

Critical Dialogue

Open Democracy: Reinventing Popular Rule for the Twenty-First Century. By Hélène Landemore. Princeton: Princeton University Press 2020. 272p. \$35.00 cloth, \$22.95 paper.
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For the first time since representative democracy became the “only game in town,” its foundational structure is being put into question. Given the current state of affairs—in which we have degrees of wealth concentration similar to prerevolutionary France, and the super-rich and their corporations are the biggest polluters, profiting from the depredation of natural resources in a planet at the brink of climate catastrophe—it is safe to say that representative governments, as well as international structures, have failed to secure the welfare of the masses. Despite the democratic rhetoric undergirding the system, the evidence shows that the interests of the most powerful in every society have been better served than those of the majority. And even in advanced democracies, where there is general welfare because elites are kept from exploiting, extracting, and polluting within their borders, elites are still part of the transnational oligarchy who keep their dirty business in “developing” countries.

Open Democracy, the latest book by political theorist Hélène Landemore, who has spent a decade writing on collective wisdom and popular rule, is bold in its criticism of representative democracy—at times poking holes into the democratic veil covering up de facto oligarchic structures, and at others stripping the current orders altogether from their democratic credentials. Instead of shying away from directing devastating blows to an elitist order clothed in democratic idealism, Landemore engages head-on with the prevailing elitism in which ordinary citizens ought not to directly participate in law and policy making. Her critique of representative democracy, which frames the book, is strong, persuasive, and constructive, setting it apart from most “crisis of democracy” literature, which tends to blame the systemic failures of representative orders on external causes. For Landemore, because representative democracy has elections as a premise, it is flawed from its conception. She seeks to resolve this “design mistake” by expanding the

meaning of representation to incorporate a new democratic institution: the mini-public.

Whereas in her previous book *Democratic Reason* (2013) Landemore explored the epistemic strand of democratic theory, searching for a firm normative ground for deliberative democracy, *Open Democracy* is the culmination of an empirically based, inductive analysis of recent democratic experiments in tune with her theory of democracy. This alone makes the book a tour de force and a must read for those interested in the theory and practice of deliberative democracy. Among the many virtues of *Open Democracy*, I highlight three: its clear and analytical comparison between representative democracy and her preferred model of open democracy, the detailed description of the case studies of constitution making in Iceland and crisis-solving mechanisms in France, and the new criteria proposed to judge the “goodness” of different democratic orders, based on the number of entrenched rights and participatory mechanisms.

In what follows I assess the contributions and shortcomings of Landemore’s institutional proposal from the perspective of the etymological meaning of democracy as “people’s power” that is endorsed at the beginning of the book. In doing so, I focus on what I think is an important weakness: its lack of analytical distinction between non-binding and extractivist mechanisms of participation and binding and empowering modes. Although Landemore certainly describes the difference between consultative and mandating mechanisms when discussing direct versus open democracy, she does not dwell on the implications of conceiving nonbinding mechanisms as “people’s power.”

Open Democracy begins with a critical analysis of representative democracy informed by democratic institutions and practices in Ancient Athens. In a persuasive manner, it argues that political representation was also present in Athenian democracy, albeit in a different way—not tied to elections, as in our representative orders, but rather to lottocratic institutions open to all. In the first chapters, the book offers a useful critical literature review of the “crisis of representative democracy,” engaging with the various definitions of democracy as an ideal and in practice. Rejecting the premise that “democratic representation must be *electoral*” (p. 36), which has “linked

legitimacy to consent ... at the ballot box” (p. 41), Landemore decides to follow “the road not taken” and embrace a new paradigm from which she can innovate toward “democratic forms of representation through which power is made open to all on equal terms” (p. 11). Instead of understanding electoral representation as a “modern solution to the problem of size,” she recognizes varied “more or less democratic forms of representation” (p. 56) that are judged on their accessibility and inclusiveness—what she calls “democraticity”—rather than on their responsiveness, accountability, or the degree of power they confer to ordinary people.

Severing the unnecessary ties between representation and elections, Landemore successfully reconceptualizes democracy as open and connected to the “general accessibility of power to ordinary citizens” (p. 11) through lottocratic and self-selected methods of power allocation. This new paradigm rests on five principles — participation rights, deliberation, majoritarian principle, democratic representation, and transparency—which are materialized in the “open mini-public” as a “large, all-purpose, randomly selected assembly” that has the faculty of “agenda-setting and law-making of some kind” and is “connected via crowdsourcing platforms ... to the larger population” (p. 13). The most interesting and potentially radical of the principles proposed is the principle of “participation rights” that would ensure “access of ordinary citizens to agenda-setting power rather than just allow citizens to consent to power or protect citizens from power” (p. 136). However, despite the emphasis on “rights as power” reminiscent of the realist and materialist interpretations developed by Hobbes and Spinoza, Landemore chooses to include nonbinding, indirect citizens’ initiatives as part of the new set of participation rights (to initiate law and repeal it, as well as lottocratic institutions) without analyzing the repercussions of lumping together the prerogative to merely suggest topics in the agenda with the right to actually set it and force government to follow its direction. The “right to suggest with the possibility of being dismissed” does not seem *stricto sensu* a form of power.

Open Democracy develops this nonbinding aspect of participatory rights by proposing a mini-public to supplement electoral representation. The legitimacy of this lottocratic institution would not stem from individual votes but rather from stratified random sampling through which “at least in theory, everyone is able to participate” (p. 95). Even if open mechanisms are “as likely as electoral representation to suffer from important biases” stemming from material conditions (p. 97), lottocratic and self-selection methods are in comparison objectively more democratic in terms of their access and inclusiveness because elections are controlled by parties as gatekeepers; thus, lottocratic methods are more

successful than elections in making “the people” present by proxy. Landemore makes a convincing case, from an epistemic point of view, for incorporating open institutions, through which ordinary people can deliberate, as a complement to traditional representative institutions staffed through elections. She also skillfully responds to common objections based on popular incompetence, risk of capture, and the lack of accountability of mini-publics.

It seems clear that the “cognitive diversity” gathered in an open mini-public and directed to resolve specific problems would be a huge improvement over representative democracy—if the results of these deliberations were binding through popular ratification. As the cases of Iceland and France show, however, if the results of popular deliberation need to be approved by representative institutions and are thus dependent on the goodwill of office-holders, they tend to be dismissed. Without the obligation to be put to a binding popular vote, the deliberative benefits of these consultative instances are bound to be marginal—for example, only 10% of the online contributions in the Icelandic crowdsourcing platform proved causally influential (p. 172). Consequently, when taken from the point of view of influence over government, spending “time on a crowdsourcing platform helping a mini-public come up with relevant information and arguments” on an issue that might not make a difference after all does not seem very different from “wasting hours in line waiting to vote” or “marching for half a day” to protest government policies (p. 206). Without institutional “teeth,” the greatly needed cognitive diversity that open mini-publics contribute would remain subordinated to the hegemonic oligarchic logic thriving within representative institutions.

Even though the democratic experiments in Iceland and France failed to produce desirable outputs because of the unwillingness of the political class to cooperate, Landemore maintains the supremacy of electoral institutions when dictating law and policy. Open mini-publics are to remain consultative organs, only able to influence the agenda-setting process instead of forcing the government to follow a specific direction by putting their decisions, “without filter,” to a referendum. Even if open democracy is certainly compatible with direct democratic mechanisms, such as the right of the people to directly initiate law, the model does not openly consider them as necessary components of the new democratic paradigm in which electoral and open democracy would coexist. However, given the degree of oligarchic control over electoral democracy, the chances of nonbinding lottocratic institutions resolving the crises of inequality and climate change seem slim. Reinventing popular rule for the twenty-first century demands not only mechanisms to allow ordinary people to pitch in with ideas before a vote is taken, but also

should give them the power to make decisions and force a popular vote whenever representative institutions have been unwilling to protect and promote the welfare of the masses.

In this moment of crisis, it is necessary to take a step back and critically review the structures and rules that have allowed the system to yield so much inequality, oppression, and pollution. *Open Democracy* offers a strong argument to question the mantra that representative democracies qualify as democracies because elections are the main procedure for allocating political power. For Landemore there is nothing strictly democratic about elections, and therefore we need to look elsewhere to find other kinds of democratic representation, such as the one achieved through mini-publics. However, even if deliberative lottocratic experiments are a much-needed innovation for bringing cognitive diversity and “common sense” into elitist politics, they cannot produce the domino effect toward stronger democracy, as Landemore envisions, because they are still subordinated to elected representatives: they simply lack the power to impose reform. Consequently, despite its merits in diagnosing the crisis and offering democratic institutional innovations, the book does not embrace giving binding power to the people and thus does not give us a secure path to radical transformation. For democracy to be really open, it is not enough to have new deliberative spaces open to all via sortition; decision-making power also needs to be equally distributed. Only if recommendations by mini-publics on law and policy were binding after a popular vote would the dominoes really fall, inaugurating a new regime in which the people can exercise power and effectively force government to put limits to oligarchy and build a more just, egalitarian, and greener society.

Response to Camila Vergara’s Review of *Open Democracy: Reinventing Popular Rule for the Twenty-First Century*

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— H el ene Landemore 

I expected that Vergara would find open democracy insufficiently radical. I did not, however, expect her to misunderstand the role of open mini-publics in it. She writes that I conceive “nonbinding mechanisms as people’s power” and that, generally, “the book does not embrace giving binding power to the people.”

I am confused by this interpretation. The book builds a case for a new form of democratic representation in which elected officials are replaced with randomly selected ones and paves the way for putting ordinary citizens in the position of legislators. If making the law is not a form of power, I do not know what is.

I blame this misunderstanding from a sophisticated scholar on two points that I should probably have been clearer on: (1) the meaning of power and (2) the role of real-life examples in my normative theory.

By “power” I mean the capacity to decisively cause, bring about, or shape an outcome or state of affair (here law or policy). But power thus broadly defined has many “faces” (according to the famous distinction by Stephen Lukes), including two that are central to my argument. Decision making is the most visible face of power and the one that Vergara is the most concerned with, in part because it is associated with the concept of sovereignty as final say. I recognize the importance of final say by listing, as the first principle of open democracy, participation rights that ensure that citizens can trigger referenda on issues they care about (so-called citizens’ initiatives) or on laws or policies they want to repeal (rights of referral). The final say of citizens on at least some decisions is necessary for the legitimation of open democracy.

Another less visible but crucial face of power, however, is agenda setting, or the power to shape the terms of a decision. Recognizing the centrality of agenda setting, I am concerned with placing ordinary citizens, rather than elected officials, in the role of democratic representatives. Because not everyone at once can be involved in that task, I propose involving citizens via random selection and rotation to approximate the idea of “representing and being represented in turn.”

Perhaps Vergara considers agenda setting insufficiently binding if it is not also backed up by the power of final say, and that is why she sees my open mini-publics as merely advisory. I disagree. Agenda setting is structurally constraining on downstream decisions and thus is real power. But at any rate, as I just said, the final say in open democracy would go either to the larger public (in a referendum) or to the mini-publics themselves (the ones who set the agenda or new ones). So “the people,” or their lottocratic representatives, have binding power in my paradigm.

Generally speaking, *Open Democracy* argues that elected parliaments could be replaced by randomly selected ones not only without loss of competence (and indeed a likely gain in competence, as per the epistemic argument of my earlier work *Democratic Reason*), but also without loss of democraticity, legitimacy, and accountability (see chapters 4, 5, and 8). On p. 121 for example, I write, “It is possible to envisage the democratic legitimacy of a system in which there exists *no stable elected representative assemblies whatsoever*.” None of these arguments and claims would have any point if all I envisaged mini-publics to have merely an advisory function. And even when I consider the possibility of a partly electoral, partly lottocratic system (e.g., on p. 120), I suggest that we give open mini-publics their own autonomous sphere of legislative power, including at the expense of elected assemblies.

How could Vergara misunderstand me so much? It is possibly due to the place of examples in my theory. Vergara seems to infer from my method, which she correctly describes as inductively building on case studies, that I am bound by the scope of the powers entrusted to existing mini-publics. But my point is not sheer descriptive generalization but also normative extrapolation. Just because the examples I rely on were ultimately not binding on existing institutions does not mean that open mini-publics in my new democratic paradigm are not.

I am grateful for the opportunity to clarify these points and look forward to continuing the conversation.

Systemic Corruption: Constitutional Ideas for an Anti-Oligarchic Republic. By Camila Vergara. Princeton: Princeton University Press, 2020. 312p. \$35.00 cloth, \$24.95 paper. doi:10.1017/S1537592722002171

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Camila Vergara's *Systemic Corruption: Constitutional Ideas for an Anti-Oligarchic Republic* is a book for the times, not only in the United States or her native Chile but also in many so-called advanced democracies where the oligarchization of politics has also taken place. For her, the dominant political system—which she prefers to call “liberal representative government,” rather than “representative democracy,” to avoid any confusion—is hopelessly oligarchic and, specifically, plutocratic. It is systematically corrupt in the sense of being a system that serves the interests of the few wealthy instead of those of the majority of people.

Vergara is a realist about power. She does not believe that the ruling elites can be convinced by the forceless force of the better argument to relinquish control or money. Like Machiavelli, John McCormick, Jacques Ranc ere, or Chantal Mouffe, Vergara is also a proponent of an agonistic form of politics centering conflict and pitting representatives of different interests—centrally, the wealthy versus the poor. Her solution to systemic corruption is not, therefore, better democratic representation and deliberation among citizen legislators combined with direct democracy moments (my own, more irenic solution in *Open Democracy*).

Instead, her solution is to empower the many in their fight against the few by creating a new branch of government that constitutionalizes the power of the oppressed. This plebeian branch would be “aimed not at achieving self-government or direct democracy, but rather at serving anti-oligarchic ends: to judge and censor elites who rule” (p. 5). Therefore, the goal for Vergara is not democracy, which perhaps is too unachievable an ideal or, more likely in her view, one that fails to address the irreducible conflict between the few and the many. Vergara's goal is instead a

plebeian republic, a mixed regime that allows the many to resist and push back against the rule of the few. She focuses on the strictly oligarchic component of liberal representative government, presumably the root of all other evils for her; namely, the irreducible tension between the few and the many, which also happens to correspond to the class divide between rich and poor. Thus, her focus is more narrowly economic and more classically Marxist in that way.

At the same time her rejection of the system runs deeper. She has no interest in salvaging liberalism per se, as many critical theorists (such as the late Charles Mills) ultimately do. In fact, her preferred solutions—distinct forms of political representation for the rich and the poor and occasionally the expropriation of wealth—are direct challenges to the liberal framework. And although she toes the lines in various places—trying to stay within a broadly liberal constitutional framework to avoid class essentialization—it is clear that she would have no hesitation rolling back certain sacralized liberal rights, particularly property rights, if doing so would help reestablish a form of balance between the few and the many.

Vergara is right to distinguish between different ideals: democracy on the one hand, liberalism (and the rule of law) on the other. But she goes further. For her, liberalism is not just distinct from democracy. As an ideology it is an obstacle to plebeian power, the value she is most concerned about because she sees it as the only way to protect the poor masses from domination by the wealthy few.

Vergara is thus a radical plebeian and, indeed, a proud populist thinker in the sense that her philosophy and political vision are primarily motivated by a desire to resist elitism. Citing historian Martin Breugh, she characterizes the plebeian political experience as taking place when “people excluded from the *res publica* transform themselves into political subjects able to act in concert” (p. 219). Against the negative vision of populism as essentially defined by its antipluralism and illiberalism (see, e.g., Jan-Werner Mueller), Vergara posits a positive form of populism that is instead essentially about helping the poor and downtrodden find themselves and unite to fight off elite domination. There is something noble and attractive about this vision. Vergara's version of “plebeian populism” is thus a much-needed perspective in the debate over populism's definition. Her book also satisfyingly taps a justified rage at the state of the world and should remind democrats of what they should be fighting for.

Let me here, however, raise some questions about the reasoning and premises that lead Vergara to her populist conclusions.

A first question concerns the diagnosis of “systemic corruption.” Vergara's account of existing corruption is mostly descriptive and does not seek to provide a causal story as to what exactly causes systemic corruption in modern governments. Yet identifying a causal mechanism

would seem important if we are to explain the difference between the extreme levels of plutocratic corruption in Chile, the United States, or the United Kingdom (Vergara's favorite but perhaps not entirely representative examples) and, say, the much lower levels of corruption in places like Norway, Denmark and generally Northern Europe. What is the property of liberal representative governments that causes some of them, but crucially not all, to drift toward plutocracy? The causality is a bit nebulous, which makes it hard to be convinced that liberal representative government is intrinsically, as opposed to contingently, plutocratic. It is true that elections will naturally bring to power social elites, but these social elites need not be the rich or at least the richest. They could simply be, as in much of Europe, the more educated. Because the story lacks a clear causal account of the plutocratic aspects of liberal representative government, it is also hard to be convinced of Vergara's preferred solution: a mixed constitution with a plebeian branch.

Indeed, objectors might argue that the problem with systemic corruption in some countries today has less to do with the regime form of any government and more to do with capitalism, globalization, and technological change. The globalization of capitalist economies, in particular, tends to weaken state regulation of corporations, accelerate economic inequalities, and ultimately make it possible for the wealthy few to conquer the political sphere by pouring money behind the representatives of their class interest (e.g., the not-always-so-rich but educated members of parliaments). If this is true, then a problem for Vergara is that any regime, including the mixed plebeian constitution she favors, might still be vulnerable to corruption to the extent that the economic sphere is where the real power is held today.

A second question has to do with the reason for privileging a mixed constitution—a republic—over an actual democracy as the end goal of her radical politics. For all its radicalness, indeed, the book advocates for what could appear as a democratic regression: abandoning the ideal of a democratic regime, in which the people rule, including through their democratic representatives, in favor of a mixed republican regime in which the people are only given the power to judge and censor. The book is thus ready to mobilize revolutionary means involving radical constitutional reforms for mostly defensive purposes.

Instead of adding a popular branch that judges and censors, why not democratize existing branches of government? Advocates of the use of sortition in politics (including myself) have proposed replacing, or at the very least supplementing, elected parliaments with assemblies based on civic lotteries, paired with the frequent use of citizens' initiatives and referenda. By design lotteries would bring to (legislative) power mostly lower and middle-class people because there are typically more of them,

breaking the plutocratic bias where it exists. Other complementary solutions would involve rethinking the economic sphere so as to democratize the governance of corporations on the model of German co-determination or through the generalization of worker-owned and directed cooperatives. Vergara seems so resigned to rule by economic elites that she devotes her energies to imagining a constitution in which the multitudes of the poor can resist domination, rather than a system in which they can be put in charge.

This kind of realism is not unjustified. It might be more urgent and feasible at this point in history to fight for institutions that empower the downtrodden against the powerful, rather than to try to imagine and bring to life an authentic democratic system. Vergara does not even believe that there exists any institutionalization of people's power in modern constitutions, except for the lone case of the Swiss *Landsgemeinde* system (p. 4, n. 9). Her position is thus perfectly coherent, though I think she overlooks the potential of existing institutions and current participatory processes.

A deeper reason than realism, however, probably explains Vergara's focus on empowering the ruled against the rulers, rather than on giving people access to the site of ruling itself, and that is her definition and metaphysics of "the people," which leads to my third point. Vergara defines the people as "those who do not rule and resist oligarchic oppression" (p. 224). She also seeks to inaugurate a vision of the people as a "network," specifically a network of local assemblies inspired by the eighteenth-century constitutional schemes of philosopher and mathematician Nicolas de Condorcet. Vergara's definition of the people is thus both the people who are ruled in the current system and aspirationally, under a better system, fluxes of information and communication between local assemblies.

A difficulty with defining the people as the ruled is that anyone in a position of power or not resisting oligarchic oppression is thus excluded from being part of "the people." Vergara thus excludes public officials and their staff, lobbyists, judges, military commanders, and religious leaders from her conception of the people. This is problematic. Building the distinction between the few and the many in terms of power rather than wealth avoids class essentialization but is still a form of essentialization. Ultimately, it is not clear why "the people" is a category that should exclude any citizen at all. Meanwhile, the aspirational view of the people as a network of assemblies is also troubling, at least if it means deprioritizing the ontological, moral, and political primacy of individuals.

The combination of an exclusionary definition of the people, a metaphysics of the people as network, and Vergara's approval of measures like the expropriation of wealth will certainly make liberals nervous. And to be fair, part of the fun and excitement of the book is its clear desire

to scare the bourgeoisie. Yet it would be a pity if the radicalness of the overall vision blinded us to the genuine democratic potential of many of Vergara's concrete proposals. I for one would find institutions like the Tribune and the Condorcetian network of assemblies to be quite desirable, if inserted in an authentic democratic scheme rather than the mixed-regime type preferred by Vergara. I could envisage such institutions playing a role in my own open democracy model, not so much as anti-elite bulwarks pushing back against plutocratic domination but rather as different and complementary forms of democratic representations, supplementing the work of a centrallottocratic assembly (and elected ones in a hybrid model) and offering an additional accountability mechanism for the whole system. They would play a supporting role in a division of labor between different forms of citizen representation and participation, all of which have their limits and blind spots and none of which should have the privilege of speaking exclusively for "the people."

Vergara's is an enormously ambitious, inventive, and provocative book. As usual, it will strike some as too radical and others as not radical enough. But given the state of democracy today, some of its institutional proposals are worth thinking about. Vergara's book is thus an exciting invitation to engage in the radical rethinking that the times call for.

Response to H el ene Landemore's Review of *Systemic Corruption: Constitutional Ideas for an Anti-Oligarchic Republic*

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— Camila Vergara

Representative governments are structurally corrupt: their juridico-political frameworks have enabled a small, powerful minority to benefit disproportionately and systematically from collectively produced wealth. According to the 2022 World Inequality Report, wealth inequality is staggering. In countries in Latin America, the most unequal region in the world, the richest 10% of the population controls 77% of the wealth, whereas the bottom 50% control only 1%. Even in Europe, where there is a robust middle class, the richest 10% concentrates about 58% of the wealth, whereas the bottom 50% has only 4%. This accumulation of property at the top would not be possible without legal structures that protect private property and safeguard profits even against the general welfare.

Landemore is unconvinced about my proposal to conceive of this process of oligarchization of society within the

rule of law as "systemic corruption" because I do not identify a causal mechanism. However, like other structural forms of domination such as systemic racism, which are embedded in laws, policies, and entrenched practices that reproduce unfair treatment, systemic corruption defies causal models. However, following Machiavelli, I identify socioeconomic inequality both as an enabler of systemic corruption and its product; accumulation of wealth in a few hands enables undue influence on law and policy making to the benefit of oligarchs and the detriment of the common people.

Historically, the "remedy" for oligarchic overgrowth has been people's power. Therefore, my aim in *Systemic Corruption* is not only to offer a structural critique of representative orders but also to advance democracy as people's power—as Landemore herself defines it. I do not seek to reform representative government to make it more democratic, but rather to incorporate new popular institutions through which the people themselves, independently from political parties and elected representatives, can deliberate and have binding decision-making power to direct law, policy, justice, and constitutional innovation whenever they deem necessary. Even if this mixed constitution—the cohabitation of representation and deliberative direct democracy, in which the people themselves have the final word—can seem an extremely difficult goal to achieve, it has been done multiple times in history, albeit for relatively short periods of time.

The alternative to the mixed constitution—Landemore's ideal of "replacing" representative government with "assemblies based on civic lotteries"—would be, to my mind, even more difficult to achieve; representatives would need to agree on constitutional amendments to abolish elections (which have become synonymous with democracy) and eliminate their own elected posts. Such a procedurally difficult and altruistic political decision is certainly not impossible, but it would still be a decision made by governing elites. The second-best option—"supplementing" elected parliaments with nonbinding lottery-based citizen assemblies—can certainly be attained; this approach cannot, however, revert the patterns of oligarchization because such assemblies are still subordinated to representative institutions that tend to protect oligarchic interests. Conversely, in a mixed constitution, the common people would not only be able to resist oligarchic domination but also, following Rosa Luxemburg, cease "to be a dominated mass" and start giving "conscious, free, and autonomous direction" to the life in common, one deliberated decision at a time.