

## **Sortition as a democratic system to appoint a real citizens’ representation, also called “citizens’ jury“**

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## Introduction:

According to historical sources, our political system was developed AGAINST democracy (sovereignty of the people). An “Electoral Aristocracy” was installed (18th century). Nevertheless, this can be seen as a positive evolution compared with ruling by inheritance (\*25) (\*26) (\*27).

Later on, some “democratic” elements were installed, for instance “free” or so called “democratic” elections with universal suffrage, the equality principle, freedom of speech, freedom of organisation, free press etc. However, some of them were moderated or abolished afterwards (\*24).

But a “democratic element” is not yet a “democracy”. Freedom of organisation may be a “democratic element” without which a democracy cannot exist, on its own it is no democracy. Hence “free elections”, to appoint a governor for instance, may be a democratic element, but on their own they are by no means a democracy. Furthermore, our political system of representation by elected representatives originates from the Roman Republic system and not from the Athenian Democracy (\*25). Calling our political system a “democracy” is a deliberately misleading propaganda (\*26).

With the rise of political parties, who have in fact taken over legislative power (\*10) which enabled lobbyists to work more directly, a power concentration of both legislative power and economic and financial interests, which eliminate the last remains of democracy in our political system, came to be.

One could say that history is repeating itself. The Roman Empire collapsed due to internal decadency and cumulation of a few wealthy and powerful people, which apparently is inherent to the electoral representative system (\*25).

Some countries, as well as many cities and communities, have already made the choice for a more democratic political system more than a century ago, by introducing the binding referendum at citizens initiative. Other countries made this choice more recently (\*28). The best known examples are Switzerland and half of the states in the US (\*32).

But here we notice an evolution towards (or a demand for) further democratisation as well, with e.g. the introduction of a sortition-based parliament (\*29) (\*5). The main reason of this aim is the ever increasing power of the financial and economic interests and their influence on the legislative power.

The system of sortition is based on the statistical fact that a sample, which was carried out in a scientific manner, gives a realistic overview of the whole population. As a result, decisions made by this group are representative for the whole population.

\*5 Terrill Bouricius – Multi Body Sortition <http://www.publicdeliberation.net/cgi/viewcontent.cgi?article=1220&context=jpd>

\*10 Wilfried Dewachter – the magic box of the participatory

<https://www.standaardboekhandel.be/seo/nl/boeken/algemeen/9789028979727/dewachter-wilfried/de-trukendoos-van-de-belgische-participatie>

\*24 Bernard Manin : The principles of Representative Government

<http://www.zje.net.cn/djwsj/The.Principles.of.Representative.Government..Bernard.Manin..CUP..1997.pdf>

\*25 Roslyn Fuller - Beasts and Gods: How Democracy Changed its Meaning and Lost its Purpose

<https://www.amazon.co.uk/Beasts-Gods-Democracy-Changed-Meaning/dp/1783605421>

\*26 Francis Dupui-Déri – History of the Word "Democracy"

[https://www.researchgate.net/publication/259648867\\_History\\_of\\_the\\_Word\\_Democracy\\_in\\_Canada\\_and\\_Quebec\\_A\\_Political\\_Analysis\\_of\\_Rhetorical\\_Strategies](https://www.researchgate.net/publication/259648867_History_of_the_Word_Democracy_in_Canada_and_Quebec_A_Political_Analysis_of_Rhetorical_Strategies)

\*27 David VanReybroeck – against elections <http://www.debezigebij.nl/boeken/tegen-verkiezingen/>

\*28 Direct Democracy Navigator <http://www.direct-democracy-navigator.org/>

\*29 Génération Nomination est une ONG basée en Suisse qui milite en faveur d’un grand oublié des démocraties modernes, pourtant plébiscité par les pères de la démocratie : le tirage au sort <http://www.genomi.ch/democratie-pas-utopie/>

\*32 [https://en.wikipedia.org/wiki/Initiatives\\_and\\_referendums\\_in\\_the\\_United\\_States](https://en.wikipedia.org/wiki/Initiatives_and_referendums_in_the_United_States)

A parliament chosen by sortition to represent the citizens (a "democratic" system) is a more honest, credible and, consequently, a more acceptable system than a directly elected parliament (by definition an "aristocratic" system) (\*9 page 23 and following).

There are no party lines, no group pressure, no voting behaviour based on strategies or agreements made in advance, no political haggling, no favours for friends (revolving door), no fear of retaliation or loss of an electable position on the voting list in the next elections: Everybody votes in good conscience for what he or she thinks will best serve the common interest in the long term. Political parties no longer spread hatred or discord, just because they want to create a certain image to get as many votes as possible.

Moreover, in the past decades the electoral system has evolved to a participatory due to the seizure of the decision-making power by the political parties (\*10).

A political system that uses sortition disposes over a variety of methods which could be implemented with the proper expertise. Due to the complexity of the sortition system and the necessity to maintain credibility, a high quality standard and scientific guidance and evaluation are essential when it comes to political projects (\*9 page 82).

In order to avoid disillusion and frustration as much as possible, it is recommended to draft a contract between the organisers and the participants prior to these projects. This contract describes the method that will be used to draw conclusions and the eventual use and consequences of the results. (\*9 page 51).

Such a contract (between politician and citizens) will seldom turn out to be enforceable, but at least it can result in a preliminary discussion (\*11) (Attachment 2).

The purpose and the resources will determine the sortition method that will be used. (Attachment 1)

The representativeness and reliability also have to be established (descriptive representative, geographically representative, demographically representative,...).

The practical application requires extensive specialised knowledge. For example, it is not recommended to use a stratified random sample if the drawn group has to be divided in subgroups later on. Furthermore, certain calculation methods can be used to achieve specific goals (for example the "Penrose system") (\*2), or a combination of different sampling methods.

In case a system in which everyone is asked to participate (e.g. the SRS system) is implemented, but people are allowed to refuse (which is virtually impossible to avoid), we get this kind of 'voluntary' participation at the end of the selection process. It then is important that an independent team who guides the procedure visits those who refuse to participate and motivates them to take part in the sampling (\*9).

If however a citizen still refuses to participate after this selection process, this does not seem to effect the representativeness in an unacceptable way (\*12 page 7-1).

The challenge of the chosen system of representation by sortition lies in proving its soundness and trustworthiness in comparison to the current system of 'elected' representation.

One should also be aware of the pitfalls of the so called "participation"-systems, as politicians are often describing them, where the citizen (eventually drawn by lot) can work and think alongside politicians, but it is still the politicians who maintain the ultimate decision power (\*16).

Projects in which citizens appointed by sortition form a panel together with politicians (Ireland, Iceland) have only given disappointing results so far (\*25).

\*2 Penrose system <https://arxiv.org/ftp/cond-mat/papers/0405/0405396.pdf>

\*9 Random selections in Politics - Lyn Carson and Brian Martin <http://www.bmartin.cc/pubs/99rsip.pdf>

\*10 Wilfried Dewachter, De trukendoos van de Belgische participatie.

<https://www.standaardboekhandel.be/seo/nl/boeken/algemeen/9789028979727/dewachter-wilfried/de-trukendoos-van-de-belgische-participatie>

\*10 Wilfried Dewachter, the magic box of the Belgian participatory.

<https://www.standaardboekhandel.be/seo/nl/boeken/algemeen/9789028979727/dewachter-wilfried/de-trukendoos-van-de-belgische-participatie>

\*11 <https://www.psa.ac.uk/sites/default/files/conference/papers/2016/Explaining%20the%20fate%20of%20psa%20.pdf>

\*12 <https://www.uvm.edu/~dguber/POLS234/articles/fishkin.pdf>

\*16 participatieladder van Arnstein <http://lithgow-schmidt.dk/sherry-arnstein/ladder-of-citizen-participation.html> zie ook bijlage 2

\*16 ladder of participation by Arnstein <http://lithgow-schmidt.dk/sherry-arnstein/ladder-of-citizen-participation.html> (see annex 2)

\*25 Roslyn Fuller - Beasts and Gods: How Democracy Changed its Meaning and Lost its Purpose

<https://www.amazon.co.uk/Beasts-Gods-Democracy-Changed-Meaning/dp/1783605421>

Another example of obstruction by the political establishment is the proposal for a new electoral system for BC (British Columbia), where a panel of citizens appointed by sortition made a motivated proposal and presented it to the citizens of BC through a referendum.

The majority of the citizens accepted the proposition (57.7%), but the politicians had imposed a special majority (60%). Thus, the implementation was denied by the government .

Special majorities are a violation of the principle of equality and are often used by politicians under all kinds of pretext (\*17).

There is also an ambiguity in contributing to the redistribution of political power between the elected politicians and the citizens on one hand, while on the other hand some party officials have stated that the "primacy of politics" (meaning the elected politicians) is untouchable.

Another pitfall that should be avoided, is that participation of citizens is only invoked when (political) losses are to be expected, whatever decision is taken.

Making sortition and participation unworkable and discrediting it to eliminate the "competition" is a strategy that can be expected, and an answer to this problem still has to be found.

The same struggle has been going on for decades against the binding citizens' initiative referendum. Hence, this is certainly not new to us (\*20) (\*22).

In his work "What Sortition Can and Cannot Do" (\*3), Keith Sutherland presents a clear example of the sortition system to meet that challenge.

Keith Sutherland compares the citizens' representation by sortition to a digital photograph.

*"All of the pixels together provide a good picture of society as a whole. One pixel however (or a subgroup) does not represent this society in any way. The participants cannot speak out or go into debate individually. They can only listen, formulate questions and vote.*

*The citizens who have been selected by sortition are obliged to take part in the citizens representation.*

A realistic system will have to be developed in order to be able to apply sortition to the fullest.

A longer mandate, for example a complete legislature with a partial replacement every year, (\*4) with an obligation of participation, will not be reasonably achievable. Because of this, a deviation from the optimal result will emerge. We will have to examine if this deviation is acceptable or not.

A whole other use of sortition is dividing the group that has been selected by sortition into subgroups. In these subgroups, the participants can have discussions and formulate proposals and questions (\*12 \*13 deliberative poll - J.S. Fishkin 1991 – 1997). This requires intense supervision, because some of the individual characteristics of the participants can dominate the subgroups. The division into subgroups and the deliberative way of working contradicts the principle of representativeness by a group selected by sortition, because every individual or subgroup is no longer an image of a society as a whole (\*3). It is actually a combination of two separate systems, namely deliberation and sortition.

In this application, the need for independence and professionalism of the guidance, as well as the choice for experts and panels to be heard, are of crucial importance. The representation obtained by sortition will, at the end of its "deliberation," vote as a whole by secret ballot (\*12 page 10). In most cases, asking the experts questions must be facilitated and discussion in public or video recording has to be avoided in order to guarantee an equal participation for all.

\*3 Keith Sutherland <http://www.newdemocracy.com.au/docs/researchpapers/What%20Sortition%20Can%20Do%20PSA.pdf>

\*4 in some proposals, the senate of a bicameral system is composed through sortition, where one third of the representatives are replaced every other year. A complete mandate would last 3 years in this case.

\*12 <https://www.uvm.edu/~dguber/POLS234/articles/fishkin.pdf>

\*13 <http://cdd.stanford.edu/>

\*17 [http://participedia.net/sites/default/files/case-files/653\\_265\\_final\\_report.pdf](http://participedia.net/sites/default/files/case-files/653_265_final_report.pdf) en

[http://www.sortitionfoundation.org/canada\\_citizens\\_assembly](http://www.sortitionfoundation.org/canada_citizens_assembly)

\*20 [www.democratie.nu](http://www.democratie.nu) We emphasise that the plebiscite (a referendum on the initiative of the government) does not belong to the democratic instrumentarium, due to the known abuses (dictatorships, party politics)

\*22 [https://www.democracy-international.org/sites/democracy-international.org/files/PDF/Publications/2007-05-01\\_dutch\\_direct\\_democracy-nl.pdf](https://www.democracy-international.org/sites/democracy-international.org/files/PDF/Publications/2007-05-01_dutch_direct_democracy-nl.pdf)

It is important to distribute the presentations of experts and interest groups through social media and to involve the public as much as possible (e.g. let them ask the experts and interest groups questions) (\*37 page 19).

Another challenge is to maintain the intrinsic "better qualities" of the sortition system compared to the electoral representation (\*9 page 23: arguments for and against). The choice of a name is important as well, for example "citizens' jury" instead of "citizens' representation", because the (citizens') Jury is still considered a trustworthy institution by the population (\*9).

We can reasonably assume that the influences of powerful interests who control today's political system (\*25) will not disappear if a system of popular representation by sortition is implemented. We have to expect that these influences will reorient themselves to maintain the ability to influence decisions. The weaknesses are the administration which still is needed to assist the appointed citizens' representatives, the organisation of the guidance and the guides of the process, experts who are heard and how they are chosen, the use of mass media, the influence of the elected (professional) politicians with whom some cooperation or negotiation will still be necessary, depending on the used system.

Terrill Bouricius suggests (Journal of Public Deliberation V9 Issue 1 – Multi Body Sortition p. 7, page 10 - 3.1) (\*5) to apply his system of "Multi Body Sortition" (partially) if possible into existing structures, as an intermediate step.

This way, for example in a bicameral system, the Chamber of Elected Representatives can continue to fulfil its role as designer of the law.

We are aware that the evolution towards a democracy (sovereignty of the people) is a continuous process which will evolve with the changes in society and technology.

However we do believe that, besides fundamental rights and freedoms, two pillars are essential: the political representation of the citizens by sortition and the binding citizens' initiative referendum (\*20).

Both of these offer, thanks to the evolution in society and today's technical possibilities, an unseen potential for the introduction of democracy in politics.

For us, the right to a "binding citizens' initiative referendum" remains the ultimate expression of popular sovereignty. Representation by sortition can be an important complimentary element in a democracy.

We also noticed that the "European Convention for the Protection of Human Rights and Fundamental Freedoms" only guarantees the right to "free elections" (the institution of an "electoral aristocracy"). Democracy (as popular sovereignty) is not mentioned at all and the current interpretation of our constitution does not allow a binding citizens' initiative referendum.

In our sortition-based proposals, we assume, following the work of Terrill Bouricius (\*5) (\*19), that several citizens' jury's which each fulfil a different specialized task will be appointed. The sortition system that is used depends on the task at hand.

Of course, we can start real simple, e.g. with the right of petition to summon a legislative citizens' jury, but with a lower signature threshold than for a referendum. However, a citizens' jury or referendum remains the choice of the participants.

\*5 Terrill Bouricius – Multi Body Sortition <http://www.publicdeliberation.net/cgi/viewcontent.cgi?article=1220&context=jpd>

\*9 Random selections in Politics - Lyn Carson and Brian Martin <http://www.bmartin.cc/pubs/99rsip.pdf>

\*19 David Van Reybrouck <https://deccorrespondent.nl/538/Het-kan-een-totaal-andere-inrichting-van-onze-democratie/53776866-eda791cf>

\*20 [www.democratie.nu](http://www.democratie.nu) We emphasise that the plebiscite (a referendum on the initiative of the government) does not belong to the democratic instrumentarium, due to the known abuses (dictatorships, party politics)

\*25 Roslyn Fuller - Beasts and Gods: How Democracy Changed its Meaning and Lost its Purpose <https://www.amazon.co.uk/Beasts-Gods-Democracy-Changed-Meaning/dp/1783605421>

\*37 Hervé Pourtois – Mini-publics et démocratie délibérative.

## Criteria for the application of sortition in a political system :

A representation by sortition is defined as “democratic”, while representation by election is defined as “aristocratic”.

Sortition is a democratic instrument, because this way people are represented by their peers, whereas in an election system, people vote for “the best” as a “leader” (= electoral aristocracy).

To illustrate the aristocratic nature (the best) of the electoral system, and a 'democratic decision', we can take the example of the buccaneers (maybe somewhat romanticised).

*A hundred years before the French Revolution, the buccaneer companies were run on lines in which liberty, equality and fraternity were the rule. In a buccaneer camp, the captain was elected and could be deposed by the votes of the crew. The crew, and not the captain, decided whether to attack a particular ship, or a fleet of ships.*

The ancient Athenians (+/- 400 BC) knew the electoral system for the designation of “the best” (*aristocrat*) as well, since they used it to command the army. The legislative structures however were based on democratic instruments, representation by sortition, and public assemblies.

The electoral system for legislative structures mainly finds its origin in the Roman Republic (\*25).

The ECHR (Convention for the Protection of Human Rights and Fundamental Freedoms) only mentions the “right to free elections”. Democracy as a right is not mentioned throughout the convention. “Democratic elections” belong to the misleading propaganda language of politicians and media (\*26).

Sortition is a democratic instrument that could be implemented in a democracy, together with other democratic instruments and elements (Referendum, freedom of speech, freedom of assembly,...).

### 1 – Basic Criteria

- The basic criteria which are applicable to referendums are valid for sortition as well:
- Setting the political agenda by the citizens / right of initiative.
- Information and debate – transparency of public data – involvement of the citizens.
- Right of decision.

### 2 - Sampling System

Sortition systems can be complex, so there's a higher probability of manipulation and errors. In case of legislative right of decision, sufficient representativeness, low error margins and reliability of the jury are a must. It's also necessary to make a difference between applications with informative- or advisory power, for which the criteria are less strict, and a citizens' jury with legislative power.

Even in simple transparent systems, such as the mechanical lottery drum, a bailiff is present. In the Netherlands (2014), there was a suspicion of manipulation in the digital lottery.

\*25 Roslyn Fuller - Beasts and Gods: How Democracy Changed its Meaning and Lost its Purpose  
<https://www.amazon.co.uk/Beasts-Gods-Democracy-Changed-Meaning/dp/1783605421>

\*26 Francis Dupui-Déri – History of the Word "Democracy"  
[https://www.researchgate.net/publication/259648867\\_History\\_of\\_the\\_Word\\_Democracy\\_in\\_Canada\\_and\\_Quebec\\_A\\_Political\\_Analysis\\_of\\_Rhetorical\\_Strategies](https://www.researchgate.net/publication/259648867_History_of_the_Word_Democracy_in_Canada_and_Quebec_A_Political_Analysis_of_Rhetorical_Strategies)

The choice of the chosen system, and the details of implementation, has to be justified in function of the application.

- The selected sample system must be simple (e.g. simple random sampling – SRS) and conducted in a professional manner. The more complex the sampling system, the higher the probability of manipulation and errors. (E.g. what is the definition of maximum diversity? Who determines this? How is this determined?).
- The sampling procedures must be supervised.

### 3 - Number of citizens appointed by sortition

A further criteria is the number of citizens appointed by sortition. This number will determine the margin of error, the reliability and representativeness of the panel appointed by sortition.

It may be possible that we don't pursue descriptive representativeness for a particular application (e.g. G1000 Belgium: maximum diversity instead of representativeness) or limited representativeness (e.g. Oregon Citizen Initiative Review: geographically and demographically representative).

The 'rotation' which determines the degree of democracy of a system is also important. Govern and be governed in turn is essential.

The amount of citizens appointed by sortition depends on the following factors:

- The desired representativeness.
- The allowed error margin on the results.
- The reliability of the results.
- The desired rotation (large participation).
- A large number of participants will be less susceptible to coercion and corruption and will also increase the likelihood that efforts of manipulation will be reported more quickly.
- The panel of citizens appointed by sortition has to be "*a true image of society*" as a whole. Participation is therefore an 'obligation'. Voluntary participation contradicts the demand of 'representativeness' (\*38), since the panel is no longer an 'image of society'.

A properly implemented system with between 400 and 600 citizens is usually sufficient to ensure reliable operation. If there are less people, this will have to be justified in detail.

### 4 – Time the panel of citizens appointed by sortition is active

An activity of short duration has several advantages. The pros and cons of longer periods of time will have to be compared. (Example: Short = a day or several days, long = a legislature)

- Short periods of time lead to a bigger rotation and thus to more participants.
- Short duration also facilitates the return to 'normal life' (\*40).
- Long periods of time lead to higher probability of manipulation corruption and coercion.
- Long duration gives also low rotation
- Long periods of time discriminate participants who cannot afford a long absence, or do not want to do so.
- Long periods of time may have a higher professionalism as a result, but it has to be considered whether this is an advantage or disadvantage. Higher professionalism means that the panel differs from an "image of society". The risk of a 'new elite' increases (\*37).

### 5 – Right to Decide

Panels who only have advisory jurisdiction generate an average participation rate of 2%. This means that if you ask 100 people to participate in such a panel, only 2 people will show up. This cannot possibly be representative.

\*37 Hervé Pourtois – Mini-publics et démocratie délibérative.

\*38 Hubertus Buchstein – Repräsentative, partizipatorische und aleatorische Demokratie

\*40 BBC Scotland <http://www.bbc.com/news/uk-scotland-40946653>

It has been proven that when citizens have effective decision making power, they are more likely to take part in such initiatives. Technically, participation in a legislative panel appointed by sortition is obligatory (a civic duty). It will of course be difficult to enforce this, but various measures that encourage participation (fee, assistance, motivation, ..) may be provided. With voluntary participation, there is the risk of “professional participants” and paid participants (by civil society, businesses, interest groups, ..).

This way, the “image of society”, which is the basis of the jury system, is no longer valid.

- It is of interest to increase the turnout and become really representative in order to be able to speak of a democratic instrument.
- The introduction of a legislative jury appointed by sortition, through free elections and referendums, confirms the political legitimacy of its right of decision.

## 6 – Manipulation

It would be an understatement to expect that the large financial and economic powers which now influence the political decisions would disappear when sortition is introduced in the political system.

We have to take into account that these powers will reorient themselves in order to maintain their power. We can take a look at a system we know and has long demonstrated its reliability (Belgium, at least until the recent changes): the jury system in the juridical system (\*41).

A jury of 12 citizens designated by sortition (from the electoral registers) will decide about guilt or innocence. In comparison with our northern neighbours (the Netherlands), where the courts judge only with professional judges, it appears that the jury system is certainly not inferior regarding the quality of justice. We also see that both parties (defence and prosecution) can summon witnesses and experts, completely independent of each other.

Jury’s with mixed systems composed of professionals and citizens appointed by sortition give disappointing results. This is not surprising, such a panel is not at all “an image of society”.

Areas of concern are:

- Avoiding manipulation by “independent neutral employees”
- Determining which experts and interested parties have to be heard
- No mixed panels of professional (i.e. politicians) participants and people appointed by sortition
- Publicness of presentations by experts and interest groups

## 7 - Special applications

Currently, so-called ‘deliberative’ panels are being tested. An example of a used system is the division of a big panel appointed by sortition, who has heard the experts and interested parties, into small groups, who discuss among themselves under the supervision of “neutral facilitators”.

Although this system has advantages of deliberation and discussion, it has major risks of manipulation. Especially if it is not about non-binding “recommendations”, but about decisions where billions of Euro’s (\$) may be involved (some examples of corruption in Belgium: army shells, Agusta army helicopters, special waste containers, windmills on the North Sea, ...). Thus, the application will decide what can and what can’t work.

We draw the attention to the phenomenon of the “participation industry” that accompanies participative events in a professional way (including universities). Hence, Terrill Bouricius provides various “Supervision Jury’s” in his proposal.

One must also distinguish between the “**satisfaction of the participants**” and the “**results**” that depend on other parameters.

\*41 Why did the French Revolution establish a jury in criminal cases on September 3rd, 1791? *"Ce que caractérise la cour d'assises, c'est l'indépendance de cette juridiction. Elle offre la garantie que les jurés, en raison de la durée momentanée de leurs fonctions, n'abuseront pas de leur autorité."* Translation: “The independence of this form of justice characterises this juridical system. A guarantee that jurors, because of the short duration of their duties, will not abuse their authority, .”

E. Moore T. Panken - What is the best Jury size? [https://courses2.cit.cornell.edu/sociallaw/student\\_projects/JurySize\\_lesisnotmore.html](https://courses2.cit.cornell.edu/sociallaw/student_projects/JurySize_lesisnotmore.html)



- Participants of panels appointed by sortition can, in principle, not discuss among themselves, but only listen to the experts and interested parties, and vote afterwards.

This does not impede rounds of discussion from being organised in small groups, e.g. during work lunches etc., in which everyone is asked individually to summarise the presentations. These groups, and their presidents, are appointed by sortition. This way, an important element of ‘deliberation’ – to encourage summarising – is maintained, but the hardest and most controversial part – namely internal debates – is avoided.

**8** – One can also judge initiatives (with or without sortition) based on the following criteria:

cost – used sampling system / type of representation – outcome

One will soon find out that retrieving these basic data is not easy.

One of the great advantages of referendums (at citizens’ initiative) is that all discussions and events take place in full public and are accessible to everyone. This freedom of participation and full disclosure cannot be found, or at least not to the same extent, in the sortition system.

The presentations of the experts and groups of interests have to be public in case of legislative juries, in order to provide both public information and control. This also has to ensure that ‘informed citizens’ share the same view as the citizens’ jury. That way, we avoid that decisions taken by the citizens’ jury differ from what the people think, in case they had the chance to express their view in a referendum.

## **Proposition I – proportional system:** (see schematic overview on the next page as well)

### **Functioning principle:**

**As a transition arrangement to a fully valued democracy, the citizens decide on the balance of power between the 'Legislative Citizens Jury' (3.) selected by sortition and the 'Elected Representatives' (5.).**

**At 'free' elections, the citizens can cast a vote for the 'Legislative Citizen Jury selected by Sortition' (\*36) as well as for a 'candidate' or a 'political party'.**

The amount of 'seats' of the 'Legislative Citizen Jury' (3.) is at the most the same as the number of seats of the 'Elected Representatives' (5.) with a minimum of three (\*23).

Therefore, the amount of 'seats' of the 'Legislative Citizens' Jury' can change at each election. The amount of seats of the 'Legislative Citizens' Jury' is in proportion to the amount of votes obtained by the 'Legislative Citizens' Jury' and the votes for the 'Elected Representatives' (see annex 3 and FAQ Q2 page 23). Hence, the 'Legislative Citizens' Jury' constitutes a variable 'fraction'.

The Legislative Citizens' Jury and the Elected Representatives never meet together. The calculation of the allocation of seats and the total amount of seats to allocate for the Elected Representatives remains the same.

**The votes of both institutions are counted together in case a Legislative Citizens' Jury is called upon.**

A couple of Legislative Citizens' Juries are appointed, who all are active for a limited amount of time. This can vary from a few days to a few weeks. The Legislative Citizens' Juries all have a determined amount of members, which varies between 200 and 600 (or even more) members depending on the desired representativity, rotation, error margin and reliability.

**The Agenda-jury (2.), or a citizens' petition (1.), decides whether a bill, handled by the 'Elected Representatives' (5.) is of sufficient societal importance to be submitted to the 'Legislative Citizens Jury' (3.).**

**In case a 'Legislative Citizens Jury' (3.) is summoned, the votes of the Elected Representatives (5.) and the 'Legislative Citizens Jury' (3.), casted on that specific Bill, are aggregated in order to accept or reject the Bill (see appendix 3 and FAQ Q2 page 23).**

**The Evaluation Jury (7.) will evaluate legislative proposals, which are submitted by citizen petition (4.), on their societal importance. In case of acceptance, they are submitted to the 'elected representatives' (5.) and the 'Legislative Citizens Jury' for voting (3.).**



The right to petition can be socialised in our proposal (lower signature thresholds compared to a referendum), in order to ensure that not only socially or economically strong groups or persons reach the thresholds.

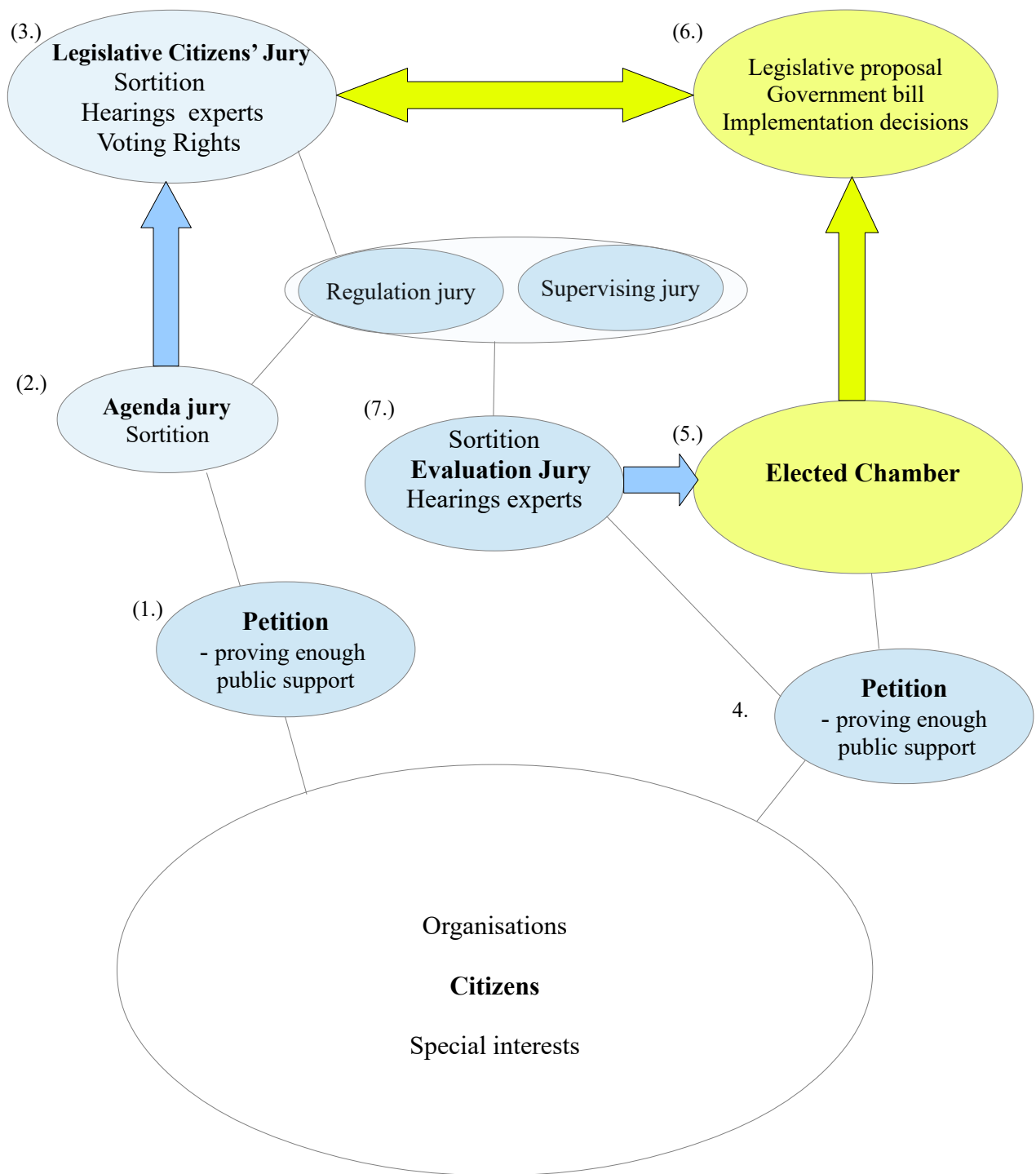
However, it's up to the citizens-initiators to go for a referendum or Legislative Citizens' Jury.

\*23 Since – despite compulsory voting – non-voters represent 10 to 15% of all voters and this rate continues to increase, a representation in a sortition-based representation is justified. 3 'seats' is therefore a moderate proposal and suits the part of our proposal in which one can choose for a sortition-based representation if desired. In a jurisdiction with a direct democracy, this amount and the calculation method could be determined by means of a referendum.

\*36 Simon Niemeyer - From the minipublic to a deliberative system: is scaling up deliberation possible? (page 4 political legitimacy)

## Schematic Overview:

current institutions   
 proposition 



In the literature, several suggestions are developed to use a chamber that represents the citizens appointed by sortition in a two chamber system (even at European level). Countless experiments have been conducted with institutions appointed by sortition all over the world. These experiences and conclusions can be taken into account (\*8) (\*9).

\*8 scientific classification and discussion of participation and democratisation projects [www.participedia.net](http://www.participedia.net)

\*9 Random selections in Politics - Lyn Carson and Brian Martin <http://www.bmartin.cc/pubs/99rsi>

## How it works:

### - Regulation Jury:

This jury defines procedures for sortitions, hearings and votings.

### - Supervising Jury:

This jury ensures that officials follow procedures and also takes care of complaints.

The regulation- and supervising jury are the creators and guardians of the rules. The regulation jury could be composed of people who were drawn by lot before. They already know how the procedures work.

### - Agenda Jury (2.):

They determine the agenda of the Legislative Citizens Jury. The Agenda Jury is a very large body of which the participants have been selected by sortition. The Agenda Jury decides by simple majority which law propositions/bills (with their implementation decisions) are of enough societal importance to be submitted to the vote of the Legislative Citizens Jury. (\*35)

The Agenda Jury is made up of a sample of 600 citizens appropriate for this purpose (for example, through preliminary survey). The appointed citizens stay available to be selected for selection in the other jury groups, with the exception of the time that they are serving in the Agenda Jury. The appointed Agenda Jury is available for a month (excluding the holiday period) to evaluate the societal importance of submitted bill/proposals within a certain time frame (for example 14 days). This means that they will, at most, be active for a month and 14 days. During exceptionally busy times multiple Agenda Juries can be summoned.

Agenda Jury members don't need to have meetings (the member list is not public.)

The candidates for the Agenda Jury will be informed a week before their participation that will last for one month, and they will receive a tax-exempt reimbursement for each reviewed proposed bill (it is also possible that there are none to be reviewed in which case they will be put back into the pool of available citizens for sortition, also for the Agenda Jury).

The bill propositions are sent through mail or, depending on the situation, by e-mail to the members of the Agenda Jury, and to the special interest groups that have registered. These groups can publish reviews and form discussion groups on their websites and in their publications. The members of the Agenda Jury will receive a list of these interest groups and possible online applications on the Internet. If an interest group (1.) collects enough signatures (proving enough public support) the proposed bill and/or implementation decisions plan is placed on the agenda of the Legislative Citizens Jury and the Legislative Citizens Jury is summoned (see example 2). With the current technology, it is possible to quickly have a reasonable idea of what the public support is, for example in two steps (\*14), where the first step confirms the right to petition.

The vote casting by the members of the Agenda Jury can also be done by phone (for example using an "end to end auditable voting system E2E"):

- Identification with national registration number and a code.

- for proposition xxxx press 1, for proposition xxxxx press 2,
- present to the Citizens Jury press 1, do not present to the Citizens Jury press 2,

undecided press 3

or by letter.

The Agenda Jury decides by secret ballot and a simple majority within the prescribed period.

A participation quorum can also be required (for example a minimum of 384 participants is needed to guarantee a sufficient representation).

\*14 the Netherlands: law on advisory referendums 1st of July 2015

The application involves two steps:

- an initiation request, supported by 10.000 signatures that need to be collected within a first deadline of 4 weeks.
- a definitive request, supported by 300.000 signatures that need to be collected within a second deadline of 6 weeks.

\*34 in order to avoid paid trolling, or similar activities, by companies, political- and other 'special interests' as much as possible, it might be recommended to only provide access to some internet applications through an e-id, token or other protective measures.

\*35 Principle of selectivity applied by Demoex Sweden <https://en.wikipedia.org/wiki/Demoex>

### **- Legislative Citizens' Jury (3.):**

Law propositions and bills and their implementation decisions are submitted to the Legislative Citizens' Jury by decision of the Agenda Jury or by exercising the petition right. This Legislative Citizens' Jury does not have a fixed set of members, they are drawn out of all citizens entitled to vote in the elections.

Every time a law, including where applicable its implementation decisions, must be voted on by the Legislative Citizens' Jury, a lot will select a group of four hundred citizens (SRS System) to come together for one day. In exceptional cases, it could take a few days or a week at most.

There is no party discipline, no group pressure, no voting behaviour based on strategy or agreements made in advance, no political haggling, no favours for friends (revolving door), no fear of retaliation or loss of an electable position on the voting list in the next elections: Everyone votes in good conscience for what he or she thinks best serves the common interest in the long term.

In order to avoid that charismatic speakers influence the vote, the law proposals are presented by neutral contributors.

The Legislative Citizens' Jury is summoned, listens to a well-informed explanation of the arguments in favour and against from experts and affected parties, and votes. They don't discuss amongst each other (\*3). The Legislative Citizens' Jury votes by secret ballot. The members list is not public.

The votes from both representative groups ('elected' and 'appointed by sortition') are added together and decide this way, by simple majority, that a proposed bill is accepted or rejected. (see also page 23 FAQ Q 2) When there is an acceptance of a proposed bill, the group of the Elected Representatives must submit an implementation decisions plan to both 'representative groups' ('elected' and 'appointed by sortition') before 6 months have passed. If the Elected Representatives do not respect this timing, they are automatically discharged and new elections are required within three months of the discharge. In this case, those representatives who are not re-elected will not receive any redundancy payment (dismissal due to grave error).

Participants are substantially reimbursed and assisted (\*7) during their participation.

### **- Evaluation Jury (7.):**

Taking carefully gathered information collected from society into consideration, and when a considerable public support is shown (4.), this Evaluation Jury will organise hearings, invite experts and parties concerned, will be advised by professional and neutral guidance if necessary, deliberate in subgroups selected by sortition when useful, and will present a motivated petition to the group of Elected Representatives. This Evaluation Jury is made up of one hundred and fifty members drawn by lot out of all citizens who are entitled to vote in elections. The Evaluation Jury is formed when a citizen/interest group has submitted a sufficiently backed petition (proving enough public support). Participants of this Jury are reimbursed well and assisted during their participation (\*7) (\*30). The members list is not public.

A worked out bill/implementation decision that, as a result of a petition from the Evaluation Jury (7.) is submitted to the group of Elected Representatives (5.), and is named as such, will also automatically be submitted to the vote of the Legislative Citizens' Jury (3.).

If the group of Elected Representatives has not voted upon the concerned petition 6 months after the petition was submitted (\*15), they are supposed to abstain from voting and the petition will be submitted to the vote of a Legislative Citizens' Jury who decides by simple majority and secret ballot.

If the petition is expressed in general terms, it is up to the group of Elected Representatives, or a member, to submit a detailed proposal. This proposal will automatically be submitted to the vote of the Legislative Citizens' Jury.

\*3 Keith Sutherland <http://www.newdemocracy.com.au/docs/researchpapers/What%20Sortition%20Can%20Do%20PSA.pdf>

\*7 the home front as well (childcare, informal care, home care, professional assistance etc.)

\*15 by not considering, not submitting to vote,... (decision not to vote)

\*30 We generally take around six months to deliver the process from beginning to end – as a guide, citizens need at least 40 hours in person, meeting five to six times to meaningfully deliberate and find common ground without feeling (or being!) pushed toward a pre-ordained outcome. <http://www.newdemocracy.com.au/library/what-is-a-citizens-jury>

**Practical example 1:** (for the calculations, see appendix 3)

The Legislative Citizens' Jury receives, during an election, 40% of the votes casted for candidates and political parties. This way, the Legislative Citizens' Jury has 60 votes or 'seats' (40% of 150 see also appendix 3).

In this example of 40% of the votes, the vote value for every member of the Legislative Citizens' Jury is **0,156**.

- A legislative proposal is rejected by the group of "Elected Representatives" with 65 votes opposed, 30 votes in favor, and 55 abstentions (150 in total, see also appendix 3)
- This legislative proposal has received enough support from the Agenda Jury to be submitted to the vote of the Legislative Citizens' Jury. The result of the vote of the Legislative Citizens' Jury is **23** votes opposed, **340** votes in favor, and 21 abstentions (384 in total).

Corrected, this results in:

**23** x **0,156** = 3,588 votes opposed

**340** x **0,156** = 53,04 votes in favor

The total of the votes of both groups:

65 + 3,588 = 68,588 opposed

30 + 53,04 = 83,04 in favor

The legislative proposal is accepted and binding. Within six months, the implementation decisions will be presented for voting to both groups of representatives (elected and appointed by sortition).

**Practical example 2:**

-The elected group of Citizens' Representatives (5.) has decided to vote on a legislative proposal.

-The Agenda Jury (2.) is notified (and the special interest groups) and carries out the vote in order to decide if the Legislative Citizens' Jury should be summoned (3.).

-A citizen/interest group starts a petition (1.) to summon the Legislative Citizens Jury (3.) in order to address the legislative proposal (without waiting for the results from the Agenda Jury).

The interest group gets to the first step (\*14) to "lock in" the right to petition and now waits for the result of the Agenda Jury.

For example, the Agenda Jury says "no". (In the "yes" case, the Legislative Citizens' Jury would be summoned anyway and then the petition is without a subject)

The interest group can now go to the second step, because it has received its right to petition and collects signatures for the second step within a determined period of time.

The bill proposal is submitted to the vote of both the Legislative Citizens' Jury (3.) and the Elected representatives (5.).

\*14 the Netherlands: law on advisory referendums 1st of July 2015

The application involves two steps:

- an initiation request, supported by 10.000 signatures that need to be collected within a first deadline of 4 weeks.

- a definitive request, supported by 300.000 signatures that need to be collected within a second deadline of 6 weeks.

**Practical example 3:**

- A citizen/interest group has submitted an implementation decisions plan, with explanations, to the Evaluation Jury (7.) about a bill that was voted on and accepted by the elected representatives but without any implementation plans (\*31).

- The Evaluation Jury (7.) was summoned and decides, after hearing the experts and parties involved, that the proposition of the implementation plan, as submitted to them, will be submitted to the elected Representatives to vote on.

- The Elected Representatives (5.) refuse to vote on the proposal.

- After 6 months, the Legislative Citizens' Jury (3.) is summoned. After hearing the experts and parties involved, the Legislative Citizens' Jury votes on the proposed implementation decisions plan.

The result of the voting of the Legislative Citizens' Jury (3.) is in favour of the submitted implementation decisions plan, the Elected Representatives have abstained themselves, the implementation decisions plan becomes active immediately after publication.

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\*31 Proposal for an implementing decision concerning regional referendums  
<http://www.democratie.nu/index.php/component/content/article?id=1246:persbericht-kan-democratie-de-vlaamse-politiek-veroveren>

## **Proposition II – Bicameral system:** (see schematic overview on the next page as well)

A Democratic Europe .

Sortition as a democratic system to designate a real citizens' representation at European level, also called 'European Citizens Jury'.

### **Functioning principle:**

The possibility to install a 'Second Chamber', appointed by sortition, will be submitted for referendum to all the citizens of the European Union, or approval by representative institutions (\*36).

This 'Second Chamber', appointed by sortition, is installed at European level next to the elected 'European Parliament'. This second Chamber is called the 'European Citizens' Jury'.

**The 'European Citizens' Jury' has, if summoned, a veto right for all the decisions of the 'European Parliament' which has to be motivated.**

The European Citizens' Jury has the same number of seats (750 seats in 2017) as the elected European Parliament and meets in Strasbourg, while the European Parliament meets in Brussels.

With this arrangement, the pointless commuting between Strasbourg and Brussels is ended (\*38).

These 750 citizens are drawn with SRS (simple random sampling) out of all European citizens entitled to vote (about 380.000.000 in 2017).

The error margin with this sampling procedure is 4% and the confidence level is 97 %.

For a higher representativeness with smaller error margins and a higher confidence level, we can use bigger samples (\*42). Given the prior executed experiments with far greater numbers of citizens, combined with ICT and Internet facilities, this is, certainly in the future, not unrealistic.

- Participation is technically obligatory, participants of this Jury are reimbursed well and assisted during their participation. (see also H. Buchstein, James Fishkin and proposition I)
- The 'European Citizens' Jury' will be summoned for one or several days, at most a week.
- Citizens can only be summoned once for this task, the selection is secret.
- The 'European Citizens' Jury' decides by simple majority.

\*36 Simon Niemeyer - From the minipublic to a deliberative system: is scaling up deliberation possible? (p4 political legitimacy)

\*38 Hubertus Buchstein – Repräsentative, partizipatorische und aleatorische Demokratie

<https://www.boell.de/de/navigation/akademie-repraesentative-partizipatorische-und-aleatorische-demokratie-13243.html>

\*42 James Fishkin, Thad Kousser, Robert C. Luskin, Alice Siu “Deliberative Agenda Setting Piloting Reform of Direct Democracy in California.pdf“



**The Agenda-jury (2.), or a citizen petition via the European Citizens' Initiative ECI (1.), decides whether a bill, approved by the 'Elected Representatives' in the European Parliament (6.) is of sufficient societal importance to be submitted to the 'European Citizens Jury' (3.) for approval.**

International treaties and agreements are automatically submitted for ratification to a 'European Citizens' Jury'.

A summoned 'European Citizens' Jury' (3.) decides by simple majority.

Acceptance or rejection by the 'European citizens' Jury' happens by secret ballot and simple majority. If the subject qualifies for voting after a 'second reading' or 'mediation' by the 'European Parliament', a 'European Citizens' Jury' is summoned after this procedures.

**The Evaluation Jury (7.) will evaluate bills that were submitted through the European Citizens' Initiative ECI (4.) on their societal relevance and forwards it to the 'European Commission' in order to draft a law proposition after approval. A law that is proposed this way will always be submitted to the European Parliament and a summoned European Citizens' Jury.**

The right to petition through the ECI can be socialized in our proposal (lower signature thresholds compared to a referendum), in order to ensure that not only socially or economically strong groups or persons reach the thresholds.

However, it's up to the citizens-initiators to go for a referendum or Legislative Citizens' Jury.

Experience will have to show how the available knowledge and wisdom in our society can be used as much as possible. For example, an 'Evaluation Jury', summoned every two years, could evaluate petitions that were unable to reach the quorum, or reconsider the signature thresholds.

**This way the ECI (European Citizens' Initiative) could be re-evaluated as part of a real democratic decision process.**

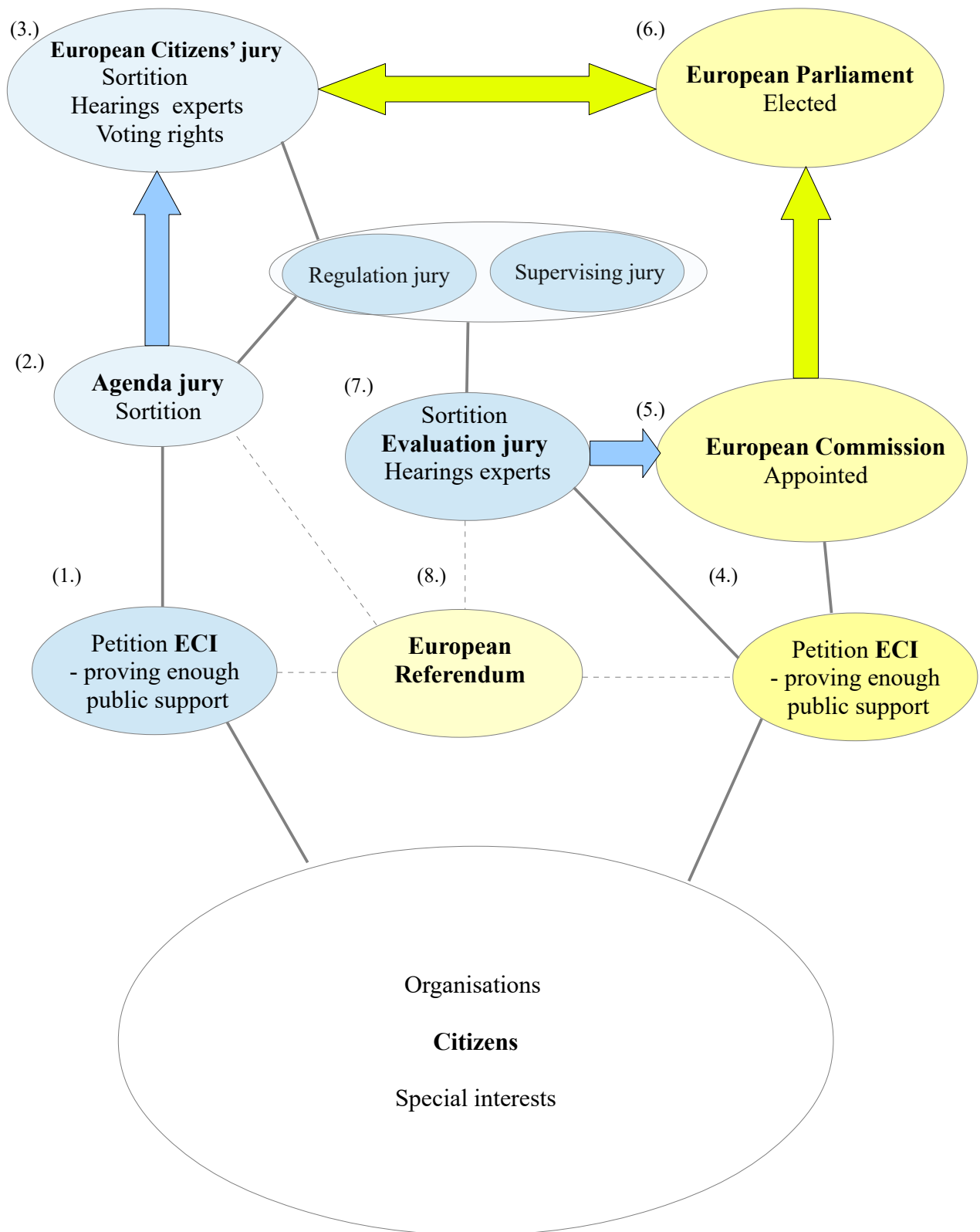
In itself, the extension of the European Citizens' Initiative (ECI) with a 'European Citizens' Jury' can be realized as a first step in the democratization process.

In a final stage, a European Citizens' Initiative (ECI), expanded with a 'European Citizens Jury', could launch a European referendum, whether or not preceded by a 'Deliberation Day' (\*43).

\*43 B. Ackerman, J. Fiskin "Deliberation Day" [http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1161&context=fss\\_papers](http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1161&context=fss_papers)

# Schematic Overview:

current institutions ●  
 proposition ●



## **How it works:**

### **- Regulation Jury:**

This jury defines procedures for sortitions, hearings and votings.

### **- Supervising Jury:**

This jury ensures that officials follow procedures and also takes care of complaints.

The regulation- and supervising jury are the creators and guardians of the rules. The regulation jury could be composed of people who were drawn by lot before. They already know how the procedures work.

### **- European Citizens' Jury (3):**

In case the Agenda Jury makes a decision or a group of interest is able to collect enough signatures to prove the social relevance, a subject approved by the European Parliament is put on the agenda of the European Citizens' Jury and the European Citizens' Jury is summoned.

Thanks to our current technology, the social relevance can be proven quite fast and easily.

International agreements and treaties always have to be submitted to the European Citizens' Jury for ratification. If the European Parliament accepts those, they automatically lead to the summoning of the European Citizens' Jury. Laws which are voted urgently and enter into force immediately also have to be submitted to the European Citizens' Jury within a deadline of e.g. 6 months. If this deadline is not honored, an automatic sanction should be imposed. An example of such penalty is the organization of new European elections.

This automatic summoning of the European Citizens' Jury can be extended later on to e.g. the European budget, adjustments to the salaries and remunerations of officials and elected representatives that came to be in a democratic way etc.

An exception could be made when a motion of no confidence is voted in the European Parliament against the European Commission. This could remain the exclusive competence of the European Parliament.

The European Citizens' Jury is summoned, listens to an objective presentation of arguments for and against by experts and concerned parties and votes on the subject. They will not debate internally. The European Citizens' Jury votes anonymously and decides by simple majority.

The 'European Citizens' Jury' has, in case of being summoned, a veto right for all the decisions by the European Parliament, which should be motivated. In case the subject is eligible for voting after a 'second reading' or 'mediation' by the European Parliament, a European Citizens' Jury will be summoned as well after this voting and approval by the European Parliament.

Participants are remunerated and supported fairly during their presence. A complete jury is obtained by means of an adapted procedure.

### **– Agenda Jury (2.):**

The agenda of the European Citizens' Jury is determined by the Agenda Jury, an extensive institution of which the participants are drawn by lot. The Agenda Jury decides by simple majority which decisions of the European Parliament are socially relevant enough to be submitted to the vote of the European Citizens' Jury.

The Agenda Jury is composed of a suitable sample of 1000 EU citizens (e.g. by means of a prior survey). A scientifically justified stratification to e.g. represent all countries in a more balanced way (28 EU countries in 2017) can be considered. Stratification based on other reasons (e.g. diversity) will soon lead to manipulation that is hard to prove and undermines the demand of representativeness.

The best guarantee for representativeness is the expansion of the dimension of the sample.

The citizens who are drawn by lot will remain available for sortition for other groups of juries, unless they are available for the Agenda Jury. The drawn Agenda Jury is available for a month (not during holidays) to evaluate the social importance of a decision by the European Parliament within a certain period of time (e.g. 14 days). This means that the Jury is active for a period of one month and 14 days at most. If it's exceptionally busy, multiple Agenda juries can be summoned. Technically, the Agenda Jury members don't meet (the list of members is not public).

Candidates for the Agenda Jury are informed of their participation one week in advance. The participation lasts one month and the participants receive a tax-exempt cost reimbursement for each evaluated subject (it is possible that there are no evaluated subjects. In this case they belong to a pool of available citizens for later sortition, as well as for the Agenda Jury).

The decisions (adoptions) by the European Parliament are sent to the members of the Agenda Jury through e-mail or letter, and to the interest groups who signed up for this. The latter can share the discussion on their websites or create forums. The members of the Agenda Jury receive a list of these interest groups and any on-line applications available on the Internet.

In case an interest group collects enough signatures (1.) to prove sufficient social relevance, the concerned subject will be put on the agenda of the European Citizens' Jury and the European Citizens' Jury will be summoned. Nowadays, such social relevance can be proven quite fast. If the Agenda Jury decides to summon the European Citizens' Jury, the petition has no topic.

Votes by members of the Agenda Jury can also be registered through the telephone (for instance through an "end to end auditable voting system" E2E):

identification through the national registry number and a code.

- For decision xxxx: press 1. For decision xxxxx: press 2.
- To submit to a citizens' jury: press 1. To not submit: press 2. Undecided: press 3.

Or through e-mail.

The Agenda Jury decides by anonymous voting and simple majority within the given deadline.

It is also possible to impose a quorum (e.g. at least 800 participants to guarantee sufficient representativeness).

#### **- Evaluation Jury (7.):**

Based on the input that we gathered from society, and for which sufficient social relevance was proven (4.), they organize hearings, invite experts, the jury members proceed to deliberation in drawn subgroups under professional and neutral supervision, and proceed to submitting a motivated petition to the European Commission (5.).

This Evaluation Jury is composed of 570 members, chosen by sortition out of all EU citizens who have a right to vote. The Evaluation Jury is summoned when a citizen-interest group submitted a sufficient relevant petition.

Participants are reimbursed and supported fairly during their presence.

The Evaluation Jury meets in Strasbourg.

An elaborated draft bill/implementing decision, which was submitted to the European Parliament as a result of a petition of the Evaluation Jury, and is mentioned as such, will automatically be submitted to the vote of the European Citizens' Jury (3.).

In case the petition is presented in general terms, it's up to the elected fraction of the representatives, or one member, to submit an elaborated draft bill. This draft bill will be automatically submitted to the vote of Legislative Citizens' Jury as well.

If the European Commission does not submit a legislative proposal within 6 months after submission of the request a motion of distrust is automatically submitted by the European Parliament.

## CONCLUSION:

We can only conclude that the Athenians in ancient Greece with their choice of 500 citizens for the "Boulè", appointed by sortition, were able to achieve great statistical accuracy. Starting at 380 people selected by sortition, the reliability reaches 95% with an error margin of 5%. When you have more than 50.000 voters, the number for a reliable sample barely increases. Only the reliability level increases. With a sample size of 600 people, the result has a reliability level of 99%.

Another important criterion is to give as many citizens, who are eligible to vote, as possible the chance to participate in the political decision making process (\*24). On the other hand, the maximum capacity for rotation may not be exceeded. Participation in one of the juries does not mean exclusion from participating in others, the opposite is true. Putting this into practice will show whether using a jury of 600 citizens for the Legislative Citizens' Jury is a viable possibility or not, whether the work load for the Agenda Jury is realistic, and which tools will be necessary. It will also have to be examined whether or not it is acceptable to summon people for the same Jury task, with decades in between.

Since every jury will have the decision right without limitation in subjects, there is a big possibility that, after an adjustment period, the acceptable response rate will be achieved more easily. We suggest to take the democratisation of our institutions one step further and abandon the non-binding, denigrating and demotivating "advices" and the "politically harmless" subjects "landscape care, cycle tracks, culture, etc."

We have also checked our proposals against the comments and suggestions of the colloquium in the Senate about representative democracy (\*21). It is our opinion that we have been able to give a positive answer to the question that professor Herwig Reynaert posed in the conclusion of the colloquium: to propose the realisation of a representative democracy with direct democratic elements.

\*21 [http://www.senate.be/event/20150922\\_representatieve\\_democratie/act\\_nl.pdf](http://www.senate.be/event/20150922_representatieve_democratie/act_nl.pdf) representative democracy: on our way to the end of a model? Belgian senate – Tuesday the 22<sup>nd</sup> of September 2015

\*24 Bernard Manin : The principles of Representative Government  
<http://www.zje.net.cn/djwsj/The.Principles.of.Representative.Government..Bernard.Manin..CUP..1997.pdf>

\*33 The very low response rate (about 5%) on a big part of the 'informative participation' projects is a disaster for the credibility and representativeness of such initiatives.

## Links:

<https://equalitybylot.wordpress.com/about/> blog of the Kleroterians

<http://blogimages.seniorennet.be/democratie/attach/128802.pdf> provisional link to the sortition library

<http://www.ethesis.net/volksvertegenwoordigers/volksvertegenwoordigers.htm#Hoofdstuk.3>. De wetgevende functie van de Kamer

**Tabel 3.1. Aantal ingediende begrotingen, internationale akkoorden, wetsvoorstellen en -ontwerpen per legislatuur [10]**

soort	1958-1961		1961-1965		1965-1968	
	aantal	%	aantal	%	aantal	%
begrotingen uit de Senaat	35	4,83	51	4,32	30	5,38
begrotingen van de regering	64	8,83	76	6,44	42	7,53
internationale akkoorden van de regering	75	10,34	208	17,61	40	7,17
internationale akkoorden uit de Senaat	10	1,30	5	0,42	4	0,72
wetsontwerpen uit de Senaat	89	12,28	133	11,26	42	7,53
wetsontwerpen van de regering	126	17,38	208	17,61	89	15,95
wetsvoorstellen uit de Senaat	27	3,72	56	4,74	21	3,76
wetsvoorstellen van de Kamerleden	299	41,24	444	37,60	290	51,97
<b>totaal</b>	<b>725</b>		<b>1181</b>		<b>558</b>	

<https://www.checkmarket.com/market-research-resources/sample-size-calculator/>

### Calculate representative sample size

Sample size

Population size:	<input type="text" value="800000"/>	How many people are in the group your sample represents? (The sample size does not change much for populations larger than 20,000.)
Margin of error:	<input type="text" value="5"/> %	This is the plus-or-minus figure usually reported in newspaper or television opinion poll results. For example, if you use a margin of error of 4% and 47% percent of your sample picks an answer, you can be "sure" that if you had asked the question to the entire population, between 43% (47-4) and 51% (47+4) would have picked that answer.
Confidence level:	<input type="text" value="95"/> %	This tells you how sure you can be of the error of margin. It is expressed as a percentage and represents how often the true percentage of the population who would pick an answer lies within the margin of error.
Required sample size:	<b>385</b>	Number of respondents needed

Population size	Confidence level = 95%			Confidence level = 99%		
	Margin of error			Margin of error		
	5%	2,5%	1%	5%	2,5%	1%
100	80	94	99	87	96	99
500	217	377	475	285	421	485
1.000	278	606	906	399	727	943
10.000	370	1.332	4.899	622	2.098	6.239
100.000	383	1.513	8.762	659	2.585	14.227
500.000	384	1.532	9.423	663	2.640	16.055
1.000.000	384	1.534	9.512	663	2.647	16.317

## Frequently asked questions (FAQ):

Q1 - A point of concern is the idea of having a pool of citizens that will be pulled from for some duration (Agenda Jury), rather than organizing a lottery for every jury. The intention is to keep the pool a secret. If this list is leaked however, financially strong persons or groups could use it for bribing. Why create that possibility by keeping a pool for any period?

A - For every Jury, we have to motivate the “how and why”. We also have to take into account that there are 8.000.000 people with the right to vote in Belgium.

- does the Jury have to be representative and to what extent. What is the desired 'error margin' and 'confidence level'?
- which kind of sampling method(s) are used and why?
- what is the maximal rotation wanted (and possible)?
- what is the estimated workload and what if this is exceeded?
- susceptibility to bribing / external influences / coercion?
- ...

But we also have to take into account all the tactical possibilities of the proposal as a whole. That’s why we will have to describe more practical possibilities.

Furthermore, the proposal has been developed for a political active population (in contradiction to the current situation in the electoral representative system).

For example: (in case of a very important bill, where bribing or coercion is a real risk).

A bill has (in our proposal) two possible starting points:

1- Coming from a petition and the Evaluation Jury: A Legislative Citizens’ Jury is automatically summoned. The Agenda Jury is not involved.

2- Coming from an elected representative: once the bill is on the agenda of the elected representatives to vote, an interest group can start to collect signatures in order to 'lock in' their petition right in case the Agenda Jury decides not to summon the Legislative Citizens’ Jury. Of course we need active “watchdogs” for this purpose, but I don’t doubt that there will be some.

But indeed, leakage of the list of Jury members is possible and bribing and coercion as well. That is also one of the reasons we decided to take a relatively large group and a relatively 'short' duty period. The motivation for a large group is on the one hand the representation and reliability level, and on the other hand the increased probability of reporting of exposure or bribery or coercion. Nevertheless we have to stay within the desired rotation- and participation possibilities.

If a small number of Jury members for the Agenda Jury is acceptable ( but it will have to be defensible), another system might be possible.

Q2 – Which method of calculation will be used to determine the seats in the proportionate proposal?

A- There are various possibilities that all need to be verified against their feasibility and legitimacy. An important criterion is the principle of equality.

In our proposal, the Legislative Citizens’ Jury operates like a second chamber, but instead of a right of veto and a fixed amount of seats, the Jury has a dynamic proportionate functioning.

- Dynamic as in: having an immediate enforcing or weakening influence on the groupings in the elected Chamber of Representatives (150 members in 2017).
- Proportionate, because the influence of the drawn ‘Legislative Citizens’ Jury’ is determined by the elector himself in each election.

Furthermore, the Legislative Citizens’ Jury isn’t permanent and a new Jury is appointed at each summoning. The citizen decides whether or not the Legislative Citizens’ Jury is summoned.

## SUGGESTIONS /REMARKS :

- Imagine that the system works so well that most people simply stop voting at all (relying on the jury). If 10% of the voters turn out in an election and half of them (5% of the electorate) chooses for elected representatives, should the elected branch get 50% of the power? Abstaining seems to more naturally go with NOT supporting elected officials making decisions.
- For every legislative proposal or implementation decision plan that is launched, be it by the elected representatives or by the Evaluation Jury, there needs to be a possibility of formulating a counter proposal which is voted on at the same time. Each proposal can be accepted or rejected by simple majority, or, in case of a double YES, the proposal with the most votes in favour is maintained.

In case of a legislative proposal/implementation decision submitted by the elected representatives, the right to present a counter proposal by the Evaluation Jury can be 'locked in' through a petition with a low threshold within a very short period of time (\*14). After that, a completed petition can be launched to prove whether or not it is of sufficient societal relevance to summon an Evaluation Jury.

A “very urgent” bill/implementation decision (without any delay in execution) decided by the elected representatives, will automatically lead to the summoning of the Evaluation Jury with the bill/implementation decision as subject and this within 3 months. The Evaluation Jury has the right to propose a counter proposal or to propose to completely cancel the law/implementation decision.

If an Evaluation Jury isn't summoned within the imposed period of time, the legislative proposal/implementation plan is automatically suspended.

- The system of an Agenda Jury and Legislative Citizens' Jury (1.) (2.) (3.) can also be used in a two Chamber system, in which one of the permanent Chambers, possibly appointed by lot, can be expanded with the Legislative Citizens' Jury if there is a legislative proposal under consideration of importance to society.



## References

\*1 Sampling methods

[https://www.uhasselt.be/documents/uhasselt@school/lesmateriaal/statistiek/Lesmateriaal/Steekproefmethoden\\_04.pdf](https://www.uhasselt.be/documents/uhasselt@school/lesmateriaal/statistiek/Lesmateriaal/Steekproefmethoden_04.pdf)

\*2 Penrose system <https://arxiv.org/ftp/cond-mat/papers/0405/0405396.pdf>

\*3 Keith Sutherland <http://www.newdemocracy.com.au/docs/researchpapers/What%20Sortition%20Can%20Do%20PSA.pdf>

\*4 in some proposals, the senate of a bicameral system is composed through sortition, where one third of the representatives are replaced every other year. A complete mandate would last 3 years in this case.

\*5 Terrill Bouricius – Multi Body Sortition <http://www.publicdeliberation.net/cgi/viewcontent.cgi?article=1220&context=jpd>

\*6 Oregon CIR <http://healthydemocracy.org/citizens-initiative-review/>

\*7 the home front as well (childcare, informal care, home care, professional assistance etc.)

\*8 scientific classification and discussion of participation and democratisation projects [www.participedia.net](http://www.participedia.net)

\*9 Random selections in Politics - Lyn Carson and Brian Martin <http://www.bmartin.cc/pubs/99rsip.pdf>

\*10 Wilfried Dewachter, De trukendoos van de Belgische participatie.

<https://www.standaardboekhandel.be/seo/nl/boeken/algemeen/9789028979727/dewachter-wilfried/de-trukendoos-van-de-belgische-participatie>

\*10 Wilfried Dewachter – the magic box of the Belgian participatory.

<https://www.standaardboekhandel.be/seo/nl/boeken/algemeen/9789028979727/dewachter-wilfried/de-trukendoos-van-de-belgische-participatie>

\*11 <https://www.psa.ac.uk/sites/default/files/conference/papers/2016/Explaining%20the%20fate%20of%20psa%20.pdf>

\*12 <https://www.uvm.edu/~dguber/POLS234/articles/fishkin.pdf>

\*13 <http://cdd.stanford.edu/>

\*14 the Netherlands: law on advisory referendums 1st of July 2015

The application involves two steps:

- an initiation request, supported by 10.000 signatures that need to be collected within a first deadline of 4 weeks.

- a definitive request, supported by 300.000 signatures that need to be collected within a second deadline of 6 weeks.

\*15 by not considering, not submitting to vote,... (decision not to vote)

\*16 the ladder of participation by Arnstein <http://lithgow-schmidt.dk/sherry-arnstein/ladder-of-citizen-participation.html> ( see annex 2)

\*17 [http://participedia.net/sites/default/files/case-files/653\\_265\\_final\\_report.pdf](http://participedia.net/sites/default/files/case-files/653_265_final_report.pdf) en

[http://www.sortitionfoundation.org/canada\\_citizens\\_assembly](http://www.sortitionfoundation.org/canada_citizens_assembly)

\*18 see: 'the majority rule' <http://www.democratie.nu/index.php/nieuws-14/archief/1216-wat-is-democratie>

\*19 David Van Reybrouck <https://decorrespondent.nl/538/Het-kan-een-totaal-andere-inrichting-van-onze-democratie/53776866-eda791cf>

\*20 [www.democratie.nu](http://www.democratie.nu) We emphasise that the plebiscite (a referendum on the initiative of the government) does not belong to the democratic instrumentarium, due to the known abuses (dictatorships, party politics)

\*21 [http://www.senate.be/event/20150922\\_representatieve\\_democratie/act\\_nl.pdf](http://www.senate.be/event/20150922_representatieve_democratie/act_nl.pdf) representative democracy: on our way to the end of a model? Belgian senate – Tuesday the 22<sup>nd</sup> of September 2015

[https://orbi.ulg.ac.be/bitstream/2268/187347/1/Representatieve\\_democratie\\_F-N.pdf](https://orbi.ulg.ac.be/bitstream/2268/187347/1/Representatieve_democratie_F-N.pdf) N/F verslag colloquium senaat

[https://orbi.ulg.ac.be/bitstream/2268/187347/1/Representatieve\\_democratie\\_F-N.pdf](https://orbi.ulg.ac.be/bitstream/2268/187347/1/Representatieve_democratie_F-N.pdf) D/F report colloquium senate

\*22 [https://www.democracy-international.org/sites/democracy-international.org/files/PDF/Publications/2007-05-01\\_dutch\\_direct\\_democracy-nl.pdf](https://www.democracy-international.org/sites/democracy-international.org/files/PDF/Publications/2007-05-01_dutch_direct_democracy-nl.pdf)

in other languages:

<https://www.democracy-international.org/direct-democracy-facts-and-arguments-about-introduction-initiative-and-referendum>

\*23 Since – despite compulsory voting – non-voters represent 10 to 15% of all voters and this rate continues to increase, a representation in a sortition-based representation is justified. 3 'seats' is therefore a moderate proposal and suits the part of our proposal in which one can choose for a sortition-based representation if desired. In a jurisdiction with a direct democracy, this amount and the calculation method could be determined by means of a referendum.

- \*24 Bernard Manin : The principles of Representative Government  
<http://www.zje.net.cn/djwsj/The.Principles.of.Representative.Government..Bernard.Manin..CUP..1997.pdf>
- \*25 Roslyn Fuller - Beasts and Gods: How Democracy Changed its Meaning and Lost its Purpose  
<https://www.amazon.co.uk/Beasts-Gods-Democracy-Changed-Meaning/dp/1783605421>
- \*26 Francis Dupui-Déri – History of the Word "Democracy"  
[https://www.researchgate.net/publication/259648867\\_History\\_of\\_the\\_Word\\_Democracy\\_in\\_Canada\\_and\\_Quebec\\_A\\_Political\\_Analysis\\_of\\_Rhetorical\\_Strategies](https://www.researchgate.net/publication/259648867_History_of_the_Word_Democracy_in_Canada_and_Quebec_A_Political_Analysis_of_Rhetorical_Strategies)
- \*27 David VanReybroeck – against elections <http://www.debezigebij.nl/boeken/tegen-verkiezingen/>
- \*28 Direct Democracy Navigator <http://www.direct-democracy-navigator.org/>
- \*29 Génération Nomination est une ONG basée en Suisse qui milite en faveur d'un grand oublié des démocraties modernes, pourtant plébiscité par les pères de la démocratie : le tirage au sort <http://www.genomi.ch/democratie-pas-utopie/>
- \*30 We generally take around six months to deliver the process from beginning to end – as a guide, citizens need at least 40 hours in person, meeting five to six times to meaningfully deliberate and find common ground without feeling (or being!) pushed toward a pre-ordained outcome. <http://www.newdemocracy.com.au/library/what-is-a-citizens-jury>
- \*31 Proposal for an implementing decision concerning regional referendums  
<http://www.democratie.nu/index.php/component/content/article?id=1246:persbericht-kan-democratie-de-vlaamse-politiek-veroveren>
- \*32 [https://en.wikipedia.org/wiki/Initiatives\\_and\\_referendums\\_in\\_the\\_United\\_States](https://en.wikipedia.org/wiki/Initiatives_and_referendums_in_the_United_States)
- \*33 The very low response rate (about 5%) on a big part of the ‘informative participation’ projects is a disaster for the credibility and representativeness of such initiatives.
- \*34 in order to avoid paid trolling, or similar activities, by companies, political- and other ‘special interests’ as much as possible, it might be recommended to only provide access to some internet applications through an e-id, token or other protective measures.
- \*35 Principle of selectivity applied by Demoex Sweden <https://en.wikipedia.org/wiki/Demoex>
- \*36 Simon Niemeyer - From the minipublic to a deliberative system: is scaling up deliberation possible?
- \*37 Hervé Pourtois – Mini-publics et démocratie délibérative.
- \*38 Hubert Buchstein – Repräsentative, partizipatorische und aleatorische Demokratie
- \*40 BBC Scotland <http://www.bbc.com/news/uk-scotland-40946653>
- \*41 Why did the French Revolution establish the jury system in criminal cases on September 3, 1791?  
*“Ce que caractérise la cour d’assises, c’est l’indépendance de cette juridiction. Elle offre la garantie que les jurés, en raison de la durée momentanée de leurs fonctions, n’abuseront pas de leur autorité.”*
- Translation:  
 “The independence of this form of justice characterises this juridical system. A guarantee that jurors, because of the short duration of their duties, will not abuse their authority, .”
- Dana Mackenzie - What is the best Jury size?  
[http://www.slate.com/articles/health\\_and\\_science/science/2013/04/the\\_mathematics\\_of\\_juries\\_the\\_jury\\_size\\_and\\_voting\\_margins\\_necessarily\\_for.html](http://www.slate.com/articles/health_and_science/science/2013/04/the_mathematics_of_juries_the_jury_size_and_voting_margins_necessarily_for.html)
- \*42 James Fishkin, Thad Kousser, Robert C. Luskin, Alice Siu “Deliberative Agenda Setting Piloting Reform of Direct Democracy in California.pdf“
- \*43 B. Ackerman, J. Fishkin “Deliberation Day” [http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1161&context=fss\\_papers](http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1161&context=fss_papers)

## **Attachment 1:**

The most notable methods (\*1):

- Voluntary response sampling
- Accessibility sampling, convenience sampling
- Quota sampling, judgment sampling
- SRS: simple random sampling
- Stratified random sampling
- Cluster sampling
- Systematic sampling
- Multi-stage sampling

\*1 Sampling methods

[https://www.uhasselt.be/documents/uhasselt@school/lesmateriaal/statistiek/Lesmateriaal/Steekproefmethoden\\_04.pdf](https://www.uhasselt.be/documents/uhasselt@school/lesmateriaal/statistiek/Lesmateriaal/Steekproefmethoden_04.pdf)

## Attachment 2:

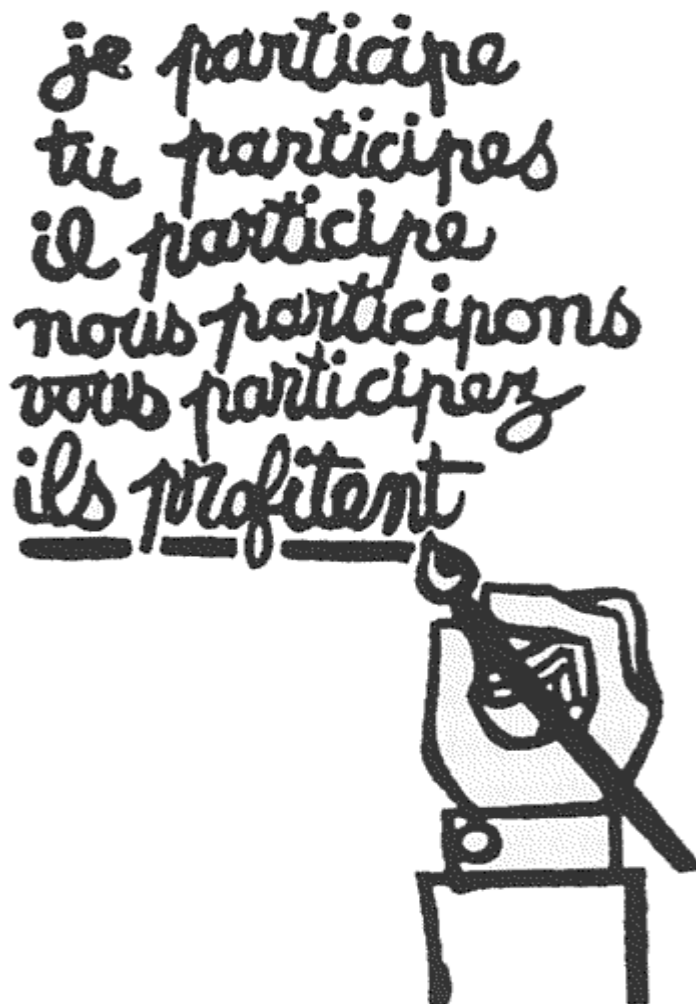
### **The ladder of citizen participation by Sherry R. Arnstein**

<http://lithgow-schmidt.dk/sherry-arnstein/ladder-of-citizen-participation.html>

Although the original article was written in 1969, it is still relevant nowadays. Whoever participates in one of the many 'participation' initiatives that are mushrooming, should take a look at the ladder of Arnstein and evaluate his 'participation'.

There is a critical difference between going through the empty ritual of participation and having the real power needed to affect the outcome of the process. This difference is brilliantly capsulized in a poster painted last spring [1968] by the French students to explain the student-worker rebellion. (See Figure 1.) The poster highlights the fundamental point that participation without redistribution of power is an empty and frustrating process for the powerless. It allows the powerholders to claim that all sides were considered, but makes it possible for only some of those sides to benefit. It maintains the status quo. Essentially, it is what has been happening in most of the 1,000 Community Action Programs, and what promises to be repeated in the vast majority of the 150 Model Cities programs.

Figure 1. French student poster. In English, "I participate, you participate, he participates, we participate, you participate...they profit."



Originally Published as Arnstein, Sherry R. "A Ladder of Citizen Participation" JAIP, Vol. 3, No 4, July 1969, pp 216-224 . I do not claim any copyrights.  
Reprinted in "The City Reader" 1996 Routledge Press

### Attachment 3:

#### Explanation of the proportionate system:

If the Legislative Citizens' Jury receives an equal amount of votes, or more, compared to the total number of valid casted votes for the Elected Representatives (blank or invalid not included), the maximum amount of 150 seats (votes) will be assigned. (The current amount of seats in the Elected Chamber of Representatives is 150.)

This does not mean that the Legislative Citizens' Jury is composed of 150 people. Because of a presupposed margin of error, the representativeness, and the desired rotation, we propose that the Legislative Citizens' Jury has 384 members.

The maximum "vote value" of each member of the Legislative Citizens' Jury is then  $150 : 384 = 0,390$ .

The "vote value" of each of the members of the Legislative Citizens' Jury is also proportional to the amount of votes received compared to the Elected Representatives.

For example, if the number of votes for the Legislative Citizens' Jury is 40% of the valid casted votes for the Elected Representatives, then the ultimate "vote value" for each member of the Legislative Citizens' Jury is, in our example, 40% of 0,390 is **0,156**, which corresponds to 60 votes.

Because the Legislative Citizens' Jury has at least 3 votes, the minimal "vote value" of each member of the Legislative Citizens' Jury is  $3 : 384 = \mathbf{0,008}$ .

We do emphasize that a plebiscite (a referendum on the initiative of the government) does not belong to the democratic instruments. **To us, the binding citizens' initiative referendum is the ultimate expression of popular sovereignty.**

*Plebiscite: constitutional law – a referendum on the initiative of the government. The outcome of a plebiscite can be either binding or non-binding. Advocates of referendums usually mistrust the plebiscite, because it's forced on the people from above. Thus, there's a risk that the government pleads for an outcome that is desired by the organisers. The word 'plebiscite' therefore has a negative connotation to advocates of a referendum and evokes manipulative behaviour of dictatorial regimes in their minds (source: parlement.com).*

Paul Nollen

[www.democratie.nu](http://www.democratie.nu)