultative contacts to clearly identifiable actors in the political system, deliberative

opinion polls merely have the goal of producing informed expressions of political will that are authentic in this enlightened sense. Considering the amount of personnel, finances and time required for deliberative opinion polls, as well as the positive experiences gained, the question arises whether they could be ascribed a more binding function in the political system.

Citizen juries in the form they have been applied in Denmark and Spain over the past ten years follow a similar model. The researchers involved are interested above all in internal group processes and the optimal group size. Danish citizen juries worked with groups of 18 to 20 participants. Here, too, it became clear that social heterogeneity is an important condition for those involved to be willing to carry on argumentative debate with other positions.⁶⁰ This finding corresponds with the results found in the literature on citizen juries in Spain formed to deal with municipal issues.⁶¹

There have also been some negative experiences, which are linked to the non-binding status of these randomly selected bodies. In the 1980s, Lyn Carson carried out several pilot projects in Australia in which randomly selected local people were invited to discuss local urban planning issues, or in which parents of schoolchildren considered the future development of schools. Carson reported that the participation rate was sometimes as low as 50 percent of those selected (no compensation was paid for the evening sessions) and that in the early phases, discussions were difficult at times. Participation stabilized, and active engagement in the debates increased significantly the moment the participants realized that local politicians would not simply listen to and then file their conclusions, but that they would be able to exert measurable influence on political decisions.⁶² The link described here between the intensity of participation and the quality of the deliberations corresponds with findings from other projects. The question as to the degree to which the results of such projects actually become relevant for action is of great motivational importance for the participants in deliberative bodies.⁶³

Even if the German experiences with technology assessment processes designed along participatory and deliberative lines in the 1990s were not particularly encouraging, this can be explained first and foremost by the fact that they were merely advisory and had no decision-making powers and that those to whom the recommendations were addressed – mostly government agencies – took them up only hesitantly.⁶⁴ This observation leads us to a general insight: obviously, members of deliberative bodies develop a manifest problem of motivation if the relationship between the deliberative project and decisions actually made remains weak, or if no such relationship can be easily recognized by those involved: “Why,” Rainer Schmalz-Bruns rightly asks, “should people contribute the considerable time and effort to a process at all if there is no guarantee that the results will be transformed directly into governance strategies for implementation?”⁶⁵ Accompanying research on participative projects following the model of Fishkin et al. also reports that it cannot be emphasized enough just how important the members of deliberative bodies consider the relevance of the results of the decision-making process.⁶⁶

In light of this fact, it would be interesting to know what happens when randomly selected bodies are granted equal status with the other political actors in the power circle of modern democracies. Yet to date, there is virtually no practical experience with randomly selected bodies that have binding political power. After all, each of these examples from the political sphere differ from conventional juries in the justice system in one important way: even if parliamentary committees or other authorities request their opinions, they do not carry the same weight as binding decisions. All they can do is to make recommendations to elected officials. What they do basically serves as a method for the political elites to find out about

the enlightened will of the people. At best, the projects to date are located in a gray area between affecting political decisions directly and the indirect feedback responses that flow into the political process by inviting the general public to voice opinions. Evaluations have shown that the recommendations of the Danish consensus conferences were indeed able to decisively affect policy decisions.⁶⁷ Outside of Denmark, however, comparable models have not been able to have any major practical impact; on the contrary, if political actors felt so inclined, they used the recommendations to support their own positions, and if not, they simply ignored them. The greater importance in the Danish case can be explained by the quasi-official status of consensus conferences due to their being closely tied to the Ministry of Science and Technology.

The example of a Canadian citizen jury is instructive in this context. In 2002, a body was formed on the basis of a lottery with a quota system to prepare a reform of electoral law in Canada.⁶⁸ Since the 1980s, criticism of the existing Westminster electoral model had been voiced repeatedly in British Columbia as well as the desire of various political groups to replace the model with a proportional electoral system. The ruling Conservative Party opposed such a reform, but was voted out of office in 2001. The Liberals, who assumed power at that time, decided to tackle the reform as they had promised during the campaign. Instead of working out a proposal of their own and rushing it through the chambers of parliament with their majority, the government decided to take a different tack: it transferred the right to make a proposal to a citizen assembly composed of 160 citizens from Canada's eighty districts. A woman and a man were randomly selected from each electoral district. The citizen assembly met on several weekends, invited experts as consultants, held public hearings and worked its way through several hundred individual proposals that had been submitted in response to a public appeal. After a little less than a year, a majority of the assembly came out in favor of the "single transferable voting system," which permits voters to rank the candidates according to their own preferences. In May, 2005, this proposal was put to the people for a vote. During the preparations for the referendum, however, the proposal was undermined when two parties that expected to lose out under the new system joined forces to oppose it. In the end, the reform proposal did receive a majority of 57% – but that was not sufficient to change the system, as the Canadian constitution requires a qualified majority of 60% for changes in electoral law.

In light of this quorum, the calculus of British Columbia's government to outsource, so to speak, electoral reform to a citizen's assembly seems less selfless than it might appear at first. Questions of electoral law are always questions of power. Their logic is based on the constellation that those who make new electoral laws will be those who stand to win or lose from them in the future. If the government wished to keep its campaign promise, it had to find a path forward that would not raise the slightest suspicion that it desired to create a new electoral law in order to increase its chances of re-election. A citizen assembly whose neutrality along party lines was guaranteed by the incorruptible impartiality of random selection stood the best chances of successfully achieving the qualified majority required for the referendum. The fact that the commission's recommendation failed to meet the required 60 percent of the vote in the end is therefore less evidence of the citizen assembly failing, but rather to be considered food for thought: how can the political competence of such a randomly selected body be given binding power?

Projects working with bodies whose members are selected at random require further revisions if they are to become promising options for achieving reform. Above all, it is necessary to arrive at clear and binding allocations of competencies in the framework of political systems within modern democracies. Otherwise, the danger would be practically

unavoidable that the government or the opposition would simply convene randomly selected councils in order to provide additional legitimacy for their own parliamentary politicking, depending on the general political climate or their own particular needs. It is also necessary to define the conditions for constituting bodies made up of randomly selected members as well as their specific areas of work to keep the topics being addressed from being fragmented to such a degree that councils working in parallel would stand in each other's way. In the case of councils focusing on regional issues or very specific topics, it is also necessary to define the population from which the body's members are to be randomly selected. Questions such as the last ones raised here cannot be answered in general terms, but only in the context of specific reform proposals.⁶⁹

In light of such thorny issues, the horizon for further development of randomly selected councils boils down to two options. One can either stay on the beaten path and continue working with the experiments and projects described above with their non-binding status. That would amount to supporting commendable projects instructive about democracy, which admittedly remain mere ornaments of the political system's routines, projects that participants expect to have little tangible influence, thus engendering the problems of motivation. Or the standing of randomly selected councils could be reinforced; their integration in existing institutional arrangements with a clearly defined and binding set of competencies would form the culminating point of such a reform policy.

5.4. *The Bridging Function of Aleatory Democracy*

With regard to the debate about the difficulties in institutionalizing deliberative democracy today, the tool of selecting members of political bodies at random can simultaneously strengthen the participatory, representative and deliberative aspects of modern democracy in equal measure:

- The aspects concerning *participation* can be traced back to three assumptions. First, that the process of random selection functions as a "search engine" for political arguments and talents, as it also includes within the pool of individuals whose political action is requested people who would not be able or willing to run for office because they fear rejection or consider their chances to be too low (and they cannot blame random selection for this). Second, one could argue that phenomena of political alienation and disenchantment with politicians might be diminished by the fact that the process of random selection grants more citizens insights into complex political issues. And third, it can be assumed that the decisions made by people who take office or receive a seat in a political body based on a random selection procedure are more strongly binding because they are affected by the problems, life experiences, and value judgments of the participating citizens.
- A second normative advantage of democratic lotteries lies in the *fair representation* they generate. The ideal on which such a concept of representation is based is that the establishment of bodies whose members represent the social heterogeneity of all of society results in a high quality of deliberations ("mirror representation," in the words of Hannah Pitkin⁷⁰). I would not like to examine further the various reasons given for this postulate of representation in the context of the current debate on the theory of democracy. Even Hannah Pitkin herself, who formulated the most brilliant critique of "mirror representation" in the 1960s, has moved closer to this model in light of the processes of social selectivity, as borne out by empirical evidence, in the existing representative bodies of Western democracies because she believes that they are the

only way to guarantee that as many relevant perspectives as possible are included in political deliberations.⁷¹ Of course, little is gained by such an ideal alone. After all, Alfred de Grazia's statement, "representation under any system is biased,"⁷² applies to all practical ways of implementing "mirror representation" according to previously determined criteria. The debate about putting Iris M. Young's thoughts on quota models into practice has demonstrated again that this statement is true. After all, the concepts for using quotas or minority rights to implement a form of representative democracy guaranteed to be representative in social terms all suffer from the fact that it is up to a prior political decision to determine which concrete characteristics (gender, age, ethnic group, etc.) are to be reflected in terms of being socially representative.⁷³ In light of this problem, which quota models can never solve entirely satisfactorily, one can consider random selection as the way to cut through what is seemingly a Gordian knot. After all, random selection avoids the problem of identifying groups. In larger bodies such as deliberative opinion polls, the diversity within society is represented at least in approximation; but even in selecting people for smaller institutions such as consensus conferences, the principle of chance results in the inclusion of citizens with diverging group characteristics. In political systems in which individuals for several bodies are selected randomly, there is at least an approximation of the ideal of "mirror representation" when they are viewed in their totality.

- The third normative advantage lies in the improvement of the *quality of deliberations* of political bodies. Without repeating the effects described in the research literature, I would merely like to call attention to the aspect of social heterogeneity here. If the quality of deliberations is to be improved, it is evidently less important whether the bodies in question display a precise statistical representation of society than that they are socially heterogeneous: "In the end, it is diversity that appears to matter most in these procedures. When a group of deliberators are heterogeneous, it is less likely that they will enter into enclave deliberation and reinforce their own positions."⁷⁴ Experience gained in the groups whose members were selected randomly has demonstrated the following: they are "relatively impartial, more likely to enter into a consensual process with a collective purpose in mind, and less likely to engage in bargaining amongst each other."⁷⁵ Such results, incidentally, corroborate the thesis proposed by thinkers of difference who presume, following Hannah Arendt, that political plurality is a necessary condition for discourses oriented toward the public good.⁷⁶

Which conceptual conclusions can be drawn from the projects and experiences described in order to address the weaknesses of deliberative theories of democracy discussed above? Aleatory democracy falls back on the potential functions of random selection listed in section (2) and attempts to link the strengths of the "voluntaristic" and the "epistemic" models of democracy by skillfully including aspects of chance, without getting bogged down by weaknesses inherent in these models in the process. The advantage of voluntaristic democracy in terms of legitimacy lies in its orientation toward the expressions of will actually expressed by citizens, which feeds its participatory impulse. The disadvantage of this model is that, in the name of democratic equality, it must ignore the differing degrees to which individuals have reflected on the will they articulate. In contrast, the advantage of epistemic democracy in terms of legitimacy lies in the sophisticated cognitive substance of an enlightened political will; its disadvantage is its tendency to drift off into a deliberative expertocracy justified in the name of political rationality. In light of this constellation, the different variants of bodies consisting of randomly selected members can be understood basically as practical elements for creating a deliberative model of democracy in which a

bridge is built between the participatory impulse of the voluntaristic model and the rational standards of the epistemic model.

6. The Potential for Reform through the Use of Random Selection in Politics

The word “lottery” has a political origin. In the Italian republic of Genoa, the members of the city council were determined by random selection from the 12th century on, and over time, the gambling-crazed residents of the city began to bet on who would win a seat. Later, this developed into the numbers games so popular today.

Calling the political origin of the word to mind is meant to introduce my thesis that the potential of aleatory democracy to improve deliberative democracy has not yet been exploited so far. In other work, Michael Hein and I have presented arguments favoring inclusion of random selection components in the political system of the EU.⁷⁷ To be precise, the idea of the lottery is not completely alien to the institutional system of the EU even today; judges are assigned to the chambers of the European Court of Human Rights based on a lottery system, and there are initial experiences with deliberative opinion polls at the EU level.⁷⁸ Our proposal is designed to take advantage of several functions of lotteries simultaneously and addresses the three issues of the current EU institutional order considered particularly problematic from the perspective of democratic theory – the democratic deficit, the inefficiency of the European Commission and the lack of transparency in shaping policy and within the EU system. Our concrete recommendations are, (a) allocating the seats in a smaller European Commission to the Member States by means of a weighted lottery, (b) randomly selecting the members, chairs and rapporteurs of the committees of the European Parliament and (c) introducing a second, randomly selected chamber of parliament – a European “House of Lots” with clearly defined areas of authority and limits on their powers.

Further reform ideas for the EU can be considered in light of the functional diversity of lotteries:

- *Lotteries to boost voter turnout.* Such lotteries at the European level could contribute to improving notoriously low voter turnout in elections to the European Parliament. The fact that this idea is already being discussed in the EU is documented by a proposal from a Green Paper on the future prospects of democracy in Europe that was requested by the European Council in 2005. The two authors of the memorandum – Philippe Schmitter and Alexander Trechsel – recommend, among other things, that every voter automatically participate in a lottery. The prize, however, is not money for the winning voters to spend at will. Instead, they win the right to determine which non-profit organization, be it a political or other civil society actor, is to receive a certain cash grant. Schmitter and Trechsel expect that their idea will not only increase voter turnout, but will also advertise the causes of the political actors awarded the cash grant.⁷⁹
- *Mini-Europe by lottery.* One could also point the proposals to introduce EU-wide plebiscites in a different direction than what has been discussed in recent years, following Danish political scientist Marcus Schmidt’s deliberations at the level of the nation-state.⁸⁰ One to two million EU citizens selected randomly would be asked to participate in EU-wide plebiscites for a period of one or two years. The expectation is that the awareness that they belong to the less than one percent of EU citizens with the right to vote in Mini-Europe will motivate the participants to become more interested in European policy matters for that limited period of time, and to influence the broad lines of European policy via the results of their voting, thus providing them additional legitimacy.

- *European electoral districts.* Finally, I would like to propose a lottery for European Parliament elections whereby two or three electoral districts in different countries are selected randomly to form a single electoral district that is not geographically contiguous. Such “Euro-puzzle districts” could consist of, say, an Estonian, a German, and a Portuguese part or a French, a Lithuanian, and a Polish electorate. In light of the fact that campaigns to the European Parliament are often narrowly focused on national issues, a situation which has been criticized widely, this measure would promote a European orientation, as campaigning in the Euro-puzzle districts would be relevant only if it took up topics of supranational relevance. In addition, the electorates of the various pieces of the puzzle would be confronted more directly with the political problems (and solutions) in other EU countries. Such an electoral system would accelerate the development of a European landscape of parties as well as the emergence of a common public political sphere in Europe.

The possible advantages and disadvantages of these and other proposals for reform must be weighed matter-of-factly. Perhaps some of them require conceptual changes before they are pursued further; others might be tested on a small-scale. I consider it the task of a “theory of aleatory democracy” in the near future to introduce the rational potentials of random selection into the discussion about the combinations of electoral, co-optation, delegation and voting techniques most appropriate for modern democracies. There is much to be said for the fact that random selection, if used wisely, could prove a useful complement to the procedures in place until now. And if we have the courage to make such changes, there is reason to believe that judicious integration of components of lotteries in modern democracies can contribute to a reform policy model, relevant beyond nation-states and the example of the EU, for coping with the institutional demands of the spatial transformation of democracy beyond the framework of the nation-state currently on the agenda. Resorting to chance in such a program of policy for democracy is not an expression of resignation or fatalism, but instead of democratic experimentalism striving to increase democracy’s potential for rationality.

Translated by Sandra H. Lustig

NOTES

1. See Immanuel Kant, “On the Old Saying: That May be Right in Theory But it Won’t Work in Practice” [1793], *Political Writings* (Cambridge, UK: Cambridge University Press, 1991).

2. Author’s translation. See also Hegel’s introduction to the “Vorlesungen über die Geschichte der Philosophie” (1832) as well as the section on “Reality” in the second volume of his “Logik” (1816) regarding his critique of the concept of “pure chance.”

3. Georg Wilhelm Friedrich Hegel, “Aphorismen aus dem >Wastebook<” [1803], *Ders., Jenaer Schriften 1801–1807* (Frankfurt/M.: Werke Band 2, 1996), 540–567, 561.

4. This applies from Marx’s early criticism of Hegel’s philosophy of law. See Karl Marx, “Critique of Hegel’s Philosophy of Right,” [1843] (Cambridge, UK: Cambridge University Press, 1977): 33–36) to Friedrich Engels, “Anti-Dühring” [1878], *Herr Eugen Dühring’s Revolution in Science* (New York: International Publishers, 1966), 296, 309–316; “Dialectics of Nature” [1883], *The Origins of the Family, Private Property, and the State* (New York: International Publishers, 1973): 18–23, and “Origins of the Family” [1884], *The Origins of the Family, Private Property, and the State*, 157–159 all the way to Marx, *Capital, Volume 3* (Harmondsworth: Penguin, 1981): 287–289, 966, published posthumously.

5. See August Bebel, *Women Under Socialism* [1878] (New York: University Press of the Pacific, 2004): 233–236).

6. See Georg Lukàcs, *History and Class Consciousness: Studies in Marxist Dialectics* [1923] (Cambridge: Cambridge University Press, 1972): 98–103 and Leo Trotzki, “The Russian Revolution,” Speech Delivered in Copenhagen, November 1932, as well as Wolfgang Abendroth, “Zum Begriff des

- demokratischen und Sozialen Rechtsstaates im Grundgesetz der Bundesrepublik Deutschland" [1954], Der., *Antagonistische Gesellschaft und Demokratie* (Berlin: Neuwied, 1972), 109–138, 132.
7. See Jean-Francoise Lyotard, *The Postmodern Condition* [1979] (Manchester: Manchester University Press, 2005) and Odo Marquard, *Apologie des Zufälligen* (Stuttgart: Reclam 1986).
 8. See Bernard Williams, *Moral Luck. Philosophical Papers*. (Cambridge: Cambridge University Press, 1981); Barbara Goodwin, *Justice by Lottery* (Chicago: Chicago University Press, 1994); and Peter Stone, "Why Lotteries are Just," *The Journal of Political Philosophy* 15 (2007), 276–295; "The Logic of Random Selection," *Political Theory* 37 (2009), 375–397.
 9. See Jon Elster, *Salomonic Judgements*. (Cambridge: Cambridge University Press, 1989); and Neil Duxbury, *Random Justice. On Lotteries and Legal Decision Making* (Oxford: Oxford University Press, 1999).
 10. On the formal characteristics of lottery and their conditions for fairness, see Ben Saunders, "The Equality of Lotteries," *Philosophy* 83 (2008): 359–372 and Peter Stone, "Lotteries, Justice and Probability," *Journal of Theoretical Politics* 21 (2009), 395–409.
 11. See Bernard Manin, *The Principles of Representative Government* (New York: NYU Press, 1997), 79.
 12. See Lyn Carson and Brian Martin, *Random Selection in Politics*. (Westport: Praeger, 1999); Anja Röcke, *Losverfahren und Demokratie* (Berlin: Münster, 2005); Yves Sintomer, *Le pouvoir au peuple. Juries citoyens, tirage au sort et démocratie participative* (Paris: La Découverte, 2007); and Oliver Dowlen, *The Political Potential of Sortition. A Study of the Random Selection of Citizens for Public Office* (Charlottesville: Imprint Academic, 2008).
 13. See Herman Mogens Hansen, *The Athenian Democracy in the Age of Demosthenes*, 2. ed. (Oxford: Oxford University Press, 1999).
 14. See Hank Greely, "The Equality of Allocation by Lot," *Harvard Civil Rights/Civil Liberties Law Review* 12 (1977): 113–141; Fredrik Engelstadt, "The Assignment of Political Office by Lot," *Social Science Information* 28 (1989): 23–50, 27–31; Elster, *Salomonic Judgements*, 36–61; Goodwin, *Justice by Lottery*, 45–77; Duxbury, *Random Justice*, 43–82; Carson and Martin, *Random Selection in Politics*, 34–36; as well as Röcke, *Losverfahren und Demokratie*, 133–135; Dowlen, *The Political Potential of Sortition*, 2008; and Stone, "Lotteries, Justice and Probability," provide good starting points.
 15. See Jeremy Bentham, *Political Tactics* [1791] (Oxford: Oxford University Press, 1999).
 16. See Jon van Dyke, *Jury Selection Procedures* (Cambridge: Cambridge University Press, 1977); Jeffrey Abramson, *We, the Jury. The Jury System and the Ideal of Democracy* (Cambridge, MA: Harvard University Press, 1994) and Akhil Reed Amar and Adam Hirsch, *For the People. What the Constitution Really Says about Your Rights* (New York: Touchstone, 2006) on the history of this reform and current practice in the USA.
 17. See Neil Vidmar, ed, *World Jury Systems* (Oxford: Oxford University Press, 2000).
 18. Of course, this argument applies only to countries in which legal proceedings are not subject to confidentiality.
 19. Hegel, *Fundamental Principles of the Philosophy of Right* [1821] (Oxford: Oxford University Press, 2008), §224.
 20. For an overview of the deliberative theory of democracy, see John S. Dryzek, *Deliberative Democracy and Beyond* (Oxford: Oxford University Press, 2000); as well as the contributions in James Bohman and William Rehg, *Deliberative Democracy* (Cambridge, MA: MIT University Press, 1997); and Maurizio D'Entrèves Passerin, ed., *Democracy as Public Deliberation*. New Brunswick/London, 2006).
 21. Dryzek, *Deliberative Democracy and Beyond*, 129.
 22. See Christian Joerges and Jürgen Neyer, "From Intergovernmental Bargaining to Deliberative Political Processes," *European Law Journal* 3 (1997), 273–299; and Joerges, "Deliberative Supranationalism – Two Defenses," *European Law Journal* 8 (2002), 133–151.
 23. Jürgen Habermas, "A Political Constitution for the Pluralist World Society?" *Between Naturalism and Religion. Philosophical Essays* (Cambridge: Polity Press, 2008), 312–352.
 24. Habermas, "The Postnational Constellation and the Futures of Democracy," *The Postnational Constellation. Political Essays*. (Cambridge, MA: MIT Press, 2001): 58–112, 110. On the epistemic interpretation of the deliberative theory of democracy, see also José Louis Martí, "The Epistemic Conception of Deliberative Democracy Defended," Samantha Besson, ed., *Deliberative Democracy and its Discontents* (Aldershot: Ashgate Publishers, 2004): 27–56, 32ff.
 25. Habermas, "Political Communication in Media Society," *Communication Theory* 16 (2006): 411–426, 413.
 26. Habermas, *The Postnational Constellation*, 110.
 27. Rainer Schmalz-Bruns, "Den Grenzen der Entstaatlichung," Peter Niesen and Benjamin Herborth, eds., *Anarchie und kommunikative Freiheit* (Frankfurt/M.: Suhrkamp Verlag Kg, 2007): 269–293, 274.

28. Habermas, *The Postnational Constellation*, 110.
29. On this criticism, see Peter Niesen, "Deliberation ohne Demokratie," Regina Kreide and Andreas Niederberger, eds., *Transnationale Verrechtlichung* (Frankfurt/M: Campus Verlag; Auflage, 2006): 240–259.
30. Habermas, *The Postnational Constellation*, 110.
31. See Elster, *Salomonic Judgements*.
32. See David M. Ryfe, "The Practice of Deliberative Democracy: A Study of 16 Deliberative Organizations," *Political Communication* 19 (2002): 359–377, 366f.
33. See Diana C. Mutz, *Hearing the other Side. Deliberative versus Participatory Democracy* (Cambridge: Cambridge University Press, 2006), 16.
34. Cass Sunstein, "The Law of Group Polarization," James S. Fishkin and Peter Lasslett, eds., *Debating Deliberative Democracy* (Oxford: Oxford University Press, 2003): 80–101, 81. On the foundation of this thesis in social psychology, see Eva J. Schweitzer, *Deliberative Polling. Ein demoskopischer Ausweg aus der Krise der politischen Kommunikation?* (Wiesbaden: Deutscher Universitäts-Verlag 2004): 91–97 and Ryfe, "Does Deliberative Democracy Work?" *Annual Review of Political Science* 8 (2005): 49–71, 54–60.
35. See James N. Druckman, "Political Preference Formation," *American Political Science Review* 98 (2004): 671–686 for a discussion of these findings.
36. Robert A. Dahl, *After the Revolution* (New Haven: Yale University Press, 1970): 149.
37. *Ibid.*, 149. "Polyarchy" is the term which Dahl considers more appropriate to characterize modern democracies.
38. *Ibid.*, 150.
39. Dahl, *Democracy and its Critics* (New Haven: Yale University Press, 1989).
40. See Schmalz-Bruns, *Reflexive Demokratie* (Baden-Baden: Manfred G., 1995), 220.
41. See also Dahl, "Sketches for a Democratic Utopia," *Scandinavian Political Studies* 10 (1987): 195–206, 205f. as well as "The Problem of Civic Competence," *Journal of Democracy* 3 (1992): 45–59, 54ff.
42. Dahl, *Democracy and its Critics*, 340.
43. Peter Dienel, *Die Planungszelle. Der Bürger als Chance. 5. überarbeitete Auflage.* (Wiesbaden: Westdeutscher Verlag 2002).
44. See Sintomer, *Le pouvoir au peuple*, for a description of these polls in China.
45. See the programmatic description of the approach in James S. Fishkin, *Democracy and Deliberation* (New Haven: Yale University Press, 1991), 81–103; *The Voice of the People: Public Opinion and Democracy* (New Haven: Yale University Press, 1995); and *When the People Speak. Deliberative Democracy and Political Consultation* (Oxford: Oxford University Press 2009). Independently of Fishkin and his collaborators, Ned Crosby organized various citizen juries in the USA since the early 1970s. Groups of citizens selected at random discussed fiscal consolidation and health policy and publicized their results through the media (See Ned Crosby and Doug Nethercut, "Citizen Juries. Creating a Trustworthy Voice of the People," John Gastil and Peter Levine, eds., *The Deliberative Democracy Handbook* (San Francisco: Jossey-Bass, 2004): 111–119).
46. See the overview of experiences to date on the part of the project initiators in Maxwell McCombs and Amy Reynolds, eds. *The Poll With a Human Face. The National Issues Convention Experiment in Political Communication* (London: London, 1999), Bruce Ackerman and James Fishkin, *Deliberation Day* (New Haven: Yale University Press, 2004): 44f, Fishkin and R.C. Luskin. "Experimenting with a Democratic Ideal: Deliberative Polling and Public Opinion," *Acta Politica* 40 (2005): 284–298; Fishkin and Cynthia Farrar, "Deliberative Polling. From Experience to Community Resource," Gastil and Levine, eds., *The Deliberative Democracy Handbook.*, 68–79; and Fishkin, *When the People Speak*, 95–158. For a general discussion of the deliberative opinion poll together with other participatory deliberative procedures, See Graham Smith and Corinne Wales, "Citizens' Juries and Deliberative Democracy," Maurizio Passerin d'Entrèves, ed., *Democracy as Public Deliberation* (New Brunswick: Transaction Publishers, 2006): 157–177; Mark B. Brown, "Survey Article: Citizen Panels and the Concept of Representation," *The Journal of Political Philosophy* 14 (2006), 203–225 and Sintomer *Le pouvoir au peuple*.
47. Fishkin, *The Voice of the People*, 80.
48. Fishkin, *Democracy and Deliberation*, 167.
49. On the recruiting methods, See Fishkin and Farrar, "Deliberative Polling," 74f.; and Fishkin and Luskin, "Experimenting with a Democratic Ideal," 288f.
50. In addition to evaluations of the findings by their initiators (See the summaries in Ackerman and Fishkin *Deliberation Day*, 40–74, Fishkin and Farrar, "Deliberative Polling," 75–85; and Fishkin and Luskin, "Experimenting with a Democratic Ideal, 290–294), there are a number of contributions that further discuss these effects. On the debate about the findings, see Daniel M. Merkle, "The Polls-Review. The National Issues Convention Deliberative Poll," *Public Opinion Quarterly* 60 (1996): 588–619;

and Eva J. Schweitzer, *Deliberative Polling. Ein demoskopischer Ausweg aus der Krise der politischen Kommunikation?* (Wiesbaden: Deutscher Universitätsverlag, 2004) 83–105, as overviews. On the role of random selection in “citizens’ budgets,” a participatory model on municipal budgetary questions, see Röcke, *Losverfahren und Demokratie*, 120–132.

51. On the criticism of a lack of representativity see Warren J. Mitofsky, “It’s Not Deliberative and It’s Not a Poll,” *Public Perspective* 7, no. 1 (1996): 4–6; on the opposite position, see Merkle, “The Polls-Review,” 595–600; Schweitzer, *Deliberative Poling*, 54–56; Fishkin and Luskin, “Experimenting with a Democratic Ideal,” 290; and, from the perspective of theory of democracy Brown, “Survey Article,” 217–221.

52. Higher rates of non-acceptance of the offer to participate were observed in the USA especially on the part of dyed-in-the-wool economic liberals who supported the Republican Party as well as lower-class invitees. On the problem of selectivities regarding volunteer participation, see. Ackerman and Fishkin, *Deliberation Day*, 48f.

53. See Merkle, “The Polls-Review,” 612f. and Carson and Martin, *Random Selection in Politics*, 112f.

54. Fishkin and Farrar, “Deliberative Polling,” 76.

55. On the interpretation of these findings, see Habermas, *Political Communication in Media Society*, 412–415.

56. Sunstein, “The Law of Group Polarization,” 81.

57. See Ackerman and Fishkin, *Deliberation Day*, 63f. and Fiskin and Luskin, “Experimenting with a Democratic Ideal,” 292–294.

58. See Sunstein, “The Law of Group Polarization,” 96–98.

59. See Ryfe, “Does Deliberative Democracy Work?” 364f. and John Gastil, “Adult Civic Education Through the National Issues Forum,” *Adult Education Quarterly* 54 (2004): 308–328 317f.

60. See David D. Henningsen, Mary Henningsen, Lika Jakobsen, Ian Borton, “It’s Good to Be a Leader. The Influence of Randomly and Systematically Selected Leaders on Decision-Making Groups,” *Group Dynamics* 8 (2004): 62–76, 73; Vibeke Andersen, Kasper Hansen, “How Deliberation Makes Better Citizens,” *European Journal of Political Research* 46 (2007): 531–556, 542f.)

61. See Joan Font and Ismael Blanco, “Procedural Legitimacy and Political Trust: The Case of Citizen Juries in Spain,” *European Journal of Political Research* 40 (2007): 557–589, 563f.

62. See Carson and Martin, *Random Selection in Politics*, 79–84.

63. See Ryfe, “Does Deliberative Democracy Work?” 366f. and Font and Imael Blanco “Procedural Legitimacy and Political Trust,” 579f.

64. See Thomas Saretzki, “TA als diskursiver Prozess,” Stephan Bröchler, Georg Simonis, and Karsten Sundermann, eds., *Handbuch Technikfolgenabschätzung*, Band 2 (Berlin, 1999): 641–653: 648f. and Georg Simonis, “Die TA-Landschaft in Deutschland – Potenziale reflexiver Techniksteuerung,” Renate Martinsen and Thomas Saretzki, eds., *Politik und Technik* (Wiesbaden, 2000): 425–456, 449f.

65. Schmalz-Bruns, *Reflexive Demokratie*, 268.

66. See Ryfe, “Does Deliberative Democracy Work?” 366f. and Font and Blanco, “Procedural Legitimacy and Political Trust,” 579f.

67. See Carolyn M. Hendriks, “Consensus Conferences and Planning Cells,” Gastil and Levine, eds., *The Deliberative Democracy Handbook*, 90f.

68. See Henry Milner, “Electoral Reform and Deliberative Democracy in British Columbia,” *National Civic Review* (Spring 2005): 3–8.

69. See Thorsten Hüller, *Deliberative Demokratie. Normen, Probleme und Institutionalisierungsformen* (Münster, 2005), 171–173, Ryfe, “Does Deliberative Democracy Work?” 60–62 and Smith and Wales, “Citizens’ Juries and Deliberative Democracy,” 166–172.

70. See Hannah F. Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1967): 71–75).

71. See Pitkin, “Representation and Democracy: Uneasy Alliance,” *Scandinavian Political Studies* 27 (2004): 335–342. A first-rate and unflinching rationalization of this ideal of representation in the context of controversies over the principle of representation being debated in the field of intellectual history is found in Nadia Urbinati, *Representative Democracy* (Chicago: University of Chicago Press: 2007) and Winfred Thaa, “Kritik und Neubewertung politischer Repräsentation,” *Politische Vierteljahresschrift* 49 (2008), 618–640.

72. Alfred De Grazia, *Public and Republic* (New York: 1951), 184.

73. See Iris M. Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000) and Brown, “Survey Article,” 211f.

74. Hendriks, “Consensus Conferences and Planning Cells,” 97.

75. *Ibid.*, 29.

76. See Disch, *Hannah Arendt and the Limits of Philosophy* (Ithaca: Cornell University Press, 1994).

77. See Hubertus Buchstein and Michael Hein, "Randomizing Europe. The Lottery as a Decision Making Procedure for Policy Creation in the EU," *Critical Policy Studies* 3 (2009).

78. See Rüdiger Goldschmidt, Ortwin Renn, and Sonja Köppel, *European Citizens' Consultation Project. Final Evaluation Report* (Stuttgart: 2008).

79. See Philippe C. Schmitter, Alexander Trechsel, *The Future of Democracy in Europe* (Straßbourg, 2005), 89.

80. See Marcus Schmidt, "Institutionalizing Fair Democracy," *Futures* 33 (2001): 361–370.

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