The End of Politicians? Sortition as a direct, fundamental challenge to electoral politics

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ABSTRACT:

Random selection, or sortition, 'undermines our established conceptions of political accountability', as Smith (2009, p.191, also p.92) points out. But does it represent a direct challenge to electoral politics? With the well-documented rise of identity politics (civil rights, feminism, LGBT rights) and accompanying collapse of unitary ideologies there appears to be a significant shift away from responsive representation towards increased descriptive representation, with women's quotas being the most obvious manifestation of this move. It is argued that a possible endpoint of this profound shift to the 'politics of presence' (Phillips, 1995) – accelerated by the emergence of post-truth politics and the discrediting of the 'folk theory of democracy' (Achens and Bartels, 2016, p.1) – is sortition, which could represent a fundamental challenge to electoral politics.

Introduction

The re-discovery, in the last few decades, that sortition (random selection) of citizens to political fora has an implicit legitimacy has occurred at the same time that the membership of groups proposing unitary visions of the 'good life' have collapsed and the politics of identity has transformed political activity. This transformation can be seen as crucial to the movement from responsive to descriptive representation, and key to why descriptive representation is now increasingly seen as a legitimate alternative to elections.

Can sortition be an accountable and legitimate method of populating a legislature? This is addressed in the second section. The persistent (but historically recent) idea that elections are key to accountability is undermined; indeed, it is the political class that is now commonly seen as illegitimate and unaccountable – and, as we will see, for good reason!

For thousands of years sortition was assumed to be the democratic method of selection whereas election was seen as an aristocratic device. Aristotle, in *Politics* , states: 'it is thought to be democratic for the offices [of constitutional government] to be assigned by lot, for them to be elected oligarchic' (quoted in Manin, 1997, p.43). From Montesquieu we have: 'Selection by lot is in the nature of democracy, selection by choice is in the nature of aristocracy'; and from Rousseau: 'It will be seen why the drawing of lots is more in the nature of democracy… In an aristocracy… voting is appropriate' (quoted in Manin, 1997, p.70, 74, 77). It was well understood thousands of years ago that elections are aristocratic devices; 'elite' and 'elect', after all, share the same etymological root. Manin (Ibid., p.43) surmises that: 'Lot, in [the eyes of Montesquieu and Rousseau], was one of the tried and tested methods of conferring power in a non-hereditary manner'.

There has been a modern resurgence in the use and study of mini-publics selected by sortition, but we need to broaden this appreciation and fix our broken democracies before democracy itself is (again) widely rejected as unworkable and the shift toward authoritarian populist demagogues continues.

From responsive to descriptive representation

What is meant by the word 'representative' in representative democracy is not as simple as it may first appear, as there are multiple meanings and ways for a person to represent other people. Two principal forms of representation are commonly distinguished: *descriptive* and *responsive*.

Descriptive (or indicative, or demographic) representation assumes that the representatives 'should faithfully reproduce significant differences among the population, and reproduce them in proportion to their realization within the community' (Petit, 2006, p.66). In this case, the representatives should be a mirror of the general populace – should in effect form a mini-public – where 'the person [representing me] is my proxy, someone who takes my place, with my authority' (Petit, 2006, p.69). This is still the case in many countries where trial by jury exists. The jury is supposedly a small sample of ordinary people, and the assumption is that they will make the decision that any group of (or even all of) society would have made given the information and time to deliberate on the case. This is *participation by proxy*: the sample of people participates on behalf of everyone else. Democratic ancient Athens applied the same method, albeit only among free male citizens, to fill their courts and councils. Historically, descriptive representation was the hallmark of democracy; random selection, if a relatively large selection is made from the entire population, can result in those chosen being a reliable sample of the community.

With responsive (or substantive) representation, a representative 'tracks what the representee wants and responds with appropriate action' – they act as delegates or trustees, in theory transmitting the ideas of those they are representing to the assembly. (Petit, 2006, p.71) In a very simplistic sense, this is the principle behind how democracy should now work. Modern democracies are legitimate only if the representatives are responsive to the needs and wishes of their constituents. One presumed function of elections is to promote those who listen and respond, and punish those who do not.

In *The Politics of Presence*, Anne Phillips (1995) usefully contrasts these two aspects of representation as the 'politics of presence' versus the 'politics of ideas'. In descriptive representation *who* represents (who is present) is most important, whereas in responsive representation *what* is represented (which ideas) is primary. However, after defining these two types of representation, Phillips (1995, p.24-5) argues that divorcing one from the other is counterproductive and perhaps even impossible. Going beyond simplistic dichotomies, it is clear that in descriptive representation the assumption is that the 'ordinary' people so chosen will bring with them a representative sample of the ideas, beliefs and predispositions of the wider populace, while in responsive representation the voters are *very* interested in exactly who (and in particular which leader) will be doing the representing. The two forms of representation are always mixed.

Since the 1960s, however, the argument that descriptive representation is irrelevant to good law-making has increasingly come under attack, largely by the feminist and black civil rights movements, and the politics of identity in general. Phillips (1995, p.5) says:

> *In this major reframing of the problems of democratic equality, the separation between 'who' and 'what' is to be represented, and the subordination of the first to the second, is very much up for question. The politics of ideas is being challenged by an alternative politics of presence.*

Mandatory quotas for women in politics initially appeared in a few Nordic countries in the mid-1970s. It has been emulated by many countries such as post-apartheid South Africa, India (where it is also applied to the disadvantaged lower castes), Brazil, Argentina and Afghanistan, to name just a few. Indeed, Afghanistan had a higher proportion of women in parliament than the UK until the 2015 election – the UK parliament now has 29 per cent women, whereas war-torn Afghanistan has 28 per cent (World Bank, 2016). Outside Scandinavia, a few political parties have internal goals for the percentage of female candidates and elected representatives.

In the UK, the Parliament's House of Commons Women and Equalities Committee report of last December (2016) recommended 'a statutory [45%] minimum proportion of female parliamentary candidates in general elections for each political party' to make the Commons 'truly representative of the people that it seeks to represent'. Even in the UK the push towards more descriptive representation is clear.

But progress has been slow, and the shift fiercely resisted, often by appeals to how quotas may reduce accountability since 'it is hard to conceive of accountability except in terms of policies and programmes and ideas' (Phillips, 1995, p.23. Also Chapter Four and p.31, 62, 40, 175). The argument for quotas, however, rests firmly on the historical fact of the structural exclusion of women – if we assume that men are not somehow innately suited to politics and predisposed to better law-making, then it is clear that they have no right to monopolise legislative assemblies. Descriptive representation can work towards reversing histories of exclusion; its promotion should always be argued for in terms of anticipated policy changes, not only around election times, but perhaps more importantly between them.

Clarissa Rile Hayward (2009, p. 114) states it clearly when she says: 'in a political society that is both internally divided and hierarchical, people who are disadvantaged by structural inequalities should be represented by people who share their positions of disadvantage'. It takes little imagination to appreciate that 'the perspectives of the dominant differ systematically from those of the disadvantaged' and that, even if the representatives are genuinely motivated by the public good, they may not understand how best to pursue it (Hayward, 2009, p.117).

Hayward (2009, p.119-120), however, believes that descriptive representation still will not protect groups of disadvantaged people who, unlike women, form numerical minorities – it only 'gives voice to [their] perspectives and [their] claims'. Hayward is dubious that, even if the point of view of a minority is articulated in a legislature, it will lead to changes in policy. Yet there are two sides to this coin: if the numerical minority is the richest 10 or 20 per cent of society, who are structurally *privileged*, then reducing their presence in assemblies to only 10 or 20 per cent should have significant consequences.

It is also clear, from the highly personalised nature of modern politics, that it does matter who does the representing. No matter how hard those advocating a 'politics of ideas' argue that representatives somehow track, or follow, the wishes of their constituents – and as such the gender, age or socio-economic status of a representative should not matter – studying any election campaign makes it abundantly obvious that the personal qualities of leaders matter just as much as, and perhaps more than, their policies or ability to track the preferences of their constituents. Elections are a device for selecting *someone* and not simply an idea.

The rediscovery of descriptive representation happened at the same time as the shift to the politics of identity, which followed the more or less continual decline, over the course of the last several decades, of membership of political parties and trade unions. The shift away from these unitary struggles organised by a centralised leadership, to the blossoming of the diverse identity struggles, such as those of race, gender and sexuality, occurred throughout the 1960s, ’70s and ’80s. The first modern descriptive assemblies were organised in the 1970s, and it is postulated here that they were a response to the rise of the politics of identity.

The rediscovery of descriptive representation is most obviously demonstrated by the struggle for gender balance in our parliaments. Yet if gender balance among our representatives is important, is the wealth imbalance less so? As Phillips notes, if one is to argue for guaranteed representation of women due to existing structures of exclusion, then one should presumably also argue for the guaranteed representation of the less wealthy, as ‘the most persistent structure of political exclusion is surely that associated with inequalities of social class’ (Phillips, 1995, p.171).

The wealth distribution of US citizens and the national politicians elected to represent them is shown in Figure 8. This figure shows the approximate percentage of people within a given wealth bracket for US families (grey line) and US members of Congress (darker line). The monetary values are on a logarithmic scale, meaning that the units go from $1,000 to $10,000 to $100,000, etc.

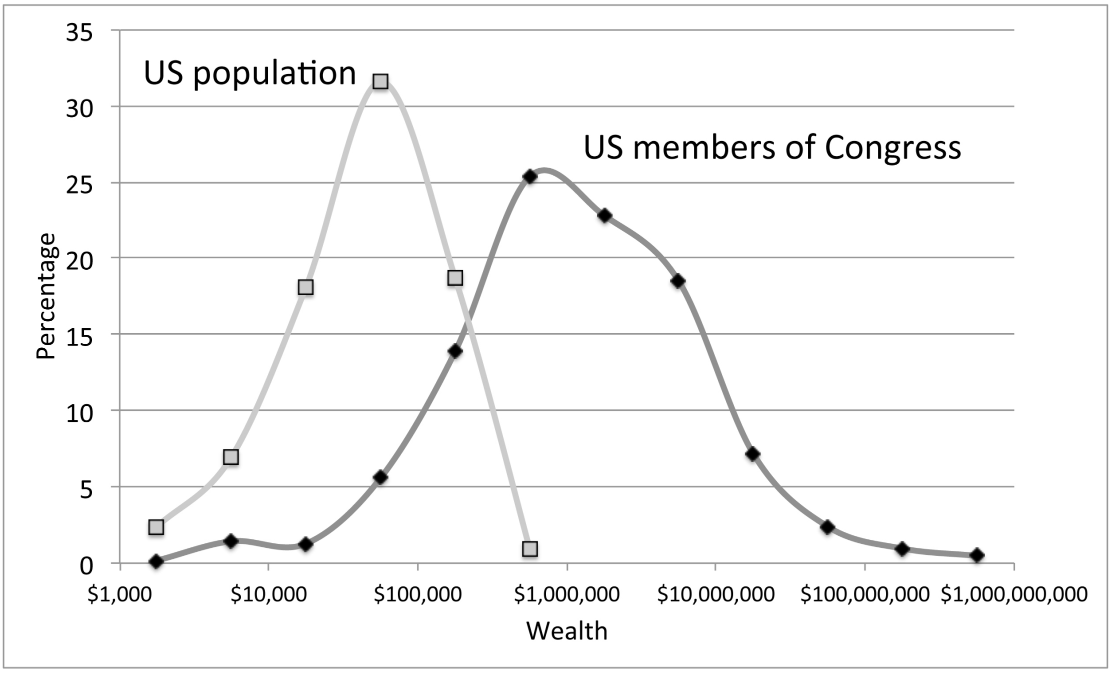

Figure 1: Wealth of US families compared to members of Congress.[*]

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[*] Calculating wealth, unlike income, is difficult, not least because it involves the estimation of the value of both fixed and fluid assets. The US Congress estimates are those calculated by Open Secrets in 2010, based on the average of each member’s maximum and minimum declared wealth.

The median US family wealth in 2010 was $77,300, and approximately 70 per cent of US families have between $10,000 and $300,000 in equity. In contrast, the wealth of US national politicians has a (lognormal) mean equivalent to $1.16 million – 52.3 per cent of them are millionaires. While certain qualifications for office such as age, residency and citizenship have always existed, being a millionaire is becoming a *de facto* qualification.

If Congress is fast becoming a club for millionaires, then it surely skews and biases the legislation produced. What kind of legislation would be produced if the politicians did represent the US population at large and around 15 per cent of them were receiving food stamps to feed themselves and their families (Meyer, 2015)?

Sortition is descriptive representation taken beyond gender – it is the theory of women's quotas extended to wealth (or educational level) and age. A politics of presence that fundamentally changes the composition of our legislative assemblies would certainly change the laws they produce.

But would such a sortition legislature be accountable and legitimate? It is to this question that we now turn.

Legitimacy and accountability under descriptive representation (*or* The failure of responsive representation to be responsive)

The most serious (theoretical) challenge to sortition comes from those proclaiming that it is an illegitimate system whose representatives are not accountable to the people. In this view, elections are seen as, if not the only way, then the principal way by which politicians are held to account.

A related, yet distinct, understanding of the way politicians are held to account is that candidates outline an agenda, and if elected are given a mandate to pursue it. They receive the 'consent of the governed' to pursue their stated policies and if they do not pursue those objectives, or govern poorly, they can be punished by removal from office.

The simple reply to the whereabouts of the locus of consent in sortition is that it shifts. The people consent to be governed by a randomly selected, representative

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We have not included those few members of Congress who have negative equity due to being so highly leveraged. Since the distribution is across several orders of magnitude, and since the richest 50 members of Congress have 80 per cent of the worth, averages are not meaningful. It is only when we count the number of politicians in equal-sized brackets on a logarithmic scale that a more-or-less normal distribution emerges. The source for the population data is *Changes in U.S. Family Finances from 2007 to 2010: Evidence from the Survey of Consumer Finances* (http://www.federalreserve.gov/pubs/bulletin/2012/PDF/scf12.pdf), 'Table 4. Family net worth' where I have fitted an exponential curve to the 2010 family medians to then calculate the percentages in the logarithmic brackets. The overall median in the data is given as $77,300, which seems to match my resulting curve.

sample of people (Zakaras, 2010; Manin, 1997, p.85). The legislative assembly gains its legitimacy from being a representative sample of people deliberating in a fair and informed institution (Dryzek, 2010, p.21, and Chapter Two in general presents a clear outline of the issue of legitimacy). Such an assembly would supply all the typical 'institutional goods' demanded of a legitimate parliament: the legislature would be inclusive of diverse voices and the people (or at least their proxies) would be in direct control, producing laws after considered judgement of the options and evidence, utilising a transparent process (Smith, 2009, p.6, 12-14). Such a system must assure the wider population that the legislators chosen by sortition are doing as any group of citizens would have done, or indeed what all of them would have done, were that possible. The argument that elections repeatedly and regularly gain the electorate's consent is shallow at best: people never get the chance to reaffirm that they wish to live in an electoral democracy, and if voter turnout is any indication of enthusiasm, this wish is waning.

Strict forms of accountability are not the ideal in any form of representative democracy. Theoretically, parliamentary debates are undertaken specifically to allow representatives to be swayed by the force of other arguments and evidence. If politicians acted like delegates, and had to do exactly what the majority of voters directed them to do, then public debate and justification would serve little purpose. This is why legislators' decisions are not then put to a referendum – accountability lies not in legislators directly mimicking the opinion of their constituents, but in the act of justifying why it might differ.

Not that parliamentary debate today lives up to the ideals outlined above. King (2015, p.241-250) details 'the deeply flawed manner in which many laws are made in the UK', where 'party competition and antagonisms are almost invariably to the fore' and 'ministers frequently go through the largely cosmetic process of public-consultation... [and] there are few parliamentary forums for head-scratching, evidence-taking and extensive discussion and debate'. Committees typically just 'go through the motions' as government control of parliament typically means the outcome of the various readings and votes are usually, although not always, foregone conclusions. Parliaments should be chambers of deliberation and opinion change; at the moment, they most certainly are not.

As stated above, what *should* count is a politician's post-deliberative position, not a campaign promise (Hayward, 2009, p.120). Ideally, our legislators are affected by reasoned debate and would, hopefully, even change their positions as a result of argument and evidence. Deliberative democracy posits this ideal as an explicit starting point. As Phillips (1995, p.156-160; an interesting discussion on accountability, legitimacy and the connection of a politics of presence with deliberative democracy) says: 'Participants in a deliberative democracy have to be freed from stricter forms of political accountability if they are to be freed to engage in discussion.' She points out that to support women's quotas in politics, or a politics of presence in general, is to inevitably distance oneself 'from a politics of binding mandates' (Ibid., p.56, 80, 149, 163–4). Political representatives are not merely glorified messengers, and accountability is therefore more complex. Sortition takes this point even further: the participants are completely free to engage in meaningful and thoughtful deliberation and are in no way tied to the opinions of their constituents, although they would be expected to provide moral justifications for their decisions.

It is true, as Smith (2009, p.191) points out in *Democratic Innovations*, that 'random selection undermines our established conceptions of political accountability'. Elections have a stranglehold on our political imaginations. Conceiving of accountability without elections seems difficult, which is surely an artefact of recent history – it was certainly not difficult for the democrats of ancient Athens, for whom sortition was by far the most common method of appointing political posts.

The more sophisticated response to the question of the whereabouts of 'the consent of the governed' in sortition undermines the assumption that elections are fundamental to political accountability. This assumption is suspect for many reasons: our politicians are only minimally responsive to their constituents, and mostly only to the wealthiest; parties are under the distorting influence of big money and vested interests; and elections are very blunt instruments to punish hypocrisy or reward good governance.

Many pieces of legislation are voted on in a single term of office, of which only a small subset will have been outlined in an election platform. In countries where electoral systems are dominated by two major parties, the ability to punish is not really an option at all if the other major party is even further from your liking. In those countries with proportional systems, where coalitions of governing parties are commonplace, who then in the coalition should be punished? The largest coalition partner that compromised, or one of the smaller partners making demands?

Between elections, things change. It is impossible to know in advance which issues will come up, and how parliamentarians will deal with them, meaning mandates must necessarily be fluid. In the US, a second-term president does not have to face another election (a two-term limit being an implicit recognition of the dangers of political professionalism) – does the fact that there is no fear of electoral reward or sanction mean the president is free to do as she or he wishes and lacks accountability?

Moreover, the detailed articulation of competing policy options is certainly not encouraged by a media-saturated politics. The power of five-word (or less) sloganeering is well understood, and the power of personalities in the current system more so. In general almost no one, outside the narrow milieu of political hacks (opposition candidates, media pundits, other parties), reads even the minimal policy statements presented.

Do politicians who have broken electoral promises get punished? While it seems true that scandal-wracked governments are often booted out, it also appears that incumbent governments will be blamed for things largely beyond their control – dismissal of parties from all sides of the political spectrum in Europe after the 2008 financial crisis being a case in point. It may be valid to blame governments for poor economic policy leading to recession and high unemployment, but in a world of interlinked and globalised finance that flows freely between nations, the actual portion of blame that should befall governments is highly debatable. In *Democracy for Realists*, Achen and Bartels (2016, p.15):

> *... focus on how well citizens are able to assess responsibility for changes in their own welfare. Since there are many realms of politics, economics, and society in which leaders' responsibility for good or bad outcomes is far from clear, we consider cases in which leaders are clearly not responsible for good or bad outcomes – droughts, floods, and shark attacks. We find that voters punish incumbent politicians for changes in their welfare that are clearly acts of God or nature. That suggests that their ability (or their inclination) to make sensible judgments regarding credit and blame is highly circumscribed. In that case, retrospection will be blind, and political accountability will be greatly attenuated.*

They continue (Ibid., p.16):

> *The primary implication of our analyses of retrospective voting is that election outcomes are mostly just erratic reflections of the current balance of partisan loyalties in a given political system... [E]lections are capricious collective decisions based on considerations that ought, from the viewpoint of the folk theory [of democracy], to be largely irrelevant – and that will, in any case, soon be forgotten by the voters themselves. We conclude that the retrospective model of democracy simply will not bear the normative weight that its proponents want to place on it.*

Voters do not reward or punish politicians or parties in any meaningful, consistent or considered way. When voting, 'group and partisan loyalties, not policy preferences or ideologies, are fundamental in democratic politics' (Ibid., p.18). Whatever elections are doing, they are not holding politicians to account.

There are several other reasons to doubt the claim that elections are the principal way politicians are held to account. Keane (2009) and Castells (2000) show with ample evidence that it is more the network of civil society institutions, coupled with increased transparency rules, and a free and pluralistic media, that keeps politicians in the spotlight, and it was not until after World War II that many of these institutions blossomed. Keane marks this era as the beginning of a *monitory* democracy – a democracy constantly being monitored. Dryzek (2010, p.15) makes a related point: 'The rise of networked governance undercuts notions of sovereignty and accountability... Traditional aggregative and electoral ideas about democracy are helpless in the face of these developments.' He also points out, in relation to deliberative democracy, that 'accountability can also mean simply being required to give an account justifying decisions and actions, and that can happen without any necessary reference to election campaigns' (Ibid., p.11).

Any credible definition of democracy will detail far more than the mode of selection of legislators. Elections by themselves are not sufficient, as evidenced in many of the most corrupt so-called democracies on the planet (Collier, 2009). If civil society is weak or non-existent, and the judiciary or media is not independent, elections are easily exploited by power-hungry elites, usually to the great detriment of the people. For any real democracy to flourish, civil liberties and systems of checks and balances between the legislators, civil society, the media and the judiciary are arguably the more important element.

With sortition, all this would continue. Legislators would still be in the spotlight. They would still come before the media to justify their decisions. They would still be expected to govern in the interests and for the good of the country (or city, state or planet) and its people. Transparency of decision-making would still allow an expansive civil society network to monitor and critique proposed or actual laws. The judiciary would still have powers to denounce laws as unconstitutional. Legislators would still be accountable.

The existing system, whereby it is assumed our representatives need *not* be a representative sample of the community in the way that, say, a court jury supposedly is, rests heavily on the assumption that politicians are responsive and accountable to the wishes of their constituents. Defenders of this point of view like to proclaim that the people, through the act of voting, are in ultimate control. If politicians do not give voters what they want, they will be kicked out. Or if no party offers a policy programme that a large enough group of people want, then a new party will spring up to fill the gap. There is a strong implied analogy here between politics and market choice: consumers (or voters) simply get what they ask for, and if a market opportunity exists for a new product (or policy programme), a new company (or political party) will soon move to fill and 'profit' from it.

This argument is disingenuous for several reasons. The most obvious, if we continue with the market metaphor, is that existing parties dominate like a business duopoly in a well-developed industry – especially so, as shown above, where electoral design explicitly favours two major parties. Also, national election campaigns cost millions of dollars and consume thousands of hours of paid and volunteer time, so it is exceedingly difficult (though not impossible) for new parties to overcome the prohibitively expensive barriers to entering the (political) marketplace. Dominant parties in many countries were formed even before universal suffrage became the norm, and have maintained their dominance for several decades. Furthermore, companies do not merely fulfil desires – through advertising and branding they also create and artificially stimulate them. Similarly, political parties do not only respond to concerns; they also work hard to define and constrain the political agenda.

Party members, where they control the pre-selection of candidates, also wield inordinate power. Especially in a two-party system, if candidate selection is controlled by highly ideological party activists, then the loyalty and accountability of those elected will necessarily be distorted by the need to appease local party members. King (2015, p.48; see also 170, 277, 289) notes that in the UK:

> *Voters cannot vote for whomever they like. In practice, they can vote only for one of however many candidates the parties in their locality choose to nominate. Especially in safe seats – in recent years some 80 per cent of the total – that means that the dominant local party, in effect, decides all by itself who the local MP is going to be.*

King goes on to lament that members' 'power has waxed as their numbers have waned. Sometimes they resemble a small tail wagging a big dog' (Ibid., p.58). Even if ultimately people get to vote, the choice is far less meaningful if the options are so tightly constrained by party members.

The claim that elections give people meaningful choice (or respond to what they want) has been most damningly undermined by the 2016 US election and the preceding presidential primaries. Although it is certainly an extreme case, opinion polls consistently showed that more than 50 per cent of people viewed Hillary Clinton unfavourably and around 60 per cent disliked Donald Trump – they were 'among the worst-rated presidential candidates of the last seven decades' (Guardian, 2016; Gallup, 2016). When the choice for president is about who you dislike the least, there would appear to be something seriously wrong with the most powerful democracy on the planet and with the idea that elections are in any direct way responsive to the wishes of the people.

Elections are notoriously blunt instruments to act as the core mechanism of accountability in modern democracies. In *Democracy for Realists: Why Elections Do Not Produce Responsive Government*, Christopher Achen and Larry Bartels, both of Princeton University, systematically and thoroughly undermine this exceedingly common 'folk theory of democracy'. They detail how the 'conventional thinking about democracy has collapsed in the face of modern social-scientific research... The populist ideal of electoral democracy, for all its elegance and attractiveness, is largely irrelevant in practice, leaving elected officials mostly free to pursue their own notions of the public good or to respond to party and interest group preferences' (Achen and Bartels, 2016, p.12, 14). Their overwhelming evidence is of voter choice being determined by habitual, socially determined behaviour. Voters 'typically make choices not on the basis of policy preferences or ideology, but on the basis of who they are – their social identities' (Ibid. p.3, 11). They also undermine the notion of retrospective voting, whereby voters theoretically reward or punish those in government, by showing how inconsistent and incoherent such acts often are – it is 'group and partisan loyalties' that determine the behaviour of most voters (Ibid., p.18).

If electoral choice is so often tightly constrained, and most people vote to reaffirm their group identity, then are governments tracking anyone's interests? The answer probably will not come as a surprise.

Bartels's (2010) *Unequal Democracy* and Martin Gilens's (2014) *Affluence and Influence* undermine the assumption that politicians reliably track their constituents' opinions. Bartels uncovers a clear correlation between US politicians' votes in Congress and middle- and especially upper-class interests, on both sides of the political spectrum. Gilens's research shows the same pattern of correlation between public opinion and implemented policies. If politicians in the US are tracking anyone's interests, the statistical evidence demonstrates that it is overwhelmingly the interests of the wealthy.

Bartels's work explores the 'glaring disjunctions between the predictions of simple majoritarian models and actual patterns of policy making in the United States over the past half-century' (Bartels, 2010, p.27). If politicians did simply respond to their constituents' wishes, then why have 'senators representing exactly the same constituents frequently exhibited markedly different ideological behaviour' (Ibid., p.256)? Party politics is very persuasive: many politicians will vote according to the wishes of the executive or cabinet. The Washington model, which supposedly has *more* freedom from party constraints, is often contrasted to the Westminster model, where ideology is made explicit through the use of whips who attempt to ensure representatives toe the party line. Bartels's analyses of politicians' behaviour in the US 'underscore the immense significance of elite ideology in the making of American public policy', which has 'much more to do with partisan politics and ideology than with public sentiment' (Ibid., p.257, 245).

Bartels further highlights the 'profound difficulties faced by ordinary citizens in connecting specific policy proposals to their own values and interests' (Ibid., p.27). For example, a majority of people who professed to believe the wealthy should pay more taxes were against a specific inheritance tax proposal that would have, in its application, only affected the rich. Those with vested (ideological or financial) interests will always try to actively spin their opinion to derail policy or score political points. Successful politicians make careers out of dissembling.

Even more damning, however, is the analysis by Bartels (Ibid., p.253-4) showing that elites listen predominately to their own:

> *I find that senators in this period were vastly more responsive to affluent constituents than to constituents of modest means. Indeed, my analyses indicate that the views of constituents in the upper third of the income distribution received about 50% more weight than those in the middle third, with even larger disparities on specific salient roll call votes. Meanwhile, the views of constituents in the bottom third of the income distribution received no weight at all in the voting decisions of their senators. Far from being 'considered as political equals,' they were entirely unconsidered in the policy-making process.*

In *Affluence and Influence*, Gilens (2014, p.70, 81) finds a similar correlation between expressed preferences and policy outcomes:

> *Few will be surprised that the link between preferences and policies turns out to be stronger for higher-income Americans than for the poor. But the magnitude of this difference, and the inequality in representation that I find even between the affluent and the slightly less well-off, suggest that the political system is tilted very strongly in favor of those at the top of the income distribution... The complete lack of government responsiveness to the poor is disturbing and seems consistent only with the most cynical views of American politics. These results indicate that when preferences between the well-off and the poor diverge, government policy bears absolutely no relationship to the degree of support or opposition among the poor.*

Gilens goes on to test if this is because middle-income and upper-income preferences are similar, and, thus, in a majoritarian system, the disregard for the poor could actually indicate a well-functioning, responsive democracy. He finds (Ibid., p.81):

> *... that median-income Americans fare no better than the poor when their policy preferences diverge from those of the well-off... [G]overnment policy appears to be fairly responsive to the well-off and virtually unrelated to the desires of low- and middle-income citizens.*

Of course, the low- and middle-income citizens do get what they want sometimes: in those instances when their preferences are aligned with the preferences of the rich (Ibid., p.83).

If politicians do respond to their constituents, then they overwhelmingly respond to the richer ones. Possibly these affluent constituents are simply part of a politician's social milieu. It is the group of people from which the politicians themselves are drawn; we should not be surprised that politicians' votes display a strong correlation with the interests of their own socio-economic class. According to King (2015, p.140, but see also 82-7) the 'well off' in the UK:

> *... have interests in common. They know it. They typically, though not invariably, have common values and a similar outlook on life. They see a good deal of each other. They are disposed to look after one another. Their children go to the same or similar schools. They drive, or are driven, in similar cars. Even if they never meet, they recognize each other at a distance. The well off are clearly, by a wide margin, the dominant interest in Britain today, even though there is no formal organization that unites them and uniquely represents their interests.*

In attempting to explain the bias in the US, Bartels rules out the well-documented fact that many forms of political participation (voting, contacting an elected member, signing petitions) show a bias towards wealthier citizens. Although inconclusive, the one factor that appears relevant is the influence of political donations, which come predominately from the more affluent (Bartels, 2010, p.252, 279-82). In any case, whatever the *reason* for this representational inequality, it is the *fact* of its existence that is most disturbing.

This evidence suggests it is naïve to argue that the people are in any direct or meaningful way in control of politicians as they go about their legislative business. Since politicians of all stripes are, in general, far more responsive to the wealthy, arguing that voting selects candidates most responsive to their constituents is easily dismissed as overly simplistic, especially in a strongly partisan political system.

Honest observers today agree and openly admit that what occurs in our democracies is a very broadly constrained bargaining among elites. Dahl (1998, p. 113; also 117, 178) puts representative democracy's 'dark side' thus:

> *Most citizens in democratic countries are aware of it; for the most part they accept it as a part of the price of representation.*
>
> *The dark side is this: under a representative government, citizens often delegate enormous discretionary authority over decisions of extraordinary importance. They delegate authority not only to their elected representatives but, by an even more indirect and circuitous route, they*

> *delegate authority to administrators, bureaucrats, civil servants, judges, and at a still further remove to international organizations. Attached to the institutions of polyarchal democracy that help citizens to exercise influence over the conduct and decisions of their government is a nondemocratic process, bargaining among political and bureaucratic elites.*
>
> *In principle, elite bargaining takes place within limits set through democratic institutions and processes. But these limits are often broad, popular participation and control are not always robust, and the political and bureaucratic elites possess great discretion.*

Gilens (2014, p.234) concludes that the 'patterns of responsiveness' he uncovers 'often correspond more closely to a plutocracy than a democracy'. Bartels (2010, p.287) admits:

> *... our political system seems to function not as a 'democracy' but as an 'oligarchy.' If we insist on flattering ourselves by referring to it as a democracy, we should be clear that it is a starkly unequal democracy... Whatever elections may be doing, they are not forcing elected officials to cater to the policy preferences of the 'median voter.'*

John Ferejohn and Frances Rosenbluth (2009, p.273-4, see also 281) in their chapter in *Political Representation* entitled 'Electoral Representation and the Aristocratic Thesis', concur:

> *... the actions of political agents are very hard to observe, and elections, the typical way of disciplining political agents, are a crude and imperfect way to reward officials... [As such] elected representatives usually have a great deal of latitude to pursue their goals... [P]olicies are likely to be chosen that will please those who have effective control over access to office such as contributors and [party] activists.*

Indeed, it can be convincingly postulated that our so-called representative democracy triumphed because it is an unrepresentative system that, with the active consent of most people, delivers a very loosely constrained rule into the hands of the powerful and wealthy. Reflecting on the history of this triumph, Dunn (2005, p.154) notes: 'Madison's early-nineteenth-century discovery that universal male suffrage was no real threat to property was made independently, if appreciably later, in well over half the countries of Europe, not always by direct experience, but by even more obvious inference.' Extending the franchise to those without property did not change the composition of parliaments, just as extending it to women did not change the composition substantially until the arrival of quotas and modern feminism several decades later.

Legitimacy and accountability are more nuanced than the still common folk theory of democracy would have us believe. In the section above, rather than setting out a defence for the legitimacy of sortition, electoral democracy has been attacked. It is electoral (or so-called responsive) representation that is an often unaccountable and illegitimate system; elections are not the principal way politicians are held to account. This answers the most prominent criticism of sortition by undermining the counter argument that elections and electoral competition are crucial to accountability. They are not. An active civil society, free press, independent judiciary and the protection of civil liberties are far more important elements of accountability in our modern democracies. Informed deliberation among a descriptively representative and randomly selected assembly – far from lacking legitimacy – would be more legitimate than our current legislatures. Sortition is, and has been since the dawn of democracy in ancient Athens, a legitimate and accountable alternative to elections.

Conclusion: The End of Politicians?

If it is true, as Churchill famously claimed, 'that democracy is the worst form of Government except all those other forms that have been tried', then our principal measure of the efficacy of sortition over electoral democracy is not if it would be perfect, but if it would be less bad (Keane, 2009, p.581). Sortition is not a panacea, but the freedom of random selection should drastically reduce the capture and distortion of our political system by powerful groups. Money and the need for donations would cease to disrupt the selection process. Political parties would become mere lobby groups. If half of parliament were composed of women, had many young adults and was dominated by people from working-class backgrounds, it would produce very different legislation. Policy would progress along moral lines instead of ideological ones. Difficult issues would be addressed, and sorted out, with sortition.

The challenge will be to support and extend the critique of electoral representation made by advocates of identity politics to other historically disadvantaged groups, most notably to the poorer members of society. Focusing also on the age of representatives, and confronting the still popular myth that "older equals smarter" could also support the shift towards sortition. The politics of identity is clearly linked to these struggles: it does matter who does the representing.

The crucial elements of the shift to sortition will be breaking the hold of career politicians and political parties on the system, and the hold of elections on our imaginations. Phillips claims that: 'Changing the... composition of elected assemblies is largely an enabling condition... a shot in the dark' (Phillips, 1995, p.83). Once a truly representative sample of people have the reins of power, no one can really know what will be enabled.

However, no democracy is ever perfect; there will always be a better democracy to come, or, as Keane (2009, p.867) puts it: 'democracy is a process... always on the move... a set of actions that are always in rehearsal... Democracy must always become democracy again.'

Keane also states his vision that 'although citizens and representatives require institutions to govern, *no body should rule*' (Ibid., p.856, emphasis in original). Hardt and Negri (2009, p.372) apparently share this ideal of 'appropriating and subverting "governance without government" as a concept of democracy and revolution'. Perhaps it will be learned that the elimination of rulers does not imply the elimination of rules, and that a truly free society can govern itself.

There are many precedents for the obsolescence and disappearance of certain classes of professionals, as technological and cultural change progresses. With the invention of moveable type and the printing press, scribes became irrelevant as books became mass-produced. But instead of calling all these newly empowered printers 'scribes', the term simply disappeared. With blogs and our network revolution anyone can now be a journalist: what Shirky (2008, p.59) calls 'mass amateurization' is breaking down the exclusive definition of what was once called a media professional; legislative bodies struggle over how to incorporate bloggers into modern media laws and press regulations.

Shirky (Ibid., p.66) says: 'our social tools have been increasingly giving groups the power to coalesce and act in political arenas. We are seeing these tools progress from coordination to governance.' In the same way that 'individual weblogs are not merely alternate sites of publishing; they are alternatives to publishing itself' (Ibid., p.292), so too are deliberative forums not merely alternatives sites of politics, but alternatives to politics itself. As newspapers and traditional media are only now comprehending that it is not competition but obsolescence they are facing, so too politicians do not face competition, they now increasingly face obsolescence.

Flinders, Ghose, Jennings, *et al.* (2016, p.41) notes:

> *... critics are concerned that citizens' assemblies may in fact undermine traditional representative institutions. If a citizens' assembly is a good way of dealing with one issue, citizens might question why is it not a good way to deal with other political issues. Members might contrast the quality of their own discussions with that of the parliamentary debates that they see on television and find their political representatives wanting.*

Indeed they might! Which is why it is no wonder there is 'an uneasy feeling among politicians' (Derenne *et al.*, 2012, p.104) who observe citizens' assemblies, and that 'often elected representatives can feel threatened by these new initiatives', or that 'people [are] becoming **confused about the role of politicians** in the process' (OECD, 2009, p.304, 17, bold in the original). These feelings are expressed for good reason.

Who will be disappointed if the expensive electoral competition for power and influence disappears, and the media spectacle and millions of dollars flowing between private benefactors and political parties cease, other than those who feed or work in the zoo of our current political system, or benefit inordinately from its persistence?

Will professional career politicians disappear, and the term 'politician', like the term 'scribe', become an artefact, to be studied in history departments?

We can only hope.

Or more: we can actively strive to make it happen.

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