

INVITATION TO A DEBATE: SORTITION AND THE *ALLOTTED CHAMBER* AS INSTITUTIONAL IMPROVEMENTS TO DEMOCRACY

Jorge Cancio*

**Original in Spanish: Invitación a un Debate: El Sorteo y las Cámaras
Sorteadas Como Mejoras Institucionales de la Democracia (2010)**

Automatic translation

Today, "representative democracy" may seem like a pleonasm.

But it was, at first, an oxymoron.

Jacques Rancière, *The Hate of Democracy* (2006)

*The last political revolution, the revolution against political clericalism,
and against usurpation, which is inscribed in the potential state in the
delegation, remains to be done.*

Pierre Bourdieu, *Proposals on the political field* (2000)

I would like to invite the reader to make a small effort of imagination.

Let us imagine that the President of the Government is subjected to a brief session of questions by a group of citizens selected according to statistical criteria aimed at ensuring a representative sample of the Spanish population. Let us also imagine that this session is broadcast live by a majority television channel at prime time to the population as a whole, which can thus watch live how the chief executive answers the questions - not known beforehand - of his fellow citizens.

What has been said so far, as the reader will surely have deduced, even though he does not usually watch television, is not an imaginary assumption, but an existing television program¹.

Now let's take a few steps beyond the TV show. Let us think that this

* Member of the Critical Study Group - The Eleventh Thesis. Part of the ideas in this article were debated within the Group in 2005 and 2006 - I am once again grateful for the comments, criticisms and proposals of my colleagues and, in particular, for the patience and suggestions of Laura, Diego, Javier, Germán, Paz, Nicolás, Mario, Eduardo, Henar and Juan. I would also like to thank Juan-Ramón Capella for his accurate criticism of a first draft of this text, as well as the comments received from Antoine Vergne. The web addresses cited in this article were visited in September 2009.

¹ *I have a question for you* broadcast by Televisión Española at different intervals since 2007. More information at http://es.wikipedia.org/wiki/Tengo_una_pregunta_para_usted.

exercise of control is repeated periodically, that it extends to political posts at all levels, that the issues are really unknown to the person being questioned, that it lasts one or more days, that there is no presenter who *conducts* the programme, that there are no *instructions* or *indications* to the attending public that limit the spectrum of their interventions. Probably, with this the television space would change in good degree.

However, let us not stop there and go further. Let us suppose that the program is not only a television format of irregular emission but that we propose a true institutional innovation of democracy².

Institutional innovation proposal: creation of allotted chambers

Let us suppose that this new institution, which we can call an *allotted chamber*, had the following characteristics:

In the first place, its **components** would be selected by lottery, trying as much as possible that the result would be representative of the Spanish population. The number of citizens selected would be between 600 and 2000³ and they would serve for a total effective time of several weeks over a year and would not be able to play this role again in the future. Their participation would be compulsory⁴, adequately remunerated and they would be given legal guarantees that their participation would not be detrimental to their working life⁵. They would be subject to a regime of incompatibilities, abstention and recusal and provided with legal guarantees

2 The following proposal shares several elements with those put forward by Benjamin Barber, Robert A. Dahl and the editorial collective of *Cuadernos del Sureste*, cited and referenced below.

3 In market or opinion studies it is usually considered that a sample of around 2000 people is highly representative of the Spanish population over 16 years of age. On the other hand, as Robert A. Dahl recalls, 600 is usually the maximum number of members of a legislative chamber so that it can be minimally operational. On the other hand, and following the Athenian example of the *Boulé* (the "council of the 500"), shifts could be established to distribute the workload among the members of the allotted chamber in such a way that the dedication required by each individual member would be less, without prejudice to keeping everyone punctually informed and with possibilities to participate through the use of information and communication technologies.

4 There are arguments in favour of voluntariness (mainly, that participation would be limited to those who were interested in it), but in my opinion they do not compensate for the disadvantages that would necessarily derive from it for the representativeness of the set of selected citizens with respect to the represented population.

5 See as an example of guarantees of this type article 7.2 of the Organic Law 5/1995 of the Jury Court.

against undue pressure from third parties⁶.

As for the **functions** of this new institution, these would include not only the presentation of oral questions *in situ*, but also written questions and other functions such as motions, interpellations and even policy initiatives. Likewise, the allotted chamber would have a prescriptive participation in the elaboration of normative proposals proposed by the Government, the Congress or the Senate (including the annual law of general budgets of the state). It would also be given a role in the election, appointment and control (censorship) of members of executive bodies (ministers, secretaries of state, heads of public bodies) and of components of other powers and political bodies of the state (constitutional court, general council of the judiciary, court of accounts, ombudsman, directors of public media, etc.).

Finally, suppose that the **exercise of these powers** would be carried out in accordance with deliberative procedures. To do this, this body would have a team of experts who would provide selected citizens with the information and advice they need. In addition, this chamber may require from the various government departments such information as it deems relevant to the exercise of its functions. To this would be added the possibility that it might require the appearance of citizens and representatives of public or private organizations and entities to present their points of view on issues of interest to the chamber.

Now let's imagine even more. Let us imagine that this institutional innovation is not only established as a new parliamentary-chamber next to the existing ones at state level, but others are created for each district, each municipality, each region, province and autonomous community. Within the most complex administrations (large municipalities, autonomous and state administrations), similar bodies could be created in each department (councils, departments, ministries) that would participate in a mandatory way in the corresponding decision-making processes.

⁶ Inspiration may also be found in the regulation for members of the jury court contained in articles 8 to 12 of Organic Law 5/1995 of the jury court.

The reader who has followed me to this point may think that this proposal for institutional innovation lacks novelty or interest or that it is not feasible or may even think that it is contrary to the principles of a democratic regime.

Drawing lots as a democratic mechanism in current debate and practice

It can be said that the vast majority of contemporary theoretical contributions in relation to democracy ignore the possibility of using the lottery⁷ and creating organs such as the one described⁸. A review of the best-known bibliography⁹ and of university teaching programmes specialising in democracy theories indicates that in this field current political science continues to focus on the well-known debate between representative democracy and its possible improvements (open and unblocked lists, imperative mandate, etc.), and direct democracy (popular legislative initiative, referendum, recall, etc.) and participatory democracy (co-management, people's assemblies, participatory budgets). Likewise, discussions related to discursive or deliberative democracy¹⁰ play a prominent role, highlighting the relevance of the decision-making process and the effect of rational discussions (or not) among the participants in it,

7 Cfr. Bernard Manin, *The Principles of Representative Government*, Cambridge University Press, New York, 1997, p. 9: “[...] the political use of lot is virtually never thought about today.” Sin embargo, Antoine Vergne considera que puede identificarse una incipiente escuela que propugna el uso del sorteo para la mejora de la democracia (escuela que denomina “clerist school of thinking”, por “kleros” sorteo en griego), cfr. Antoine Vergne, “Is the Age of Sortition upon Us? A Bibliography with comments on Random Selection in Politics”, en Delannoi Gil, Oliver Dowlen, and Antoine Vergne (editores), *Sortition in Theory and Practice. Imprint Academic*, de próxima publicación.

8 See, among others, David Held's "standard" manual, *Models of Democracy*, second edition, Stanford University Press, Stanford California, 1996, which makes only a brief reference to *voters' juries*, or, as a sociological sample, the content of the entry "democracy" in the Spanish version of wikipedia in which the mechanism of the draw is completely ignored, <http://es.wikipedia.org/wiki/Democracia>. Deepening the search is a very brief reference to the *demarchy* proposed by John Burnheim in the following entry <http://es.wikipedia.org/wiki/Demarqu%C3%ADa> which, however, has a much more extensive content in the German and English versions of wikipedia in which, along with the work of Burnheim, comments on the theoretical and practical work of other authors. The most complete entry on this subject in wikipedia can be found in the English version under the concept "*sortition*" <http://en.wikipedia.org/wiki/Sortition>.

9 Reference may be made to the entry "Demokratie" in Dieter Nohlen, *Kleines Lexikon der Politik*, second edition, Verlag C. H. Beck, Munich, 2002.

10 Cfr., entre otros, Jon Elster (editor), *Deliberative Democracy*, Cambridge University Press, Cambridge, 1998.

ranging from highly normative biased approaches¹¹ to descriptions and empirical experiences¹².

Nor can it be said that **recent theoretical contributions from the left** have approached the draw as a possible transforming element of political or institutional democracy¹³. These contributions do not seem to go beyond criticisms of what exists¹⁴ and variants of the above-mentioned debates on the various forms of democracy¹⁵. In this line, it has been proposed from these positions, for the short term, to give an impulse to elements of direct democracy, of participative democracy and deliberative democracy, proposed as complements or correctives to representative democracy. In the more radical or longer-term versions, blurred visions of realizations of so-called *real* democracy in a socialist society (such as the *free association of producers*) and of the *transition phases* (the *dictatorship of the proletariat*) towards it, sometimes characterized by being dominated by the leadership of the "party" (Lenin), by assuming a class dictatorship and excluding bourgeois elements (Rosa Luxemburg in *the Russian Revolution*) or by replacing representative democracy with council structures¹⁶ (Marx in *the Civil War in France*), have been advocated.

This is not the place to debate possible scenarios that presuppose a radical

11 Vid. como muestra de este cariz normative la definición de Elster, op. cit, p. 1, "The idea of deliberative democracy, or *decision making by discussion among free and equal citizens*, is having a revival." (las cursivas son mías).

12 Cfr. a recent description of these debates in Juan Carlos Velasco Arroyo, "About deliberative democracy. Fundamentos teóricos y propuestas prácticas", *Asamblea - Revista Parlamentaria de la Asamblea de Madrid*, nº 9, December 2003. Publications service of the Assembly of Madrid.

13 I do not want to enter here into other areas of debate such as social, economic or industrial democracy. In this respect, for example, see Albert Recio, "Dimensions of economic democracy", *meanwhile*, number 79, 2001, pp. 19-40.

14 From Karl Marx to Juan-Ramón Capella, via Ralph Miliband, C.W. Mills or Herbert Marcuse.

15 Umberto Cerroni, in *Problemas de transición al socialismo*, Crítica, Barcelona, 1979 and Perry Anderson, in *Reflexiones sobre el marxismo occidental*, 7ª edición, Siglo XXI editores, Madrid, 1987, pointed out in their day respectively the "absence of a Marxist theory of the state" and as a pending question of the left "the institutional forms of socialist democracy in the West". For their part, the political programmes of Izquierda Unida -for example, the political force of the most relevant *transforming* left in Spain- (e.g., that of the VI Assembly in 2000) have included as "democratic deepening" measures the popular legislative initiative, the control of public services, the reform of electoral legislation, the promotion of participative budgets and the increase in the competences of local corporations. VV.AA., *Vías democráticas al socialismo*, Editorial Ayuso, Madrid, 1980, *passim*.

16 Laurent Tschudi, *Kritische Grundlegung der Idee der direkten Rätedemokratie im Marxismos*, unknown publishing house, 1952, or U. Bernbach (editor), *Theorie und Praxis der direkten Demokratie*, Westdeutscher Verlag, Opladen, 1973.

change with the current situation or to value the pros and cons of proposals for democratic deepening consisting of other elements of direct, participative or deliberative democracy. On the contrary, I would like to situate my approach at the present time of Western European societies and focus on the possible benefits and problems that could result from the constitution of "chambers by lot". In this sense, I believe that these chambers can be a complement and corrective of particular interest to the functioning of the current political-administrative apparatus, and, in particular, to the excessively dominant role of political parties¹⁷. It should therefore not be regarded as a proposal excluding other democratisation measures in the short, medium or long term.

I would only dare to comment that even where elements of direct and participative democracy have been implemented to a greater extent as correctors of representative democracy (see, as examples, the cases of Switzerland or the United States at the state level), although they can be considered to constitute advances in diminishing the dominance of political parties, they have not, in my opinion, meant a qualitative change that substantially modifies their hegemony, shared with other organized¹⁸ interests. With regard to the proposals for deliberative democracy, I believe that, generally speaking, they have serious practical weaknesses. Thus, some of them contain a substantial normative component that seems to demand a previous equalization of possibilities of intervention for the set of citizens and their organizations (see, for example, Habermas¹⁹) that is irreconcilable with the present moment of the western societies,

17 A recent valuable analysis of the role of political parties can be found in Juan-Ramón Capella, *Entrada en la barbarie*, Editorial Trotta, Madrid, 2007, especially on pp. 170 et seq. The analysis of the "political field" contained in Pierre Bourdieu, *Propos sur le champ politique*, Presses Universitaires de Lyon, Lyon, 2000, *passim*, is also very illuminating. I refer to these and other analyses in relation to the dominant role of the parties in the political field that presents variations of degree according to the territories that are considered. Juan-Ramón Capella (Ed), *Las sombras del sistema constitucional español*, Editorial Trotta, Madrid, 2003, pp. 107-149 (contributions by Luis Ramiro and Gerardo Pisarello) or Arend Liphart, *Patterns of democracy. Government Forms and Performance in Thirty-Six Countries*, Yale University Press, New Haven, 1999, p. 303.

18 Cfr., en este sentido, Thomas E. Cronin, *Direct Democracy. The Politics of Initiative, Referendum and Recall*, Harvard University Press, Cambridge, 1989, p. 5 "And although the direct democracy devices of the initiative, referendum, and recall type are widely available, the evidence suggests it is generally the organized interests that can afford to put them to use."

19 Cfr. Jürgen Habermas, *The Inclusion of the Other. Studies on Political Theory*, Suhrkamp, Frankfurt, 1999, pp. 285-292, en las que expone su modelo normativo de "política deliberativa".

characterized by great asymmetries in the distribution of the power, reason why its operativity would require first to carry out a revolutionary change. On the other hand, these approaches sometimes start from a type of citizen (rational, active, highly informed and with high possibilities and desires to devote time to debate and deliberation on public matters) that is too far removed from the current reality of the average citizen. However, the theoretical work and practical experiences developed from the deliberative approach can be very useful when designing procedures for debate and optimal decision making that could be applied to the operation of the random chambers.

The few **contemporary "consecrated" authors who do consider the use of the lottery** as a democratic improvement do not usually go beyond recalling the Athenian example, invoking the lottery as an alternative mechanism or sometimes outlining its possible configuration (Ranci re²⁰, Barber²¹, Dahl²² or, in the Spanish sphere, Capella²³).

20 Jacques Ranci re, *El odio a la democracia*, Amorrortu, Buenos Aires, 2006, pp. 64 ff.

21 Benjamin Barber, *Strong Democracy. Participatory Politics for a New Age*, University of California Press, Berkeley, 2003, pp. 290-293. Barber considera apropiado aplicar el sorteo a asambleas locales "[...] where the lot system could select delegates to regional representative assemblies such as representative town meetings or neighbourhood assembly congresses at the district or state level." Tambi n sugiere que se elijan por sorteo "[...] a limited number of statewide delegates to state legislative assemblies". El segundo  mbito donde cree que funcionar a el sorteo es "[...] the filling of local offices where special knowledge or expertise is not required."

22 Cfr. Robert A. Dahl, *After the revolution?*, Yale University Press, New Haven, 1970, pp. 149-153 y Robert A. Dahl, *Democracy and its critics*, Yale University Press, New Haven, 1989, pp. 340 y ss. En *Democracy and its critics*, Dahl plantea su idea de creaci n de un *minipopulus* que describe como sigue: "[...] consisting of perhaps a thousand citizens randomly selected out of the entire demos. Its task would be to deliberate, for a year perhaps, on an issue and then to announce its choices. The members of a minipopulus could "meet" by telecommunications. One minipopulus could decide on the agenda of issues, while another might concern itself with a major issue. Thus one minipopulus could exist for each major issue on the agenda. A minipopulus could exist at any level of government –national, state, or local. It could be attended –again by telecommunications- by an advisory committee of scholars and specialists and by an administrative staff. It could hold hearings, commission research, and engage in debate and discussion." En *After the revolution?* este mismo autor propone: "[...] that we seriously consider restoring that ancient democratic device and use it for selecting advisory councils to 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." Kevin O'Leary, que estudi  con Dahl, desarrolla las anteriores ideas en su reciente *Saving Democracy: A Plan for Real Representation in America*, Stanford Law Books, Stanford, 2006. O'Leary plantea que en una primera fase se cree una asamblea de 100 ciudadanos elegidos por sorteo en cada una de las 435 circunscripciones de diputados de la C mara de Representantes que deliberar an y emitir an opiniones sobre asuntos pol ticos internos e internacionales. En una segunda fase, la red de asambleas se constituir an en una "c mara del pueblo" (*people's house*) a la que se atribuir an competencias de codecisi n en el procedimiento legislativo federal de EEUU, cfr. op. cit., pp. 7 y ss.

23 Juan-Ram n Capella, *Entrada en la barbarie*, op. cit. p. 79, where it poses the following question: "Thus, if it is assumed that a person must be appointed to a certain public function, why use choice and not lottery, as the ancient Athenians did?"

There are also literary approaches to the use of lottery in the functioning of imaginary societies (Borges, Chesterton and others²⁴), as well as a growing number of **minority proposals of a generally utopian²⁵ bias**, among others, those of John Burnheim (freely available at <http://setis.library.usyd.edu.au/democracy/>), of Barbara Goodwin²⁶, of Yves Sintomer²⁷ or of the so-called *Mouvement Clérocration de France* (MCF) (<http://www.clerocratie.com/index.php?page=20&lg=3>), inspired by the works of François Amanrich and Roger de Sizif. These contributions present as a common feature the proposal of different models of total or partial replacement of the current political-administrative apparatus by magistrates selected by lottery.

On the other hand, contemporary **experiences or practical proposals** of political participation based on the lottery are also limited, being remarkable and probably revealing their lack of predicament among the established²⁸ political parties. In fact, beyond the exercise of administrative functions (polling stations) or participation in certain judicial processes (jury court) and the television program mentioned at the beginning, the real applications have focused on the creation of citizen groups for the study of specific issues²⁹. I believe that despite the limited nature of these

24 Barbara Goodwin, *Justice by lottery*, second edition, Imprint Academic, Exeter, 2005, p. 189.

25 Antoine Vergne classifies contributions as "radicals" and "reformists", cf. Antoine Vergne, op. cit.

26 Barbara Goodwin, *Justice by lottery*, op. cit. This author reviews in pages 181 to 192 and 243 to 247 of this work a good part of the few contemporary proposals that advocate the draw as mechanism for the institutional improvement of democracy. Among them is that of Callenbach and Phillips, who in their 1985 book *A Citizen Legislature* proposed replacing the US House of Representatives with 435 representatives drawn by lot. Also mentioned by Goodwin is Antoine Vergne's "neodemocracy" which would mean replacing the elected representatives of the current democracies with allotted representatives, cf. "Neodemokratie: Wahl unserer Parlamentarier durch das Los..." available at <http://www.netzwerk-gemeinsinn.net/content/view/127/45/>.

27 In his work *Le pouvoir au peuple: jurys citoyens, tirage au sort et démocratie participative*, La Découverte, Paris, 2007, Sintomer reviews the history of the birth, oblivion and recent rebirth of the lottery, advocating a more vigorous recovery of the lottery for the political sphere and, in particular, replacing the French Senate with a chamber chosen by this method, cf. Yves Sintomer, *Le pouvoir au peuple: jurys citoyens, tirage au sort et démocratie participative*, La Découverte, Paris, 2007. Two similar proposals for replacing the British House of Lords can be found in K. Sutherland, *The Party's over*, Imprint Academic, Exeter, 2004, and A. Barnett and Peter Carty, *The Athenian Option: Radical Reform for the House of Lords*, Imprint Academic, Exeter, 2008.

28 With the possible exception of the (generic) intention expressed by the candidate Ségolène Royal in the 2007 French presidential elections to constitute citizen juries to "supervise" the compliance of elected representatives with electoral programmes.

29 See the experience of the *Planungszellen* (planning cells) in Germany <http://de.wikipedia.org/wiki/Planungszelle> or of the *citizen's juries* in the United States

experiences, they allow us to be optimistic as to the feasibility of this type of mechanism and the possibility of extending its application to levels of greater political impact.

An interesting contribution in the Spanish sphere, both for its theoretical argumentation and its practical content, and which has suggested much of what is said in this article, is constituted by the one raised in the text *La democracia realmente existente*, whose authorship is attributed to the editorial collective of the magazine *Cuadernos del Sureste* (freely available at

http://www.lineae.com/cuadernos/pdfs/numero12/la_democracia_existente.pdf). This article proposes to rescue elements of Athenian democracy and combine them with the current system to give birth to a new form of ³⁰*mixed democracy*, presenting a proposal for a government model for the Cabildo of Lanzarote that would contain an equal number of representatives selected through elections and by lottery.

Notes on possible causes of the lack of proposals of this type

Why this lack of theoretical proposals and practical experiences (if we leave aside the always existing option that this proposal is, after all, absurd)?

It can probably be explained to a large extent by the theoretical and political hegemony of the practical identification, from the time of the English,

http://en.wikipedia.org/wiki/Citizens%27_jury. David Held mentions *voters' juries* in *Models of Democracy*, op. cit. An analysis of these experiences, and especially of the *Núcleos de Intervención Participativa (NIP)*, devised by Peter Dienel, including their comparison with other mechanisms of direct and participatory democracy, can be found in the articles by Hans Harms, "La necesidad de reensar la democracia" (in collaboration with Sonia Pereyra) and "La necesidad de reensar la democracia II", *Revista Sistema*, number 193 (07/2006), p. 3-24, and number 203-204 (05/2008), p. 95-106, available electronically at <http://www.partizipative-methoden.de/index.php?page=artikel-zum-thema-planungszelle>. The *Citizens' Assembly on Electoral Reform* in the Canadian region of British Columbia, which was created at the behest of the parliament of the region and whose members were chosen by lot with the mission of evaluating different improvements to the electoral system, should also be mentioned among the experiences of limited scope, developing their work between 2003 and 2005, cfr, on this case, J. H. Snider proposes in "Solving a Classic Dilemma of Democratic Politics: Who Will Guard the Guardians?", *National Civic Review*, issue 94:4, winter 2005, pp. 24-29 (available at <http://www.ncl.org/publications/ncr/94-4/Snider.pdf>).

³⁰ Online, therefore, from the example of the Tarentine polis mentioned by Aristotle in his *Politica*, Espasa Calpe, 21st edition, Madrid, 2000, p. 268.

French and American³¹ revolutions, between the idea of democracy and the election system. In fact, as Bernard Manin points out, the current representative systems created since the English revolution of 1688 are not born and are not initially called "democracies", but arise as mixed systems of government that try to avoid the supposed excesses and weaknesses of ancient democracies. In these initial representative regimes the consent of the *governed* (i.e. originally of men who met certain property and race requirements) constitutes the central element, taking precedence over the original conception of democracy as self-government³². The *oblivion* of the lottery would therefore be linked to a line of thought, maintained from Plato by the critics of the people, that it is better to delegate public affairs to successive elites in the government and to distrust our fellow citizens for that function.

Subsequently, as we know, suffrage is extended to almost the entire elderly population as a result mainly of workers' and feminists' struggles. This process is historically linked to the phenomenon of the growing predominance of political parties³³ in the function of organizing and giving expression to the different interests (among others, class, social and cultural position) into which the populations of complex societies are necessarily divided. In this historical course, political parties become progressively statealized (as they move away from society³⁴) and increasingly monopolize the political sphere and with it the function of selecting personnel from the political-administrative tops (taking into consideration the interests of the

31 For a historical analysis of the transformation of the concept of democracy, moving from drawing lots to choosing a method of selecting its magistrates, Bernard Manin's *The Principles of Representative Government*, op. cit. is essential. Manin, p. 79, points out that the idea of the draw, though known to Enlightenment authors as Montesquieu or Rousseau, disappeared without a trace and was not seriously considered during the French and American revolutions.

32 Cfr. Bernard Manin, *The Principles of Representative Government*, op. cit., p. 82: "[...] there was indeed one notion in the light of which the respective merits of lot and election must have appeared widely different and unequal, namely, the principle that all legitimate authority stems from the consent of those over whom it is exercised – in other words, that individuals are obliged only by what they have consented to. The three modern revolutions were accomplished in the name of this principle."

33 With regard to the evolution of political parties, the pioneering role assumed by German social democracy as the first bureaucratically organised party of the masses is noteworthy.

34 A phenomenon that in Germany has given rise to the neologism *Parteienverdrossenheit* (translatable as "citizens' weariness with parties") and that is reflected in phenomena such as the ideological erosion of parties, the reduction of voters' loyalty to specific parties, the increase in abstention, the fall in the number of militants, and so on, cf. in this sense the entry *Parteienverdrossenheit* in Dieter Nohlen and Rainer-Olaf Schultze (eds.), *Lexikon der Politikwissenschaft*, third edition, C. H. Beck, Munich, 2005.

other relevant power structures: supra-state public and private powers, economic power, mass media, military apparatus, social agents, etc.).)³⁵. This dominant role of political parties has led contemporary political science to describe Western political systems as "party democracy", "party state" (Leibholz) or more recently as a "party cartel" system (Katz and Mair³⁶).

At the end of this historical development we can say that the election, as a mechanism of selection of political personnel, has become a fetish³⁷ that gives the appearance of autonomous decision by the citizen, when in reality it is circumscribed to a very limited spectrum of offers determined by others - in the same way as in a market of imperfect competition³⁸. This cult of the election fetish probably leads to the quasi-instinctly "disgusting" selection by lottery. Perhaps this repugnance or this fear of thinking the "unthinkable" may explain why even those who raise the convenience of rethinking the use of the lottery do not generally go beyond timid notes or sketches.

However, the current link between democracy and election (and political parties) is quite paradoxical if we consider that in its historical origin democracy was linked to the lottery. In fact, the Athenians were very clear that as long as they could not act through the *ekklesia* (citizens' assembly), which was happening for countless issues for obvious spatial and temporal reasons, their self-government³⁹ (their democracy) had to be based on a very

35 Although from different points of view and drawing very different conclusions, disparate authors such as C. W. Mills, Robert Dahl or Ralph Miliband draw attention to the diversity of power structures in today's Western societies.

36 Cfr. R. S. Katz y P. Mair, "Changing Models of Party Organization and Party Democracy. The Emergence of the Cartel Party", en *Party Politics* 1, 1995, pp. 5-28.

37 There is an interesting article by Pierre Bourdieu dealing with the question of delegation and political fetishism: "La délégation et le fétichisme politique", *Actes de la recherche en sciences sociales*, no. 52/53, June 1984, pp. 3-14. This text is available at http://www.persee.fr/web/revues/home/prescript/article/arss_0335-5322_1984_num_52_1_3331.

38 Cfr. for example the critique of the *Schumpeterian* model of democracy by C. B. Macpherson, *La democracia liberal y su época*, Alianza, Madrid, 1982, pp. 116-117: "In other words, there are only a few vendors, a few suppliers of political goods, or in other words, a few political parties. [...] When there are so few sellers they do not need to respond, and do not respond, to the demands of buyers just as they must do so in a fully competitive system. They can set prices and establish the range of goods to be offered. In addition, to a large extent they can create demand themselves. In an oligopolistic market the demand is not autonomous, it is not an independent fact."

39 I do not forget that the Athenian polis was a socio-political system that excluded slaves, foreigners and women from its democratic institutions, but I consider that for the purposes of this article this, otherwise transcendent circumstance, is not relevant.

sophisticated application of chance. This was because they understood that the draw is based on the equality of citizens for the exercise of public functions, while the election constitutes an aristocratic system of selection of magistrates. The choice was thus confined at the time of Pericles⁴⁰ to a limited number of functions for which specialised technical knowledge was considered necessary. However, as we said, today we naturally identify democracy with elections, which are completely mediated by the political parties.

Advantages and problems of allotted chambers

I do not intend to imply that the use of the lottery and the establishment of "allotted chambers" can be erected as the great lever to radically transform the current political system, nor do I want to rescue from the dustbin of history the lottery institutions created by the classical Athenians. Not at all. As I have indicated, this is a proposal of limited scope, designed to be achievable in the short term (at least as a pilot experience at local levels) and which seeks to improve the quality of the representative democracies currently existing in a process of unfinished and endless democratisation.

This does not mean that I do not think that this institutional innovation has a special potential in this path of trial and error that is the democratic reality. I base this hope, from a comparative point of view, on the fact that the use of chance as a means of selection (together with the establishment of brief mandates and collegiality) is capable of overcoming many of the problems afflicting the current democratic institutions derived from the excessive domination of political parties. This is due to the fact that the constitution of the allotted chambers would avoid the mediation of the established power structures (especially the political parties), thus limiting the possibilities of

40 This required a continuous process of political struggle (which led, among other things, to the assassination of Pericles' predecessor, Ephialtes, in 461 B.C.) to deepen the democratic reforms initiated by Clístenes around 510 B.C. in which the substitution of election by lottery for the selection of magistrates was actively promoted. Jochen Bleicken, *Die athenische Demokratie*, fourth edition, Ferdinand Schöningh Verlag, Paderborn, 1995, pp. 312-326 It is noteworthy that during the heyday of the Athenian democratic system - between 461/2 B.C. and 322 B.C.- the vast majority of its approximately 700 magistrates were chosen by lot, in addition to the 500 members of the *Boulé* (in charge of preparing assembly meetings and keeping up with the day-to-day running of many public affairs) and the members of the People's Courts who were also drawn by lot.

colonization or co-optation of these chambers by such powers. In this way, I believe that the current dominant position of the parties in the political arena can be limited without losing their valuable contributions to this sphere as vertebrators of public opinion and recruiters of professional political personnel.

If we go into greater detail and pay attention to the direct/participatory, representative and deliberative perspectives of democracy, I believe that the allotted chambers can make a series of valuable contributions to a better democratic quality of our institutions.

In the first place, this proposal would advance greater participation and direct involvement (**direct and participatory democracy**) of significant parts of the citizenry in political affairs. Depending on the degree of implementation of the allotted chambers, these could affect thousands or tens of thousands of citizens directly each year. This would surely constitute an interesting experience of democratic formation for the participating citizens and would probably have repercussions on the attitude of the rest of the population, who would see their peers (relatives, friends, acquaintances or simply other "ordinary" fellow citizens) participate directly in the political process within a draw system that could at any time entrust the same function to themselves⁴¹. There is no doubt that in order to achieve this social repercussion it would be necessary to foresee that the media, at least those of public ownership, would give coverage to the activity of the allotted chambers that would be equivalent to that given to the elective institutions.

However, the objective of this institutional innovation would not be solely or principally to increase the political participation of citizens. In this regard, it should be borne in mind that it does not seem possible that the principle enunciated by Aristotle that all govern and are governed

⁴¹ We can say that the allotted chambers would be a "school of formation of the political spirit". Cfr, in this sense, John Stuart Mill, *Consideraciones sobre el gobierno representativo*, Alianza, Madrid, 2001, p. 94: "[...] where this school of formation of the public spirit does not exist, there is hardly a sense that particular individuals who do not occupy a prominent position in society also have a duty to society, in addition to obeying laws and submitting to government.

alternatively or by turn could be clearly realized, since the role of these "allotted chambers" would be limited and in addition the statistical probabilities of being selected for one of the diverse "allotted chambers" would be very restricted. In my opinion, the main objective and the fundamental advantage or goodness of the allotted chambers would be to improve the **quality of the representative system**, thought of as a system of *checks and balances*, by creating a new body representing the citizenry. In this sense, the different method of selection (lottery instead of election), by introducing the possibility of "anyone governing" (Rancière) - or at least "anyone" participating in government - would create a new source, in this statistical case, of **representation** of citizenship (which would join the current ones which, in federal or quasi-federal systems, represent the population and the territory, in both cases, through the mediation of political parties). Thus, it would open a gap in the barrier between professionals and profane of politics, and promote the "intrusion" of laymen and citizens' interests neither organized nor currently represented in the field limited to politicians, breaking their monopoly in this field of play⁴². In short, the excessive influence of the parties and the other predominant power structures could be limited, facilitated by the election system, constituting an institutionalized and independent counter-power, but democratically legitimated that would help to solve at least partially the problem of *Quis custodiet ipsos custodes?* (who watches over the watchmen)⁴³ in relation to the current holders of power and, in particular, of the political establishment.

From the deliberative point of view of democracy, the existence of institutions of this type can enrich the political debate by recovering the "lost" deliberative function of the representative chambers⁴⁴. This objective could be achieved because the participants in the allotted chambers, unlike

42 I follow here the suggestive terminology coined by Bourdieu in *Propos sur le champ politique*, op. cit.

43 Similarly, albeit with a more limited scope, J. H. Snider proposes in "Solving a Classic Dilemma of Democratic Politics: Who Will Guard the Guardians?", op. cit. p. 22-29 that "citizen electoral juries" chosen by lot resolve questions of electoral regime in order to avoid excessive control of entry into the political market by established parties.

44 "Lost" in the sense that today's political parties do not deliberate, but negotiate, bearing in mind however that the golden age of deliberation mainly occurred when the representative chambers were elitist organs elected solely by the members of those elites.

the current political representatives, would not be subject to the existing rules of the game in the field of politics and, consequently, would lack mandates dictated merely by partisan interests to negotiate or hinder decision-making. On the other hand, they would not depart from excessively predetermined positions beyond their initial personal opinions⁴⁵. It would also democratize the function of *agenda setting*, now practically monopolized by the parties and other established powers, and, consequently, would make it difficult to establish "pacts of silence" on certain political issues (to name a few: political financing, electoral system, head of state).

On the other hand, I also believe that this proposal is of particular interest in **comparison with the main mechanisms of direct democracy** handled so far. On the one hand, in the face of referendum, popular legislative initiative or *recall*, the allotted chambers would not be exposed in the same way to the privileged position of organized interests (in the convocation, organization, propaganda, discussion or blockade of these initiatives). On the other hand, in relation to proposals for citizens' assemblies or self-management or co-management systems, the allotted chambers would not have the scale limitations inherent to assembly mechanisms (which in turn lead to the need for delegation for larger scales and again to the problems inherent to the representative system). Nor would these chambers share the weakness of the aforementioned instruments of direct democracy in the face of their potential manipulation by organised interests (be it a party, a multinational, a group organised and/or financed by third parties, etc.) nor would they be limited by the preponderance of activists and militants (who always constitute a small minority as opposed to other citizens with less training, motivation or possibilities of temporary dedication)⁴⁶.

The institutionalization of the lottery also presents **advantages over the**

⁴⁵ It is interesting to note that Hans Harms highlighted the experiences of applying NIPs in which "[...] a high percentage of participants - up to 80% - say that they have changed their opinion on some of the issues discussed. Something really unusual, compared to other processes, in which participants often do not even listen to the other party and will defend their opinions and interests with all their means previously configured. Hans Harms, "The Need to Rethink Democracy II", op. cit. , p 95-106.

⁴⁶ Cfr. the experience of participatory budgeting described in "Democracia participativa en Brasil", Joan Tafalla and José Valenzuela, available at <http://www.moviments.net/espaimarx/>. While the figures in this article indicate a very notable increase in participation from 403 people in 1989 to about 20,000 in 1998, the authors indicate that "[...] participants are, in many cases, leaders".

internal democratization initiatives of political parties, promoted with limited success by parties of the left and of the green movement for years, but which are strongly conditioned by the asymmetric playing field in which electoral politics is developed, which practically demands as a price to pay for success in elections the establishment of a functioning contrary to these internal democratization efforts ("strong" leadership, unity of discourse and denial of dissent, predominance of the professional politician, etc.).

Obviously sortition and the "allotted chambers" present a number of **possible major problems**.

The **classical arguments against direct democracy** (and thus against the exercise of power by the common people) and in favour of the representative system, which are relevant for the purposes of this article⁴⁷, are essentially the *training* argument, i.e., that the best (wiser, smarter, more experienced, etc.) are appointed by election.), and the argument of *scale*, i.e. that it is necessary to choose a small group representing the rest who for material and temporal reasons would be unable to participate at the same time and that the chosen group will find the country's true interest best⁴⁸.

In relation to the *training* argument⁴⁹ (as I believe we can simply leave aside arguments relating to the supposed special wisdom or virtue of professional politicians and the "real" interest of the country) we can in fact expect that citizens chosen by lottery will normally have lower levels of academic education than current political representatives. However, it can be argued that in contemporary Western societies we start from relatively high levels of education and that there is no clear evidence or democratic argument that a lower level of academic education necessarily undermines or hinders

47 A question not relevant here is the accusation, made by classical authors such as Kant or Locke, that direct democracy, lacking a system of counterpowers, necessarily leads to despotism.

48 Cf. As a classic example, *Federalist Paper* No. 10 (Madison) identifies the mechanism of delegation and representation (which would lead to a refinement and widening of the sights and greater wisdom of the rulers in the true interest of the country) as the essential difference between "pure democracy" (characterized by its reduced number of citizens, the assembly and personal administration, the predominance of factions, the absence of controls -checks-, its turbulence and its incompatibility with personal security and property, in addition to its short historical duration) and the system proposed by them of the "republic".

49 Pierre Bourdieu, *Propos sur le champ politique*, op. cit., p. 58 y s.

deliberation and decision-making on issues of public interest. In reality, the ruling political representative is essentially an expert in party politics, that is, in his survival inside and outside the party and in the success of his party in achieving institutional power quotas. However, this *expertise* of the professional politician or, as Bourdieu says, this "specific competence" would fortunately not be necessary for citizens selected to be part of an allotted chamber. Secondly, in relation to the *scale* argument, we have already seen that the proposal we are trying to disseminate here is not intended to achieve the participation of all citizens in a mega-assembly, but the creation of a limited number of institutions composed of *any* citizen acting as a *check and balance* with regard to the currently predominant powers.

A more important problem may be that of the **responsibility or control** of the "allotted chambers" and their members and that related to the incentives they would have to have in order to develop a minimally acceptable performance. In the case of these chambers, the incentive that "elected" politicians have to be re-elected and maintain or progress in their political career, which in most countries around us depends mainly on the direction of their political party and indirectly on the control exercised, where appropriate, by the media ("public opinion") or by the vote of the electorate (in the case of politicians "appointed" by the parties directly, the influence of the vote decays or is at most indirect), will decay. If we look back we see that in Athens, apart from moral and social controls dictated by its citizen ethics, there were institutionalized controls for magistrates selected by lottery, both before the taking of office (*dokimasie*⁵⁰), and at the end of it, as well as during the performance of the same, residing ultimately control in the *ekklesia* and in the courts (composed in turn of citizens chosen by lottery). Today, there is no room for control by all the citizens gathered in assembly, but nothing would prevent controls being established before, during and after the period of exercise of the members of the allotted

50 It was a control exercised by the *Boulé* for its members or by the courts for the other magistrates whose main purposes were to rule out mentally or morally incapable and politically unreliable citizens. Cf. Jochen Bleicken, *Die athenische Demokratie*, op. cit. , p. 321.

chambers⁵¹. In order not to reintroduce control of political parties through the back door, this **negative control** should be exercised by another body drawn by lot or, failing that, by judges and courts (perhaps precisely by popular juries), in accordance with a set of rules, subject to the greatest citizen debate and which could be endorsed by the population as a whole, establishing the expected minimums of performance and conduct (sanctions for non-compliance could range from the deprivation of wages received to the imposition of prison sentences in cases of corruption, influence peddling, etc.).)⁵².

It is probably in the area of **positive incentives** that the most doubts can be raised. Although the negative controls set out above may prevent seriously irregular actions, it remains to be determined what would be the positive stimulus for citizens to be participatory and make an effort in the exercise of their functions. As we saw earlier, unlike professional politicians, selected citizens would not have the desire to progress in their political careers as an incentive to play their role *properly*. In this respect, and ruling out in advance spontaneous transformations of today's citizens into ideals of public virtue and participation, I believe that we can nevertheless count on some elements that could serve as incentives. First of all, the selected citizens would have a financial retribution that they would receive for participating with the correlative threat of losing it in case of inappropriate conduct. Secondly, we can assume that the attribution of powers to the representative chambers (not of decision making, but of prescriptive intervention and influence in the political process) and their consequent public relevance would generate in these chambers, as in any other organization, a natural dynamic of justification of their existence and of maintenance and expansion of their functions. With this, internal dynamics would probably be generated in the aforementioned chambers in order to propose their own and well-founded positions. These internal dynamics can be, at the most personal level, a stimulus for the majority of those selected to develop

51 As I have already pointed out, some of these controls could be inspired by the regime established in Organic Law 5/1995 of the Jury Court.

52 It should be noted that the actions of citizens who are currently appointed by lot to perform public functions at polling stations or in the jury court are subject to a series of legally established obligations whose noncompliance may be punishable.

responsible conduct in the performance of their positions. It is also foreseeable that these dynamics will foster non-institutionalized leaderships on the part of the most active members of the chambers that would assume an initiative role within them. These ambitious attitudes would in turn be controlled in the face of excesses as there are, in principle, no prospects of starting a professional political career after the end of the annual mandate. Finally, in the design of the organization and internal functioning procedures of the chambers, it is possible to promote the creation of positive incentives for the active and balanced participation of the generality of their members, among others, through the institution of rotation mechanisms in internal positions (putting an end to spontaneous leaderships), the creation of specific commissions or the attribution of concrete responsibilities to subgroups of members.

It may also be posed as a problem that the addition of a new institutional element in the current complex institutional framework could lead to **greater inefficiencies** in the functioning of the political-administrative apparatus. In relation to this point, I believe that an intelligent procedural design together with the limitation of functions described above can avoid this type of problem and adequately combine efficiency in decision making with maximum deliberation in the adoption process.

Another problematic issue would be the **possible excessive influence of experts** (expert advisors of the allotted chambers and experts of the public institutions) on the members of the allotted chambers because of their greater knowledge of the issues, control of relevant information and experience. I believe that this argument is largely extrapolable to current politicians, who are not usually experts in the fields they manage, so it would not be a great novelty. One way in which the consequences of this problem can be controlled in practice would be to ensure that opinions and information are obtained from all parties interested in each issue and from independent experts as a preliminary step to deliberation by the chamber of draw⁵³.

53 A positive view on the possibility of experts playing a role in facilitating popular participation can be found in Joaquín Sempere, "La democracia y los expertos", *meanwhile*, issue 96, 2005, p. 103.

Finally, among the arguments that could be used against considering this proposal are the **legal-constitutional obstacles** that should be overcome for its adoption in Spain. In this sense, it is not hidden from me that a full application of the model of allotted chambers (attributing to them all the functions exposed at the beginning of this text), especially at the state and autonomous level, would require a previous modification of especially rigid rules such as the Constitution of 1978 and the statutes of autonomy. However, I do not believe that it would be necessary or probably desirable to concentrate all energies on such changes in the first place. In fact, it would not be unreasonable to think that a first step would be taken with the constitution of advisory chambers (analogous in functions and rank to the state council and the autonomous advisory councils), for the creation of which ordinary laws would be sufficient, which, at least at the level of the state, could be promoted through popular legislative initiatives. The creation of more specific allotted chambers linked to ministerial departments or councils could also be implemented by means of this ordinary law. Another feasible way, especially to open the way initially, would be to constitute allotted chambers as pilot experiences (for example at the municipal level) on the basis of the political commitment of the corresponding governing party or parties to respect and take into consideration the opinions expressed by such chambers.

Finally, and from a practical point of view, a proposal of this type, in the event of obtaining a minimum of support, would logically find its main stumbling block in those who currently monopolize the political playing field and the functions that they would have to share with the "allotted chambers": the existing political parties and other power structures interested in maintaining the *status quo*.

By way of conclusion

This brief article aims to develop ideas pointed out by others and, above all, to launch a debate that may be interesting in order to contribute to imagining

and inventing⁵⁴ institutions that will help us to deepen the democratization of our political system. In this sense, I would like the above text to serve as an invitation to discuss the convenience of exploring the mechanism of the lottery and the *lottery chambers*, which, as I have tried to explain, are feasible and present interesting advantages from the representative, participative and deliberative point of view of democracy. From this debate it would be possible to extract a more mature reflection that, in its case, could constitute a starting point that would inspire the launching of pilot experiences of allotted chambers (at municipal level, district level or within the political forces themselves) that could open new paths of democratization.

Contact: jorge.cancio@gmail.com

54 Need pointed out by Bourdieu in *Propos sur le champ politique*, op. cit. p. 71 and Juan-Ramón Capella in various writings, among others, in "Notas sobre la repugnancia hacia la política", in the *meantime*, No. 86, Spring 2003, pp. 31-45. The historian Moses I Finley expresses himself in a similar sense. in *Old and New Democracy and Other Essays*, Editorial Ariel, Barcelona, 1980, in raising the pertinence of inventing new forms of people's participation in public affairs adjusted to the current situation, following the spirit of Athenian democracy, although not its specific forms that are already merely historical. The reference is taken from the German edition, *Antike und moderne Demokratie*, Philipp Reclam, Stuttgart, 1987, p. 41.