

“Rousseau’s Mistake: Representation and the Myth of Direct Democracy”*

Hélène Landemore

Yale University

helene.landemore@yale.edu

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*This text contains the central arguments for two distinct chapters of a book manuscript I’m working on, currently entitled *After Representation: Rethinking Democracy for the 21st Century*. I look forward to your comments!

Abstract: For Rousseau, democracy was direct or it wasn't. As he famously put it, "the moment a people allows itself to be represented, it is no longer free: it no longer exists. The day you elect representatives is the day you lose your freedom" (Social Contract, III, 15). In other words, representative democracy is no democracy at all. Rousseau isn't alone in this belief, and today the disappointed of representative government have turned to celebrating anew the virtues of direct democracy as more true to the ideal of popular sovereignty, self-rule, and genuine political equality. This paper defends the thesis that Rousseau was, in fact, mistaken and that there is no salvation to be found in the ideal of direct democracy. If democracy as a political regime is always, in fact, representative, then the interesting question is not: direct or representative democracy? But instead: What kind of representation should we aim for? The paper argues that beyond the familiar electoral model there are at least two other models of representation that present attractive features: the first is based on sortition and the other on self-selection.

“Rousseau’s Mistake: Representation and the Myth of Direct Democracy”

For Rousseau, democracy was direct or it wasn’t. As he famously put it, “the moment a people allows itself to be represented, it is no long free: it no longer exists. The day you elect representatives is the day you lose your freedom” (Social Contract, III, 15). In other words, representative democracy is no democracy at all. Rousseau isn’t alone in this belief and today those disappointed with representative government have turned to celebrating anew the virtues of direct democracy as more true to the ideal of popular sovereignty, self-rule, and genuine political equality. They often claim to find illustrations of such an ideal of direct democracy in Ancient Greece, certain aspects of the Swiss system, and practices like initiatives and referenda. The hope is that new technologies, the Internet in particular, have now made such Ancient and/or small scale practices feasible even in the modern age of mass societies.

This paper defends the thesis that Rousseau was, in fact, mistaken and that there is no salvation to be found in the ideal of direct democracy, whether face-to-face or enabled by new technologies. This is so, first and foremost, because there isn’t, and indeed never was, anything like direct democracy--at least if we are concerned with a governance regime that affects more than a dozen people. Even Ancient Athens—the example contemporary advocates of direct democracy harken back to, was, or so I will argue against tradition, a form of representative democracy in the sense that it required delegation of political authority to various subsets of the polity. This delegation was consensual and commonly agreed on through various democratic mechanisms, hence

democratic, but it was delegation nonetheless. This suggests that direct democracy is not really possible including in small-scale polities like Ancient Athens.

If democracy as a political regime is always, in fact, representative (in the sense just defined of involving some form of authority delegation), then the interesting question is not: direct or representative democracy? But instead: What kind of representation should we favor? The real opposition is thus not between ‘direct’ and ‘representative’ democracy but between more or less democratic forms of representative rule. At the most democratic extreme, one finds a representative system in which ordinary people actually get to rule, though in turn and never all at once (as in Ancient Athens); at the other extreme the representative system is only accessible to an elite few. Our contemporary “democracies” fall somewhere on this continuum and, arguably, rather close to the elitist side.

The paper includes three parts. The first part presents the received doxa on direct versus representative democracy, with a particular eye to Rousseau’s own understanding of it, and starts challenging the meaningfulness of that contrast. The second section turns to Ancient Athens and argues that its constitution was not a form of direct democracy but instead, and despite the absence of a proper conceptual and legal framework for it, a proto-representative democracy, including in its most famous practice: the deliberation and voting taking place in the Assembly (the ekklesia). The third section introduces “lottocratic” and “crowdsourced” representation as alternative models of democratic representation.

Before I start making my case, let me pause and offer the definition of representation I will operate with. Definitions of representation are plentiful and

sometimes contradictory. I here want to use a very simple one. By representation I mean the authorized act of standing for someone else. The authorization part of this definition refers to a commonly agreed relationship between the represented and the representative, which allows the representative to act (appear, speak, vote, etc.) and, specifically, exercise political authority on behalf of the other. The involved parties can be individuals or groups and the relationship can be one-to-one, one-to-many, or possibly many-to-one. Whether the nature of the delegated authority is one that consists of acting as a “trustee” or a “delegate,” whether it is about defending the interests or putting forward the views and perspectives of the represented party can be left open and to be specified by the “common agreement” between parties. I believe my definition falls closest to Andrew Rehfeld’s theory of representation, which similarly identifies representation by reference to a relevant audience accepting a person as its representative (Rehfeld 2006).

Notice that my definition is compatible with non-democratic representation as in the ‘virtual representation’ of yesteryear, which did not require the explicit consent or even the enfranchisement of the represented. In order for representation to qualify as democratic, one needs to add that both parties enter a mutual, explicit, and frequently renewed agreement to represent and be represented (in which all are given equal weight and consideration) with a clear understanding of what the nature of the relationship is to be about (defense of interests, representation of perspectives etc.) and the implementation of a set of accountability mechanisms. Where there is just an established convention whereby a majority or more of the people is de facto “represented” by a minority without any institutional mechanism to ensure mutual, explicit, and renewed agreement and

accountability (as per elections), one may speak by contrast of ‘virtual’ or non-democratic representation.¹

1. Rousseau’s Mistake

Rousseau’s ideal is well known. It involves a small republic of free and equal citizens characterized by little social and economic inequality and a great deal of value homogeneity. At certain times the people gather to vote about laws and policies. They do not deliberate with each other but only within themselves (with “no communication among themselves”) in order to vote what the general will is supposed to clearly require (Rousseau 1997: 60²). There is to be no mediation between the people’s will and the general will, even as, sometimes, the popular will can miss its target (Rousseau 1997: REF).

Because all it takes to figure out the general will is a pure heart (Manin 1987: REF), there is no need, in Rousseau’s vision of democracy, for the mediation of more enlightened representatives or simply for the mediation of representatives that would take the time to talk options through and figure out the best solution to collective problems or at least come up with reasonable justifications for their choices (as contemporary models in deliberative democracy require). Representatives, on the contrary, are seen as a source

¹ My definition of democratic representation is thus less demanding than Urbinati and Warren’s 2008: REF), which also requires that “ultimate responsibility for the actions or decisions of [the representative] rests with [the represented]. While this division of responsibility was integrated to the concept of representation sometime during its historical evolution, I do not see why it is necessary to make the concept of *democratic* representation, let alone representation itself, analytically complete.

² I’m following here an “epistemic” interpretation of Rousseau’s general will, following Cohen 2013. It strikes me as the most compelling way to make sense of Rousseau’s distinction between the general will and the will of all, even if it may come across as contradictory with some more proceduralist-sounding passages.

of moral corruption. Delegation and mediation create opacity, which is the opposite of the “transparency” of hearts and minds that seem so central to Rousseau’s thought generally and political ideals in particular (Starobinsky 1988).³ Not only can representatives not improve on the epistemic content of the law but they are bound to obscure, muddy, and distort the general will. This corruption is unavoidable in that it does not so much stem from representatives’ fallibility as human beings as from the very nature of sovereignty. For Rousseau,

Sovereignty cannot be represented for the same reason that it cannot be alienated. It consists essentially in the general will, and the will cannot be represented. The will is either itself or something else; no middle ground is possible (Rousseau 1978 [1762] p. 198.

Or as he writes elsewhere, “power can be transferred, but not will” (Rousseau 1997: 57).

As a result of his radical hostility to representation understood as delegation of political authority and in fact sovereignty, Rousseau thought that democracy was only achievable on a small scale, which allowed for the physical presence and direct participation of all citizens (Rousseau 1997: REF). Interestingly Rousseau’s model was not Ancient Athens, which he thought was not so much a democracy as “a very tyrannical aristocracy governed by learned men and orators” (Rousseau 1964: 246,⁴ my translation) but the equally small-sized Swiss cantons and, specifically, his native city-state of Geneva (Rousseau 1961: 111-21⁵, Miller 1984: 14-25). Rousseau, ever the anti-modern, thus foreclose at the eve of modernity the very possibility of mass democracy. He

³ See also Vieiro and Runciman who point out the connection between Rousseau’s rejection of representation and his contempt for theater, both seen as morally corrupt acts of “mask-wearing” (Vieiro and Runciman 2008: 33).

⁴ “[...] Athènes n’était point une démocratie, mais une aristocratie très tyrannique, gouvernée par des savants et des orateurs (“Sur l’Economie Politique”).

⁵ “Dédicace sur l’origine de l’inégalité.”

wouldn't have embraced the French ambition of a democracy at the scale of the former French kingdom and *a fortiori* the American dream of democracy on the scale of a continent.

Most scholars assume that modernity is what made representation necessary because modernity is, among other things, about mass societies. Hannah Pitkin, the great theorist of representation, admits that one of the unexamined assumptions of her seminal *Concept of Representation* (1989) is that “Like most people even today, I more or less equated democracy with representation, or at least with representative government. It seemed axiomatic that under modern conditions only representation can make democracy possible” (2004, 336).⁶ By “modern” conditions authors like Pitkin will generally refer to the age of empires and nation-states, polities too large to be ruled directly. Rousseau himself believed that the idea of representation was a modern invention inherited from feudal government. By contrast he argued, “[i]n ancient republics and even in monarchies, the people never had representative; the very word was unknown” (*Social Contract* Book III Chapter 15).

Is there anything about the concept of representation, however, that makes it more particularly suited to mass societies? Here a brief foray into the history of the concept might help. The term “representation” itself comes from Roman law, where it simply meant a more intense version of presenting something. Respectable sources trace the first widening of the term's meaning to the debates of the Middle Ages on the Christian

⁶ She now believes that “representation has supplanted democracy instead of serving it... The representatives act not as agents of the people but simply instead of them” (2004, 339) and concludes that “The arrangements we call ‘representative democracy’ have become a substitute for popular self-government, not its enactment” (2004, 340). In other words, in gaining representation we have lost democracy.

Eucharist (Hofmann 1974: 65ff, Pitkin 1989: 133ff), where the then central theological question--whether and how Christ could be said to be “embodied,” or represented in the Holy Communion--occasioned a conceptual breakthrough in making possible to think of representation as a commonly agreed convention relating two objects without any kind of pictorial resemblance (Hoffman 1974: 80). Later conceptual evolutions brought in the notion of authorization (by the represented of the representative) and, together with the birth of the concept of the “corporation,” the view that certain entities like Churches can exist and act above and beyond the sum of their individual members (Vieira and Runciman 2008). The specifically political meaning of “representation” emerged the latest, in the debates surrounding “the king’s two bodies” (one mortal, one symbolic) in early international law (Kantorowitz 1998 [1957]) and in the English debates around the respective authority and powers of King in the 16th and 17th centuries. The biggest breakthrough in that respect came with the publication of Thomas Hobbes’ *Leviathan* (1996 [1651]). While on some level Hobbes merely synthesized available concepts (of representation, authorization, personification etc.), he also radically turned representation from a derivative to a free-standing, specifically political concept, equating representation with political authority itself and grounding it on a secular conception of reason and equality (Vieira and Runciman 2008: 28-29). Representation would then go on to experience more tribulations in 18th century debates around its connection or lack thereof with the comparatively simpler concept of democracy, with very different views held by Rousseau, Burke, Sieyès and other prominent figures which paved the way for further debates and complications in the 19th and 20th centuries (Vieira and Runciman 2008).

In any case, nothing in the concept predisposes it to be a solution to the problem of mass societies. Yet because the emergence of the concept happened to coincide with the age of large polities, the distinction direct/representative democracy has been made to map onto the temporal and conceptual break between the Ancient era of small city-states (at most tens of thousands of citizens) and the modern world of nation-states (millions of citizens). Whereas the Ancient world lacked a concept of representation, the Modern world, or so it is assumed, was built on it. Thus a common view since at least the Founders is that direct democracy is just not available to us moderns due to the size of our polities.⁷

Against this mainstream view, however, a vocal minority today actively seeks to restore the ideal of direct democracy for the mass scale of contemporary societies either by discarding the unfeasibility-due-to-scale argument or denying that there is something special about “modernity.” The most radical theorist on that front is probably Sheldon Wolin (1994), for whom the very nature of democracy resists form and constitutionalization and thus, among other things, representation. He goes one step further than Rousseau in that sense, in that democracy for him is not just always direct but in fact “fugitive”—a movement rather than a state of being--and resists any form of institutionalization. As a result Wolin favors 5th century Athens over its more “stabilized” 4th century version, which he sees as an abandonment of democracy’s radical promise.

⁷ The directness of democracy in Athens is sometimes presented as an advantage but more often than not as a shortfall. Thomas Paine famously remarked that “Athens, by representation, would have surpassed her own democracy” (1989: 170). In the same vein, Urbinati advocates the normative superiority of representative democracy over direct democracy in terms of the temporal mediation it allows between the raw preferences of a people and its more considered judgment (Urbinati 2006).

This radical promise, he suggests, could and can in fact be found again in contemporary populist movements that are born of regular citizens' protests and ordinary activism.

Among recent neo-populist theorists who do not reject the institutionalization of democracy, John McCormick has sought inspiration not so much in Ancient Athens as in Republican Rome. He supports directly democratic institutions, where the model he borrows from is, per Machiavelli, the Roman Tribune, a group of officials selected by and from the plebeians whose main role was to serve as the champion of the democratic classes against wealthy elites (McCormick 2011).

Various “presentist” movements across the Western world, such as Occupy Wall Street, the Indignados, the followers of Etienne Chouard⁸ in France, or parties like Syriza in Greece or Podemos in Spain often similarly suggest a full return to direct democracy as the proper response to the crisis of what they see as a corrupt “electocracy” (to borrow a phrase from Lani Guinier⁹). Finally, a huge literature in cyber-utopianism and e-democracy more or less assume that all the advantages of small-scale direct democracy supposedly found in the past can be made available again thanks to the new technologies that have turned the globe in a village and will allow millions of us to do electronically (deliberate with each other and vote) what could only be done face-to-face among small numbers (see, e.g., Bohman 2004; Dahlgren 2005; Hindman 2010).

Notwithstanding the impracticality of many of these direct democracy schemes and the so-far still largely unsubstantiated hopes of e-democrats, I want to argue that these movements are right to think that there is nothing special about modernity that

⁸ A French economist and law teacher turned viral blogger and social activist who advocates various direct democracy schemes.

⁹ Guinier 2008.

makes the model of Ancient Greece or Ancient Rome irrelevant. But they are wrong to think that this means the possibility of returning to a golden age of democracy. My take is that it is simply not the case that democracy as a political regime can ever be “direct,” even at the small scale of a city or a canton, as opposed to always mediated and based on some kind of delegation of political authority. For any reasonably sized polity (the exact cut-off point is hard to pin down but it could be as little as a few hundreds), the people can never self-rule just by getting together and speaking as one. Much more delegation and distribution of political authority will result in what is inevitably a representative democracy, albeit not necessarily one that looks like what we know as representative government. As a result, no amount of new technologies will resolve a problem that could not even be solved during the age of face-to-face deliberation in Greek city-states.

I thus fundamentally agree with recent statements to the effect that representation is always constitutive of democracy and democratic practices (as found in Plotke 1997¹⁰ or Urbinati and Warren 2008 among others¹). Unlike such authors, however, I do not rely on an appeal to modernity as the reason for this necessary relation between representation and democracy. In other words, instead of considering that democracy is always representative because of the modern condition in which we happen to find ourselves, I want to argue that democracy as a political regime is always representative period.

In order to make my case, I now turn to the Ur-model that contemporary advocates of direct democracy always return to: 5th and 4th century Athens.¹¹

¹⁰ “[R]epresentation is crucial in constituting democratic practices” (Plotke 1997, p. 19 cited in Urbinati and Warren 2008).

¹¹ The Roman case is not worth exploring in that apart from the Tribune it was hardly democratic at all. The Swiss cantons are a more interesting comparison point, though I won’t mention them here.

2. The myth of Ancient Athens as a direct democracy

A common vision of Athens is that of a city where thousands of citizens directly self-ruled through regular face-to-face meetings on a public place large enough to contain them all. During these meetings, important decisions were taken and laws passed through public deliberation followed by voting (by show of hands). Democracy was direct in that there were no intermediaries between the public and the regime's laws and policy-outcomes. People were ruled and ruled in turn. It was direct self-governance.¹²

As Melissa Lane remarks, however, the idea that the Athenians “lacked a conception of delegated authority” is simply not true. “As it happens the Athenians knew very well how to have some do work on behalf of others” (Lane 2014: REF). She mentions that Athenians chose by election or by lottery some 1,200 civic officials each year (including the 500 members of the council) and also chose jury panels by a complex system of lottery. The choice of having an assembly in which all the willing could participate and make decisions was therefore “a strategic choice about the best forum in which to make decisions that would affect the life-blood of the polis, rather than a consequence of institutional primitivism or a failure of imagination” (Lane 2014: REF). On the basis of similar arguments Terril Bouricius has recently put forward the bolder claim that “The Athenians invented a system of government that worked at a larger than face-to-face scale, in which the citizens ruled through representative institutions. “ In his view, “Even the People’s Assembly [...] had a representative character (Bouricius 2013:

¹² This is the vision the founders had of ancient democracy. [Find quote by Madison about representation as the pivot of the system because it makes the meeting of all people unnecessary.]

4). In what follows my aim will be to substantiate what I take to be a fundamentally correct, if slightly under-argued, intuition.¹³

Most prominent accounts of the way Athens was actually run (such as Hansen 1999, Ober 2008) paint a picture of Athenian Democracy as much less direct than some naïve preconceptions assume. Bracketing for now the question of whether the People's Assembly can legitimately count as an institution of direct democracy, one must emphasize that this assembly was just one part in a larger, complex, and over time increasingly sophisticated system of governance (Hansen 1999). The other, essential parts of that system can hardly be said to be directly democratic, which compromises the utopian vision of Ancient Athens as an overall direct democracy.

The reality of Athens is that most decisions were not made by the Assembly itself. Instead they were in the hands of various randomly selected councils and magistrates. The central one was the Council of 500 (boule), “a linchpin institution that was given control of the vital agenda-setting function” for the meetings of the full Assembly of Athenian citizens, and was also responsible for the day-to-day administration of state affairs, “including meeting foreign delegations and reviewing the performance of outgoing Athenian magistrates” (Ober 2008: 142). Other essential institutions were the Legislative Panels (nomothetai), manned by 1001 randomly selected citizens over 30 years of age and in charge of approving new laws; and the People's Courts (dikasteria),

¹³ Bouricius only gives a partial account of why Athenians should be seen as representative, as he is more interested in deriving the consequences for modern day democracy of such an institutional reinterpretation of Ancient practices. As a result, he does not quite fully substantiate his claim nor does he clearly articulate the conception of representation that is compatible with such a claim.

manned by citizens chosen by lot and able to over-rule the Assembly decisions. Nearly all of the magistrates who carried out governmental business were also chosen by lot, usually in panels of 10 citizens. According to various commentators, the institution of the randomly selected council was thus the key institution in Greek democracy and may even have been more central to the Greeks' concept of democracy than the Assembly (Ober 2007).

Further, and as already mentioned, to the extent that decisions were ultimately put to a deliberation and a vote in the People's Assembly, this latter Assembly had no control over the agenda itself, which was set by the Council of 500.¹⁴ On that basis alone, and probably with some exaggeration, some scholars have described the People's Assembly as a mere rubber-stamping institution (Ober REF). Bouricius also notes that "nondemocracies, such as Sparta, had assemblies [in which] the agenda was controlled by the aristocracy" (Bouricius 2013: REF). In other words, the existence of a People's Assembly is by itself no guarantee of democracy. All of this relativizes the power of the Athenian Assembly and suggests that Athens was not the paragon of direct democracy that popular imagination and some neo-populists like to paint it as.

Finally, should the assembly itself be considered directly democratic? Even ignoring the fact that women, metics, and slaves counted for nothing, at no time did more than a small fraction of the male citizenry of Athens gather to deliberate and vote in the People's Assembly. As Hansen describes it, "Decrees of the Assembly *were treated in principle as decisions of the entire Athenian people*, but in practice not more than a

¹⁴ Sometimes, to be fair, on the basis of suggestions from the populace at large.

fraction of the citizen population were ever present” (Hansen 130, my emphasis).

Hansen estimates that between 6,000 and 8,000 people ever showed up to the Assembly (as its location first changed from the agora to the Pnyx and the Pnyx itself became more spacious over time) out of an estimated 30,000 eligible attendants. The number of participants was anyway limited in practice by the finite size of the Assembly-place. In the 4th century, when attendance was financially incentivized, a number of citizens were actually *physically prevented* from entering the Assembly once it was judged to be at capacity (Hansen 1999: 132). Thus, regardless of the desire of the demos to participate, only a fraction of it could ever really make decisions—at most roughly a fifth of the actual number of eligible participants.

What is striking in this alleged direct democracy institution is that despite the fact that it was physically impossible for all to be present, the decisions of whoever showed up and managed to enter the Assembly-place were taken to be those of the demos at large. In other words, the 6000 to 8000 who actually showed up de facto acted, and importantly, *took themselves and were taken by others* to act, as representatives of the other 24,000 to 22,000 missing free Athenians, even as the legal and political concepts of “representation” were not available just yet.

In other words, the present made decision on behalf of the absent, just like elected representatives make decisions on behalf of their constituents in our modern democracies. The main differences are that the representatives in the Greek context were not elected but self-selected; the ratio of representatives to represented was much higher—and more reasonable (between 1 to 10 in the fifth century when participation

wasn't financially rewarded to 1 to 5 in the 4th century when it was)—than what it is today in our modern democracies where one representative rather absurdly stands for millions of people. But most importantly, the representation that it makes sense to envisage in this context is not in fact “one-to-one” but “many-to-many”-- in the sense that it is the whole assembly of 6,000 that could collectively claim to represent the larger community of 30,000 and legitimately act on its behalf, even as each individual member could not be said and did not see themselves as representing any other individual.

This many-to-many dimension may help us address the objection that participants in the assembly couldn't possibly count as representative in the modern sense because when they spoke and voted, they were responsible in their own name for their speeches and actions and liable to prosecution as individuals, not as “representatives” in the modern sense. As we saw earlier, one of the historical evolutions that the concept of representation went through was to entrench a clear division of responsibility between represented and representative. A distinction between their private and representative person—their two “bodies”—gives representatives leeway to act and speak without fear of consequences for themselves that the Athenians did not enjoy.

To this objection one can reply two things. First, far from proving that Ancient democracy was not representative in the sense of not allowing for and indeed not relying on delegated political authority, it simply establishes that Ancient democracy functioned along broadly representative lines even as its citizens did not enjoy all the advantages that come from a clear understanding of the concept of representation and the division of labor and responsibility between the personal self and the representative one that such an

understanding would have permitted. In that sense Paine's famous remark that Athens would have surpassed itself had it been "representative" (in the sense here of having all the advantages of conceptualizing properly its own practices) is probably correct. This is true in the same way that one might say that some understanding of probability theory-- which would start to become available from the 17th century onward!--might have helped the Greeks make better sense of their intuitive use of lotteries.

But second, it could be that we are blinded by our electoral understanding of representation, which is limited to one-to-one or one-to-many dimensions. It could be that for Ancient Greeks only the group of self-selected participants was acting as representative of the larger group, thus leaving individuals on the hook as private persons for whatever they said and did. Thus when the demos chose to invade Sicily in 415, it's the entire Athenian citizenry that took responsibility for the disastrous decision, not just the ones who had showed up that day and made the decision. The fact that individuals remained liable on personal level might seem unfair but it does not make the system incoherent.

There are several reasons why democracy in Athens could not be direct in the way often pictured. As already said, none of the known Assembly-places (the Agora, the various iterations of the Pnyx) could hold the entirety of the body politic at once. Second, even if it could have, it would have been impossible to have a coherent deliberation among 30,000 people. If one assumes coherent deliberation to be a condition of democracy, then direct democracy among such a large number of people is impossible. In fact, such a deliberation was equally impossible among the 6,000 who showed up. While

6,000 people are often presented as a small number, it is in fact larger than any of the assemblies that we can today call “deliberative” with a straight face (even the biggest Parliament of all, the Italian parliament, only counts up to 1,000 people and everyone knows how functional that has proven to be).¹⁵ As a result, “the vast majority of the audience of 6000 were content to listen and vote and only a tiny minority came forward to make speeches or propose motions” (Hansen 1999: 143). And because speaking in public demanded rhetorical skills and courage that not everyone possessed, among this speaking minority “debate was dominated by a small group of half- or fully professional orators, some of whom had been trained by sophists or in the school of Isokrates or in Plato’ Academy.” Even though the Athenians liked to cultivate the ideal Assembly speaker as “ the plain man who spoke his honest mind with modest infrequency and without circumlocution,” the reality was that much of the talking was actually done by a small number of professional speakers (the rhetores) (Hansen 1999: 144).¹⁶

¹⁵ As Robert Dahl pointed out early on, there is a practical reason for this impossibility of direct deliberation among 6,000 people: “as the number of participants grows large, so too does the amount of time required to allow even a tiny percentage of them to speak (or if writing instead, for others to read what has been written), until there is hardly any time left for any other human activity” (Dahl 1970, also cited in Bouricius footnote 1).

¹⁶ This reconstruction of the way the Assembly functioned is supported by textual evidence supporting the claim that far from deliberating with each other as contemporary models of deliberative democracy like to imagine, the 6000 participants engaged at most in “internal deliberation” before voting and after being talked to by 20 to 40 self-selected orators (Cammack 2016). Additionally, it appears that the speakers cast themselves, by the very act of speaking, outside the deliberating unit and into the distinct role of “advisor” (Landauer 2012). In other words, coming forward as a speaker distinguished you from the rest of the crowd to the point of seemingly excluding you from the pool of decision-makers or at least putting you in a distinct category where the exercise of your right to speak up almost supplanted your right to vote.

So all the evidence is that the practices of Ancient Athenians were doubly representative when it came to deliberation in the assembly. Only a subset of the citizenry showed up to participate in the assembly and, among those who were actually allowed to participate, only a tiny fraction of those 6000 self-selected citizens (about 0.5 percent of them, or 0.1 percent of the entire citizenry!) actually spoke up. It is not clear whether the self-section of speakers took place ahead of time or on the spot or whether it was always the same people who spoke publicly or that a new, fresh set of voices were heard each time. In any case deliberation never involved the entire citizenry and only indirectly involved the sample that was actually present.

Voting, one might remark, is, however, possible at any scale. So while Ancient Athenians may not have been able to deliberate directly with each other, one could argue that they could still have directly aggregated their votes. Taking into account the technical constraints under which the Athenians operated (no megaphones, no place big enough to accommodate 30,000 people etc.), one could theoretically imagine an assembly of 30, 000 people (say in the equivalent of a football stadium) voting all at once, or as was also the case on historians' account, "shouting" and "murmuring" in ways evidencing sufficiently clearly their support for various propositions (Schwartzberg 2010). Still, the sheer fact that agenda setting has to remain determined by a minority at each point in time, rather than all of the citizens at once, re-introduces an irreducible element of representation in the whole scheme.

It is thus not far-fetched to propose that Ancient Athens was not directly democratic, even in its most iconic practice: the People's Assembly. Far from involving

all citizens at once the People's Assembly was based on a form of self-selected representation by which the subset of the citizenry that showed up at the meeting was effectively, and indeed consciously, making decisions on behalf of the rest.

3. Other forms of democratic representation

If, as I hope to have shown, the very concept of representative democracy is not all that helpful, in that even Ancient Athens, the paragon of direct democracy, was in fact mostly representative, the more interesting question becomes: what kind of (democratic) representation should we aim for; for what purposes; and what are the trade-offs involved?

In this section my goal is to offer a different way of looking at representation by taking us away from the model of electoral democracy towards a more pluralistic understanding of who representatives can be, how they can be selected, and what functions they can serve. If the relevant contrast is not between direct and indirect democracy, but rather among various forms of “representation”—some involving, for example, ordinary citizens as opposed to professional politicians, then a lot more needs to be said about the respective and compared merits and demerits of various institutional arrangements.

I am here following in the path of a growing number of scholars who have sought to complicate our understanding of representation. Michael Saward, among others, in a book called *The Representative Claim* has challenged many critical assumptions about representation, such as “that representative democracy is all about elections, and only elected officials can be classed as democratic representatives.” Against our “cultural

attunement to equating democracy with electoral democracy,” he proposes to “make representation strange again,” so as to be able to retrieve other meanings of representation, including in his case the idea that representation is “an on-going process of making and receiving claims, in, between, and outside of electoral cycles” (Saward REF).

Before we go any further, it might be worth addressing the following question: Why is electoral representation exerting such a pull on our collective imagination? It is, I surmise, due to two things. The first is sheer historical inertia and lack of institutional imagination, while the other is the attractiveness of the idea of consent as supposedly captured by the act of voting. Bernard Manin documents both in his seminal *The Principles of Representative Government*, showing how the crucial fork occurred with the 18th century triumph of elections turning as expressing consent at the ballot box. Elections, he also shows, are a Janus-faced institution, with a decidedly aristocratic side that actual practice has only confirmed over time, resulting in most mature democracies in a professional class of politicians with very low turn-over rates (less than 10% in the US), and clear and problematic group (some at this point would say class) interests (Crouch 2004).

As to the consent supposedly expressed by voting, while this interpretation may once have had some meaning, one could argue that it has lost much of it in mass elections where one vote hardly makes a difference (at least if one is to believe the huge rational choice theory literature on the paradox of voting), where the crucial step of agenda-control is out of reach for the ordinary citizen, where Gerry-mandered constituencies are reverse-engineered to yield the desired election results, and where, as a result, policy

outcomes are causally severed from majority's preferences (Gilens 2012; Gilens and Page 2014; Hacker and Pierson 2011). Voting stills retains for most the world over a powerful symbolic and expressive value but it is very questionable, in most cases, whether it transfers any substantive and meaningful consent. This is not to say that elections are never or could never be a legitimate source of authority for representatives selected by such means. But in the absence of public funding for electoral campaigns, for example, or in the context of a two-party system that is not responsive to a large portion of the populace's preferences, or in the absence of gender parity laws or affirmative action measures ensuring that elected assemblies are not disproportionately male and white, or in the absence of reliable media or checks on lobbies and other manufacturers of consent, it is hard to see elections as allowing for genuine democratic "representation."

What are other ways for "making legitimate claims" besides being elected? The Athenian example suggests an obvious alternative: being randomly selected to be a part of a Council. This model was well established in Ancient Greece, was reborn in part in the contemporary jury institution, and has been recently considerably revived in democratic innovations such as Citizens' Assemblies and other "mini-publics" (Goodin 2006) involving relatively large randomly selected assemblies. Lotteries are arguably the ultimate democratic selection mechanism (Plato, Republic Bk 8, 557a ; Aristotle, Politics IV.9, 1294b8; Hansen 1999; Manin 1997) and, as a result of this historical fact being recently re-advertised, are now enjoying a bit of a conceptual revival among various so-called "kleirotarians," sortitionists, or "lottocrats" (e.g. Burnheim 1985, Bouricius 2013, Carson and Martin 1999, Guerrero 2014, Landemore 2012, Leib 2005, McCormick 2011, O'Leary 2006, Saunders 2008, Stone 2011, Sutherland, Warren and Pearse 2008). I

propose to call this form of representation “lottocratic representation” (after Guerrero 2014).

It is sometimes suggested that lotteries are a form of direct democracy so let me briefly address this objection. For Rousseau and even contemporary historians of ideas, lotteries are in fact the telltale mark of a direct democracy. According to Bernard Manin, the practice of selecting magistrates by lottery is what separates representative democracies from so-called direct democracies. In other words, for Manin it is not delegation or mediation that is the mark of a representative as opposed to a direct democracy. It is four distinct principles, which he identifies historically as 1) periodic elections 2) independence of the decision-makers from the wishes of their electorate 3) freedom of expression and 4) public decisions being put to the trial of debate. We saw, however, that randomly selected assemblies in Ancient Athens functioned as de facto representative assemblies, though the Athenian system did not quite fit the four principles just listed (mostly the electoral criterion). The limit of Manin’s account is that it is descriptive and that there is no reason why history should dictate our normative principles. There is no reason why the fact that representative government has been historically identified with such principles should make representation bound to them only.

Ordinary citizens selected to serve on randomly selected councils or boards can thus arguably be seen as representatives on a par with elected ones, albeit with different strengths and weaknesses. Among their weaknesses are, obviously, their lack of experience and in-depth knowledge of the system. Among their strengths are freshness of view, a greater diversity as a pool of decision-makers and a greater representativeness of

the larger community in terms of demographic profiles and interests, and cognitive diversity—arguably an important property for good group problem solving and epistemically fruitful democratic deliberation (Page 2007, Landemore 2013). Lesser corruptibility (in light of the fact that the lottocratic representatives are not facing re-election) is also often presented as a central, if not the main advantage of this source of representative claims (e.g., Guerrero 2014; Stone 2011).

One seeming downside of lotteries is that they do not transfer “consent” of the represented masses the way voting does (even though we saw how dubious this mythology of “consent” as transferred by voting in contemporary elections possibly is). In that way lottocratic representatives offer only a form of what used to be called “virtual representation,” that is representation untethered from consent—a concept that 18th century British officials were making use of to justify ruling on behalf of many non-voting populations, including women, the property-less, and later American colonists (Jenyns 1765).¹⁷ Nonetheless citizens could ideally have consented to the procedure to begin with (say, in a democratic constitutional process whose output was shaped by the people and vetted by a referendum) and thus, indirectly, to the choice of citizens selected by that procedure, though none of them was chosen or endorsed by any citizen in particular. Such an argument is, at the very least, not more implausible than that that would have us express consent by voting in the context of mass elections under existing representative governments.

¹⁷ Jenyns defines “virtual representation” as “imaginary representation” that should apply equally to the colonies if it is taken to apply legitimately to British citizens. In his rebuttal, the American James Otis replies that virtual representation is unjust both in England and in America.

Yet another model of representation worth exploring is that in which the representatives are simply self-selected and, as in the lottocratic case, act on behalf of the others without their direct, explicit consent. Far from being a form of direct democracy, the participation of self-selected participants in the political decision process functions as, again, a form of virtual representation where the willing to participate take on the role of representatives of the absent and the absent are taken to implicitly agree to being represented in such a way.

Self-selection is the mode of selection favored by what I propose to call “open” democratic innovations, those, in other words, that erect no gate at the door and let everyone in who chooses to participate. Self-selection is the selection method for town-hall meetings, participatory budgeting, crowdsourced policy-making, and, as I have argued above, the kind of “open” (or at least open up to capacity) assemblies that Ancient Greek cities were familiar with. It is also the selection method of referenda and initiatives.

It might seem odd to call “representatives” participants in these open democracy practices, perhaps even more so than the members of randomly selected assemblies. If these assemblies directly involve ordinary citizens without the mediation of election or random selection, then surely the participants are just individual members of the demos, speaking for themselves exclusively and not playing or expected to “stand for” anyone. Even if randomly selected assemblies are not a form of direct democracy, surely participatory budgeting and crowdsourced policy-making must be.

Yet remember what we found in the case of the Athenian ekklesia: the expectations there were that the decisions of the subset of people who actually participated were the decisions of the whole “demos.” In other words, the participants knew and knew that everyone else knew that they were acting, as a group, as representatives for the whole polity, including the absent. The vocabulary of “directness” is thus misleading and would be often more aptly replaced by the vocabulary of “openness.”

Similarly, participatory budgeting, crowdsourced policy-making, even referenda and initiatives are not so much forms of direct democracy as forms of “open” democracy.¹⁸ It means that the door is open to anyone willing to participate, though it does not guarantee that anyone will, let alone that everyone will, and in fact for the most part it counts on just a sufficient fraction of the eligible population actually showing up or participating. In the case of Participatory Budgeting experiments it is interesting that practitioners rarely use the vocabulary of direct democracy. They usually prefer to speak of “co-governance”—where the implied partners are the existing (electoral) representative institutions. In the case of crowdsourcing, the illusion of direct democracy is even more unjustifiable in that while participation is open to all, decision power remains in the hands of the crowdsourcers, usually government officials. Co-governance in that case is limited to contributing input to decisions made later by elected representatives.

Like lottocratic representation, self-selected representation lacks the advantage of explicit and direct consent to the choice of individuals who end up making the decisions.

¹⁸ In the case of Participatory Budgeting experiments it is interesting that practitioners rarely use the vocabulary of direct democracy. They usually prefer to speak of “co-governance”—where the implied partners are the existing (electoral) representative institutions. Thank you to Paolo Spada for this point.

Additionally, unlike lottocratic representation, which can at least in theory hope to offer a descriptive representation of the larger group, crowdsourced representation leads to demographically skewed groups. If we look at the composition of the Athenian Assembly, or rather what we can reconstruct of it, it appears that it skewed towards urban, navy-employed, and poor citizens (Hansen 1999: 125). This is why, in fact, critics or opponents of democracy, contemptuously identified the “demos” with “the poor” (Aristotle Politics 1303b10). If we consider “open” democratic innovations, such as Participatory Budgeting experiments, we find a similar overrepresentation of certain categories. Participatory Budgeting experiments taking place in the United-States typically, and not unlike the Athenian Assembly, oversample the poor (REF). The 2014 Boston youth participatory budgeting project overrepresented women (61% of the survey respondents) [Source].

In crowdsourced policy-processes, which take place on-line, the results are biased in an arguably more problematic direction, reflecting existing hegemonies rather than counteracting them. In an experiment in crowdsourced policy-making recently conducted in Finland (Aitamurto and Landemore 2016), the participants, which added up to a bare fraction of a percent of the population, were mostly male (above 80% of the survey respondents), mostly educated, and politically active. This bias may have had to do with the fact that the experiment was on-line¹⁹ and about the reform of a law regulating snowmobile traffic (a mostly male activity). In any case, self-selection hardly seems like a good way to obtain statistical representativeness.

¹⁹ On-line PBs also typically oversample educated white males (Spada et al. 2015).

In response to this criticism, however, one should first note that no method of representation is perfectly descriptively representative because no method is entirely free of self-selection.²⁰ In practice, elections clearly select along criteria such as race, gender, as well as economic and other factors (mostly moneyed people, at least in the US). Even in a more ideal world, elections would most likely still screen out certain personality-types (the introverted, the less articulate etc.).

Even randomly selected assemblies are rarely immune to biases. The Greek Assemblies selected from a pre-screened pool of vetted candidates and there was an element of self-selection in who ended up participating. Even Deliberative Polls, arguably the “gold standard” for such randomly selected assemblies (Mansbridge 2010), end up underrepresenting some categories of people, such as busy wealthy individuals for whom the financial compensation is not worth the trouble of participating. Finally, most of the randomly selected mini-publics celebrated by deliberative democrats are arguably too small to be truly representative of the larger population, except on very crude dimensions like gender, socio-economic class, and perhaps race (for sufficiently large minorities). Such mini-publics would arguably need to be at least 1000 people large in order to count as truly statistically representative (Spada forthcoming).

Second, the important principle from a democratic standpoint is that everyone has, in theory, an equal opportunity to participate in “open” democratic innovations. Similarly in the Athenian Assembly in theory everyone had the same right to participate and once there to say something and to be heard. One interesting finding in Aitamurto

²⁰ Even Fishkin’s Deliberative Polls, whose design is the closest to producing a perfect mirror-image of the population, tend to underrepresent busy wealthy people for whom the offered financial compensation for a weekend of deliberation is not enough of an incentive.

and Landemore is that one reason for passive rather than active involvement in crowdsourced policy-making processes seemed to be the feeling that other people had already voiced their concerns and that their participation would not add much to the conversation.²¹ Similarly, when prompted to comment on the 10% active participation rate on the website (about 700 registered users out of 7,000 visitors), an interviewee pointed out that from his point of view, the opinions on the website represented “a rather good sample of the opinions that are in the air, even though there are only 700 active participant.” He further speculated that if the other 6,300 others “felt that their opinions had been greatly insulted, they probably would’ve become active too” (Aitamurto and Landemore 2016).

It is possible to interpret these results as speaking to the fact that when people feel that their concerns are represented or voiced, they self-consciously opt out. Observed passivity should thus not necessarily be interpreted as indifference, laziness, incompetence, or disapproval but possibly as a form of tacit consent to what other people are doing, at least when equality of access to the process is real. This would tend to suggest that although only a few people typically participate actively, their activities may be implicitly authorized and thus granted some degree of representative legitimacy by the other more passive participants.²² In a way the activity of the active participants could be construed as one of ‘virtual representation’—in that they speak on behalf of people who are not there and did not explicitly grant consent (as in the case of elected

²¹ See the following excerpt from an interview with a participant: “I can't think of any set of issues that would have been left undiscussed. The discussion progressed rather well without me, from what I've seen” (14, online participant, male).

²² One may of course further wonder whether the people who do not even log in once on the platform are represented in any way, a question we are not able to answer at the time being.

representatives). Contrary to 18th century virtual representation, however, this modern version takes place in the context of a genuinely open process (unlike the 18th century British Parliament, which neither the property-less, women, or American colonists had any chance to enter). People who decided not to participate can be argued to have done so voluntarily and, in some cases, because they felt that their views had already been expressed.

I propose to call this kind of virtual representation “crowdsourced representation.” A key principle of crowdsourcing is openness of the process, resulting in self-selection of the participants (Brabahn 2013). Another important aspect is that the crowdsourced representatives are authorized as representatives by another part of the democratic system, not themselves. The concept of crowdsourced representation is thus distinct from what Mark Warren and Nadia Urbinati have in mind when they talk about “self-authorized representatives.” Whereas self-authorized representatives—typically various interest and advocacy groups such as NGOs, groups like Occupy Wall Street etc.--operate outside of formal institutions and have a contested, constantly in the process of being established or in need of being re-established, “counter-democratic” kind of normative legitimacy, crowdsourced representatives are de facto authorized by the larger formal system in which the crowdsourcing occurs. Crowdsourced representatives are insiders, not outsiders. There is no ambiguity about their legitimacy or the source of their legitimacy: not themselves, but the entirety of the rest of the demos, via existing formal institutions and procedures.

Third, and more essential to legitimacy than statistical representativeness per se is the extent to which the deliberations among the self-selected group are representative of

the diversity of opinions on the topic existing in the larger community of affected interests. We do not really have enough information about Athens to be able to answer that question there with any certainty. In the already mentioned Finnish crowdsourced experiment, the interview data indicate that the deliberation reflected a more diverse array of opinions than the statistical composition of the group would suggest. Interviewed participants reported being impressed by the inclusiveness and representativeness of the process in that respect, even if it was remarked that some groups were not represented (e.g., the indigenous Sami people, and people without access to the internet, a small but important minority in Finland). Lack of statistical representativeness need no translate into total disregard for the interests and perspectives of the absent.

There are thus at least two additional ways to conceive of democratic representation beyond the electoral model. The first one is “lottocratic representation,” where representatives are chosen by random selection, or lotteries. Another model is what I proposed to call “crowdsourced representation,” where the representatives are simply self-selected and act on behalf of the others with their tacit consent. Both are forms of democratic ‘virtual’ representation, with their own advantages and drawbacks, which need further exploration.

4. Conclusion

There is no such thing as direct democracy, if by democracy one means a polity-size community that rules itself without any kind of delegation of political authority. Even the archetypical example of Ancient Athens is highly questionable at least on the definition of representation put forward in this paper. Athens was simply of a different

“representative” kind than the electoral model we are most familiar with. Even the most blatant elements of direct participation one finds in the Athenian or, for that matter, the Swiss or other contemporary systems, are at best a non-autonomous part of a larger system in which representative elements are paramount. But even many of these supposedly direct practices in fact arguably involve a form of representation based on self-selection. It is thus both historically impossible to find and conceptually difficult to imagine a polity that rules itself directly by involving all the people at once. Rousseau himself, perhaps the most important proponent of direct democracy, seemed well aware of at least the first impossibility since 1. he did not consider Ancient Athens to count as a democracy and 2. he thought that “a true democracy has never existed and never will” (Social Contract III.4).²³

My argument in this paper has not been to deny that direct democracy is desirable (maybe it is) but simply to point out that it is just not possible beyond such a small number of people that the concept itself becomes largely useless for political purposes. We are better off, instead, understanding the many ways in which practices and institutions can be representative, including in non-electoral ways involving random assemblies and self selected groups.

²³ In fairness, Rousseau’s reason to think a true democracy unfeasible was a bit distinct, i.e., the supposed counter-natural principle of having the majority govern and the minority be governed.

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