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Countering the "Democracy Thesis" – Sortition in Ancient Greek Political Theory

Hubertus Buchstein, Greifswald University

Abstract

Since a decade, sortition has been experiencing a surprising and strong revival in political theory and political practice. The rediscovery of the drawing of lots has been inspired by a specific reading of the history of political ideas. According to this reading, a systematic connection between sortition and democracy already existed in ancient Greece – a point of view which I call the "democracy thesis of the lottery". The article argues that the democracy thesis of the lottery is incorrect not only with respect to the actual use of lotteries in ancient Greek *poleis*, but also with respect to those who theorized about this issue at that time, in particular Plato and Aristotle.

Keywords: Democratic theory, ancient Greek political theory, lottery, sortition, Plato, Aristotle

Introduction

Since a decade,[1] sortition has been experiencing a surprising and strong revival in political theory and political practice.[2] After some two thousand years of neglect or even harsh rejection by political theorists and governments, the lottery is back in the toolbox of instruments for political reform.[3] The rediscovery of the principle of random selection in the modern political world had its starting point already in the first half of the 20th century in the form of the opinion poll.[4] Fifty years later, the use of random mechanisms for political means has been rediscovered by different groups. First, innovative institutional reformers offered distinct proposals for amending or even supplementing the existing political system of the election of political representatives with randomly selected political bodies. Professional field experimenters organized political consultations with randomly invited groups of citizens in order to strengthen deliberative democracy. And political theorists praised sortition for its intrinsic fairness

and democratic potential. The goal of all these theories, ideas, and projects is to strengthen democracy by expanding opportunities for political participation.[5]

According to these sources, the rediscovery of the drawing of lots has been inspired by the specific context within the history of ideas into which it has been placed. Following this notion, a systematic connection between sortition and democracy already existed in ancient Greece – a point of view which I call the "democracy thesis of the lottery" in the following and which both modern opponents and supporters of random selection for political office-holders have adopted.

The democracy thesis has been presented particularly prominently, influentially, and with considerable verve by Bernard Manin in his book 'The Principles of Representative Democracy'. We do find this democracy thesis in the writings of many other authors of widely different political persuasions already before Manin's book – be it Leo Strauss in the conservative, Hans Kelsen in the liberal, or Jacques Rancière in the radical democratic leftist spectrum.[6] But since Manin's book has become *the* classic work on the ideological core of modern representative democracy in the last decade, his interpretation of political lotteries is of particular relevance for the democracy thesis. In his book, Manin accentuates irreconcilable differences between ancient and modern representative democracies, starting with the democratic purpose of sortition.[7] According to Manin, selection by lot was not a peripheral institution in ancient democracy. It gave expression to a number of fundamental democratic values and became the incarnation of a particular form of "democratic justice".[8] According to him, sortition replaces the aristocratic criterion of political competition and evaluative election with the equal distribution of political power. In the writings of ancient authors, Manin writes, he has observed "countless sources" that "present the lot as a typical feature of democracy".[9] And "what is more", Manin adds to his observation, "the lot is described as *the* democratic selection method, while election is seen as more oligarchic or aristocratic"[10] In this view classical democracy and sortition as a method to pick political office holders are seen as being intrinsic connected with each other.

The political function of the democracy thesis in the current debate about the theory of democracy is quite obvious. To the growing number of supporters of sortition in modern democracies, the "Athenian Option" (Barnett/Carty) serves as proof of a supposedly originally democratic concern and as a source of legitimation for their claim that modern representative democracies are at bottom not democracies at all, but rather oligarchies, or aristocracies at best. Authors like them refer to the use of sortition in ancient Athens in order to suggest that this proves the original and truly democratic character of such a devise. The democracy thesis also dovetails with the argumentation put forward by critics of sortition because it can serve as evidence that those who desire to reform modern democracies by means of lotteries are borrowing from

antiquity too excessively and have difficulties to deal with the complex political realities of modernity.[11]

In this article, I would like to show that the democracy thesis of political lotteries, which serves such differing political needs, is incorrect – not only with respect to the actual use of lotteries in ancient Greece, which has already been demonstrated by classical studies research,[12] but also with respect to those who theorized about this issue at that time. Contrary to the current dominant narrative about ancient political thought, sortition was not seen as exclusively linked to democracy. A closer inspection of the primary sources in the history of ideas reveal that the democracy thesis is wrong and misguiding contemporary debates about democracy and its institutional forms. As a matter fact, there are no statements from advocates of Athenian democracy which made sortition an essential and positively evaluated feature of this system. To the contrary, the connection between democracy and sortition was especially made by ancient political thinkers who despite their criticism of Athenian democracy were, however, aware that sortition could be used in various constitutions for a number of different purposes. This holds also true for the practice of Athenian democracy. Thus rejecting the democracy thesis is of interest not only in terms of the history of ideas. It is also important today because it unnecessarily narrows our understanding of sortition and in this way has us lose sight of the multifaceted functional variety of lotteries.

In the following, the democracy thesis will be tested by a critical review of the sources. I first will attempt to show that it was above all the contemporary critics of ancient democracy who equated lottery procedures and democracy. However, it becomes apparent that the democracy thesis was not consistently upheld even among opponents of democracy, for even Plato partially moved away from it in his later works. Aristotle, who today is mentioned time and again as the defining author for the democracy thesis, deserves particular attention. However, closer examination of central passages on democracy of "The Politics" reveals that he, too, had abandoned the often claimed thesis of a close connection between lottery procedures and democracy.

The Triumph of the Democracy Thesis

The dominance of the democracy thesis is comparatively new, for after initial uncertainty, interpretations of ancient lotteries have been subject to a switch in lines of interpretation in classics research since the 18th century. Initially, authors either championed the view that the lottery had not existed at all and that the relevant Greek terms would be properly translated as "secret vote with the help of beans" or that lotteries had not been accorded an important role

since all relevant political positions had been filled by means of elections. Another interpretation offered by early classics research was the assumption that no real decisions about officeholders would have been made by sortition because the lists of possible candidates were limited to a small number of people. That was the old view that dominated the classics even into the 19th century. The first step toward a new interpretation as the lot as a genuine democratic institution was then taken by George Grote in his provocative 'History of Greece' (1846-56 in 12 Volumes).[13]

Against the background of the differentiation between the "liberty of the ancients" and the "liberty of the moderns," which was postulated in the 1830s by Benjamin Constant, the "sacredness thesis," first defended by Numa Denis Fustel de Coulanges,[14] provided a pronounced counterinterpretation: To the Athenians, "the lot was not random, but the manifestation of divine will."[15] According to this reading, the lot was a legacy of the archaic epoch and was also interpreted as the expression of divine will for the democratic era. Coulanges staunchly opposed the "democratic interpretation" of the lottery and referred to its use in Athenian politics when appointing archons prior to the establishment of democracy.[16] Fustel de Coulanges even went so far as to turn the thesis around: It was remarkable, he claimed, that when democracy gained the upper hand, it introduced the new elected office of strategos. Democracy "had no intention of filling these positions by lot and preferred to elect them by casting votes. This was how it came about that the positions stemming from the aristocratic epoch were filled by sortition, but those from the democratic epoch were filled by election."[17] It came as no real surprise to this line of interpretation that "The Constitution of Athens," which was found during excavation work in 1891, and whose authorship was first credited to Aristotle[18], includes passages according to which, in contrast to Grote's assumption, sortition had by no means been introduced to politics only in the democratic epoch.

However, the sacredness thesis (central to Fustel's thinking) for its part had since its inception been forced to contend with the problem that no texts from democratic Athens existed (which is true to this day) in which decisions by lot were interpreted as the expression of divine will, and that according to current knowledge, no charges were ever brought against contemporary critics of the lottery on account of transgressions against religious traditions. These objections were first used to massively reject the sacredness thesis by James W. Headlam in the late 19th century. He parried with the counterargument that the lottery was the most logical expression of the democratic promise of equality: "election by lot was a democratic institution."[19] According to Headlam, although the lottery had sacral origins, it had become secularized to such a degree that the Athenians of the democratic epoch had lost awareness of its religious origins.[20]

To this day, the democracy thesis reawakened by Headlam has found a following, and it prevailed in the following decades as the dominant pattern of interpretation. In the interpretations of historians such as Arnold Jones and Moses Finley since the 1950s,[21] the fact that the lottery had been used long before the establishment of ancient Greek democracy was viewed merely as background, and the core purpose of the lot was considered to be linked to the democratic principle of equality; the fact that sortition was used again in later oligarchical regimes in Athens is not mentioned. Prominent classical scholars such as Jochen Bleicken established the democracy thesis as the more or less prevailing doctrine.[22] Even authors who are committed to the approach of the newer history of mentality and emphasize more strongly the significance of everyday cultic and religious practices in ancient Athens equate ancient democracy and drawing lots.[23]

In inverting the argument, the conclusion was even drawn from the democracy thesis that elections had been a kind of aristocratic element alien to classical democracy. George Sabine, the author of the seminal history of political theory prevailing to this day in the US, writes in the late 1950s: "elections are according to Greek ideas an aristocratic method,"[24] and Bleicken, too, sees the lottery "anchored firmly in the Athenians' awareness as a democratic institution" "practically contrasted to [elections] as an oligarchical form."[25] Historically informed opposition to this view is now beginning to be expressed: For example, when Mogens Herman Hansen tirelessly repeats his source-critical objections against the democracy thesis in his publications and attempts to direct attention to the functions of the lottery in the context of the shifting political orders in Athens.[26] Or when Cynthia Farrar sees the constitutive principle of Athenian democracy not in the lottery itself, but in the voluntary nature of political participation that underlies sortition.[27] Or when Karen Piepenbrink ascribes the lottery a generally less significant role for Athenian democracy.[28] Nonetheless, the democracy thesis continues to dominate the field in the history of political ideas.

Sortition as the target of contemporary criticism of democracy

Today, the best known paean to democracy from ancient Greece is the "Epitaphios," the Funeral Oration by Pericles after the war in 431. This speech, even if it was recorded by Thucydides, a critic of democracy, is one of the most important documents from which the democrats' own interpretation emerges, since it is about democracy from the perspective of one of its supporters.[29] In the speech, Pericles praises the Athenians for emphasizing the personal capabilities of individual citizens. It also emerges from the speech that to him, in a

democracy, the main criteria for central offices and the recognition they entail should not be the chance involved in the lottery, but rather competence and merit: "when it comes to esteem in public affairs, a man is preferred according to his reputation for something, not in rotation, but based on excellence."[30] In legal disputes, Athenians have equal standing. When it comes to official positions, however, there is equality only in the sense that in principle every citizen should be able to occupy them. But he has to acquire special merit and competence to be selected for a top position by his fellow citizens. Pericles, who reviews the fundamental principles and the most important institutions of democracy for his audience in this speech, does not even mention sortition. Instead, he is concerned with official positions being open to all who are qualified for them and praises the democratic freedoms and political equality of democracy. At their core, he considers them to be, in modern parlance, "deliberative" form of political decision-making. "We Athenians, in our own persons, take our decisions on policy or submit them to proper discussions: for we do not think that there is an incompatibility between words and deeds; the worst thing is to rush into action before the consequences have been properly debated."[31]

If Pericles says nothing specific about the concrete forms of appointments to official positions and voting procedures in such a programmatic speech, then this gives us reason to assume that precisely this is the actual information that democrats wished to provide on this topic: There is no privileged connection between lotteries and democracy. But one may argue that since Pericles aims in his speech to praise Athens and not its political institutions, his Funeral Oration proves nothing. Yet before referring to the Funeral Oration as a relevant source for my argument perhaps too hastily, it is necessary to take a closer look at other potential sources.

One of these sources is Herodotus. The famous 'Constitutional Debate' in the third book of "The Histories" was written around 424-421, which means nearly 40 years before the political reform initiated by Ephialtes and Pericles. In this debate Otanes, who serves as the fictional spokesman for the "multitude" and for "the rule by the majority", makes an explicit connection between what is called in the Greek text *isonomia*[32] and the lottery: "Those in office have their authority courtesy of a lottery, and wield it in a way that is strictly accountable".[33] Herodotus gives no additional description to this statement and no further explanation for it. In addition, this source faces the philological problem that Herodotus in the original Greek version of this passage referred to *isonomia* and not to *demokratia*, even though he knew the term and made use of it in other sections of the "Histories"[34]

Other sources are much more instructive. They are written, however, by ardent opponents of democracy. The first extensive critique of democracy we know of stems from a text with the title "The Constitution of the Athenians,"

possibly written between 430 and 420, but probably even as early as 443-441.[35] Nothing is known about the identity of the author who is nicknamed 'The Old Oligarch'. The text is also considered to be one of the first sources to use the word "democracy" to denote the political order that had been installed no less than a good two generations earlier.

"The Constitution of the Athenians" is a veritable cascade of reproaches against the democracy of the day. To the author, democracy is class rule by the lower strata. In democracy, he finds, "the poor and the common people ... have more power than the noble and rich."[36] And "this choice of constitution entails preferring the interests of bad men to those of good men," and the author concludes "this is why I do not praise it."[37] There is no mediating nuance in the Old Oligarch's judgement about the people: "Among the common people are the greatest ignorance, ill-discipline, and depravity. For poverty tends to lead them into base behavior, as do lack of education and lack of learning"[38] Democracy, he claims, relinquished the law to the capriciousness of the majority, it dispossessed rich families, its administration was sloppy, it treated slaves too well, it promoted aggressive, irresponsible foreign policy, it abandoned its allies, it arranged too many festivities at the expense of the rich, and it neglected sports and music.

The lottery does not play any particular role in this enumeration of reproaches. It is merely mentioned as one of two mechanisms by which the mass of the poor divided the official positions among themselves: "Since this is so, it seems fair that they should all share in the offices of state by the processes of lot and election."[39] The Old Oligarch does not focus on differentiating between sortition and election; he identifies the moment of the democratic solely by the fact that in principle, all citizens could hold official positions; in this respect, his view – disregarding the diametric difference in the question of evaluation – is the same as that of Pericles.

A new thrust comes into play only in another place in the text. For according to the Old Oligarch, the poor desire only those offices that pay a salary and do not involve any particularly great responsibility – in contrast to the actually important offices of the city. "All those offices that bring safety to the state as a whole when they are well performed, danger when they are not, in these offices the common people do not require any share. They do not think that they should share in the generalship by having it allotted, nor in the cavalry command."[40] To him, the reason for not using open lotteries or elections to fill these positions is further evidence for the class nature of democracy: "for the common people recognize that they derive greater benefit by not holding these offices themselves."[41] In addition, the height of democratic perfidy was that the accountability of the wealthy before the courts could lead to high fines if the wealthy did not fulfill the expectations of the people.

Pericles would surely have objected to this characterization and referred to

the openness in principle not only of the minor, but also of the highest electoral offices; in contrast, the Old Oligarch would have pointed out the strikingly large number of members of the traditional and rich families holding them.[42] Decisive for our context, however, is the fact that the Old Oligarch does not view the lot as the only typically democratic form of appointment to office. At the same time, he characterizes elections as a nothing less than perfidious method of the democrats to push their interests through at the expense of the rich.

Criticism of democracy in antiquity culminated in the emergence of the new philosophers, who in contrast to the Sophists claimed to have special access to the truth and formulated their claim to knowledge in nothing less than a confrontation with contemporary democracy.[43] Socrates (470-399) was later chosen as the father of this type of philosophical critique of democracy, and it was also Socrates who selected sortition as an example to illustrate his criticism of democracy. "But," as Xenophon (430–356) pointed out in his "Memorabilia," "he taught his companions to despise the established laws by calling it folly to appoint public officials by lot, when none would choose a pilot by lot or any craftsman for work in which mistakes are far less disastrous than mistakes in statecraft."[44] Instead of allowing chance to hold sway in the selection of public officials, government should be placed in the hands of men who perform "more honorably."[45]

However, this passage cannot be utilized directly as a concrete and well-founded criticism by Socrates of drawing of lots as a way of appointing public officials. After all, to be precise, he rejects every imaginable method for filling offices, including usurpation, fraud, inheritance, and elections: "Kings and rulers", with these words, Xenophon quotes Socrates, whom he has fashioned as his own personal teacher, "are not those who hold the scepter, nor those who are chosen by the multitude, nor those on whom the lot falls, nor those who owe their power to force or deception; but those who know how to rule."[46] The question how those who supposedly know how to rule are to achieve the relevant positions remains unanswered. The fact that elections are no real alternative, either, makes the criticism of the competencies of the multitude in the ecclesia clear; he accuses its overwhelming majority of being "dunces and weaklings"[47] who laugh about those who put forward good reasons and arguments in the ecclesia.

Plato and Aristotle report practically identical utterances by Socrates as Xenophon does. "They resolve further," Socrates is quoted by Plato in the dialogue "The Statesman" (c. 366), "to appoint magistrates chosen by lot annually from the citizen body (whether from the wealthy only or from all citizens). Some of these magistrates, once they are appointed, are to take command of ships and navigate them; others are to cure the sick according to the written code."[48] In this passage, we again find the equation of political activity with that of the pi-

lot, and again, it is incorrectly suggested that all political leadership positions in the then concretely existing democracies were determined by lot.

Socrates is quoted by Aristotle in "On Rhetoric" with the same comparison with the pilot, with Aristotle making no secret of his lack of support for it. For in his interpretation of the statement, he suggests that Socrates was less concerned with concrete criticism of the way political appointments were made than with a philosophical figure of argument and with a radical questioning of customary ways of thinking. Aristotle's interpretation is to be found in "On Rhetoric" in the place where he had just explained the argumentative function of a paradigm or example. According to Aristotle, two species of paradigms exist, the comparison (*parabole*) and the fable. He argues that Socrates is using comparison as a rhetorical device in his sayings: "for example, if someone were to say that officials should not be chosen by lot (for that would be as if someone chose athletes randomly – not those able to compete, but those on whom the lot fell); or as if choosing by lot any one of the sailors to act as pilot rather the one who knew how."[49] Yet even if Aristotle does not accept the substance of Socrates' utterance and is concerned solely with the argumentative weight which can be assigned to the comparison with the athlete and the pilot, this does not make Socrates' contempt for democracy any more relevant. For Socrates' comparison relies on the implicit premise that offices filled by lot have the same power and the same defining influence as a pilot on a ship on the ocean. Now, that was never the case in Athens – all offices filled by sortition were exercised in councils, and the positions of leadership were determined by election and not by lottery. The comparison provided here has no real basis in Athenian democracy. In addition, Socrates fails to mention the questioning, the *dokimasia*, which all those selected by lottery had to undergo before being permitted to take office.

In other words, the textual references examined so far reveal an initially confusing constellation of the debate. Pericles does not mention sortition in his speech praising democracy at all. The Old Oligarch describes Athenian democracy accurately in terms of its institutional structure, criticizing it fiercely, yet he virtually ignores sortition in this criticism. It is only Socrates who recognizes the lottery as nothing less than the incarnation of the democratic spirit; but he can put forward his criticism of democracy linked with this only by crudely distorting the technicalities of the procedural realities of Athenian democracy. It is striking that the evidence for the linkages between democracy and the principle of sortition was taken from sources with more or less explicitly antidemocratic tendencies[50] – at least the opponents of democracy seem to have had the idea that sortition was a central characteristic of democracy.

The lottery and Plato's critique of democracy

As inconsistent and unrealistic as Socrates' few surviving utterances about sortition in the political system of democracy in antiquity are – his comparison in which the drawing of lots for magistrates is applied to the pilot of a ship on a stormy sea developed substantial resonance, echoing to this day, not least because it was taken up by Plato (428-348). Plato also initially refers to Socrates on the topic of sortition, although he takes a different position in his later dialogues.

Plato comments on questions concerning the status of the lottery in quite a few of his dialogues – at times more extensively, at others more marginally. His first work on this topic, and his most important in terms of the history of its reception is "The Republic" (Politeia), which he began writing in 387. Here, all the motifs of Plato's critique of democracy are to be found in one place, including an analysis of the lottery which is firmly interwoven with it. Democratic freedom, celebrated by Pericles, is developed by Plato in vivid colors into a horrifying image nothing short of grotesque. In his Funeral Oration, Pericles had equated the Athenians' democratic character with their generosity in their personal dealings and the hustle and bustle of the city; in a democracy, the citizens could live as they wished – "free and tolerant in our private lives"[51] – and the way they led their lives was not monitored by the state. To Plato, these liberal characteristics seem quite different. His antithesis is stated in detail in the eighth book of "The Republic."[52] Such a large degree of freedom would develop as an unavoidable consequence of democracy that fathers would fear their sons and teachers their students and in the end, people would have to step aside for and salute the "horses and donkeys"[53] confidently walking straight down the street. Even slaves would have the audacity to look openly at a citizen on the street! Democracy would barbarize its citizens, and they would barbarize everything else. The democratic person cannot behave in any other way, for such people always do what they spontaneously desire. They assign equal importance to good and bad desires and allow themselves to be ruled by their impulses in the political realm with the same arbitrariness as in the private.

At this point, Plato explicitly makes a connection between the mentality of the democratic person and sortition: "Putting all his pleasures on an equal footing, he grants power over himself to the pleasure of the moment, as if it were a magistrate chosen by lot. And when he has had his fill of it, he surrenders himself to turn to another pleasure. He rejects none of them, but gives sustenance to all alike."[54] Instead of controlling himself in a disciplined manner, the democratic person would deliver himself to the spontaneous impulses of passion and let himself be guided by the randomness of its appearance and disappearance. In this way, Plato makes the lottery the institutional counterpart to a specific type of human being.

Plato thus constructs an internal connection between democracy as a way of life and the lottery as political practice. In "The Republic," he sets up nothing less than a psychopathology of the democratic human being whose life develops through various stages of mental illness and the political systems of order that correspond to them.[55] The democratic person continues to develop until all orderly drives have been banished from his soul. At the political level, the democratic lifestyle with its flightiness and its tendency to expose itself lustfully and without restraint to all external influences corresponds to the unpredictability of the lottery. The inevitable result of boundless democratic freedom is that the citizens are so disoriented, mollycoddled, and spoiled that they are "ripe," as it were, for tyranny.[56]

Even in antiquity, Plato's accusations were so effective that Cicero copied them almost verbatim[57] and passed them off as a realistic description of the condition of Athenian democracy. Werner Jaeger, in contrast, pointed out that Plato was not primarily concerned with actual conditions in democratic Athens, but more generally with an idealized characterization of a supposedly existing democratic type of human being.[58] A direct path leads from Plato's psychopathology of an egocentric driven notoriously by lusts to the unpredictability of the lottery. In Jaeger's words, to Plato, drawing lots is "das eigentliche Wesensmerkmal der Demokratie"[59] namely because it is practically diametrically opposed to the standpoint of absolute knowledge. That is why, to Plato, "der das sachverständige Wissen über alles schätzte", the lot had to become nothing less than the "Symbol einer Verfassung"[60] based on its strict rejection of the primacy of philosophy, which had reached the realm of indisputable wisdoms, in questions concerning politics.

Against the background of the epistemic primacy of philosophy over democracy claimed by Plato, his objection to democracy that it regularly produces poor decisions is only logical. Plato assumes that all political questions can and even must be handled exactly like technical (and even artistic) ones. In all these spheres of life, he claims, there are objective yardsticks according to which qualities of excellence can be evaluated objectively and which are clearly visible to those competent to judge without doubt or disagreement. The specialists in their particular fields of expertise – first characterized by predisposition, then improved additionally by extensive experience – gain special skills that the mass of the population and specialists in other fields can never keep up with.[61]

Plato's invectives against assemblies of the people, against the lifestyle in ancient democracy, and against the lottery have had a formative effect in the political history of ideas which is still reflected even in modern debates. If we view the real conditions in democratic Athens against the background of Plato's criticism, it does not offer much more than a caricature of the actually existing democracy, with little in common with historical events and the true strengths and weaknesses of democracy.[62] Incidentally, this is also true of his

distorting depictions of the oligarchy and even of tyranny. As influential as Plato's critique of democracy was on later political battles, the overly strong focus devoted to this critical stance was the result of a highly selective examination of Plato's entire oeuvre. For not only democracy, but also sortition is treated more positively in his later dialogues than in "The Republic."

The first time we find non-negative mention of the lottery is in the late dialogue "Critias," which focuses on the myth of fabled "Atlantis." First, Plato describes the mythical origin of the city of Athens. Athens, he writes, was of divine origin and had been given to the goddess Athena when the world had been divided up by lot. The lottery, Critias explains, had been a peaceful alternative to open conflict and struggle when dividing up the Earth; it was "not in the course of a quarrel."[63] The gods did not use the lottery as an authority revealing greater justice to them when dividing up the world. Instead, sortition had the function of a procedure serving to pacify conflicts over goods. It prevented strife and conflict among the gods.

Plato does not end with this new evaluation of sortition, but instead even incorporates it into a blueprint of a political order in his last surviving work, "The Laws" ("Nomoi"). The "Nomoi," which he began in 350 and which remained incomplete at his death in 347, are the record of a fictitious conversation about the constitution and administration of an ideal polis conducted by three friends from Crete, Sparta, and Athens on a long walk. Plato developed his new ideas about sortition in the context of conceptualizing a fictitious colony by the name of Magnesia on the island of Crete.

In the fourth and fifth books, the friends argue about Magnesia's ideal location, size, forms of economic activity, and social structure. Magnesia is planned as a new colony, and the first and foremost topic of debate is the mode of distributing land. Plato's proposal involves plots of the same size, which are to be distributed in the same way as the gods had divided up the Earth in his saga of Atlantis: by lottery. But in order to ensure that all new settlers would agree with the outcome of the lottery and would not come up with the idea of selling or trading their plots, an initiated leadership circle was to talk the colonists into believing that their land had been given them by the gods. The settlers were to believe: "The lot by which they were distributed is a god."[64] The aspect of sacredness is brought to bear anew when allocating the local gods. Magnesia is divided into twelve sections assigned their patron gods as follows: "They must allocate the sections as twelve 'holdings' for the twelve gods, consecrate each section to the particular god which it has drawn by lot, name it after him, and call it a tribe."[65]

Sortition was also used for selecting priests when a new settlement was established. According to Mogens Herman Hansen, this passage is the only unambiguous evidence for the selection of priests by lot being seen as the choice of the gods.[66] Although the priests were later to hand down their offices, when

it came to appointing the first female and male priests, "one should leave it to the god himself to express his wishes, and allow him to guide the luck of the draw."[67] The decision by lot was, however, to be followed by a critical screening of the person thus selected, *dokimasia*: "The man whom the lot favours must be screened to see he is healthy and legitimate, and has been reared in a family whose moral standards could hardly be higher, and that he himself and his father and mother have lived unpolluted by homicide and all such offences against heaven."[68] So apparently, Plato's trust in the gods was not quite all-encompassing, and the procedure was hardly a compliment to divine omniscience; the evaluation criteria mentioned are so strict that when selecting future priests, only a few remained "whose moral standards could hardly be higher."

Until this point one may argue that Plato has simply differentiated between the use of lots for the appointment of officials in "The Republic" and for other cases in which an impartial decision should be reached in his later writings and thus may come to the conclusion that Plato had not changed his mind over lifetime on sortition. Other sections of the "Nomoi", however, prove the opposite. Plato's meticulous and detailed list of the State and Civil Laws of Magnesia makes up most of the "Nomoi." There are decisive differences in comparison with "The Republic," for the "Nomoi" are more strongly oriented toward their citizens' political participation and political appointees are now determined by elections, sortition, or a combination of the two mechanisms. It is remarkable in this regard how intensively Plato rediscovers the lottery for the appointment of officials here; in "The Republic" and "Protagoras," he had had nothing but contempt and scorn for it. Using a wealth of creative variations greater than in any previous dialogue, Plato discusses the modes he considers appropriate for appointing officeholders to the various political institutions.

Plato designs a particularly sophisticated mechanism for the city council in which he combines elections and sortition as well as groups of voters differentiated by wealth. He sees the following concrete, practical difficulty: In order to select the best person for each office, it would actually be necessary to have elections for all of them. But that would be impossible in Magnesia for reasons of domestic policy. If the new polis is not to be divided against itself, then concessions would have to be made to the masses who were difficult to satisfy. Due to the "force of circumstances"[69] it would become "necessary to avoid the anger of the man in the street by giving him an equal chance in the lot (though even then we prayed to the gods of good luck to make the lot give the right decisions)."[70] Here, Plato employs the lottery because it is the only way to satisfy the demands of the masses and to prevent upheaval.

Let us take a closer look at the combinations of elections and lotteries Plato proposes in the following. The council of Magnesia is to have 360 members. For this election, the population is to be divided into four equally large groups (property classes) according to their wealth, each of which is to select 90 coun-

cil members. Plato suggests that, as a first step, the members of the highest property class are to cast their mandatory votes first, electing a total of 180 citizens from their class. On the following day, the second property class would vote – voting would be mandatory for them as well – also electing 180 citizens. On the third and fourth days, the third and fourth classes would vote. Each of them would also elect 180 citizens; but unlike the first two classes, voting would not be compulsory for them. Following the elections, the lottery would come into play as a second stage. The "gods of good luck" would be invoked in the temple "to make the lot give the right decision,"[71] and 90 people would be drawn by lot from each of the groups of 180. Together, they would form the 360 members of the new council. In contrast to elections for heads of state, the actual models for this mode of selection are more easily identified in the Greece of the time, for example in the procedures for appointing archonts (chief magistrates) in 6th-century Athens.

Plato's proposal for selecting regular magistrates is somewhat simpler. But they, too, are to be selected through a combination of elections and lotteries. In each case, in order to obtain the required number, twice as many candidates are to be elected and their numbers reduced to half by lottery in a second step. They include the generals, company-commanders, tribe leaders, members of the executive, and also the city-wardens and market-wardens. In addition, lotteries come into play when distributing responsibilities. For example, the country-wardens or guards-in-chief are to be elected, but then distributed by lot to their respective sections of the polis, and their responsibilities would rotate on a monthly basis. "The effect of the lot will be that each group will take a different section every month, so that they all get experience and knowledge of the entire country."[72] Better familiarity with the country is just one of the positive effects of the lottery and rotation, however. Another is the control and prevention of corruption it involves: "But it's not enough that as many of the guards as possible should get experience of the country at only one season of the year: we want them to add to their knowledge of the actual territory by discovering what goes on in every district at every season."[73] The most suitable chief organizers of the choruses are selected in elections; but lotteries determined their allocation to individual choruses.[74]

In summary, the following image emerges: In Plato's early and middle works, the lottery is made out to be an incarnation of all supposed absurdities of Greek democracy. Drawing lots signifies the rule of absolute arbitrariness and unpredictability. In Plato's late work, however, changes are to be found, for in the "Nomoi," the sacral and political offices are filled through at times complex combinations of lotteries and elections. In the history of its reception, this procedural turn of Plato's has not received sufficient attention to date – so strong is its contrast to "The Republic," which has been valued more highly in the political history of ideas. In this context, it is also remarkable that even Plato

subtly distanced himself in his interpretation of the lottery from the sacredness thesis. This takes place at the point where in the "Nomoi" he seeks to have the priests selected by lot undergo *dokimasia* as a precaution. And even if more marginally, in "Nomoi" we finally also find functions of the lottery that are not specifically linked to democracy. One of these functions is pacifying potential conflicts when allocating land to new settlers by lot. Another is prevention of corruption when distributing the tasks of elected officials.

Election and lot in Aristotle's work

Like Plato in "The Republic," Aristotle too is among the critics of Athenian democracy, even if not in such a fundamental way. Similarly to Plato's writings, the list of shortcomings and flaws that Aristotle attributes to the Athenian democracy of his time is riddled with exaggerations, omissions, and distortions.[75] Yet in contrast to Plato, Aristotle's evaluations are differentiated and his typologies and his differentiations are based on experiences with political orders that had actually existed in the diverse world of the *poleis* of his day.

Recently, Karen Piepenbrink rightly called attention to the fact that political scientists in particular like to use Aristotle's reflections on political theory as an attractive source because of their impressive incisiveness and because they generate both a typology and a system, even if they do not always correspond to the historical details.[76] This is also, and especially, true of the debate on sortition. To proponents of the democracy thesis, quotes from Aristotle serve as nothing less than statements by a crown witness. By contrast, most ancient historians exercise significantly more restraint regarding Aristotle's writings when it comes to researching the democracy that actually existed in ancient Greece.

Be that as it may. An initial passage in Aristotle's work that corresponds for the most part with the democracy thesis, at least at first glance, is to be found in "On Rhetoric." In connection with the role and the forms of rhetoric in different forms of government, he writes, "Democracy is a constitution in which offices are distributed by lot and oligarchy one in which this is done on the basis of owning property, and aristocracy one in which it is based on education (*paideia*)."[77] The link between sortition and democracy created in this passage is obvious. But it is just as obvious that in the passage concerned with the aristocracy, elections are not mentioned as an alternative, but rather that offices are to be filled following successful education (*paideia*), which indicates a practice of cooptation.[78]

The description of Athens' "constitution of the present day"[79] in the text "The Constitution of Athens" is already less clear. Although the authorship of this text in modern editions is (mostly for conventional reasons) still attributed to Aristotle, its real author is unknown. Philological research attributes the authorship to a member of Aristotle's school. In addition, the text should be read less as representing an original Aristotelian theory, but more as a value-neutral description of the functioning of the Athenian institutions in the late 4th century BC. Taking these reservations into consideration, it is interesting that the author of this text explicitly calls the constitutional order existing in his day "democracy."[80] In the description that follows he enumerates both the offices filled by elections and the many filled by lot.[81] Yet this does not include any criticism of sortition. There is also no indication of its supposedly explicit democratic character, nor expression of displeasure, much less malicious glee because of the fact that the democracy of the day had electoral offices in addition to the lottery. It is also striking that Solon's new constitution is already characterized as "most popular" and a "democracy"[82] in "The Constitution of Athens," but that the enumeration of the changes of significance to it do not mention the lottery as a characteristic (but rather the end of personal liability for loans; the opportunity for citizens to turn to courts, and the establishment of *dikasteria* – although he does not go into how *dikastes* (jurors) are appointed).

Since the authorship of "The Constitution of Athens" has not really been clarified and "The Politics" is undisputedly considered the most important source for Aristotle's political theory, I would like to go into this text in more detail in the following. Scattered across the seven books of "The Politics," there are a total of seven places where lottery and election procedures and their relationship to one another are mentioned. If these seven passages are weighted in terms of their placement in the text and their substantive context, then a closer look reveals that Aristotle by no means characterizes the lottery as specifically democratic, in contrast to the statements by Bernard Manin and other current-day proponents of the "democracy thesis," but ascribed both sortition and elections to democracy. Aristotle did not unequivocally equate democracy with sortition and aristocracy with elections, as was claimed – however, Aristotle defined "democracy" in a way that makes it difficult to imagine without any element of random selection at all. Let us take a closer look at the passages in question.

The first passage (1), in the second book of "The Politics," refers to Solon's laws of 594 in the form of a historical retrospective. Some followers of Solon, Aristotle writes in this passage, have the following view: "According to their view, the council of Areopagus was an oligarchical element, the elected magistracy, aristocratic, and the courts of law, democratic."[83] As far as the courts are concerned, we must read the next sentence as well, according to which Solon was "creating the democracy" by recruiting the courts from the entire population. Here Aristotle explains: "The truth seems to be that the council and the elected magistracy existed before the time of Solon, and were retained by him, but that he formed the courts of law out of all the citizens, thus creating the

democracy, which is the very reason why he is sometimes blamed. For in giving the supreme power to the law courts, which are elected by lot, he is thought to have destroyed the non-democratic element."[84] If we take this brief passage, it offers us three opportunities to characterize democracy: firstly using sortition, secondly using the recruitment of the *dikastai* from all segments of the population, and thirdly using the power of the courts. Nothing more can be taken from this passage in its concrete placement in the text; for this reason, it cannot be claimed that the first interpretation – democracy equals sortition – is the only possible one.[85]

In a second passage (2), Aristotle reports on Carthage. Although Carthage had a mixed constitution, it was flawed. Aristotle then tries in the following to characterize the specific components of Carthage's mixed constitution more closely. His strong criticism of the combination of sortition with daily payments for political functions is in the background of his notions about certain elements of the Carthaginian constitution. According to him, the democratic aspect of this constitution was not very strong. The fact that the Carthaginians magistracies "being without salary and not elected by lot ... [is] characteristic of aristocracy".[86] He contrasts this with a different recruiting procedure used by the Carthaginians: "That the magistracies of five who have under them many important matters should be co-opted, that they should choose the supreme council of 100, and should hold office longer than other magistrates (for they are virtually rulers both before and after they hold office) – these are oligarchical features."[87] In this passage, Aristotle mentions two recruitment methods for aristocratic and oligarchical components of the constitution that in his schema of the constitution were forms of "the rule of the few." The one involves selection on the basis of monetary assets, the other, selection on the basis of proven political skills. According to Aristotle: "If, then, election of magistrates for their wealth be characteristic of oligarchy, and election for merit of aristocracy, there will be a third form under which the constitution of Carthage is comprehended; for the Carthaginians choose theirs magistrates, and particularly the highest of them – their kings and generals – with an eye both to merit and to wealth."[88] In his view, Carthage belongs in the first group: "The Carthaginian constitution deviates from aristocracy and inclines to oligarchy, chiefly on a point where popular opinion is on their side. For men in general think that magistrates should be chosen not only for their merit, but for their wealth: a man, they say, who is poor cannot rule well – he has not the leisure."[89] There is no other passage in Aristotle's work where he emphasizes the link between elections and aristocracy or oligarchy as strongly as he does here.

Yet there is a further passage (3) that merits attention in this context. In the fourth book, Aristotle discusses the various ways of mixing elements in a politeia, the form of mixed constitution he favors. He reports on different ways of combining democratic and oligarchic elements. Here, the text has an endoxic

character, i.e., various accepted opinions (*endoxa*) about possible mixed forms are mentioned, although the author does not evaluate them. The relevant quotation about sortition and elections reads: "For example, the appointment of magistrates by lot is thought to be democratic, and the election of them oligarchical; democratic again when there is no property qualification, oligarchical when there is."[90] There is little to room for interpretation here concerning the link between the form of appointment and the form of government, except that Aristotle merely says that it seems as if this were the case, thus reporting the position of others, so that the question remains open whether he puts these words into the mouths of opponents or supporters of democracy.

These three passages, however, are countered by four others in which either the lot is considered compatible with oligarchy, or democracy is linked to elections as well as to the lot. I believe that these passages express Aristotle's position better than the ones mentioned so far. And not because there are more of them – in the sense of a democratic majority – but because each of them takes its place in a line of argument developed by Aristotle, whereas the passages quoted so far are either ambiguous or merely parenthetical comments in the context of political histories of events.

The first passage from this group (4) seems comparatively unremarkable, but is placed in a systematically decisive place in the sixth section of the second book of "The Politics." Here, Aristotle examines Plato's "Nomoi" and his claim that the order designed there was a mixed constitution with elements from democracy and oligarchy. Aristotle, in contrast, seeks to prove that it tends to be more an oligarchy. The feature that regents in the "Nomoi" "are elected and then selected by lot is shared by the two constitutions."[91] However, only the fact that voting is mandatory for property owners, while the lower classes are permitted to refrain from participating in elections, gives this rule its oligarchical character: "This is seen in the mode of appointing magistrates; for although the appointment of them by lot from among those who have been already selected combines both elements, the way in which the rich are compelled by law to attend the assembly and vote for magistrates or discharge other political duties, while the rest may do as they like, and the endeavour to have the greater number of the magistrates appointed out of the richer classes and the highest officers selected from those who have the greatest incomes, both of these are oligarchical features."[92] Aristotle differentiates forms of government here not according to how appointments are made, but according to the scope of the electorate. A democracy cannot be recognized according to whether a polis uses lotteries or elections; instead, the question is whether the offices are open to all and whether everyone participates equally in appointments.

The next passage (5) is in the sixth book. It is in the famous second section where Aristotle defines democracy. "Such being our foundation and such the principle from which we start, the characteristics of democracy are as follows:

– the election of officers by all out of all; and that all should rule over each, and each in his turn over all; that the appointment to all offices, or to all but those which require experience and skill, should be made by lot; that no property qualification should be required for offices, or only a very low one."[93] So in this passage, Aristotle explicitly regards both sortition and elections as democratic. The criterion for deciding between the two is the material requirement of the office. As in the previous quotation, he does not differentiate democracy from other forms of government by the fact that it uses sortition or elections, but by the fact that the offices are open to all citizens and that they can participate in equal measure in appointing officials.

Further relevant passages (6) are to be found at the end of the fourth book, where he deals with the relationship between constitutional forms and possible appointment practices in a systematic overview.[94] Aristotle begins with the *ekklesia* and the council, then turns to the magistrates, and ends with the judges.[95] Here at the last the reader becomes acquainted with Aristotle as the great combiner of constitutional elements. In the case of the magistrates, which I would like to go into in more detail, he differentiates between the most important government offices and then turns to the different ways of filling them in a systematic and overarching way for all political orders. He begins with three criteria which he then uses to differentiate the filling of offices. The differences, he writes, "depend on three terms, and the combinations of these give all possible modes".[96] The three criteria he mentions are: "first, who appoints? secondly, from whom? and thirdly, how?".[97] The core difference in terms of the mode of making appointments is that "they may be appointed either by vote or by lot".[98] Aristotle then develops a complex combination of all theoretically possible variants of these elements, resulting in 18 basic forms (see Table 1).

Table 1. The modalities for filling political offices in Aristotle's "The Politics".

Who?	*From whom?*	*How?*
1. All	from all	via election
2. All	from all	via lottery
3. All	from the few	via election
4. All	from the few	via lottery
5. All	from all	via election and lottery
6. All	from the few	via election and lottery
7.–12. The few	in analogy to 1.–6.	in analogy to 1.–6.
13.–18. Partly all, partly the few	in analogy to 1.– 6.	in analogy to 1.–6.

In our context, the designation of the individual possible combinations within the framework of the Aristotelian theory of forms of government is more important than filling in this table completely. According to Aristotle, "of these systems two are popular, that all should appoint from all by vote or by lot – or by both, some of the offices by lot, others by vote."[99] In the matrix above, these are the types numbered (1), (2), and (5). Aristotle then defines the "polity" as that form of government in which the principle "all from all," from which officials are recruited, is violated in favor of selecting them only from parts of the citizenry: "all should not appoint at once, but should appoint from all or from some either by lot or by vote or by both, or appoint to some offices from all and to others from some ('by both' meaning to some offices by lot, to others by vote), is characteristic of a polity."[100]

The following relationships between constitutional forms and procedures for making official appointments emerge:

Table 2. Constitutional systems and appointment procedures in Aristotle's "The Politics"

Polity	*Aristocracy*	*Oligarchy*	*Democracy*
lot and/or election	lot and/or election	election and lot as well as co-optation and sale of offices	lot and election

For the purpose of my argument, it is not necessary to examine the forms of government in detail here. What matters is that here, in *the* central passage in "The Politics," where he discusses the forms of government and appointment in an overarching systematization, Aristotle does not define democracies according to a specific method of appointment, but according to the number of people involved in the exercise of political power. Electoral and lottery procedures are mentioned by him as two forms of appointment that occur in all forms of government.[101]

In summary, the following finding emerges from Aristotle's work concerning the topic of sortition procedures: Unlike Plato's "The Republic," sortition procedures are not at the center of Aristotle's criticism of democracy, but rather are dealt with in a comparatively austere manner as one of several possibilities for appointing officials. And unlike Plato's "The Republic," when Aristotle characterizes lottery procedures he refrains from making any connection at all to a particular character of a person. Even more strongly than Plato in "Nomoi," Aristotle shows great interest in sophisticated appointment practices and their combinations. He is, however, very critical to the combination of sortition with daily payments for political functions. According to Aristotle, both elections and lotteries could be considered as essential democratic. Another decisive

point in Aristotle's evaluation of the potential merits of lotteries is that sortition from a restricted group of candidates could be a means to avoid factional disputes within oligarchies. Thus in Aristotle's writings the lottery is to be found not only in a democracy but also in the politeia, in the aristocracy and in the oligarchy. To sum up my reading of Aristotle's texts: Aristotle is not an appropriate author to be invoked as a reference from the history of ideas to support the democracy thesis.

Conclusion: the practical functions of the lottery in ancient Greece

It thus emerges, in contrast to the democracy theory put forward by John Burnheim, Benjamin Barber, Bernard Manin, Jacques Rancière, Ernest Callenbach, and others, that the construction of a close link between ancient democracies and sortition was an invention of contemporary opponents of ancient democracy, in particular Socrates and early Plato, which has been naively adopted by today's supporters of the democracy thesis.

An additional and slightly different interpretation – most prominently presented also by Bernard Manin[102] – of the use of the lot as an intrinsic element of the more fundamental principle of rotation is misleading too. Firstly, it does not take account of the practice in Athens and other ancient democracies.[103] And secondly, the unknown (probably Aristotelian) author of "The Constitution of Athens" had already mentioned rotation as an independent principle which applied to some elective offices such as the men who "keep the decrees"[104] and "military offices,"[105] too. The ancient use of rotation and sortition (and their combination) cannot be explained in terms of such a uniform objective.

To be sure, the principle which is embodied in the lot – having an equal chance of being selected whoever you might be – applied in the ancient democracies to all political functions or bodies for which a strict impersonal criterion was required. And an election was in this sense considered an "aristocratic" procedure as it was supposed to result in the selection of the best. But when incorporated in a particular political system of a *polis* in which all citizens had the right to vote and to stand for office, elections as well as sortition were both deployed for democratic ends. Both sortition and elections could plausibly be incorporated in a range of different ancient political systems.

It worth discussing why the political actors in Athens decided numerous times to retain the lottery even though its critics objected to its shortcomings. What was the added value of the lot to ancient democracies? In light of frequent constitutional changes in the 5th and 4th centuries, blind respect for an old order can be ruled out as a motive. The possibility that support for the lot increased in a linear fashion among democrats in Athens can also be excluded.

For after all, none other than the city of the 350s, which Aristotle in his "Politics" and the unknown author of "The Constitution of Athens" likewise had frowned upon as a "radical democracy," had newly established the office of an elected treasurer who could be re-elected without limitation. This office then developed into one of the most powerful positions in the *polis*, and the men holding this office were decisively responsible for the city rising again after being badly shaken by its military defeats. The creation of this new office was neither an "operational accident" of democracy nor a concession to the opponents of democracy, but rather an institutional reform to improve the functioning of the democratic system decided upon after a brief and intensive weighing up of the issues.[106] If such changes were so easily possible – why then were no other elective offices created? With this question, we have arrived again at the balancing of reasons put forward at the time for and against the lottery.

From the perspective of those who considered sortition reasonable in ancient Greece, the decision for it was not least a decision based on pragmatic considerations, on experience, and on interests. This pragmatic stance was possible only against the background of an attitude characterized by Christian Meier as "awareness of ability" on the part of the world of the Greek *poleis*,[107] which triggered incremental changes in the political institutions. Thus, the functions of lotteries and their discussion in surviving contemporary sources become the focus of interest. According to these sources, two functions above all were ascribed to sortition in ancient democracies. (1) It is the effect generated by the lottery in combination with rotation mentioned above, and the ban on accumulating offices that helps to avoid conflicts between citizens concerning access to offices. (2) And secondly, the function as a palliative measure against corruption and as the generator of broadly distributed political power. Evidence of both functions of sortition are to be found in the history of ideas sources already mentioned.

We encountered the function of avoiding conflict mentioned first in Plato's saga of Atlantis. There, he describes how the gods used lots to divide up the world in order to avoid "quarrel."[108] A comparable example for avoiding conflict among magistrates is to be found in "The Constitution of Athens," where the lot takes account of male weaknesses. Male magistrates, who were recruited by lottery, supervise the girls who play the flute, the harp, or the lyre. And in addition, they take care that the girls will not be hired for more than two drachmae. In the event that more than one man "wishes to hire the same performer, they cast lots, and allocate her to the winner."[109] So the lottery mechanism is supposed to halt arguments between old men about young girls. The "Rhetoric to Alexander" from the late 4th century, which was also ascribed to Aristotle for a long time, but was likely by Anaximenes of Lampsacos, is a third source relevant here. In this text, lot and elections are both mentioned as appropriate for appointing democratic officials, but the special quality of

preventing conflict is also ascribed to the lot: "In democratic states legislation ought to provide for appointment by lot to the less important and the majority of the offices (for thus faction will be avoided)"[110] whereas the magistrates for more important offices are appointed by election.

There is also an indication in Aristotle's "The Politics" of the usefulness of sortition for combating corruption. He reports the following about the *polis* Heraea: "Forms of government also change – sometimes even without revolution, owing to election contests, as at Heraea, where, instead of electing their magistrates, they took them by lot, because the electors were in the habit of choosing their own partisans."[111] The author of "The Constitution of Athens" describes the multi-stage lottery procedure for judges. And in this passage we find a comment pointing in the same direction about the ticket inserter who is responsible for monitoring the technical aspects of the lottery: "The man drawn is called the ticket-inserter, and inserts the tickets from the box into the columns over which is the same letter as on the box. This man is selected by lot to prevent malpractice if the same man should always make the draw."[112] The author also mentions that when drawing for the judges of the *dikastai* and allocating cases to juries by lot, the purpose is "so that ... it may not be possible for anyone to arrange to have the jury he wishes."[113] Aristotle in "The Politics" and the unknown author of the "Constitution of Athens" were not the only one among their contemporaries who took such a sober view of the functional advantages of sortition. A similar comment by Demosthenes survives from roughly the same time in which he praises selecting judges by lot first and foremost as a provision against bribery attempts.[114]

So the lottery was not simply – as was suggested by opponents of democracy at the time and is echoed uncritically by today's proponents of the "democracy thesis" – celebrated as a kind of incarnation of the Athenians' concept of political equality. To be precise, the logical connection goes in the opposite direction: Lotteries took place even before the advent of democracy. Political equality in democracy, however, created special circumstances in which the lot, whose historical roots were sacral and oligarchic, proved to be a successful and acknowledged tool for appointing officials in the democratic system. Lotteries *per se* are as weakly (or as strongly) democratic as elections. Yet the lottery becomes a specifically democratic instrument only under two conditions. Firstly, that all participants in the lottery have the same number of lots; a weighted lottery in which some participants have a larger number of lots and others a smaller one would violate the rule of equality. The second condition is that the circle of those entitled to participate in lotteries for official positions encompasses, without exception, all members of the demos; if this is not the case, i.e., if only a smaller part of the citizenry can participate in appointments for offices by lot, then the lottery is an instrument of aristocracies or oligarchies and

can fulfill the functions of avoiding conflict, balancing power, and combating corruption just as well (or even better) than in a democracy. If we disconnect the use of the lot from the "democracy thesis," we may even interpret the main purpose of sortition as fighting corruption and avoiding rivalry between candidates, which may lead to *stasis*, to civil war.

The two functions of the lottery mentioned also provide an answer to the question why the ending of the world of the Greek *poleis* did not put an end to the political career of sortition once and for all, and why it could be continued outside democratic systems, e.g., in the early Christian tradition or in the Upper Italian municipal republics after the 11th century.[115]

In addition to the two functions mentioned by the ancient authors, current theorists of the aleatory theory of democracy have added to the list of potential functions of random mechanisms.[116] All in all, at least the following five potential functions of mechanisms of chance in the political realm can be discerned:

(1) Random selection has the characteristic of being a neutral and autonomous mechanism of chance which always produces a decision. This makes it particularly suitable for breaking ties that is, coming to a decision in the event of two sides being equal.

(2) Unweighted lotteries are strictly egalitarian when it comes to individuals' chances of success. This feature can be utilized in democracies to distribute not only public appointments, but also access to resources equally among citizens.

(3) Random selection can remove a burden both from decision-makers and those affected by decisions (which is why they are sometimes used in medicine to allocate scarce, vitally important organs for transplantation). In modern democracies lotteries can be used (weighted or unweighted, as needed) to regulate distribution of scarce resources or limited access (for example, to kindergartens, schools, or subsidized housing).

(4) Drawing lots produces results that cannot be determined in advance, thereby introducing an element of uncertainty. This can help combat corruption. Systematically introducing elements of chance in distributing public appointments within government bureaucracies makes it more difficult for interested actors to anticipate whom to approach and offer a bribe, which makes corruption more expensive and risky.

(5) Lotteries can be repeated at regular intervals to select individuals to fill public positions. Each time a lottery is carried out, participants can hope to "get their turn" at last and take over from the previous officeholders, as the outcome of each lottery is uncertain. This is how drawing lots provided political stability for centuries in the aristocratic republic of Venice, as it was more economical for all the powerful families to wait for the next round of the lottery than to provoke a civil war.

Sortition is multifunctional. Plato, Aristotle, and other ancient authors were

already aware of the multifunctional character of the lot. It is time for modern proponents of sortition to abandon the democracy thesis; it is misleading in terms of political theory as well as the history of ideas. Only then can a theoretical foundation be created for the perspective of broadening the potential field of application of political lotteries far beyond the strengthening of opportunities for political participation, which has been at the center of discussions so far.

NOTES

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2 In the following the terms 'sortition', 'lottery', 'drawing of lots', and 'random selection' are used synonymously.
3 See Goodwin 2005, Dowlen 2008, Buchstein 2009, Delannoi/ Dowlen 2010, Stone 2011, Vergne 2011, Stone 2013, Baron 2014.
4 See Sintomer 2007: 103-107.
5 Among the rich body of literature see Barber 1984, Burnheim 2006, O'Leary 2006, Barnett/ Carty 2008, Callenbach/ Philips 2008, Sutherland 2008, Zarkaras 2010, Bouricius 2013, Bouricius/ Schecter 2013, Buchstein 2015, Malkopoulou 2015.
6 See Strauss 1964: 35–37, Kelsen 1985: 347, Rancière 2006: 40-42.
7 See Manin 1997: 8-41.
8 Manin 1997: 29.
9 Manin 1997: 27.
10 Manin 1997: 27.
11 See Malkopoulou 2015 and Burgers 2015.
12 See Hansen 1999: 148-152, Buchstein 2009: 17-60, Farrar 2009, and Piepenbrink 2013.
13 Grote attributed the lottery for political offices both to the 'democratic' aspect of the reforms of Cleisthenes (Grote 1859: 276) and to the jury-system after Pericles reformed the Athenian political system (Grote 1859: 355-358).
14 See Fustel de Coulanges 1877: 245–247 and Glotz 1907.
15 Fustel de Coulanges 1877: 246.
16 "Modern historians assumed that selection by lot was an invention of Athenian democracy. [...] However, that is merely a hypothesis not based on any text. On the contrary, the texts characterize sortition [...] as very old." (Fustel de Coulanges 1877: 224).

17 Fustel de Coulanges 1877: 247.
18 As a result of closer textual analysis, the authorship today is given not to Aristotle himself but to an unknown member of his school.
19 Headlam 1891: 12.
20 "It was secularized till almost all recollection of its religious origin had disappeared." (Headlam 1891: 11)
21 See Jones 1969: 47–49 and Finley 1980: 23-25.
22 See Bleicken 1995: 312–321 and 617–620.
23 See Flaig 1997: 64 and 99.
24 Sabine 1959: 82.
25 Bleicken 1995: 312.
26 Cf. Hansen 1986, 1987, 1990, 1995: 49–52, 244–248 and 2009.
27 See Farrar 2009.
28 See Piepenbrink 2013.
29 On the value of the report on the speech as a source, see Welwei 2000: 258-260.
30 Thucydides, History of the Peloponnesian War, 2, 37.
31 Thucydides, History of the Peloponnesian War, 2.40.
32 A compound of the Greek "*isos*" (equal) and "*nomos*" (law).
33 Herodotus, The Histories, 3.80.(6).
34 See Herodotus, The Histories, 4.137.(2), 6.43.(3), and 6.131.(1).
35 On dating and speculations about the authorship see Sealy 1973: 259-266 and Osborne 2004.
36 The Old Oligarch, The Constitution of the Athenians, 1.2.
37 The Old Oligarch, The Constitution of the Athenians, 1.2.
38 The Old Oligarch, The Constitution of the Athenians, 1.5.
39 The Old Oligarch, The Constitution of the Athenians, 1.2.
40 The Old Oligarch, The Constitution of the Athenians, 1.3.
41 The Old Oligarch, The Constitution of the Athenians, 1.3.
42 For the social background of the elected magistrates see Hansen 1999: 283-286.
43 On this connection, see Farrar 1992.
44 Xenophon, Memorabilia, I.2.9.
45 Xenophon, Memorabilia, III.5.21.
46 Xenophon, Memorabilia, III.9.10.
47 Xenophon, Memorabilia, III.7.5.
48 Plato, The Statesman, 298e.
49 Aristotle, On Rhetoric, 1393b3–8.
50 See Piepenbrink 2013: 26
51 Thucydides, History of the Peloponnesian War, 3,37.
52 On the following, see Plato, The Republic, 562a–564e.
53 Plato, The Republic, 563c.
54 Plato, The Republic, 561b2–5.
55 See Vretska 1955.
56 See Plato, The Republic, 562a–564e.
57 On Cicero's critique of the "madness .. of a mob" in a democracy see Cicero, On the Commonwealth, 1.43-48 (quote: 1.44).
58 "Es kommt ihm auf die Staatsform als solche ja überhaupt nur in zweiter Linie

an, nämlich insofern er sie braucht, um den Krankheitstypus der Seele, den er verallgemeinernd den 'demokratischen' Menschen nennt, an dem von ihm erzeugten Menschentypus zu verdeutlichen"; ("He is concerned only secondarily with the form of government as such, namely inasmuch as he employs it to illustrate the type of illness of the soul, which he generalizes and calls the 'democratic' human being, using the type of person he has created", Jaeger 1955 III: 64).

59 "the ultimative characteristic of democracy", Jaeger 1955 III: 64.

60 "who valued competent knowledge above all else ..... the symbol of a constitution", Jaeger 1955 III: 64.

61 See Plato, The Statesman, 292e–298e. On equating politics with other learnable and undoubtedly just as evaluable techniques and arts, see Plato, Protagoras, 319b-319e.

62 On the distortions of Plato's image of democracy, see Frede 1997: 260-267.

63 Plato, Critias 109b.

64 Plato, The Laws, 741b.

65 Plato, The Laws, 745e.

66 See Hansen 2009: 227.

67 Plato, The Laws, 759b.

68 Plato, The Laws, 759c.

69 Plato, The Laws, 757e.

70 Plato, The Laws, 757e.

71 Plato, The Laws, 757e.

72 Plato, The Laws, 760c.

73 Plato, The Laws, 760d..

74 See Plato, The Laws, 765b.

75 With respect to the historical inaccuracy of Aristotle's critique of democracy see Eucken 1990 and Strauss 1991.

76 See Piepenbrink 2013: 20.

77 Aristotle, On Rhetoric, 1365b30.

78 There is a passage in "The Politics" where Aristotle applies systems in which "there is a qualification for office, but a high one, and the vacancies in the governing body are filled by co-optation" to both the aristocracy and the oligarchy: If the election by co-optation "is made out of all the qualified persons, a constitution of this kind inclines to an aristocracy, if out of a privileged class, to an oligarchy." (Aristotle, The Politics, 1292b2–4).

79 Aristotle, The Constitution of Athens, XLII,1

80 Aristotle, The Constitution of Athens, XLI,2. See his critique of the pure democracy of his day in The Politics (1298a29–33).

81 See Aristotle, The Constitution of Athens, XLIII-LX and LXI-LXV.

82 Aristotle, The Constitution of Athens, IX, 1.

83 Aristotle, The Politics, 1273b40.

84 Aristotle, The Politics, 1274a5.

85 For the interpretation of Solon's constitution by Aristotle as a „mixed constitution" see Schütrumpf 1995: 276-278.

86 Aristotle, The Politics, 1273a18–20.

87 Aristotle, The Politics, 1273a13.

88 Aristotle, The Politics, 1273a26.

89 Aristotle, The Politics, 1273a23.

90 Aristotle, The Politics, 1294b8–10.

91 Aristotle, The Politics, 1266a8.

92 Aristotle, The Politics, 1266a13.

93 Aristotle, The Politics, 1317b18–24.

94 To comprehend the following passages of Aristotle, see also the detailed deliberations in the commentary on Aristotle by Simpson (1998: 352–358).

95 He writes the following about filling council positions in the aristocracy: "And if some questions are decided by magistrates elected by vote, and others by magistrates elected by lot, either absolutely or out of select candidates, or elected partly by vote, partly by lot – these practices are partly characteristic of an aristocratic government, and partly of a pure constitutional government" (Aristotle, The Politics, 1298b7–10). Unpacking this complicated sentence: The decisive characteristic of an aristocracy does not lie in how officials are appointed – both sortition and elections are appropriate. The decisive characteristic is that not all, but only a few members of the citizenry have access to the council and thus the right to political consultation and decision-making.

96 Aristotle, The Politics, 1300a10.

97 Aristotle, The Politics, 1300a12-14.

98 Aristotle, The Politics, 1300a18.

99 Aristotle, The Politics, 1300a30-33.

100 Aristotle, The Politics, 1300a37-38.

101 The last passage to be mentioned (7) follows the same logic. It is in the 16th section of book IV and deals with the courts. As in the case of appointing officials, Aristotle first presents three fundamental differentiations. Analogous to the previous passage, they involve the issues to be decided by the courts, from which group they are appointed, and how they are appointed. Again, the latter concerns the question whether by lottery or election. Concerning the democratic case, in which the judges are selected from all parts of the citizenry, Aristotle differentiates as follows: "Now if all the citizens judge, in all the different cases which I have distinguished, they may be appointed by vote or by lot, or sometimes by lot and sometimes by vote. Or when a single class of causes are tried, the judges who decide them may be appointed, some by vote, and some by lot. These then are the four modes of appointing judges from the whole people, and there will be likewise four modes, if they are elected from a part only; for they may be appointed from some by vote and judge in all causes; or they may be appointed from some by lot and judge in all causes; or they may be elected in some cases by vote, and in some cases taken by lot, or some courts, even when judging the same causes, may be composed of members some appointed by vote and some by lot" (Aristotle, The Politics, 1300b41–1301). So Aristotle again mentions election and lot as democratic appointment procedures of equal standing in principle.

102 See Manin 1997: 31-33.

103 See: Hansen 1999.

104 Aristotle, The Constitution of Athens, LIV, 3.

105 Aristotle, The Constitution of Athens LXII, 3.

106 Aristotle, The Constitution of Athens LXII, 3.
107 See Meier 1983: 435-438.
108 Plato, Critias, 109b.
109 Aristotle, The Constitution of Athens, L,2.
110 Anaximenes, Rhetoric to Alexander, 1424a12-14.
111 Aristotle, The Politics, 1303a15.
112 Aristotle, The Constitution of Athens, LXIV, 2.
113 Aristotle, The Constitution of Athens, LXIV, 5.
114 See Hansen 1999: 204.
115 See Stollberg-Rilinger 2014 for a functionalist reading of the use of sortition in the military of early modernity.
116 See Buchstein 2010, Stone 2011, and Baron 2014.

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Editors in Chief

Kari Palonen
University of Jyväskylä
kari.palonen@jyu.fi

Tuija Pulkkinen
University of Helsinki
tuija.pulkkinen@helsinki.fi

Editors

Hubertus Buchstein, Universität Greifswald, *buchstei@uni-greifswald.de*
Anna Elomäki, University of Helsinki, *anna.elomaki@helsinki.fi*
Paul-Erik Korvela, University of Jyväskylä, *paul-erik.korvela@jyu.fi*
Moya Lloyd, Loughborough University, *m.s.lloyd@lboro.ac.uk*
Kari Saastamoinen, University of Helsinki, *kari.saastamoinen@helsinki.fi*

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