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Institutionalizing deliberative mini-publics? Issues of legitimacy and power for randomly selected assemblies in political systems

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ABSTRACT

Randomly selected deliberative mini-publics (DMPs) are on the rise globally. However, they remain ad hoc, opening the door to arbitrary manoeuvre and triggering a debate on their future institutionalization. What are the competing proposals aiming at institutionalizing DMPs within political systems? I suggest three ways for thinking about institutionalization: in terms of temporality, of legitimacy and support, and of power and role within a system. First, I analyze the dimension of time and how this affect DMP institutional designs. Second, I argue that because sortition produces ‘weak representatives’ with ‘humility-legitimacy’, mini-publics hardly ever make binding decisions and need to rely on external sources of legitimacies. Third, I identify four institutional models, relying on opposing views of legitimacy and politics: tamed consultation, radical democracy, representative klerocracy and hybrid polyarchy. They differ in whether mini-publics are interpreted as tools: for legitimizing elected officials; to give power to the people; or as a mean to suppress voting .

KEYWORDS

Citizens’ assembly;
deliberative mini-public;
democracy; democratic
innovation;
institutionalization;
legitimacy

Introduction

The ‘crisis of representative democracy’ has triggered a surge in popularity of citizen participation in policy-making through democratic innovations (Elstub and Escobar 2019), which could become institutions, defined as ‘a “permanent” solution to a “permanent” problem’ (Berger and Luckmann 1991, 87). Even though they face criticisms and limitations, democratic innovations have reached an unprecedented scale, promoting ‘governance-driven democratization’ (Warren 2009), ‘deliberative policy-analysis’ (Dryzek 2016), and associating ‘lay citizens’ to policy-making. Similarly to participatory budgeting and e-democracy, which have gained growing support, deliberative mini-publics (DMPs) are now enjoying much popularity (Smith 2009; Elstub and Escobar 2019). DMPs are panels gathering a diverse group of randomly selected citizens, who hear from experts and stakeholders and deliberate on complex policy issues. After

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modest beginnings in the 1970s, DMPs are now occupying a significant place in policy-making, with greater political and public recognition, a stronger mandate, important funding and visibility (Harris 2019; Gastil and Wright 2019), with citizens' assemblies being convened in various countries such as Canada, Ireland, France, the United-Kingdom, etc. (Warren and Pearse 2008; Reuchamps and Suiter 2016; Courant 2021).

However, despite an increase in numbers and scope, mini-publics remain under-institutionalized, being convened ad hoc, changing formats, topic, mandate, with uncertain features and output (Goodin and Dryzek 2006; Harris 2019). This instability leaves the door open to arbitrary and opportunistic use of these democratic innovations. At a time when millions in public money are invested worldwide in government-sponsored citizens' assemblies, and when social movements are calling mini-publics to solve the greatest challenges of our time, such as climate change, it is vital to make sense of this global phenomenon. We need to understand why DMPs are being supported by such diverse actors and what contrasting visions of democracy they are perceived to interpret. DMPs are not a simple consensual tool to 'deepen democracy', they are a potential component of opposing institutional systems.

The debate on institutionalization is a pressing one. Unlike participatory budgeting, which benefits from permanent staff, clear prerogatives, a defined policy area and is repeated year after year, DMPs remain ad hoc and ephemeral, in most cases. Whilst some 'democratic innovators', such as James Fishkin (2009) or Ned Crosby (Crosby and Nethercut 2005), put a patent on their inventions, respectively the deliberative polling and the citizen jury, ensuring these processes would be more or less similar from one occurrence to another, this is not the case for citizens' assemblies initiated by public authorities. Beyond changes in procedures and forms, it is also the juridical and institutional status of these assemblies that remains uncertain. Contrary to other political or administrative entities such as Parliament or the Supreme Court, which benefit from fixed and long-standing rules, procedures, venues, staff, areas of competence, power, etc., mini-publics are not yet 'proper institutions', since they do not have a clearly defined design, place or power within the larger political system (Dryzek 2016). Their creation and impact, or lack thereof, are determined by their sponsor.

This current state of affair is increasingly criticized by several political theorists (Gastil and Wright 2019), but already in 2010 Hubertus Buchstein (2010, 446–47) stated:

Above all, it is necessary to arrive at clear and binding allocations of competencies in the framework of political systems within modern democracies. Otherwise, the danger would be practically unavoidable that the government or the opposition would simply convene randomly selected councils in order to provide additional legitimacy for their own parliamentary politicking, depending on the general political climate or their own particular needs. It is also necessary to define the conditions for constituting bodies made up of randomly selected members as well as their specific areas of work.

Moreover, as Claus Offe (2015, 295) points out: 'At the stage of expression of political will, the institutional framework of the process – political parties, elections, voting procedures – are all precisely defined and formally prescribed and monitored. In contrast, (...) much of the actual formation of opinions and political preferences is (...) an institutionally largely uncharted space'. Institutionalization seems a necessary condition

firstly for reducing arbitrary use of democratic innovations by politicians, and secondly for making deliberative values a 'normal' part of citizens' ordinary political life, as elections are.

Some of the debates on 'institutionalization' or the claim that deliberative mini-publics are already 'institutions' were connected to their 'internal deliberative design and procedures', but here I focus on the question of the integration of DMPs within political systems. There is an ongoing debate on how to institutionalize mini-publics within a 'deliberative system' (Parkinson and Mansbridge 2012). Indeed, moving from ad hoc and temporary experimentations to sustainable long-term official institutions presents opportunities, challenges, and risks. However, the concept of 'deliberative system' is larger and fuzzier than what is at stake here (Elstub, Ercan, and Mendonça 2016); therefore I refer to the models discussed in this paper as 'institutional political systems', which are a specific and 'empowered' part within larger deliberative systems. In this regard, institutions within political systems have clearly defined role and power; moreover, their connections and articulations are also explicitly established. This approach allows for greater clarity about what specific institutional designs are under debate and what formal power relations they trigger; two points that are not fully addressed in the existent literature, which focuses more on deliberative values (Felicetti, Niemeyer, and Curato 2016; Niemeyer 2014; Curato and Böker 2016; Dryzek 2016).

What are the types of institutionalization currently considered for mini-publics? What types of institutional political systems emerge from those propositions? What are their differences and consequences? What are the legitimacies claimed for justifying DMPs? I suggest three conceptual frameworks for thinking about institutionalization: in terms of temporality, of legitimacy and support, and of power and role within a system. First, I analyze the dimension of time on DMPs' possible institutionalization designs, distinguishing possibilities on a spectrum going from exceptional occurrences to permanent institutions. Second, I argue that because sortition produces 'weak representatives' with 'humility-legitimacy' (Courant 2018, 2019c), mini-publics generally do not generate binding decisions and instead rely on external sources of legitimacies, some being democratic and other elitist. Third, I analyze the various propositions from political theorists and activists for institutionalizing deliberative mini-publics in specific political systems. Although many of those actors may have the illusion of forming a unified community of 'sortitionists', in reality their political visions are in conflict on many issues. By using a typology based on ideal-types and drawn from case-studies, literature reviews and analysis of academic, politician and activist discourses, I identify four models of institutionalized system including DMPs: tamed consultation, radical democracy, empowered klerocracy, and hybrid polyarchy, the latter having several variants. Each model is grounded in a clearly distinct logic of legitimacy, citizenry and power, and it involves dramatic differences for the entire deliberative system and the dynamics of policy-making. These models also differ in their perceptions of conflict and representation. How could institutionalized mini-publics link to the maxi-public and the elected officials? Some models interpret mini-publics as legitimization tools for the rulers to silence social conflicts, while others see them as a way to give power to the people against elites deemed illegitimate, and others think of DMPs as a mean to suppress any voting system.

If previous scholars have crafted general typologies of participation (Fung 2003, 2006; Dean 2017) or analyzed the place of DMPs in a deliberative system (Felicetti, Niemeyer, and Curato 2016; Dryzek 2016; Niemeyer 2014; Curato and Böker 2016), my approach remains original in four ways, firstly by considering time as a factor; secondly by questioning DMPs' legitimacy; thirdly, by focusing on the two specific powers of agenda-setting and ratification; and finally, by not restraining the typology within the frame of the existing representative government, but including new possible political systems. This effort in conceptual clarification through systematic typologies is necessary to address this gap in the literature and get out of the current ambiguity and confusion surrounding the debate on DMPs.¹ This new framework will shift our understanding of the phenomenon and inform future analyses and democratic innovations by drawing attention to the opposing visions of democracy and legitimacy embedded in the four institutional models. To analyze or implement democratic innovations, one ought to be aware of the different options for institutionalizing deliberative mini-publics, and the tensions between them.

Exceptional, event-based, permanent? Time as a factor of differentiation

The first thing that comes to mind when institutionalizing DMPs is turning temporary assemblies into permanent ones, but things are more complex. A typology based on the vision of time can help shed light on this issue. Are democratic innovations thought to deal with exceptional issues or ordinary problems? This perception of the task, rhythm and duration given to DMPs strongly determines their institutionalization. I distinguish five types.

Exceptional

In the perspective of 'exceptionality', the role of democratic innovations is to deal with an exceptional issue or rare situation, outside of the ordinary day-to-day politics, in a context of crisis or after a major change. Such tasks are, for instance, electoral reform after a historic change of majority, as in Canada and the Netherlands (Warren and Pearse 2008; Fournier et al. 2011); constitution making in an economic crisis context, as in Iceland (Bergmann 2016); and bottom-up consultation during a long period without government, as in Belgium (Caluwaerts and Reuchamps 2018). Those democratic innovations are 'temporary institutions', as they will not serve any purpose once their single task is fulfilled, but they can be understood in two ways. On the one hand, they can be ad hoc, one-shot devices, each time specially designed for a unique problem. On the other hand, they can be institutions that are codified, officially recognized and can be activated if an exceptional situation appears, like the institutions of the state of exception or martial law (Manin 2008).

Occasional

The 'occasional' vision pragmatically views democratic innovations as a handy way to deal with some 'relevant', but not necessarily exceptional, issues. This has been the functioning mode for citizen juries, deliberative polls, and citizen conferences (Harris

2019; Smith 2009). The problem here is that the relevance of the issue and of the timing of the DMP remain at the discretion of decision makers, who might only set up a deliberative device if they 'are convinced the outcome will correspond to their preferences' or grant them a very limited advisory 'power' (Fournier et al. 2011, 146). Once again, the DMP's deliberative design and powers can be officially codified, but its activation will remain at the hand of specific actors. In this respect, DMPs cannot be a permanent counter-power, as the Supreme Court is for instance.

Event-based

In the event-based perspective, a pre-defined event such as an election, a referendum or a constitutional reform is systematically associated with a pre-determined deliberative institution. This is the logic behind the National Issues Convention in the USA, a deliberative polling allowing citizens to deliberate on candidates and manifestos ahead of an election vote (Merkle 1996) or the 'deliberation day' proposition (Ackerman and Fishkin 2004). Even though those proposals failed to be institutionalized, the idea was to systematically connect elections with a deliberative procedure, repeated with the same organizational features each election year. The Citizens' Initiative Review (CIR) offers a similar solution, but the DMP here is linked to a referendum rather than an election. The CIR's is not a full institution yet, however, its premise is straightforward and oriented towards systematic implementation: referendum should be preceded by a deliberative panel producing fair information for voters (Gastil and Knobloch 2020).

Comparable patterns, linked to constitutional reforms, are currently at play in Ireland and Mongolia. As the Irish legal framework makes it compulsory for any constitutional change to be approved by referendum, there is an incentive to adopt a matching deliberative institution. So far, the successive Irish citizens' assemblies had significant differences and did not become actual institutions (Courant 2021). Constitutional reforms are an area in which citizen inclusion is crucial, as a constitution is the declaration of a society's core principles and the foundation of the whole political structure; moreover, a DMP would help address politicians' conflict of interest as it sets the rules of the political game; the same goes for designing an electoral law (Fournier et al. 2011; Reuchamps and Suiter 2016; Courant 2019c; Thompson 2008). To date Mongolia can claim the most advanced attempt at institutionalizing a DMP for every constitutional reform (Fishkin 2018). However, although constitutional reforms are not as exceptional as political crisis, they do not happen often.

Regular

Rather than connecting a DMP to another political event, it could have its own regular rhythm. Currently, France is considering setting up a citizens' assembly every year on a different topic each time. Instead of connecting DMPs to existing events – either regular ones such as elections, or irregular ones like constitutional reform – the mini-public process would have its own fixed pattern. This could potentially create a new space for an independent 'deliberative moment', but also isolate DMPs from the rest of the political system.

Permanent

The final type interprets democratic innovations as permanent institutions, but there are very few examples of permanent DMPs. Nevertheless, the High Council of the Military Function (HCMF) in France, established in 1969, is a permanent panel drawn by lot among members of the military. This institution is the oldest, most durable, and also the first permanent and systemic DMP in history. Its mission is to produce recommendations on reforms concerning the conditions of soldiers for the Defence Minister (Courant 2019a). Another example can be found in the German speaking community of Ostbelgien (Niessen and Reuchamps 2020). These cases echoes in some ways the recurrent calls for a randomly selected chamber of parliament (Callenbach and Phillips 2008; Gastil and Wright 2019). Under this vision of DMPs, all legislation comes under the scrutiny of a permanent citizen assembly, which participates in making laws, in collaboration with an elected chamber. More broadly, this idea of a permanent DMP can be translated into many different institutional models, as we will see in the third part of this paper (Table 1).

Table 1. Institutionalizing deliberative mini-publics (DMPs) based on the time function.

	Definition	Possible problem	Examples
Exceptional	DMPs used in exceptional situations	DMPs remains very rare	Icelandic constitutional process; G1000 in Belgium
Occasional	DMPs used for some 'relevant' issues	DMPs are not counter-powers but implemented only when it suits the decision-makers	Most DMPs in history and worldwide
Event-based	DMPs are connected to other political events	DMPs remain marginal and a mere complement to the existing system without changing it	CIR for votations; National issue forum for elections; Ireland and Mongolia for constitutional reforms
Regular	DMPs have their own regular rhythm	Isolation and disconnection of DMPs from the system	Project of a citizens' assembly per year in France
Permanent	DMPs become a permanent institution	What is the power, role and place of this institution in the larger political system?	HCMF in France; Ostbelgien Model

The legitimacies of sortition and of deliberative mini-publics

The recent multiplication of DMPs, and especially citizens' assemblies, underlines a paradox. Why are mini-publics supported by radical activists as well as by conservative elected officials? For instance, in France, the 'Yellow vests' requested randomly selected assemblies, especially to re-write the Constitution, and President Macron implemented Regional citizens' conferences, within the frame of the Great National Debate, and he later commissioned the Citizen Convention for Climate.

One of the key to understanding this social phenomenon lies within 'sortition's five democratic principles': equality, impartiality, representativeness, inclusion and legitimacy (Courant 2019c). The latter, while being the most crucial is also quite peculiar: it is called 'humility-legitimacy'. I define legitimacy as the feeling or belief that X (which can be a person, an institution, a system, etc.) is rightly (which is not reduce to 'legally') entitled to do something (e.g. speak for a group, collect taxes, etc.). 'Humility-legitimacy' is characterized by three dimensions: *similarity* with the represented, as randomly selected representatives are not professional politicians; *horizontality* of the selection process, unlike election giving

legitimacy from the bottom or nomination from the top; and *non-superiority* as one is not drawn by lot because one would be distinct or superior to the others but because one is 'like anyone else', a member of the group (Courant 2019c). The randomly selected representatives cannot claim a form of superiority over the represented as they have not passed a 'test', such as winning an election. Therefore, they need to rely on other actors as part of the decision process instead of replacing them.

In other work (Courant 2018), I have collected empirical evidence, at the micro and individual level, through qualitative semi-structured in-depth interviews with members of mini-publics, in France and in Ireland, which reveal that those 'ordinary citizens' feel they have legitimacy to express recommendations but not to take the final decision. On the macro level, no sortition panel holds decision-making power, as DMPs merely had to inform or make recommendations to the politicians or the maxi-public – the whole population – who would take the final decision.

Therefore, sortition produces 'weak representatives' with limited legitimacy. This explains the paradoxical support it enjoys. On the one hand, radical democrats and activists think the coupling of citizens' assemblies with direct democracy mechanisms, such as referendums and citizens' initiatives, can grant more power to the represented. On the other hand, elites see in powerless mini-publics an opportunity to give the veneer of democracy to communication or PR exercises, whilst the elected officials control the final decision (Courant 2018). In this respect, the fear expressed by Christina Lafont (2015) that mini-publics would take political decisions instead of the people is actually not supported by any empirical evidence. Lafont's argument is skewed because she deliberately 'focuses on the appropriateness of using mini-public for decision-making, so (she) do(es) not explore other types of uses of mini-publics' (Lafont 2015, 41). She then admits that 'the employment of mini-publics for less ambitious functions, such as contributing to agenda setting, to popular oversight of public officials, and so on, would be neither superfluous nor illegitimate' (Lafont 2015, 42), but those other uses are the ones actually being currently applied to 'the real world'. Her attack on Fishkin's (2009) positive appreciation of a 'recommending force' (Lafont 2015, 49) for DMPs, forgets that this is not the same as asking the public to 'blindly endorse' the recommendation of a randomly selected assembly (Lafont 2015, 50). Furthermore, Lafont seems to not have a problem with 'shortcuts' and 'blind deference' of the citizenry when it comes to 'real experts' or political groups (Moore 2016, 204–5). Finally, if, as we will see below, several authors do argue in favour of DMPs for decision-making (Burnheim 1985; Callenbach and Phillips 2008; Bourcius 2013) none of them are quoted by Lafont.

Indeed, beyond the humility-legitimacy, partly grounded in the equality principle, other '*internal legitimacies*' can be claimed for DMPs. First, the impartiality claim, already included within sortition, can be consolidated in the deliberative process by hearings of experts in contradictory debates. Second, the representativeness claim linked to sortition can be strengthened by stratification and quotas. Finally, the epistemic claim embedded in the diversity brought by sortition can be amplified through the experts hearings and a deliberative process spanning over several weekends (Courant 2018). Those claims could therefore overshadow the humility-legitimacy based on 'ordinariness' and equality, to the benefit of an 'epistocratic' claim based on the exceptional quality of the 'enlightened view or 'considered opinion' of the DMP after deliberation.

Moreover, because of their limited legitimacy, mini-publics need to rely on ‘*external legitimacies*’, some being democratic and other elitist: the involvement of experts provides *expertise* legitimacy²; the help of professional staff ensures *organizational* legitimacy; the support of politicians helps gain *electoral* and *institutional* legitimacy; the attention of the media can ensure *public* legitimacy; the approval of its proposition by a referendum helps achieve *popular* or *quantitative* legitimacy; the support of involved groups of activists in associations or protests grants *mobilized* legitimacy. Radical democrats tend to defend a mini-public articulated with public, popular, and mobilized legitimacies, which are bottom-up, while politicians would favour a citizens’ assembly essentially dependent on expertise legitimacy, organizational legitimacy, and their own electoral and institutional legitimacy, which are top-down (Courant 2018).

Power to the mini-public? A conflict between institutional models

After much experimentation, researchers, activists and politicians are debating firstly what institutional forms of deliberative sortition should be implemented, and secondly within which ‘democratic system’, that is which larger political architecture, DMPs could be institutionalized. To answer these questions in a clear fashion, two dimensions will be considered, the basic building blocks of ‘democracy’: the ‘demos’ or the legitimate sovereign actor, and the ‘kratos’ or the political power. Three major systems are often distinguished: ‘elective democracy’, based on elections, ‘direct democracy’, based on referendums, and ‘deliberative democracy’, of which some particular forms are based on drawing lots. While the third system already includes a place for the lottery, the other two do not. Therefore, as the political ecosystem includes a large variety of actors, I will focus my analysis on three main categories: *the elected officials* including parliaments, governments and their administrations; *the people* gathering the citizenry at large and intermediary bodies; and finally *the randomly selected citizens*, referring to the members of DMPs. Depending on role played by those three categories of actors, and consequently the power they enjoy, different institutional models including DMPs can be deduced. In the following discussion, the fixed element is the ‘deliberative role’ for the DMP, that is to say working on recommendations. In terms of other political powers or roles, I identify two crucial ones for the policy cycle:

- (1) Who sets the agenda and frame the deliberation topics?
- (2) Who ratifies, approves or rejects the DMP’s proposals?

By crossing those two dimensions, type of actors on the one hand and political roles on the other hand, we get a conceptual framework revealing competing institutional models allowing us to answer the crucial question: who has which power? Currently, ‘representative democracy’, or more accurately what I call ‘*representational electocracy*’, allows the elected to control agenda setting and ratification, with an organization handled by their chosen staff and hearings to their discretion. But what of institutionalized DMPs? I distinguish three ‘pure’ institutional models for sortition assemblies, as those models involve the same type of actor for both agenda setting and ratification: tamed consultation, radical democracy and representative klerocracy. There is also a variety of ‘hybrid polyarchies’ that I will analyze later. Those models, and the three ‘pure’ models in particular, are carrying conflicting political logics; their visions of legitimacy and representation are also opposed (Table 2).

Table 2. Models of democracy including a randomly selected deliberative mini-public (DMP).

	Agenda setting	Ratification	Main legitimacy	Legitimate institutional space for conflict	Conflict, alliance and opposition
Tamed consultation	Elected officials	Elected officials	By election	Parliament and electoral campaigns	DMP at the service of elected officials against activists and the people
Radical democracy	The people	The people	By referendum	Referendum and citizen's initiative campaigns	DMP at the service of the people against elected officials
Representative klerocracy	DMP	DMP	By sortition	DMP's hearings and deliberations	DMP against elected and the people
Hybrid polyarchy	Variable	Variable	Variable	Variable	Variable

Tamed consultation

The ‘tamed consultation’ model is a new metamorphosis of representative government, deepening its latest form ‘audience democracy’, without altering its core principles (Manin 1997). The name of this model is a twist on the expression ‘tamed public debates’ by Laurent Mermet (2007), that is to say artificially created by public authorities, by opposition to ‘wild public debates’ generated in a bottom-up fashion by mobilized citizens. This model exists in two distinct forms. On the one hand, a *minimalistic form* in which purely consultative DMPs are set up, depending on decision makers’ wishes, to craft recommendations they can brush aside as they see fit. This form corresponds to most of the actual DMPs implemented to date. On the other hand, there exists a *maximalist form* in which the citizens’ assembly is permanent and no longer occasional, and it becomes a second or third chamber of Parliament but stays subordinated to the elected chamber, which always has the last word for both agenda setting and ratification. This second form, proposed by authors such as Dahl (1990) and others after him (Barnett and Carty 2008; Sutherland 2008; Zakaras 2010; Gastil and Wright 2019), is fitting in a reformist attempt to ‘complete’ representative government by injecting it with a dose of citizen deliberation.

In both forms, the tamed consultation model considers electoral legitimacy as far superior to sortition legitimacy. Its goal is to ‘reconcile’ the ‘ordinary citizens’ with decision makers. However, this conflict resolution can imply the deepening of three other conflictual frontlines. Indeed, in this model DMPs can be used to construct a ‘counterfactual enlightened public’ aiming at delegitimizing, on the one hand the ‘radicality’ of mobilized activists and, on the other hand, the ‘stupidity’ of an ‘ill-informed’ or ‘populist’ maxi-public; or, more rarely, the ‘apathy’ of a disinterested abstentionist electorate.

This *first strategy*, using DMPs against ‘wild publics’ (Mermet 2007), is visible in the randomly selected regional citizen conferences during the Great National Debate in France, whose purpose was primarily to occupy the media space while re-legitimizing Macron’s government by constructing another public against the Yellow vests’ popular demonstrations (Courant, 2019b). This newly constructed public create an image of ‘polite citizens’, respectfully listening to experts and discussing in small groups. This image is implicitly, or even explicitly, pitted against the one of social movements which are associated with loud, aggressive, or possibly violent citizens. Several DMPs were

precisely set up just after social unrest and contestation of the authorities, as in Iceland, Ireland, France, or even Hong-Kong, where, during the mass demonstrations, 150 randomly selected citizens were invited to talk with the government in a framed manner. The guidance note of the event said, 'participants will not disrupt the dialogue, cause nuisance, inconvenience or danger to other parties or use foul language' (Chan 2019).

The *second strategy*, the setting up of DMPs to discredit voters and direct democracy mechanisms, is apparent in the repeated calls for a 'citizens' assembly on Brexit', mainly coming from political and media elites which were on the losing side of the referendum (Brown 2019; Benedictus 2019). Here, the discourse is not painting the maxi-public as 'partisan' or 'radical', contrary to the first strategy, but as 'ill-informed' and falling prey to 'populism'.³ Leib (2004, 12) explicitly states that his 'popular branch of government', 'composed of stratified random samples' would 'replace the initiative and the referendum (...) to address many of the shortcomings of those forms of direct democracy'. However, if referendums face challenges, the same can be said for DMPs; for instance, the issue of expert influence or bias over the participants. DMPs allow decision-makers to consult not 'the people' or 'the public', but 'a public', an 'artificial public' who will listen to often pre-selected experts within a tightly framed device organized with a strong 'division of deliberative labor' (Courant 2020, 2021). This second strategy gives the appearance of 'citizen inclusion' but actually means integrating 'some' citizens in limited numbers at the expense of the voice of the citizenry at large.

Alternatively, DMPs can be used as a twisted way to deal with the 'apathy' of a disinterested electorate. However, instead of addressing the root causes of political abstention it artificially generates an 'involved public' of 'exemplary citizens'. This technique is used by public administrations that face empty rooms for their participatory open meetings, as sortition constructs an interlocutor they can actually talk to, in order to legitimize their own actions (Demoulin and Bacqué 2019).

The tamed consultation model is elitist as only a small group of 'enlightened citizens' have the right to deliberate and participate in significant manner, but at the service of official actors keeping the actual power. The 'democratic crisis diagnostic' brought forward by the tamed consultation supporters is often one of 'distrust crisis', which translates into a loss of confidence in the institutions of representative government, popular demonstrations and referendums that do not go in the direction deemed 'good' by the elites. Mini-publics can therefore serve to delegitimize other democratic channels and components of the deliberative system, in favour of a privileged connection between few drawn citizens and decision makers (Parkinson and Mansbridge 2012, 6).

In the category of tamed consultation theorists, we find Leib (2004), Fishkin (2009) and Van Reybrouck (2016) for whom social movements and even more so referendums are seen as inferior, or even harmful, compared to the 'enlightened opinion' of the randomly selected panels. In empirical terms, this model can be observed in many experiences, for instance the Citizen Climate Convention in France (Courant 2020), the Climate Citizens' Assembly in the UK, or the Citizen assembly on electoral reform in the Netherlands (Fournier et al. 2011). In those cases, elected officials launched DMPs with a specific agenda and then decided what to do with their recommendations, from a simple rejection by the Dutch government without public justification, to a cherry-picking of few recommendations by the French president.

Radical democracy

The model of radical democracy is an extension of a system of direct democracy (Papadopoulos 2001). In this model, randomly selected deliberative assemblies are either convened through a citizens' initiative procedure (petition) or they are permanent, with their agenda being set by citizens' initiative and their recommendations are approved or rejected by referendum. Adaptations of this model may replace initiatives with votes on online platforms or in open participatory assemblies at the local level. This model also has two variants, a minimalist and a maximalist.

In the *minimal variant*, DMPs are added to an already existing system of direct democracy. This scenario corresponds to the citizens' initiative review (CIR), first introduced in the United States and recently exported to Switzerland, which allows a mini-public to deliberate before a popular vote to inform the maxi-public of the ins and outs of the vote (Gastil and Knobloch 2020). Here, the goal is to correct two types of bias in referendum campaigns. First, the bottom-up bias are voters' ignorance, their difficulty to properly inform themselves, their lack of time or interest in politics. These considerations are in line with those of the supporters of tamed consultation. Second, the top-down biases are the influence of money and lobbies, elite manipulation of information and campaigns, and the lack of impartiality of state authorities in presenting of the stakes put to the vote.

In the *maximum variant*, a system of direct democracy with mini-publics is introduced or deepened in a context where they were previously absent or marginal. Here, instead of simply providing 'neutral information' to voters, DMPs could work on reform and policy recommendations or possibly detailed bills to be validated by the civic body. This resonates with the demands of right to initiative and citizens' assemblies advanced by many Yellow Vests. In this vision, which could be described analytically, and not in a normative or pejorative way, as 'populist', the elites are seen in opposition to the people (Vittori 2017); sortition should weigh in favour of the latter. Legitimacy and sovereignty are thought of as 'popular' and belonging to the people, but DMPs help this type of democracy through the quality of their deliberations. Whereas proposing complex laws cannot be carried out by the masses, hence the need of a representative DMP, the wider public can identify issues and ratify proposals.

According to the radical democracy model, the current problem is not the understandable mistrust of citizens towards the elected rulers, but the actions and inactions of the latter leading to the failures of the representational electocracy: corruption of the elites, strengthening of a violent police, increase in inequalities, and extinction of life. 'Representative government' is also deemed incapable of representing the citizenry in its social diversity, or of guaranteeing the sovereignty of the people, as many reforms are being carried out against the will of the majority of the population (Page and Gilens 2018). Moreover, 'radical democrats' often make a historical analysis and conclude that in France and the United States, the founding fathers of modern republics never intended to give power to the people and favoured a system where a small, wealthy elite exercises power (Dupuis-Déri 2013). However, a direct democratic model can either accommodate room for elected officials, like in Switzerland, or completely cast them out.

This model of radical democracy also evokes the practice of ancient Athens, where the deliberative assemblies drawn by lot did not make final decisions and it was the demos as a whole to exercise *kratos*, or sovereignty (Hansen 1991). It is defended, in its minimal variant by Gastil (Gastil and Richards 2013; Gastil and Knobloch 2020) and Setälä (2018), who also made proposals in favour of tamed consultation (Gastil and Wright 2019; Setälä 2017). The radical democracy model is found in its maximal variant in some recommendations of the American theorist Benjamin Barber (2009), or the controversial French activist Etienne Chouard (2017).

This model is radically ‘democratic’ in the sense that it gives most of the power, both of agenda setting and of ratification, to the demos. It is also a true ‘deliberative system’ in the sense that not only is the ‘proposition process’ taken care of by a DMP, but the demos having to set the agenda then ratifying the propositions means that deliberation must occur often among the entire citizenry.

Representative klerocracy

Third, a model of representative klerocracy⁴ would retain the delegative logic of current political systems, where the people give power to representatives rather than exercise it directly. The only difference with representational electocracy is that sortition would supplant or replace election as the mode of selecting representatives, which, in the case of a stratified sampling, would have the merit of allowing for a real representativeness of the diversity of the population in terms of age, gender, class, ethnicity etc. Klerocrats share the consultativists’ distrust of the people and activists, as well as the radical democrats’ distrust of elites and elections. For klerocrats, referendum and elections campaigns are plagued by the same ills. The people must always be governed and represented, no longer by elected elites but by ‘ordinary citizens’, in a logic of ‘microcosm’ (Pitkin 1967). However, these randomly selected citizens quickly become competent and form an ‘informed opinion’ through deliberation and expert hearings, because they devote time to politics, unlike the masses.

This is the model feared by Lafont (2015) or Chambers (2009), but it has never seen the light of day in history, probably because it denies the logic of the ‘consent of the governed’ as well as humility-legitimacy, by claiming the randomly selected to be superior and capable of making final political decisions on their own. This seems to run counter to the political principle of non-superiority of sortition (Courant 2018, 2019c). In this ‘epistocratic’ system, the civic body can no longer elect (its representatives) or vote (by referendum), no consent is expressed, except possibly in the initial vote to approve this new constitution. The legitimacy of the mini-public rests, therefore, not on humility but, on the one hand, on ‘principles’ specific to sortition, such as equality of opportunity to be selected, impartiality in the selection, inclusion of ordinary citizens, representativeness of the panel if it is constituted by stratified drawing or if the sample is sufficiently large (Courant 2019c); and on the other hand, on the epistemic virtues of deliberation allowing for balanced debates and improved knowledge.

Halfway between the elitism and populism of the two previous models, klerocracy can be found, to varying degrees, in its maximal version in the analyses of Burnheim (1985), Bouricius (2013), (Guerrero 2014), and Hennig (2017), who imagine a system where election is cast out or marginal. Bouricius divides various powers and roles to different

DMPs in a ‘multi-body sortition’. In a minimal version, other theorists propose a bicameral design, but contrary to consultativists, the sortition chamber has more power than the elected one, both in agenda setting and ratification, as suggested by Callenbach and Phillips (2008) or Buchstein and Hein (2009). It also appears in the demands of Extinction Rebellion, which wants citizens’ assemblies to impose drastic measures against climate change on the elected representatives and the population, who are today reticent. Here, the sortition and inclusion of ordinary citizens offers a dose of ‘democracy’ to reforms which must potentially be carried out against the popular and elite will, in order to preserve the future (Courant 2020).

Complexifying institutionalization: different types of hybrid models

The analysis of the three ‘pure’ models does not exhaust all the options of political systems including sortition. It is possible to construct a truth table representing the possible varieties of models, both the pure models and, more importantly, six types of hybrid models.⁵ These hybrid polyarchies, involving a different actor for each power, can be analyzed as three pairs, each offering the opposite configuration of the other (Table 3).

Firstly, the *Descending mixed model* starts from the top, from the government who sets the agenda, but after the deliberations of the mini-public it is the people who ratify (or not) the recommendations through referendum. This is how the Irish (Courant 2021) or Canadian (Warren and Pearse 2008; Fournier et al. 2011) citizens’ assembly processes operated. Conversely, the *Ascending mixed model* allows the maxi-public to put an issue on the agenda by means of a petition or some participatory procedure.⁶ This issue is examined and deliberated on by a DMP, which transmits its proposals to the elected officials, who then decide whether to implement them. This system was envisaged for the French Great National Debate (GND), with the citizens’ conferences deliberating on the basis of the results of the prior participatory consultation, and the President having the final word. However, the quantity of public ‘contributions’ coming from the participatory meetings and the online platform during the GND was so large that the regional mini-publics could not take the time to process them all (Courant, 2019b). This model was also implemented in Belgium for the G1000, whereby the maxi-public set up the agenda through an online platform and the mini-public deliberated on it afterwards. Here, the elected officials mainly ignored the recommendation of the DMP as this experience was not embedded in the political system (Caluwaerts and Reuchamps 2018). Similarly, the We The Citizens project developed its agenda through seven open participatory meetings across Ireland; then a panel of 100 randomly selected citizens deliberated on it for a weekend, but without seeing their recommendations implemented by the elected officials (Courant 2021).

Second, the *validating DMP*, or permanent DMP with ratification power is an addition to the existing parliamentary system. If the elected assembly continues to make laws, the panel drawn by lot has a right of veto. This model is advocated by O’Leary (2006), McCormick (2006) and Zakaras (2010). A variation of this institutional design, the ‘House of the Future’, was proposed by Bourg (2011) and his colleagues, specifically to protect the environment and allow for an ‘ecological democracy’. Here, the randomly selected chamber can only veto projects it deems contrary to the ‘long-term interests’. An alternative version of this model allows elected officials to delegate specific issues to the

Table 3. Before and/or after the mini-publics' deliberations: who sets the agenda and who ratifies the propositions?.

	Agenda setting	Ratification	Examples or Theorists
<i>Pure models</i>			
1 Tamed consultation	Elected officials	Elected officials	Most DMPs, Citizens' assemblies in France, UK, Netherlands
2 Radical democracy	The people	The people	CIR, Athens
3 Representative klerocracy	DMP	DMP	Burnheim (1985)
<i>Hybrid models</i>			
4 Descending mixed model	Elected officials	The people	Citizens assemblies in Ireland, Canada
5 Ascending mixed model	The people	Elected officials	Great National Debate (project), G1000, We The Citizens
6 Validating DMP	Elected officials	DMP	Bourg (2011), O'Leary (2006)
7 Initiating DMP	DMP	Elected officials	Ostbelgien model and French HCMF
8 Klerocratic consultation	The people	DMP	Amanrich (2006)
9 Consultative deliberation	DMP	The people	?

DMP, which then has the power to ratify the outcome of its own deliberations. Conversely, the *initiating DMP*, or permanent DMP with agenda setting power, recently introduced as the 'Ostbelgien model' in the German-speaking community of Belgium, allows a citizens' chamber to put its priorities on the agenda, then passing those issues on to another randomly selected panel that deliberates and put forward recommendations, with the elected assembly voting for or against their translation into public policy (Niessen and Reuchamps 2020). It also corresponds to the functioning of the High Council of the Military Function (HCMF) in France, where since 1969, a permanent panel drawn by lot issues a report twice a year on reforms concerning the conditions of soldiers, to which the Minister and the Council of State must respond (Courant 2019a). This pair of models can be found in ambitious versions of a bicameral system, where the assembly drawn by lot has significant power but less than that of the elected assembly.

Finally, *klerocratic consultation* allows the wider public to put certain issues on the agenda in a non-binding way, following the example of the European Citizens' Initiative or certain participatory processes. However, in this model, it is not the elected representatives but the DMP who approves or rejects the popular petition or the result of the participatory process, as proposed by the French activist François Amanrich (2006) or the former American politician Terrill Bouricius (2013). Conversely, *consultative deliberation* allows panels drawn by lot to select and work on public policy proposals, which are submitted to a referendum. This last model has not yet been proposed by anyone, despite its attractive design combining the 'considered judgment' of a DMP with the 'popular control' of direct democracy, to use Smith's (2009) framework. Neither of those two hybrid models, bypassing the elected representatives in favour of a relationship between the people and the randomly selected citizens, have ever seen the light of day.

This typology aiming to clarify the differences does not discuss the ‘pluralistic hybrid models’ where a role is held by several types of actors at once, for instance a system in which both the citizenry and the elected share the ratification power (Gastil and Richards 2013). This deserves a longer discussion, and in the end the ‘last word’ or sovereign power empirically rests in the hand of one type of actor.

Conclusion

The form that the institutionalization of DMPs in political systems will take is a crucial issue for the future of democracy but remains uncertain. However, the typology proposed here allows us to identify the main possible options, the political logics linked to them, and the experiences, theorists and activists connected to each model. What will be the ‘new spirit of sortition’? Will DMPs be used as exceptional devices, occasional, event-based or permanent institutions? Which conception of DMPs’ legitimacy will prevail? Which model of democracy including mini-publics will become dominant: the tamed consultation, representative klerocracy, radical democracy or one of the forms of hybrid polyarchy? Or will there be a mix, depending on the policy issue, level of public interest, scale (from local to global), stage in the policy process? In the end, institutionalization processes will depend mainly on the histories, contexts, and power relations in the different countries that are moving towards the integration of lot into their systems. This theoretical grid is potentially useful for further research in which the different proposals of theorists, politicians or activists as well as concrete experimentation with DMPs would be analyzed in more detail, showing for instance that ‘elites’ is not a homogenous category but can be separated into opposing groups (Dean 2017). This typology also allows to classify future propositions for integrating DMPs into political systems. However, those ideal-types do not exhaust more complex institutional proposals, combining or further hybridizing actors, roles and powers (Gastil and Richards 2013); moreover, scholars’ work can also fit in several types.

A lot of enthusiasm can be seen every time a new DMP is set up, but the conceptual framework proposed in this paper allows for critical reflection, pushing one to ask: what are the mission and power given to the DMP? In which institutional system is this panel embedded? Which types of actors are setting the agenda or controlling the ratification of the recommendations? Moreover, the questions one ought to ask before implementing a DMP are: what is the problem being faced? Is the agenda setting process currently flawed? Or is it the ratification stage that is in crisis? Should we replace the current actor in charge of the task by another, and if so which one and why? These questions can also help to distinguish which types of ‘democratic goods’ (Smith 2009) or ‘democratic principles’ (Courant 2019c) should be given priority over others, and how to possibly combine them.

Finally, ‘sortition activists’ are not a homogenous group sharing a common political vision, but a field in conflict over almost everything: their visions of politics, elected officials, the people, the role and, more importantly, *legitimacy* and *power* for mini-publics. These different groups, consultativists, radicals, klerocrats, and supporters of hybrid models, are actually in opposition to each other although they often do not realize it, having the impression that ‘all those in favor of sortition’ form a community of

interest. However, these actors do not aspire to the same institutional model of democracy, and therefore have political reasons to remain in conflict among themselves or to engage in deliberation to clarify their dissent.

Notes

1. For another interesting typology see: (White 2017).
2. Epistemic claims can be internal if focused on deliberation, cognitive diversity and common sense, or external if focused on the teaching of experts. To avoid confusion, I call this second category ‘*expertise legitimacy*’.
3. For a critical analysis of the concept of ‘populism’ see Vittori (2017).
4. From the Greek ‘*kleros*’ meaning ‘sortition’ or ‘by lot’.
5. For an approach connecting DMPs to elected representatives see Setälä (2017).
6. I use the terms ‘descending’ and ‘ascending’ rather than ‘top-down’ and ‘bottom-up’ to avoid any normative connotation. I do not think the ‘descending’ model to be inferior to the ‘ascending’.

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Special issue

Embedding Participatory Governance: What are the challenges of institutionalizing a systemic approach to citizen participation?

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