

ARTICLE

## Democratic Public Justification

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### Abstract

Democratic institutions are appealing means of making publicly justified social choices. By allowing participation by all citizens, democracy can accommodate diversity among citizens, and by considering the perspectives of all, via ballots or debate, democratic results can approximate what the balance of reasons favors. I consider whether, and under what conditions, democratic institutions might reliably make publicly justified social decisions. I argue that conventional accounts of democracy, constituted by voting or deliberation, are unlikely to be effective public justification mechanisms. I conclude that the limitations of conventional mechanisms can be ameliorated through the use of lotteries instead of elections.

**Keywords:** Deliberation; democracy; election; lottery; public justification; public reason

### Introduction

Whatever one's theoretical commitments are, it seems that the public justification of some class of features of a social world (such as social rules, legal rules, or constitutions) is a desirable property. Perhaps this is because having socially justified rules is normatively appealing. If the only reason individuals have to follow a rule is the threat of violence, then on most plausible views, it seems that the resulting social order is normatively deficient. Presumably, a good political society is one that is sustained on more than just the sheer threat of violence, and so citizens should have some reason to regard their state as justified. Or perhaps public justification can serve the instrumental end of maintaining the stability of the social and political community. If it is the case that individuals are more likely to comply with institutions that they believe to be justified, then public justification would contribute to the stability of a society by reinforcing widespread compliance with institutions (Barrett and Gaus 2020).

I take for granted that we have some motivations to publicly justify some features of the social world.<sup>1</sup> Given this assumption, a natural question arises as to how we are to identify and institute publicly justified institutions or rules: What kind of mechanism might reliably identify and introduce publicly justified features to our social world? A compelling mechanism of public justification is democracy. The structure of democratic institutions intuitively lends itself to producing publicly justified outcomes. By allowing participation on the part of all citizens, democracy can accommodate diversity and disagreement in the polity,<sup>2</sup> and by considering the perspectives of all citizens (say, in the form of registering ballots or by registering public reasons in public debate), the outcomes of democratic decision-making are likely to be those that are favored

<sup>1</sup>This is not to say that I assume that we have conclusive reason to be public-reason liberals. One can recognize the value of public justification without endorsing a full-blown public-reason account. See Wendt (2018).

<sup>2</sup>For perspectives on diversity from within the public reason framework see Gaus (2012, 23–28); Quong (2011, chap. 5); and Rawls (2005, xvi, 4). For perspectives on diversity in democratic theory, see Christiano (2008, 4) and Cohen (2003).

by the balance of reasons within the polity. I shall argue that conventional accounts of democracy, which are constituted by voting and deliberation, face considerable limitations in their reliability of producing publicly justified outcomes. I also argue that the limitations of deliberative accounts of democracy in public justification contexts can be overcome with randomization mechanisms, such as the selection of representatives by lottery.

I begin with a brief discussion of what a publicly justified outcome is (section 1), before turning to consider the democratic mechanisms of voting and deliberation. Mere voting is shown to be inadequate because voting rules will be unable to reliably track the justificatory status of outcomes (section 2). I then argue that deliberation, understood in general terms as the exchanging of reasons for and against certain proposals, will be an unreliable mechanism for tracking the justificatory status of proposals on account of polarization or inconclusive justification (section 3). These problems, I argue, can be resolved by designing deliberative environments in a way that guarantees diversity among deliberators, which can be achieved by choosing representatives or deliberators randomly (section 4).

### 1. Publicly justified outcomes

Before we evaluate democratic institutions as mechanisms of public justification, we must settle what exactly it is we are publicly justifying and what it means for something to be publicly justified. A number of details regarding public justification are, of course, live issues among public reason theorists. In order to examine democratic institutions as general mechanisms of public justification, so that they might be effective mechanisms of public justification under various accounts of public justification, I aim to offer an ecumenical standard of public justification. The account of public justification used here holds that *social feature F is publicly justified just in case no member of the relevant subset of the population has a public reason to reject F*.

A number of details warrant comment. First, I wish to remain neutral with respect to the appropriate object of public justification—be it coercion, legal rules, social rules, constitutions, institutions, or what have you.<sup>3</sup> To avoid the rather cumbersome phrase “appropriate objects of public justification,” I often refer to them as either *rules* or *institutions* for ease of reference. Second, the relevant subset of the population is the *public reason constituency*, or that set of citizens to whom rules must be justified. I leave open what defines the public reason constituency.

Third, the condition that members of the public reason constituency have no reason to reject a rule (as opposed to having some reason to endorse a rule) is introduced as a weakening assumption. This condition assumes that, by default, rules are publicly justified until a public reason to reject them is offered. By contrast, the standard of having some reason to accept a rule is stronger, because rules are not justified by default. The former is weaker than the latter in the sense that it is more permissive. The burden of justifying a rule is lower when we begin with the assumption some rule is justified than if we begin with the assumption that the rule is unjustified. If democratic institutions do not reliably choose publicly justified rules under the weaker conception of public justification, then their reliability will decrease (or, at best, stay the same) under more demanding standards. Hence, nothing turns on the weakening assumption of public justification qua absence of public reason to reject.

Lastly, I leave open the question of what constitutes a public reason. This requires setting aside a number of disputed theoretical issues. As such, questions pertaining to the constraints on what reasons may be offered in public justification (e.g., Gaus and Vallier 2009; Hartley and Watson 2009; Hartley and Watson 2018) and whether the appropriate outcome of the exchange of public reasons is convergence or consensus (e.g., Boettcher 2005; Gaus 2011; Neufeld 2019; Vallier 2011) are left open here. This is not to suggest that we may simply dismiss these questions—any complete

<sup>3</sup>For a taxonomy of the different objects of public justification, see Lister (2011, 351).

theory of public reason must answer them at some point. However, since the present aim is to consider what mechanisms might be reliable means of achieving public justification, we may trade substance in the account of public reason for broadness of application in the results regarding mechanisms of public justification. I thus use the term *public reasons* in this vague sense, allowing the reader to fill in the content according to their preferred theory of public reason.

I will, however, assume that no matter how one fills out that content, there will be some diversity among public reasons, and that public reasons may conflict. That is to say, among members of the public reason constituency there will be disagreement as to whether some reasons are public reasons, the relative priority of different public reasons, or the implications of different public reasons (Motchoulski 2020). There is a pragmatic motivation for this assumption; in designing mechanisms for public justification, presumably we are interested in such mechanisms functioning in actual social contexts. And, such social contexts will invariably be characterized by some kinds of disagreement even among members of the public reason constituency. Insofar as we wish for our mechanisms of public justification to be functional under actual social conditions, then we must test those mechanisms under conditions of diversity which obtain in those social conditions.

Note that the diversity assumption also disqualifies question-begging definitions of the constituency of public justification. Question-begging definitions may assume the conclusive justificatory status of some set of rules, and then define membership in the public reason constituency as recognition of that set of rules as justified. On such views, that set of rules which defines membership into the constituency will be trivially justified. Such a definition is question-begging because the justificatory status of rules is precisely what we hope to learn through mechanisms of public justification. A mechanism of public justification is introduced with the aim of identifying rules acceptable to all relevant persons, not to serve as a vindication of one's own political beliefs. Indeed, there would be no reason to introduce mechanisms of public justification if theorists could reliably determine what rules are and are not publicly justified on their own. Actual social contexts are sufficiently complex and diverse that identifying the justificatory status of a given rule is a rather complicated task that theorists cannot accomplish prior to the social process of collective decision-making.

We may now pose the question which will concern us for the remainder of the paper: Can democratic institutions reliably identify rules which meet the ecumenical standard of public justification and, if so, under what conditions?

## 2. Mere voting and public justification

To begin, I will consider the rather minimal account of democratic public justification which I will call *mere voting*. This account consists only in the aggregation of individual reasons in the form of ballots.<sup>4</sup> Voting is an appealing mechanism for public justification because it is sensitive to the local information that voters have. At the very least, each citizen has reliable access to the reasons they hold that they believe to be public, and the policies and proposals that those reasons support. Suppose, for example, that constitutional rights give rise to public reasons. However, constitutional rights still require interpretation in their application since such rights are underspecified, especially as they are applied to novel contexts which arise over time. Citizens may disagree about the appropriate interpretation of those rights and entailments, and so will not always be able to reliably determine what public reasons their peers might have. They will, however, know what public reasons arise from their preferred interpretation of constitutional rights, along with the laws and

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<sup>4</sup>This is a departure from the standard use of voting as a mechanism of aggregating preferences. On the public justification framework under consideration here, we change the interpretation of individual ballots from signaling the options voters prefer to signaling the options that voters believe are publicly justified. Some accounts of voting have suggested incentivizing choosing options which are publicly justified, see Vandamme (2017).

policies that they believe those reasons weigh in favor of or against. The mere voting account aims to utilize this local information by allowing each citizen to signal what option (or representative advocating for certain options) they believe to be supported by their reasons. The aggregation of votes can supposedly yield the option that is publicly justified to the greatest number of individuals.

To examine this proposal more carefully, let us consider the case of simple majority rule over two options.<sup>5</sup> Will the institution of simple majority rule over (iterated) binary choices tend to choose options which are publicly justified? The relevant standard is reliability. Due to the inevitable complexity of the objects of social choice and the influence of exogenous factors in social decision-making, it is almost inevitable that mechanisms of public justification err on occasion. We should not be concerned with error itself, but rather the relative likelihood of error compared to other appealing proposals. Hence, we can say that process of public justification *P* is relatively better than process *Q* insofar as *P* is more likely to choose publicly justified rules than *Q*. Recall that some rule *R* is publicly unjustified only if some member of the public reason constituency has a public reason to reject *R*. We may judge simple majority rule over binary choices, then, by considering how frequently it might choose rules which some member of the constituency has a public reason to reject.

Simple examples suffice to show that simple majority voting faces severe limitations in reliably choosing publicly justified outcomes. Suppose that a vote is taken over rules *R* and *S*, with *R* securing 70 percent of the vote share (a significant margin of victory in any modern democracy). Even if 70 percent of the population prefers *R* to *S*, we still have no knowledge about whether *R* is justified to members of the constituency. Votes for or against *R* tell us little about the justificatory status of *R*. Individuals who voted for *R* may regard the rule as unjustified, and those who voted against *R* may also nonetheless have found it justified.

The problem here is that a simple majority vote only carries information regarding the preferences of members of the constituency, and not information regarding the justificatory status of the rules given that individual's available public reasons. Alfie and Beatrice may be voting on the rules, both casting a ballot for *R*. Alfie sees only *R* as justified, whereas Beatrice sees both *R* and *S* as unjustified, and *R* as simply less bad than *S*. From the point of view of the electoral institution, however, the ballots of Alfie and Beatrice are indistinguishable—they are both cast in favor of *R*. The electoral institution of the simple majority vote thus tracks only the preferences of individuals but not their reasons and, so, are not able to reliably produce publicly justified outcomes.

The problem with simple majority is that the system is responsive to the preferences of agents, but not the beliefs of agents regarding the justificatory status of options. Immediately we may see that simply adding information about preferences to ballots will fail to resolve this problem. Using ranked-choice voting, such as a Borda count, might reliably report the most popular option, but popularity does not entail public justification. Insofar as a voting rule only tracks individual preferences, then the outcome of social decision-making is not a reliable indicator of justificatory status. Hence, if pure voting is to be a reliable mechanism of public justification, further information regarding the justificatory status of options must be made available.

We might then turn to approval voting, which allows individuals to cast a vote for any number of options, and then request that individuals vote for all and only those options they regard as publicly justified (Brams and Fishburn 1978). Approval voting offers an appealing means of tracking the justificatory status of rules, as now the most popular rules are those which are regarded as publicly justified by most people. But here we see that, despite tracking justificatory status more reliably, approval voting may nonetheless fail to choose publicly justified outcomes. Insofar as approval voting simply chooses the modal response, it may choose rules which are publicly unjustified. Even

<sup>5</sup>To keep matters simple, if there are more than two options, let us grant the (rather demanding) assumption there is an agreed upon nonmanipulable agenda-setting mechanism.

if rule  $R$  is approved of by 80 percent of the population, the remaining 20 percent nonetheless has reason to reject  $R$  and so  $R$  is publicly unjustified.

This flaw of approval voting invites an obvious revision: if we require that rules be unanimously endorsed in order to be chosen, then under approval voting only publicly justified outcomes will be chosen. This proposal seems unlikely to fare well under actual conditions. The unanimity condition gives each citizen a veto over the outcome. Citizens will have a highly effective means of manipulating the voting process: in order to guarantee that one's top choice is chosen, one needs only to cast her vote solely for that option. And, if any two individuals cast ballots which approve different unique options, no choice can be made per the unanimity condition.<sup>6</sup> While the rate of strategic voting in actual contexts varies (sometimes being as high as 30 percent [Spenkuch 2018]), surely such an effective opportunity for manipulation will lead to at least two individuals voting strategically, and even this insignificant percent of the population would close off the possibility of choosing any rule.

At this point, one might hold that we face a simple optimization problem. We would like a mechanism of public justification which would reliably choose publicly justified rules, but we would also like to minimize the costs of strategic manipulation within the mechanism. We thus optimize on the two costs, choosing that democratic institution which minimizes the aggregate costs of choosing publicly unjustified rules and of strategic manipulation within the procedure of public justification.<sup>7</sup> Hence, we would choose an approval voting rule with some (likely supermajority) threshold such that the option with the most votes totaling at least  $X$  percent of the constituency would be chosen. Such an approach surely improves upon the alternatives considered above, but it will still likely have some significant degree of error. If there are alternative democratic mechanisms which more reliably track the justificatory status of rules than an optimized approval vote, then we have reason to prefer such alternatives.

### 3. Deliberation and public justification

John Dewey, anticipating the limitations of pure voting, writes that the "counting of heads compels prior recourse to methods of discussion, consultation and persuasion ... Majority rule, just as majority rule, is as foolish as its critics charge it with being. But it never is *merely* majority rule" (1954, 207; emphasis in original). According to Dewey, an account of pure voting is severely limited in that it fails to consider the epistemic benefits that deliberation, might have on the social decision-making process. Proposals for deliberation followed by a vote has found considerable support and philosophical pedigree in the theory of deliberative democracy,<sup>8</sup> and thus might be an appealing means to remedy to the limits of mere voting.

#### 3.a The process of deliberation

To remedy the limitations of mere voting, deliberation must serve as a filter that removes publicly unjustified outcomes from consideration in collective choice. To see how deliberation might provide such a filter, it will benefit us to develop a brief sketch of the deliberative process itself.<sup>9</sup> Let us say that individuals begin by asserting that some rule is publicly unjustified and stating their

<sup>6</sup>This would mean defaulting to the status quo, which is almost certainly publicly unjustified.

<sup>7</sup>For a classic analysis on such economization, see Buchanan and Tullock (1999).

<sup>8</sup>For just some of the many insightful discussions on the significance of public deliberation, see Anderson (2006); Benhabib (1994); Bohman (1997); Cohen (1986); and Christiano (1997).

<sup>9</sup>The model developed here is meant to be general. It draws greatly from the psychological account offered by Mercier and Landemore (2012). In developing such a general model, I hope to keep it compatible with the common conception of deliberation qua the public exchange of reasons in arguing for some view. This general characterization of deliberation I believe is shared among most deliberative democrats, for example, Cohen (2003).

reason for rejecting it. So, Catherine may assert that rule *R* is unacceptable, stating some reason *A* in support of that claim. Once some member of the constituency makes such an assertion, others can demand justification for the source of the reason, which creates a burden of justification for the asserter. To discharge such a burden, Catherine (or some other member sympathetic to her view) must provide an additional assertion which in some way either supports her reason *A* (and its status as public), or sufficiently answers the interlocutor's objection. In response, members of the constituency can continue the deliberative process by making justificatory demands for that assertion as well (Heath 2008, 119–22). As the process continues, individuals will likely be led to some basic reasons, such as their enduring evaluative commitments or fundamental public reasons. Whatever the appropriate class of enduring reasons might be, if the exchange of demands and reasons reaches these fundamental and enduring reasons, then the process ends, and the resulting justificatory status of the rules for which the assertion is made is determinate for that individual.

The process of giving and asking for reasons is constrained by a norm of consistency. Individuals will be required to maintain consistency among the reasons they offer.<sup>10</sup> It is on account of consistency that deliberation will be an effective filter for strategic or dishonest claims. In the process of giving and asking for justification, individuals make assertions of which others keep track. When some citizen makes an assertion that is inconsistent with a previous assertion, an interlocutor can require that the inconsistency be reconciled. Strategic manipulation is filtered out because others can make demands for justification and identify what other options would be acceptable to the would-be manipulator. Individuals can no longer claim without cost that certain rules are unacceptable. They have to provide justification for those rules and ensure that this justification is consistent with previous claims. While assertions that misrepresent one's reasons are still possible, there is now a reliable means of testing the authenticity of claims which makes citizens' reasoning accountable to their peers.

Deliberation, then, will be understood in general terms as the process of giving and asking for reasons to justify the collective choice of some proposal. Deliberation in this general sense is distinct from the *medium* of deliberation. The medium of deliberation refers to the particular way in which participants in deliberation exchange reasons and proposals. Media of deliberation can vary significantly. They include public debate, deliberation among representatives in parliament, or even discussion among citizens on the internet. Invariably, the medium of deliberation is sure to have some influence on how deliberation proceeds (see Stasavage 2006). To maintain a high degree of generality, I shall discuss deliberation in the general sense as the exchange of reasons without committing to any particular medium of deliberation. For the following argument to hold, it need only be the case that when deliberation is either self-organized or centrally organized, the reasons present in deliberative groups will fail to represent the full diversity of reasons on offer in the population at large. While different media might vary in the degree of homogeneity they are liable to bring about, I take it as given that some degree of homogeneity will still obtain, and this will lead to the homogenizing forces I shall now discuss.<sup>11</sup>

<sup>10</sup>On the importance of consistency in reasoning see Campbell and Kumar (2012). In the context of public reasoning, Rawls introduces a condition of completeness in individuals' political conceptions of justice for what seems to be consistency-related reasons; see Rawls (2005, 455).

<sup>11</sup>An anonymous reviewer raised the suggestion that some typical media of deliberation will be less susceptible to homogenization than others, in particular public debate may be insulated from relative homogenization. While no doubt public debate is sure to lead to lower relative homogenization than alternatives, such as debate on the internet, for my argument to succeed it need only be the case that some degree of homogenization still obtains within public debate. And this, I think, is a plausible assumption. It is simply intractable that all individuals participate in public debate, so insofar as some selection effect obtains, the debate will be relatively homogenous compared to the population at large.



### 3.b Homogenization of deliberative groups

The above account of deliberation is subject to a significant limitation on account of what I call *the problems of polarization and inconclusive justification*. If deliberative groups are either self-organized or organized through some centralized process,<sup>12</sup> it is almost inevitable that the groups will not accurately represent the diversity of the population. In being relatively homogenous, they are likely to be subject to the polarizing forces of deliberation among relatively homogenous individuals. Hence without some further modification, deliberation will not reliably track publicly justified outcomes on account of this robust propensity for homogenization.

To begin, note that in any modern political system the population is likely to be so large that simultaneous deliberation among all citizens is impossible. Nations, federal subunits, and even most cities are comprised of too many people for a productive exchange of reasons to take place among them all. If deliberation is to be productive, citizens must be organized into various deliberative groups—proper subsets of the population small enough that individuals can gather and engage in an exchange of reasons for or against the justification of proposals under consideration. Given the size of contemporary political communities, we can expect that such subunits will be relatively small compared to the complete constituency.

Within current electoral institutions, deliberative groups might be organized in one of two ways: first, we might allow citizens to self-organize and choose the group with whom they deliberate; or second, we might have some centralized agent (nonrandomly) assign the citizens their deliberative group. On either of these approaches, the deliberative groups produced will, with overwhelming likelihood, be relatively homogenous compared to the general population, and this relative homogeneity will obstruct the use of deliberation as a mechanism for identifying publicly justified outcomes. I begin by defending this relative homogenization claim.

Consider first the self-organizing approach. An array of social scientific literature suggests that when individuals organize themselves, the resulting groups will be relatively homogenous compared to the population at large. First, various biases for association with particular individuals (such as in-group bias) will drive individuals to organize into groups with others who are relatively similar to them (Bernhard, Fehr, and Fischbacher, 2006a; Bernhard, Fischbacher, and Fehr, 2006b; Bowles and Gintis 2013, 142–46; Hertel and Kerr 2001). Second, if the distribution of reasons is neither uniform nor random (as when characteristics such as geography correlate with reasons), then the underlying correlation will result in self-organized groups being relatively homogenous. Lastly, individuals simply do not have access to the information necessary to make informed judgments regarding the reasons held by other potential codeliberators. Even if a citizen is sincerely interested in joining a deliberative group so as to contribute to the diversity of that group, the citizen must have reliable knowledge about the reasons members already present in that group have in order to do so. But, citizens will at best have imperfect and limited knowledge regarding the reasons that members of a given group have, and so are liable to make errors in their assessment of diversity. The degree of this error is likely to be quite significant, and so individuals will unreliably track the diversity of groups. Thus, in all likelihood, people will choose to join deliberative groups which they then make relatively homogenous.

Suppose, then, that well-meaning citizens who seek to self-organize into diverse deliberative groups will be subject to various sources of error, such as biases, contingent correlations in the distributions of reasons, and lack of information regarding the reasons of others. The rate of error need not be particularly high in order to generate radically segregated deliberative groups. This can be viewed as a generalization of Thomas Schelling's seminal discussion of self-segregation among groups (1971).<sup>13</sup> Schelling showed that even when individuals have a very moderate

<sup>12</sup>In anticipation of a later proposal, I assume that such centralized organization does not incorporate any mechanisms of randomization.

<sup>13</sup>For a discussion of how empirical results confirm predictions set by the Schelling model, see Clark (1991).

tendency to self-segregate despite having preferences for diverse groups, these individuals will produce highly segregated social groups.<sup>14</sup> Schelling's result applies here. The sources of individual error in self-organization introduce a tendency toward homogenization. If this tendency is widespread, it will lead to highly segregated social groups, even if the tendency is rather weak. Self-organization, then, will lead to relatively homogenous groups, especially when compared to the population at large.

Centralized (nonrandom) mechanisms of organizing deliberative groups will not be exempt from the Schelling segregation dynamics. A centralized system, in contrast to the self-organizing approach, has some official entity assign citizens to deliberative groups. A centralized process of organizing deliberative groups may confer various benefits. For example, the central organizer could be insulated from various biases, or she could be in a position to correct for underlying correlations (e.g., they can match individuals from diverse geographic areas). Notice, however, that we may reinterpret the Schelling results to apply to such a process of centralized organization. A central organizer, even if they are exempt from a number of biases and can correct for underlying correlations between reasons and exogenous factors, will almost certainly have extremely limited access to the reasons held by the citizens. Indeed, a central organizer will have less evidence about the reasons that citizens have than the citizens themselves, since citizens at the very least have local knowledge about their own reasons. The organizer's reliance on unreliable and often radically incomplete information regarding the public reasons that citizens have means that she will likewise be subject to error in the assignment of individuals to deliberative groups. Reinterpret the Schelling model, then, to be such that individuals do not choose what group to join, but rather that they are assigned their place by the central organizer. Minor errors still obtain in the assignment of individuals to groups. Now, the error is made by the organizer rather than by the citizens themselves. The core elements of the Schelling segregation model still obtain—all that has changed is our interpretation of them.<sup>15</sup>

Thus, regardless of whether individuals assign themselves to deliberative groups voluntarily or if they are assigned to groups by a central organizer, we can anticipate that the resulting deliberative groups will be relatively homogenous compared to the complete population. This homogenization is the result of error in the process of assigning individuals to groups—individuals will not reliably be placed into deliberative groups in such a way that the groups replicate the diversity of the population. Let us now consider how relative homogeneity will frustrate the reliability of public justification on the present deliberative proposal.

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<sup>14</sup>Consider a simple case of runners and cyclists choosing what park to spend their time in. Suppose that either prefers that the park be a thriving social setting where all individuals intermingle (say at the ratio of 50–50 runners to cyclists), but also that cyclists prefer not to have too great a proportion of runners around them (lest they run over them), and runners prefer not to have too great a proportion of cyclists around them (lest they be run over). Even if each individual most prefers the diverse mix of 50–50 cyclists to runners, self-organizing processes may lead to completely homogenous groups. Suppose there are two parks, *A* and *B*, and a runner makes a mistake and goes to park *A* which they had (wrongly) assumed would have an equal mix, but in reality, had a small majority of runners. A cyclist, choosing a park to visit, will see that park *A* has an imbalance of runners and, not wanting to run over them, will choose to go to *B*. If we iterate the process, park *A* will over time come to be mostly, if not only, populated by runners and park *B* will be populated with cyclists. Despite the fact that it was supposed that each individual prefers diversity, minor tendencies toward homogenization can lead similar individuals to pool together, resulting in highly segregated social settings even when starting conditions are relatively diverse. In this example, an initial minor error with certain preferences (to not run over others and to not be run over) leads to significant homogenization of the populations. For Schelling dynamics to obtain preferences for homogeneity is not necessary; rather, any homogenizing tendency will do, and error in determining the constitution of groups is one source for such a tendency.

<sup>15</sup>It bears emphasizing that this is strictly an analytic result: it does not matter who moves the agents, as long as where they move to tends toward homogenization. Indeed, on one example Schelling provides the reader may be understood to act as such a central organizer subject to homogenizing tendencies (1978, 147–55).



### 3.c Polarization and inconclusive justification

Relatively homogenous deliberative groups face the problems of *polarization* and *inconclusive justification*. When members of groups are too similar, deliberation tends only to reinforce extant views, and deliberation becomes a positive feedback loop which entrenches the dominant view rather than being a constructive exchange of reasons. This is the problem of polarization.<sup>16</sup> Furthermore, it is unlikely that deliberative groups are relatively homogenous in the same way. In all likelihood, there will be variation in the constitution of different deliberative groups. This variation may lead to groups coming to hold different sets of outcomes as publicly justified, leading to indeterminacy as to what rules do and do not constitute publicly justified outcomes. This is the problem of inconclusive justification.

The polarizing tendency of relatively homogenous groups is, at this point, among the most well-studied social phenomena. If the starting pool of reasons is too similar, the deliberative process will lead individuals to become overly confident in the extant views (Mercier and Landemore 2012, 252–53). Returning to our present model: when individuals raise locally dominant reason *P*, given the relative homogeneity of the deliberative group, there is a low likelihood that any other member of the deliberative group will challenge *P*. Individuals will thus come to be overconfident in *P*, which leads them to fail to adequately consider other public reasons and the rules they support.

Empirical observations regularly confirm this polarizing tendency of homogenous groups. Relatively homogenous deliberative groups have a strong tendency to suppress dissent, which reinforces conformity to the dominant view (Sunstein 2002, 181). Individuals also typically experience a significant conformity bias—when they observe some prevailing (apparent) consensus, they become likely to revise their beliefs in accordance with that consensus (Bicchieri 2016, chap. 2; Sunstein 2002, 176, 179).

These polarizing effects not only make members of that group overconfident, but also increase the likelihood of costly confrontation with out-group members. If the polarization is sufficiently strong, different polarized groups may come to view one another in confrontational terms (Sunstein 2002, 186). Individuals may become so overconfident in their prior commitments that they become social optimizers (Gaus 2016, 215–20), holding that their most preferred rule, supported by the entrenched reasons that dominate their group, is exclusively acceptable. Clearly, it would take only two groups bent on social optimization for two different outcomes to ensure that public justification becomes impossible. Under such conditions, one group getting their way means that the other must lose—politics becomes zero-sum, and the citizenry will have reasoned themselves into undermining any possibility of political cooperation.<sup>17</sup> With the possibility of public justification foregone, citizens will find only instability and distrust.<sup>18</sup> Should the public arrive at such an outcome, deliberation will have been eminently self-defeating.

Polarization that leads to the breakdown of political cooperation is but one extreme outcome to which deliberation among homogenous groups may lead. Even if this rather depressing result is not reached, it remains the case that more moderate (but no less problematic) results may obtain which render deliberation ineffective as a mechanism of public justification. First, note that it is extremely unlikely that all deliberative groups will be relatively homogenous in the same way. Whatever public

<sup>16</sup>Polarization has recently been among the most well-studied phenomena in the social sciences. For social scientific discussions, see Baldassari and Bearman (2007); Baldassari and Gelman (2008). For complications regarding empirical investigation of polarization, see Fiorina and Abrams (2008). Polarization is associated with all sorts of social costs, such as decreased social costs and decreased willingness to cooperate with out-group individuals. For a normative discussion of polarization, see Sunstein (2002).

<sup>17</sup>Some empirical evidence indicates that under highly polarized contexts the polarized groups relativize the moralities of others, seeing the two groups as part of distinct, relative moral communities rather than one cohesive moral community. This suggests that polarization can lead to the dissolution of moral communities (Sarkissian et al. 2011).

<sup>18</sup>Kevin Vallier has recently shown trust to be a valuable moral relation dependent on the public justification of social rules (2019, chap. 2). For recent empirical accounts of social distrust and polarization, see Bjørnskov (2008) and Rapp (2016).

reasons are overrepresented or absent within some deliberative group, other groups will have different reasons that are overrepresented and absent. When some degree of polarization obtains, even if it does not lead citizens to become full-blown social optimizers, the resulting sets of rules which deliberative groups will hold to be publicly justified will, in all likelihood, be different between the groups. The process of public deliberation under relatively homogenous conditions is to some degree path-dependent—the outcomes that the deliberative groups will come to believe are publicly justified will depend on what public reasons are overrepresented and what reasons are ignored, which in turn depend on the initial distribution of public reasons within the deliberative group and the way in which it is homogenous.

The following case serves as a relatively simple illustration of inconclusive justification. Suppose that two different deliberative groups have different relatively homogenous starting sets of public reasons, which lead them to believe that two different sets of outcomes, *O* and *P*, are publicly justified (with all rules outside *O* and *P* being regarded as publicly unjustified according to the respective groups). As we have just established, *O* and *P* are not identical. While some rules may be in the intersection of *O* and *P*, there will be a number of rules which are in one set but not the other. These rules have indeterminate justificatory statuses; well-meaning citizens after public deliberation disagree as to whether the rule outside the intersection of *O* and *P* is publicly justified or not. By the above assumptions, the set of rules which the deliberative groups jointly regard as publicly justified (the intersection of *O* and *P*) is a proper subset of both *O* and *P*.

Consider now what happens with the inclusion of further relatively homogenous groups which are constituted differently compared to either of the groups that yielded *O* or *P*. This new group will come to hold that the set of rules *Q* consists of all (and only) publicly justifiable rules, and by the path-dependence of relatively homogenous deliberation, *Q* will be different from both *O* and *P*. The resulting set of rules that could be publicly justified to all members of the constituency in this case is constituted by the intersection of *O*, *P*, and *Q*, which, by the conditions assumed here, will be a proper subset of all three sets, which in all likelihood is also strictly smaller in size than the intersection of just *O* and *P*. The introduction of further deliberative groups with different starting conditions thus restricts the set of publicly justifiable rules even further. The result generalizes to the problem of inconclusive justification: when groups undertaking political deliberation are subject to some homogenizing tendencies, the set of rules with determinate justificatory status is inversely related to the number and diversity of the groups. In modern political units, which are both rather large and rather diverse, we should expect the set of conclusively justified rules to be extremely limited.

That some number of rules are inconclusively justified can be problematic for a number of reasons. For one, it means that a number of options which could have been publicly justified are mistakenly removed. At the very least, this creates an opportunity cost of foregone alternatives, some of which may have been desirable. Second, should the case obtain that no rules are in the intersection of the rules that all deliberative groups regard as publicly justified, then possibility of public justification will have been foreclosed—there is no option that every member of the population lacks reason to reject. If this occurs, deliberation as a mechanism of public justification has once again become self-defeating, resulting in conditions under which public justification of rules is unattainable.

Hence, where deliberative groups are either self-organized or centrally (and nonrandomly) organized, there is a high likelihood that deliberation will be self-defeating as a mechanism of public justification. The problem here is that the procedures considered for organizing deliberation are unreliable means of reproducing the diversity of the population—at best, deliberative groups will be highly imperfect, relatively homogenous reflections of the population. This problem also invites a promising solution: if we were to find a means of organizing deliberation such that the diversity of the population *is* reliably reproduced, then the problems facing deliberation would be resolved.

#### 4. Lotteries, diversity, and public justification

I propose that the above limitations faced by deliberation can be avoided when deliberative groups are organized by lottery. I begin by sketching at an abstract level the way in which selection of representatives by lottery can improve the prospect of public justification. Then I turn to more particular questions regarding the details of the mechanism by which randomly constructed assemblies contribute to reaching publicly justified outcomes.

##### 4.a Lotteries and representation

Recall that deliberation has been proposed as a sort of filter mechanism meant to ensure that the results of voting more reliably track the justificatory status of proposals. The limitations of deliberation, we have found, stem from the fact that deliberative groups will be relatively homogenous. Were we to make deliberative groups more representative of the population at large, then the problems of polarization and inconclusive justification would not obtain, or would at least obtain to a lesser degree.

The selection of deliberators by lottery is a mechanism for generating more representative deliberative groups. If a sufficiently large random sample is taken from the complete population of citizens then, following the law of large numbers, we should expect the sample to be a perfect small-scale replica of the population at large (Stone 2009, 390). Such random selection applies the techniques of social sciences for developing representative samples to democratic ends— pure chance, in being unbiased and error free (if it is properly random) will reliably reproduce the diversity of the population. Hence, deliberative groups constructed by random selection are descriptively representative in that they replicate the reasons present in the complete population with a high degree of accuracy (387–89).

Since diversity is adequately preserved within deliberative groups, the problems of polarization and inconclusive justification will no longer obtain. These problems require that deliberative groups are relatively homogenous compared to the population at large. When some degree of homogeneity obtains, positive feedback or pressures for social conformity lead individuals to be overconfident about some reasons and dismissive of others. By accurately replicating the diversity of the population, most reasons should be present within the deliberative group, which undercuts positive feedback. And, given the diversity of the group, pressure for social conformity should be minimal because there will be no widely shared position to which individuals are pressured to conform. The forces which undercut the exchange of reasons are thus limited in the context of diversity, which means that the deliberative dynamics identified in the preceding section can now reliably filter out nonpublic reasons.

Deliberation among randomly selected individuals has been found to have numerous appealing properties in theory and practice (for a recent review, see Smith and Setälä 2018). Let us start with its theoretical virtues. First and perhaps foremost, lotteries are egalitarian. Each citizen has an equal opportunity to influence the outcome of collective decision-making by virtue of having an equal chance at being chosen to act as a representative (Lopez-Guerra 2011; Saunders 2010).<sup>19</sup> Second, by virtue of accurately representing the public, assemblies constructed by lottery take into consideration all interests of citizens, which satisfies the classical democratic condition of equal consideration of interests.<sup>20</sup> Third, certain formal results suggest that the problem-solving abilities of randomly constructed assemblies as a whole will be at least as good as those of elected assemblies,

<sup>19</sup>While lotteries may meet the equal opportunity to influence condition, they need not be egalitarian in all the same ways as alternative arrangements of democratic institutions. See Leydet (2016).

<sup>20</sup>On the equal treatment of interests as a condition of democratic institutions, see Christiano (2008, 25–27, 95–96) and Dahl (1989, 85–88, 322). Note that it is the assembly taken as a whole that is understood to take into consideration the interests of all, not the individual citizens within the assembly. When combined with a voting procedure and the deliberative mechanisms identified above, the diversity of interests will lead to outcomes that take account of the interests of the population as a whole.

if not better (Landemore 2013). And fourth, randomly constructed assemblies are less susceptible to capture and manipulation by outside parties than alternative arrangement of social decision-making (Guerrero 2014).

In addition to these appealing properties which have been identified in theory, the available empirical evidence on the performance of randomly assembled deliberative groups has often (though not exclusively) been favorable. It is important to note that much of the evidence I discuss now has been drawn from experiments using mini-publics. Although they are similar in spirit to randomly constructed assemblies, mini-publics are of insufficient size to replicate the complete diversity of the population.<sup>21</sup> Considerations regarding how to organize relatively larger assemblies so that deliberation might take place are addressed in the following subsection. With that said, empirical observation of the deliberation and choice of mini-publics, while rather recent as far as results in the social sciences go, provide *pro tanto* grounds in favor of their use. First, deliberation within mini-publics has been observed to be efficacious, leading to changes in beliefs among participants (Himmelroos and Christensen 2013; Fishkin 2011; Niemeyer 2011). Deliberation among randomly selected individuals thus has the desired effect of having them reflect upon and revise their beliefs in light of new consideration. Such belief revision following deliberation was also observed in the case of the British Columbian Citizens' Assembly, which is perhaps the most well documented case of political decision-making done by a randomly constructed assembly (Blais, Carty, and Fournier 2008). Remarkably, deliberation in the British Columbian case also led to a consensus amongst a supermajority. Second, when individuals uninvolved in deliberation of a mini-public are told of the decision reached by the mini-public, they tend to revise their opinions in favor of the result (Boulianne 2018; Ingham and Levin 2018). The general public in democratic societies thus seems receptive to the judgments of randomly constructed deliberative bodies. Lastly, a number of appealing features have been observed from a range of empirical cases of mini-publics: mini-publics are capable of creating policy, legitimizing policy choices, informing public debate, and building novel constituencies for cooperation in the political sphere (Gooden and Dryzek 2006).

This review of theoretical and empirical considerations is meant to speak in favor of using lotteries as mechanisms of organizing deliberative groups prior to social decision-making. The principle motivation for introducing lotteries in the present context, however, is that they are conducive to social decision-making which tracks the justificatory status of proposals better than alternatives. And while such favorable qualities may obtain, it remains to be seen whether there is a tractable way of organizing institutions in such a way that these favorable qualities might be realized. More conventional conceptions of voting and deliberation also possess appealing properties, but, as we have seen, they are unreliable means of bringing about publicly justified outcomes. In order to show that randomly constructed assemblies are candidate means of achieving publicly justified outcomes, I shall now turn and consider some details of the institutional design of such assemblies.

#### 4.b Lotteries and institutional design<sup>22</sup>

I shall consider three features pertinent to the design of randomly constructed assemblies: the scope of decision-making of such assemblies, the mechanism and organization of decision-making within the assembly, and the construction of assemblies. To begin, let us consider the role and scope of randomly constructed assemblies. Recall that the principle concern in this article has been to identify a democratic institutional arrangement which might reliably lead to publicly justified

<sup>21</sup>Though there are some limited results showing these effects persist even in large deliberative bodies, with some applications of mini-publics using between 500 to 5,000 citizens. See Jacobs and Kaufmann (2019, 3).

<sup>22</sup>The issues discussed in this section were brought to my attention by comments from two anonymous reviewers. I am indebted to their comments and contributions on the matters discussed here.

outcomes. The introduction of randomly constructed assemblies is meant to improve the likelihood that the social choice process leads to such outcomes. Given our present focus on publicly justified outcomes, then, randomly constructed assemblies should serve that role which best improves the reliability of reaching publicly justified outcomes.

Public justification applies to certain features of our social and political world with the aim of introducing desirable publicly justified features and removing or revising existing unjustified features. Within constitutional democracies, this role naturally falls upon the legislative branch of government. So, lotteries will need to be incorporated into that branch in some capacity. The pertinent question is to what degree we should incorporate lotteries within the legislative branch.

We might first consider the radical proposal that we replace elected legislative chambers with randomly constructed assemblies altogether (Hennig 2017; Van Reybrouck 2016). Since elections are less likely to produce publicly justified outcomes than lotteries, replacing them will improve the reliability of achieving publicly justification. Considered in the context of pure theory, the radical proposal is motivated well enough. When it comes to questions of reform, however, such radical change may bring along with it costs which make moderate suggestions more appealing. In the context of reform, other values are sure to be salient, such as the stability and perceived legitimacy of institutions. This leads to an empirical question: To what degree, and in what direction will replacing elections affect the perceived legitimacy and stability of political institutions? While the empirical evidence reviewed above speaks favorably to the question of legitimacy, it nevertheless relies on evidence generated by controlled laboratory experiments and not reform of fundamental political institutions, which may generate side effects that are not anticipated in the lab.<sup>23</sup>

More moderate introductions of lotteries into the social decision-making process may still contribute to improving the reliability of achieving publicly justified outcomes (Gastil and Wright 2019). First, we might create a separate randomly constructed assembly which is given veto power over proposed legislation. Giving the assembly the ability to review legislation and veto that which is deemed publicly unjustified will improve the reliability of public justification by significantly reducing the likelihood of unjustified legislation being passed. Another moderate proposal is to allow the randomly constructed assembly power only to recommend and approve legislation. Such recommendations might serve only as a sort of formal evaluation of legislation without further effect. The relative weakness of this proposal is likely to improve reliability of public justification less than a veto, but insofar as approval of the randomly constructed assembly is regarded as a beneficial prospect for legislation (and its absence a detriment), then the resulting incentives for political actors should still improve the reliability of public justification.<sup>24</sup> An even more modest means of incorporating lotteries is to have mini-publics structure public deliberation before elections. In this case, deliberation and decision-making by randomly constructed groups has neither formal role nor power, but instead hopes to improve the prospect of public justification by making salient for voters the justificatory status of proposals under consideration.

Which proposal to take is not a question that I can answer here. Too much depends on empirical questions of feasibility, perceived legitimacy, and stability of reformed institutions. Answering this question requires balancing the value of public justification against these other practical values. However, by sketching a range of ways of introducing lotteries into social decision-making at different levels of modesty, I hope to have shown that there is some way of introducing lotteries into

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<sup>23</sup>Complete replacement of elections runs the risk of leaving individuals unable to hold representatives accountable; individuals might, rationally or not, distrust the selection process; and representatives may still be exposed to capture by private interests. Importantly, even if mechanisms are put in place to mitigate these effects, insofar as citizens *believe* that these problems obtain, the perceived legitimacy of lotteries suffers. On the perceived legitimacy costs of the institution of mini-publics, see Lafont (2015). My thanks to anonymous reviewers for bringing these concerns to my attention.

<sup>24</sup>The empirical studies on mini-publics reviewed above speak in favor of this incentive argument, as they reveal the positive effects of deliberation on the public opinion of political decisions and their perceived legitimacy (supposing, of course, that political actors have an incentive to maintain public approval and their perceived legitimacy).



extant social decision-making procedures. And, insofar as we incorporate lotteries into decision-making to *some* degree, then we should improve the reliability of reaching publicly justified outcomes relative to alternatives where lotteries are not used at all.

I now turn to examining decision-making within randomly constructed assemblies. Recall that deliberation is initially introduced as a means of supplementing voting. Since the mere casting of ballots is not a reliable mechanism for tracking the justificatory status of proposals, deliberation is introduced as a kind of filter mechanism. On the lottery proposal under consideration, our aim is to use random selection in order to generate a descriptively representative assembly such that every reason present in the population is also on offer in the course of deliberation. A pertinent question, then, is whether deliberation can be organized within the assembly such that it serves as an effective filter mechanism within the assembly such that a vote after the fact can reliably identify publicly justified outcomes.

In order to make a genuinely representative assembly, the sample taken by lottery must be relatively large, ranging from hundreds to perhaps over a thousand representatives.<sup>25</sup> Whatever the exact number of representatives, it is clear that the minimal number needed is so large as to make effective simultaneous deliberation among all representatives prohibitive. This raises a conflict between accurate representation and tractability of deliberation. Thus far, experimentation has favored quality of deliberation above accuracy of representation, but such favoring comes with the obvious cost of making lotteries less reliable at avoiding relative homogeneity, which makes the problems of polarization and inconclusive justification pertinent once again.

Is there any way of reconciling quality of deliberation with accuracy of representation? Lotteries were meant to accurately recreate diversity such that individuals were reliably exposed to reasons they themselves would not have considered. This reliable exposure to diversity is the mechanism by which the problems of polarization and inconclusive justification are stymied. If we can organize the assembly in such a way that individuals may deliberate in smaller groups while also reliably being exposed to other views, then we might reconcile representation and quality of deliberation.

One way to accomplish this is to organize smaller deliberative groups within the assembly for tractable deliberation, but then have individuals regularly meet in different deliberative groups. If these smaller deliberative groups were reorganized such that at each iteration individuals deliberate with different peers each time, after enough iterations each individual will have deliberated with every other individual in the assembly, and so will have been exposed to the full diverse array of reasons pertinent to the proposal under consideration. Such a suggestion does, however, come at the expense of taking a significant amount of time to accomplish. One must thus balance time of decision-making against range of exposure to diverse reasons. Compromising in favor of time, however, need not come at too great an expense of representing diversity. As representatives deliberate with other diverse persons, they can come to hold the reasons of their peers themselves. When they deliberate with others, they may then spread those reasons even further. Acquisition of a reason, in the sense that one becomes aware of the reason and the proposals it supports or opposes, need not require exposure to the original reason holder, and so for each representative to be exposed to all pertinent reasons, it need not be the case that they actually deliberate with all other representatives. Since the aim is to expose representatives to all pertinent reasons, such indirect exposure is adequate.

Iterated deliberation within smaller groups may thus expose individuals to a sufficient degree of novel and diverse reasons such that the problems of polarization and inconclusive

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<sup>25</sup>The size of the assembly will vary according to the size of population, the degree of confidence we desire to have regarding whether the assembly is representative of the full population, the degree of precision we desire from representation, and the diversity of the population. Regarding the last point, crucial for our purposes will be estimates of the smallest objection-bearing group in the population. The smaller such groups, the larger our samples will need to be if we are to be confident that all reasons are taken into account. I owe this point to an editor at this journal.



justification are avoided, all while ensuring that deliberation of sufficient quality can take place. Depending on how quickly reasons can diffuse within the population, the number of iterations can be rather low. Note also that the success of this argument ultimately depends not on the deliberation process among randomly selected representatives guaranteeing full exposure to all reasons, but only on the reliability with which it leads to an exposure of more reasons than representatives would receive if the assembly were constructed by other means. Given that lotteries will produce deliberative groups which are significantly more representative than groups constructed by other means, this will almost surely be the case. Hence, even if randomly constructed assemblies still face the problems of polarization and inconclusive justification, they face these problems to a lesser degree than assemblies constructed by other means, and so are to be favored in that regard.

The last feature of institutional design which I shall consider here are some challenges regarding effective representation within randomly constructed assemblies. Two worries arise. First, many of the above examples of citizens' assemblies and mini-publics incorporate oversampling of minorities, which can lead to the assembly being imperfectly representative. Second, the accuracy of the representative sample depends on selecting individuals from the complete population, and so if individuals are permitted to opt out of selection then the resulting assembly may not be representative. Beginning with oversampling, representing minorities at a relatively higher degree does not itself appear problematic. Incorporating fewer members of the majority (or plurality) into the assembly should pose a minimal cost, since their reasons are still almost certainly going to be represented within the assembly. That said, one might have concerns for the mechanism of assigning overrepresentation since it might make the system liable to manipulation or abuse. The discretion accorded in the selection of which groups to oversample may both be liable to manipulation, but also may turn on controversial judgments of what determines group membership and group interests. In this case, we might have better reason to favor pure random selection of a sufficiently large sample without any interference—even in the worst case, every reason will be represented within the assembly, and so regardless of what we take to be the relevant groups we are able to represent all of them, and we do so in a way insulated from manipulation. Hence, while oversampling might be common practice in current experiments of mini-publics, it is not necessary in order to generate an accurately representative assembly, and insofar as the assembly is so representative we will have attained the desired conditions of public justification.

The second worry concerns how to handle individuals who opt out of the lottery procedure. Presumably, we have a desire to maintain individual independence in the selection of what occupation they take. Freedom of occupation is generally taken as an uncontroversial individual right, and such a right entails the permissibility of individuals choosing to abstain from the lottery for representatives. But it is almost certain that opting out behavior will not be uniform, in which case sampling will not be from the complete population, but rather a skewed subset, and so the sample generated is less likely to be representative. This presents a challenge for the use of lotteries: if the sample is not representative, then randomly constructed assemblies may be no better at dealing with the problems of polarization and inconclusive justification than electoral alternatives. The use of lotteries thus seems to be at odds with individual liberty.

Iterated sampling, I believe, can reconcile the conflict between accuracy of representation and individual liberty. To begin, we allow individuals the opportunity to opt out of the selection. However, we do not thereby remove their name from selection, rather we only mark the lot as one which has opted out. Every name is thus left in for selection, ensuring we sample from the entire population. Then, we select names at random until a sample of sufficient size is generated. With the sample in hand, we check whether any member has opted out. If no individual opted out, then we have a representative assembly where every participant enters voluntarily. If any individual did opt out, then we replace all the names that have been drawn and conduct another drawing. We may thus repeat the process drawing from the complete population until we generate a representative sample

where no individual opted out.<sup>26</sup> Since each drawing is from the complete population, we face no problems arising from drawing from the incomplete population while nevertheless maintaining a commitment to individual liberty.

This concludes the discussion of the more technical institutional details of incorporating lotteries into democratic social decision-making. This discussion is hardly exhaustive, but I hope to have addressed the most pressing questions regarding the details of how lotteries would function within democratic institutions. Moreover, as has been noted at several occasions, for the argument for the use of lotteries to be successful, it need not be the case that the construction and decision-making of randomly constructed assemblies proceeds perfectly. Rather, the success of the argument turns on the comparative claim that the organization of deliberative groups by lottery improves the prospects of public justification relative to organization of these groups by other means. Hence, even if lotteries still tend toward some degree of relative homogeneity, and so still face the problems of polarization and inconclusive justification to some degree, this need not count against them insofar as they generate relative homogeneity to a lesser degree than alternatives. The above institutional sketches hope to show that there are tractable means of achieving relatively more accurate representation with the use of lotteries, thus making them preferred to more conventional alternatives in the context of public justification.

## Conclusion

The incorporation of lotteries into our procedures for social decision-making thus offers an appealing means of improving the reliability of public justification. Deliberation amongst diverse persons is the best available mechanism for determining the justificatory status of political proposals, and the best means of accurately accounting for that diversity is through the use of lotteries. Lotteries thus allow democratic institutions to be reliable mechanisms of public justification, in addition to the other appealing qualities of such institutions. Indeed, it is difficult to imagine how a nondemocratic process could be a reliable mechanism of public justification. Determining the justificatory status of rules requires accurate information regarding the reasons of citizens, and so some means of aggregating and assessing the reasons of citizens. Democratic institutions are a natural fit here, as their structure of open participation gives citizens the opportunity to let their reasons be heard. That said, we should not be too sanguine with respect to the justificatory reliability of democratic processes; under most familiar democratic institutions, the results of social decision-making are likely to be unreliable at choosing publicly justified outcomes. That democratic institutions may provide the appealing political good of publicly justified rules does not mean that the institutions taken as they are will do so reliably. Thus, some reform will inevitably be necessary.

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<sup>26</sup>As an anonymous reviewer points out, even with mechanisms nudging participation in place, the opt-in rate may be very low. Reluctance to speak in public or lack of confidence can be strong motivators to avoid participating in a citizens' assembly. If these motives are sufficiently widespread, it may not be possible to produce a representative sample. Even so, the sample will surely be more representative than an elected body. Even if we cannot conclusively resolve the problems of polarization and inconclusive justification, we can still minimize the degree to which these problems obtain. In which case, while lotteries might not resolve the problems, they do address the problems to a greater degree than elections do.

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