

“DRAWING OF LOTS” INSTEAD OF “VOTING” – THE ONLY WAY TO RESTORE DEMOCRACY?*

Siegfried F. FRANKE
Professor, Andrásy Universität Budapest

1. The Problem: An Increasing Gap between Representatives and the Society Represented

1.1. Re-occurring Problems with Democracy

Problems of Democracy, esp. concerning Representative Democracy are nearly as old as the idea itself, and they have always been discussed. An infinite number of publications deal with the symptoms of democratic crisis and present several proposals for improvement. The following titles represent only a short selection from the vast literature: Dahl (1990); Burnheim (1985); Franke (1993 and 2000); Manin (1997); Zohlnhöfer (1999).¹

* This article is based on the presentation given by the author during the International Conference on „Popular Sovereignty vs. Rule of Law – Procedures, Judicial Control, and the Borders of Political Legitimacy”, Andrásy University Budapest and Pázmány Péter Catholic University Budapest, October, 21, 2016. The article was first published by “Nomos” Editorial House in 2017 (Die gefährdete Demokratie), under the ISBN 978-3-8487-4419-0 (print), ISBN 978-3-8452-8636-5 (ePDF).

¹ Robert A. DAHL: *After the Revolution. Authority in a Good Society*. Rev. ed. New Haven – London, Yale University Press, 1990. chapt. IV., 88. ff., esp. 122–135.; John BURNHEIM: *Is Democracy Possible? The alternative to electoral politics*. Cambridge, Polity Press, Oxford, Basil Blackwell, 1985. 1–18.; Siegfried F. FRANKE: *Steuerpolitik in der Demokratie*. Berlin, Duncker & Humblot, 1993. 420–430.; Siegfried F. FRANKE: *(Ir)rationale Politik?* Marburg, Metropolis, ²2000. 215–223. [FRANKE (2000a)]; Bernhard MANIN: *The Principles of Representative Government*. Cambridge–New York–Melbourne, Press Syndicate of the University of Cambridge, 1997. esp. chapt. VI., 193. ff.; Werner ZOHLNHÖFER: *Die wirtschaftspolitische Willens- und Entscheidungsbildung in der Demokratie*. Marburg, Metropolis, 1999. 222–240.

In my contribution to last year's "International Conference"² I presented a long list of *Functional Deficits of Representative Democracy* and a variety of *Proposals to fight them* as well as *Suggestions for Implementation*.³ Repeating them in detail is not appropriate here. I just stick to two main political and social trends arising from these problems, and I briefly outline the main causes for both developments, namely (1) the Shift from *Representative Democracy* to *Elite Democracy*, and (2) the Trend to a Two-Thirds-Democracy.⁴

1.2. The Shift from *Representative Democracy* to *Elite Democracy*

1.2.1. *Party Cartels and Limitations to the Recruiting Process of Candidates (Representatives)*

Political parties increasingly neglect their ideological roots, and they also neglect basic principles of a free social and economic order. More and more they tend to the idea of *Modern Interventionism*,⁵ and they just try to gain power for the benefit of their high officials and high bureaucrats.

On the one side, parties will cooperate with each other and form party cartels for the purpose of turning down the influence of "new" parties. On the other side, however, they compete with each other to gain enough parliamentary seats for their officials and bureaucrats. According to critics party competition harms the interests of broad levels of the population who are not fully represented that way.

Furthermore, the selection of candidates is restricted to those who have plenty of time (usually members of the public administration), and who are immobile, meaning that they do not change their main residence. The rule of thumb is: the earlier they are engaged in ordinary basic party work the better. Another aspect of candidate selection is the empirically grounded fact that "social and economic elites tend to win elections".⁶ Putnam notes "that decision makers will favour the interests of the social group from which they come". Consequently, the interests of the less well-off are often neglected.⁸

² Democratic Innovation: New Practices and Potentials of Participatory Procedures, 26 October 2015, Budapest, Andrásy University and Pázmány Péter Catholic University.

³ Siegfried F. FRANKE: How to Fight Functional Deficits of Representative Democracy. In: Siegfried F. FRANKE: *Die gefährdete Demokratie. Illiberale Demokratie – Populismus – Europaskepsis*. Baden-Baden, Nomos, 2017. I. ff., 12. ff.

⁴ Wolfgang MERKEL: Krise der Demokratie? Anmerkungen zu einem schwierigen Begriff. *Aus Politik und Zeitgeschichte*, no. 40–42/2016. 11. [MERKEL (2016).]

⁵ E.g. Christoph SCHEUERMANN: Cold Britannia. Viele Briten verstehen ihr Land nicht mehr. Eine Reise über eine fremde Insel. *Der Spiegel*, no. 41., 08. 10. 2016. 91.

⁶ Alex ZAKARAS: Lot and Democratic Representation: A Modest Proposal, in: *Constellations. An International Journal on Critical and Democratic Theory*, vol. 17., no. 3. (2010) 455.

⁷ Robert D. PUTNAM: *The Comparative Study of Political Elite*. Englewood Cliffs, NJ, Prentice-Hall, 1976. 41.

⁸ ZAKARAS op. cit. 455.

These detrimental tendencies have already been foreseen by Michels⁹ and Downs.¹⁰

1.2.2. *Depriving the Legislation of Power, Concentration of Power in the Executive (Government and Public Administration)*

Visionaries (e.g. Edmund Burke¹¹) and framers of modern constitutions (following the European Enlightenment and the French Revolution) had already adopted an attitude which was coined by a deep mistrust in the people. To cut it short: They just replaced a hereditary elite of aristocrats by a self-selected elite.¹²

Zamoyski¹³ in detail describes the nearly pathological fear of the people shown by the then reigning European aristocrats; and the visionaries and framers of a secular system of government adopted this attitude.¹⁴ Kurbjuweit¹⁵ sees a striking resemblance to the actual situation. Peter Kanne, a scientist and statistician from the Netherlands, came to the result that nine out of ten politicians mistrust the people.¹⁶ Consequently, Koschnick¹⁷ points to the root of the democratic-fatigue syndrome and asks the question, why the people should trust their representatives if they are not even trust by them.

Even the founders of the American Constitution did not have faith in the people. Elections to select the best personnel as representatives and for government posts were proposed.¹⁸ James Adams (1776) said: “The most important step is to depute power from the many, to a few of the most wise and good”.¹⁹ However: Neither women, Native Americans, African Americans, slaves nor the poor had voting rights or the right to stand as a candidate.²⁰

⁹ Robert MICHELS: *Zur Soziologie des Parteiwesens in der modernen Demokratie. Untersuchungen über die oligarchischen Tendenzen des Gruppenlebens*. Stuttgart, Alfred Kröner Verlag, 1989.

¹⁰ Anthony DOWNS: *Ökonomische Theorie der Demokratie*. Tübingen, Mohr-Siebeck, 1968. (First published in English 1957: *An Economic Theory of Democracy*. New York, Harper & Brothers, 1957.)

¹¹ Cf. David VAN REYBROUCK: *Gegen Wahlen. Warum Abstimmen nicht demokratisch ist*. Göttingen, Wallstein Verlag, 2016. 96.

¹² MANIN op. cit. 132–135.; VAN REYBROUCK op. cit. 97.

¹³ Adam ZAMOYSKI: *Phantome des Terrors. Die Angst vor der Revolution und die Unterdrückung der Freiheit 1789–1848*. München, C. H. Beck, 2016.

¹⁴ Adam ZAMOYSKI (2016): *Phantome des Terrors. Die Angst vor der Revolution und die Unterdrückung der Freiheit 1789–1848*. München, C. H. Beck, 2016. See esp. chapt. 3., 20. ff. (Angst = Fear), chapt. 4., 47. ff. (Krieg gegen den Terror = War on Terror), and chapt. 16., 276. ff. (Das Reich des Bösen = The Evil Empire).

¹⁵ Dirk KURBJUWEIT: Die Erfindung des Postfaktischen. *Der Spiegel*, no 38., 17. 09. 2016. 129.

¹⁶ Quoted by VAN REYBROUCK op. cit. 129. f.

¹⁷ Wolfgang J. KOSCHNICK: Die repräsentative Demokratie frisst ihre Kinder. Das Volk vertreten die Volksvertreter jedenfalls nicht – Teil 2. *Telepolis*, 23. 12. 2013., <https://www.heise.de/tp/features/Die-repraesentative-Demokratie-frisst-ihre-Kinder-3362995.html?seite=all> [KOSCHNICK (2013b)].

¹⁸ VAN REYBROUCK op. cit. 92. f., following Thomas Jefferson and James Madison.

¹⁹ Quoted by VAN REYBROUCK op. cit. 91.

²⁰ VAN REYBROUCK op. cit. 93.

The architects of the European social and liberal-democratic post-war settlements thought along similar lines [see e.g. the German Constitution (Basic Law – Grundgesetz für die Bundesrepublik Deutschland, May, 23, 1949)].²¹

1.2.3. *Who Really Controls the Executive?*

Besides, nearly 50 per cent of parliamentary seats are held by members of the public administration – in other words: most of them worked for the executive in their previous professional life.²² Can one really expect that they, due to their political and professional socialization, have a sharp eye on the government – the gubernative – which acts as the head of the executive? It is very common that parliamentarians think of government career, and they know that their promotion depends on the goodwill of the party leaders. This argument is especially important during times of “great coalitions”.

1.2.4. *Autonomous Institutions*

Another method to prevent the people from exercising power in a democracy is establishing *Autonomous Institutions*.²³ Certainly, it has to be admitted that autonomous institutions are of utmost importance to secure a liberal democracy (e.g. central banks, constitutional courts, possibly second chambers, and judicial independence).²⁴ These institutions have prevented majorities from gradually turning a democracy into an autocratic system. That is why governments, time and again, try to use their parliamentary majority to curtail the institutions’ competence. The actual argument between the EU-Commission and Warsaw concerning the latest reduction of the Supreme Court’s competence is a telling example for these tendencies. Alas, Hungary too is a legitimate target of criticism because of cutting short the rights of the press and the Curia.

Historically, the idea of the state under the law is older than the idea of modern liberal democracy.²⁵ Nevertheless, autonomous institutions have to be constructed carefully, and their incumbents must act defensively. They must be very conscious

²¹ Jan-Werner MÜLLER: Populismus. Symptom einer Krise der politischen Repräsentation? *Aus Politik und Zeitgeschichte*, no. 40–42/2016. 25.

²² KOSCHNICK (2013b) op. cit.

²³ MÜLLER op. cit. 25.

²⁴ For details see Siegfried F. FRANKE (1998): Autonome Institutionen und die Grenzen ihrer demokratischen Legitimation. In: Gerd GRÖZINGER – Stephan PANTHER (hrsg.) (1998): *Konstitutionelle Politische Ökonomie. Sind unsere gesellschaftlichen Regelsysteme in Form und guter Verfassung?* Marburg, Metropolis, 1998. 104–108.

²⁵ Siegfried F. FRANKE: Demokratie als Feigenblatt. Zum Verhältnis von Rechtsstaat und Demokratie. In: Ellen BOS – Zoltán Tibor PÁLLINGER (hrsg.): *Grenzen der Demokratie*. Baden-Baden, Nomos, 2000. [FRANKE (2000b).]

about the fact that their chain of democratic legitimacy is long and fragile.²⁶ With this in mind the debatable monetary policy of the ECB (European Central Bank), known under the label of *Quantitative Easing*, needs to be considered.

1.2.5. *Informal Circles: “Heavyweight Rounds”, “Elephant Rounds”; Steering Groups, Coalition Committees*

Not only most European constitutions, as well as the constitution of the USA, deprive the legislative from power and privilege the government, but also a lot of uncontrollable *Informal Circles* which pre-shape final settlements have been established in practice. They build another oligarchic barrier between *the People* and the *Political Elite*.²⁷ For parliamentarians in a coalition it is advisable not to oppose too loud against “decisions” of informal circles if they want to hold their position as superior candidates for their party in the next election, or for important posts in the legislative or the government.

1.3. The Tendency to a “Two-Thirds-Democracy”

Consequently, the curtailment of constitutional court rights and the political practice to reduce the parliamentary influence strengthens the gap between *the People* and *their representatives*. At the European level the gap is even broader than at the national levels.²⁸ Voters’ participation is restricted to going to the polls every four or five years.

True, there have been some reforms and developments, e.g. reforms of the voting right, federal fiscal reforms, certain approaches to increased participation and local referendums, as well as buyers’ strikes and action groups or citizens’ initiatives. Occasionally, these reforms or actions may have had limited effects, e.g. concerning the size and construction of a village fountain. Still, almost none of these reforms and developments went to the actual roots of the symptoms of democratic crisis, and they hardly diminished the people’s growing feeling of neglecting their interests. Instead, they strengthened the gap between government and administration authorities on the one side, and a growing number of members of the lower and middle lower class society on the other side.

²⁶ E.g. Hans Herbert v. ARNIM: *Vom schönen Schein der Demokratie*. München, Droemer Verlag, 2000. 32.

²⁷ See e.g. MÜLLER op. cit. 25.

²⁸ Siegfried F. FRANKE: Demokratiedefizite in der Europäischen Union als Ursache für den wachsenden Anti-Europa-Populismus? In: Ellen Bos (2015): *10 Jahre EU-Osterweiterung – Herausforderungen der Integration*. Baden-Baden, Nomos, 2015. 13. ff. [FRANKE (2000c).]

Local referendums and other actions are predominantly deployed by well-educated parts of the upper class.²⁹ As an example, Buchstein³⁰ alludes to the referendum on Hamburg school policy. In July 2010, the well-educated voted against the reform plan of the “black-green coalition” to extend the primary school period from four to six years for integrative reasons. Another example is the massive protest against the reconstruction of the railway main station at Stuttgart (“Stuttgart 21”).³¹

Therefore, Merkel³² concludes a tendency to a *Two-Thirds-Democracy*, which means that two thirds of the population, mainly the well-educated two thirds that are middle and upper class, are able to establish and to use new opportunities of participation. According to Merkel’s opinion, these opportunities are cognitively and motivationally too challenging for lower classes. Merkel³³ concedes that this tendency stirs up some problems for representative democracy, but their symptoms are far from plunging it into an acute crisis.

To sum up: Merkel diagnoses a *latent crisis*, which seems to be – in spite of various new and old problems of democracy – more or less a *social and political normality*. Nonetheless, the penetrating question is: Should we really accept a “Two-Thirds-Democracy” as normal? It seems chillingly clear that it involves the risk of serving as a gateway for populist parties, as they pursue to fill the gap.³⁴

1.4. Direct Democracy as a Complement to Representative Democracy?

Or: Direct Democracy as a Project for the Well-educated Classes?

Often it is recommended to stick to forms of *Direct Democracy*. Carefully constructed referenda will combine proposals’ benefits with their costs, and, furthermore, it is also possible to combine them with opportunity costs for each proposal. Thus, direct democracy will hinder politicians from electoral promises and hiding the costs. Transparency is thought to close the gap which is typical for the representative government.³⁵

²⁹ Wolfgang MERKEL: Volksabstimmungen: Illusion und Realität. *Aus Politik und Zeitgeschichte*, no. 44–45/2011., <http://www.bpb.de/apuz/59721/volksabstimmungen-illusion-und-realitaet?p=all> [MERKEL (2011).]

³⁰ Hubertus BUCHSTEIN: Repräsentative, partizipatorische und aleatorische Demokratie. Vortrag bei der der Heinrich-Böll-Stiftung, 02. 11. 2011., <http://www.boell.de/stiftung/akademie/akademie-repraesentative-parizipatorische-und-aleatorische-demokratie-13243.html> [BUCHSTEIN (2011).]

³¹ These protests were also mainly backed by the well-educated, partly elderly people. Interesting, however, that the protests are still going on even in spite of the fact that a general referendum held in November, 2011 and all administrative court decisions were in favour of the project.

³² MERKEL (2016) op. cit. 10. f.

³³ MERKEL (2016) op. cit. 6. f.

³⁴ BUCHSTEIN (2011) op. cit.

³⁵ E.g. Zoltán Tibor PÁLLINGER: Zwischen Progressivismus und Konservativismus: Paradoxien direkter Demokratie. In: Ellen BOS (2014): *Konservativismus im 21. Jahrhundert. Liebe zu alten Lastern oder Angst vor neuen Fehlern*. Baden-Baden, Nomos, 2014. 151. f.

Buchstein³⁶ argues against this idea of the unfiltered implementation of popular will. He is convinced that *Direct Democracy* will not heal the deficits of *Representative Democracy*. In this respect he agrees with the opinion of Dahl.³⁷ In the end it turns out to be a project of the well-educated middle and upper class because the same mechanisms as described by Buchstein³⁸ are at work. Both forms of democracy, the *direct* as well as the *representative democracy*, have to be seen rather critically. Burnheim³⁹ concludes “that electoral systems are inimical to rule by the people for the people.” Consequently, in recent times there is an increasingly accumulating amount of publications with strident titles which are highly critical of all present forms of democracy – representative or direct. Just to quote some of the titles as incentives for further research: Braunschweig (2012): *The Democratic Illness. The Fatal Vicious Circle between Electoral Promises and Voters’ Demands*; Karsten – Beckmann (2012): *When Democracy breaks down*; Koschnick (2013): *Developed Democracies Teeter on the Brink of Destruction*; Van Reybrouck (2016): *Against Elections. Why Voting Violates Democracy*.⁴⁰

Confronted with this eligible criticism alternatives are needed. Van Reybrouck⁴¹ gives a hint: “Drawing of Lots” instead of “Voting”.

2. “Drawing of Lots” and “Aleatory Elements”

2.1. The Fundamental Concept

Since ten to 15 years there have been some interesting new proposals, which are intensively discussed under the headings *Drawing of Lots* and *Aleatory Elements* most recently.

At first glance, *drawing of lots* instead of voting and *aleatory supplements* will seem to be rather curious, and even somewhat crazy, if applied within the framework of the political-making process.⁴² Though, a historical review reveals that in antiquity drawing of lots was considered as being the best method to represent the different classes of society. Only a small number of official posts “where narrow, specialist skills were deemed necessary, such as heads of finance and military leaders”, were

³⁶ BUCHSTEIN (2011) op. cit.

³⁷ DAHL (1990) op. cit. 55. f.

³⁸ BUCHSTEIN (2011) op. cit.

³⁹ BURNHEIM op. cit. 82.

⁴⁰ Christoph BRAUNSCHWEIG: *Die demokratische Krankheit*. München, Olzog, 2012.; Frank KARSTEN – Karel BECKMAN: *Wenn die Demokratie zusammenbricht*. München, FinanzBuch, 2012.; Wolfgang J. KOSCHNICK: *Die entwickelten Demokratien der Welt stehen am Abgrund. Eine Demokratie haben wir schon lange nicht mehr – Teil 1. Telepolis*, 19. 12. 2013. [KOSCHNICK (2013a)]; VAN REYBROUCK op. cit. Translated by the author.

⁴¹ VAN REYBROUCK op. cit.

⁴² MANIN op. cit. 9.

open to elections.⁴³ Even the powerful sea-bound Republic of Venice, up to its end in 1797, used a very sophisticated system of sortition and election to select the head of state, the Duke or “Doge”.⁴⁴ A system of allotment to select members for the most important public authorities was also used in Florence and some other Italian cities.⁴⁵ It should also be noted that aleatory supplement even comes into operation in some present democracies – not only for honorary posts, e.g. lay judges, but also to determine the competent judges for lawsuits lodged at the court.⁴⁶ There are also some examples of drawing by lot in case of stalemate situations. To give an example: a lot will be drawn in the event of a tie concerning the primary votes (i.e. “Erststimmen”).⁴⁷

For a long time, these ideas were hidden by the intangible belief that *Election* and *Democracy* were two sides of the same coin.⁴⁸ Still, sometimes, even those who are in strong favour of elections are not entirely happy with the results. Just think of Donald Trump’s presidential-election victory in the USA in November 2016, or the “Brexit” in Great-Britain in June 2016! Often, referenda in EU member states would have been repeated if the outcomes did not fit with the ideas of the political elites in the EU. Obviously, *elections are not always elections*, sophisticated: circumstances, conditions, alternatives as well as correct and understandable questions have to be carefully considered and worded in elections.

To begin with, the main arguments against elections are briefly summed up:

- Elections, esp. in and between political parties, are not held to select the best political personnel. Instead, they often turn out as smear campaigns to get hold of as many parliamentary seats as possible, and put parties in the position to claim governmental and other official positions. Moreover, party competition also includes ridiculous election battle cries.⁴⁹

⁴³ Brett HENNING: New Ways of Looking at Democracy. *Board Leadership*, July/August 2016., <https://onlinelibrary.wiley.com/doi/abs/10.1002/bl.30049>; see also DAHL (1990) op. cit. 30. f. Also it has to be admitted that “(T)he brilliant »democracy« of Athens was stained by slavery (and also by the exclusion of women)” DAHL (1990) op. cit. *ibid*.

⁴⁴ VAN REYBROUCK op. cit. 76. f.; ZAKARAS op. cit. 455.

⁴⁵ VAN REYBROUCK op. cit. 80. f.; detailed Hubertus BUCHSTEIN: *Demokratie und Lotterrie. Das Los als politisches Entscheidungsverfahren von der Antike bis zur EU*. Frankfurt am Main, Campus, 2009. 150–189.

⁴⁶ Klaus SCHWEINSBERG: Wenn der Zufall mitregiert. Über eine ungewöhnliche Idee, die Politik zu reformieren. *Die Zeit*, 10. 02. 2000. It is interesting to quote the coalition agreement between the SPD and the FDP in Rheinland-Pfalz in 1996. It stated in cases when the partners are not able to solve their dissent how to vote in the Federal Council (Bundesrat), the final decision will be drawn by lot. The rule was gleefully commented, but as a matter of fact, it put such pressure on the coalition partners to reach joint solution, so that it never came into operation. Hubertus BUCHSTEIN (2009) op. cit. 401. ff.; Hubertus BUCHSTEIN – Michael HEIN: Zufall mit Absicht. Das Losverfahren als Instrument einer reformierten Europäischen Union. In: Hauke BRUNKHORST (hrsg.): *Demokratie in der Weltgesellschaft*. Baden-Baden, Nomos, 2009. 357.

⁴⁷ For details see BUCHSTEIN–HEIN op. cit. 356. f.

⁴⁸ VAN REYBROUCK op. cit. 46. ff.; ZAKARAS op. cit. 455.

⁴⁹ BURNHEIM op. cit. 9. f.; KOSCHNICK (2013a) op. cit.

- “Representative government gives no institutional role to the assembled people”, as Manin⁵⁰ states. In other words: elections do not give a true representative picture of the different social groups; they rather promote the segregation of social classes. More than one third of the whole population is not represented in parliaments.⁵¹ Dahl⁵² demands the distribution of parliamentary seats according to a representative sample, but he also sees the danger of separation and the widening of the cultural gap.⁵³
- This view is supported by the situation in Great Britain, where only seven per cent of the population have attended private schools, but between one third and three quarters of the members of parliament, journalism, and top positions in the armed forces and in the judicial system have been brought up in private schools.⁵⁴ Putnam has already underlined in 1976⁵⁵ that elitist recruitment is based on higher education.
- Voting right often prevents the representation of considerable parts of the population. As an example, four million voters who were in favour of the Ukip (UK Independence Party) were, because of the voting right in Great Britain, represented by only one seat.⁵⁶ In the long run, it is certainly dangerous, if millions of voters are not evenly represented. Maybe, the “Brexit” was – among other things – the result of neglecting those voters.
- Furthermore, it is not only difficult but almost impossible to achieve correct proportions for social classes. It will be a challenge to agree on a generally accepted list of criteria. Therefore, some claim that all candidates should be drawn from a whole pool to avoid the dilemma of unequal personal representation in modern democracies.⁵⁷ A possible solution could be the method of stratifying. Henning⁵⁸ gives some examples: “once the number of men in the sample reaches 50 per cent of the total, no more men are invited to participate. The same idea can be applied to age brackets, income, education level, and so forth.”

The drawbacks listed above lead to the conclusion that *sortition* is a better alternative than *election* for representative democracy. Drawing of lots traces back to Ancient Athens, Florence, and some other Italian cities in the Renaissance, where

⁵⁰ MANIN op. cit. 8.

⁵¹ KOSCHNICK (2013b) op. cit.

⁵² DAHL (1990) op. cit. 68. ff., 132. f.; Robert A. DAHL: *On Democracy*. New Haven–London, Yale University Press, 1998. 124.

⁵³ DAHL (1998) op. cit. 155. f., 185. ff.

⁵⁴ SCHEUERMANN op. cit. 91.

⁵⁵ PUTNAM op. cit. 28. f.

⁵⁶ SCHEUERMANN op. cit. 90. f.

⁵⁷ Christine BENDER – Hans GRASSL: Losverfahren. Ein Beitrag zur Stärkung der Demokratie. *Aus Politik und Zeitgeschichte*, 09. 09. 2014., <http://www.bpb.de/apuz/191195/losverfahren-ein-beitrag-zur-staerkung-der-demokratie?p=all>

⁵⁸ HENNING op. cit.

the overwhelming number of candidates for political offices was chosen by lot.⁵⁹ Moreover, up to two hundred years ago, office rotation on the basis of allotment had been considered as a true criterion for democracy.⁶⁰ According to Montesquieu drawing of lots meets the nature of democracy.⁶¹

Finally, it needs to be mentioned that the simple majority rule is not as easy and fair as it seems. *Public Choice Theory* describes the problems related to the majority rule in detail, and it delivers innumerable contributions to replace the majority rule by differentiated and multi-level election procedures to reach fair and consistent results.⁶² Probably the best known example is the “Arrow Paradox”.⁶³

The advocates of random selection are, however, aware of the fact that one cannot compare Ancient Athens with the conditions of modern democracies. Therefore, they do not plea for drawing of lots and aleatory elements as the only alternative to voting. Instead, they are considered to be useful supplements.⁶⁴ In the following, some proposals for combining *voting* and *drawing of lots* are outlined.

2.2. Proposals for an Integrated Approach

2.2.1. *Bi-representative Model*

The *Bi-representative Model* is mainly favoured by Van Reybrouck.⁶⁵ It combines the expertise of professional politicians with the freedom of citizens who do not have to keep an eye on re-election. Randomly selected citizens are not wasting their time, sitting around in party circles or party meetings, and they are free from campaign work. Quickly, they would familiarize themselves with complicated subject matters. Highly professional politicians are experts in their fields but very often they are not even able to use a rail ticket machine, and they do not know the prices for basic foods. Yet, they may adopt this information quite easily from their randomly selected colleagues. And above all, a randomly selected and partly limited parliament would prevent the segregation of social classes. Instead, it would deliver a true thumbnail image of the people, so-called “Minipopulus”.⁶⁶

⁵⁹ E.g. MANIN op. cit. 8. ff., 51. ff.

⁶⁰ BURNHEIM op. cit. 9.

⁶¹ MANIN op. cit. 1997. 70. f.; SCHWEINSBERG op. cit. BUCHSTEIN (2009) op. cit. 17–110., 150–189., and MANIN op. cit. 8–44., 51–66. deliver a detailed description and explanation of allotment in Athens antique democracy as well as in the mediaeval Italian city republics.

⁶² An overview is given by Dennis C. MUELLER: *Public Choice III*. Cambridge, Cambridge University Press, 2007. part II., chapt. 4–8., 67–181.

⁶³ For details see FRANKE (2000a) op. cit. 84. ff.

⁶⁴ BUCHSTEIN (2011) op. cit.

⁶⁵ VAN REYBROUCK op. cit. 160. ff.

⁶⁶ Timo RIEG: *Demokratie für Deutschland. Von unwählbaren Parteien und einer echten Alternative*. Berlin, Berliner Konsortium, 2013. 130. f. [RIEG (2013b)]

Reybrouck⁶⁷ is convinced that it is high time to start with forms of bi-representative models in member states of the European Union, and he supplies several arguments for his view. To begin with, the EU treaty delivers a kind of protective roof under which member states can experiment with citizens’ participation. He is afraid of post democratic situations in countries like Greece, Italy, Spain, Portugal, and Cyprus, and points to the fact of crypto fascist movements in Hungary, Greece and – due to the latest developments – we might also add Poland. In some other countries like the Netherlands, France, Great Britain, and even Germany populism has become a very important factor.

In his opinion, Belgium is predestined to start with a bi-representative model, since out of all EU member states the democratic-fatigue syndrome is most widespread in this country. After the general elections in 2010 it took more than one and a half years to build a new government. Another advantage of starting with Belgium is that federalism has been transferred to lower administrative levels.

2.2.2. *Aleatory Supplement to Solve Conflicts of Interests*

Naturally, parliamentarians are trapped in a conflict of interests, when reforms of Voting Right, Parliamentary Allowances, Party Financing, or of Financing Election Campaigns are to be discussed. In Germany, the Federal Court insisted on a voting right reform, because overhang seats (“Überhangmandate”) may considerably distort the balance of parliamentary seats according to second votes. The reform bill of 2013 concedes that overhang seats are to be compensated by balancing seats (“Ausgleichsmandate”). In effect, it again led to more parliamentary seats.⁶⁸ It is unlikely that a new reform will come into operation before the next federal elections in September 2017. Projections show, that without a fundamental reform, the next German Parliament will substantially exceed the number of 700 seats.⁶⁹ So, the so-called reform was an agreement on taxpayers’ risk,⁷⁰ that was only opposed by The Left (Die Linke).⁷¹

⁶⁷ VAN REYBROUCK op. cit. 19., 162. ff.

⁶⁸ 630 instead of 622 during the legislative period 2009–2013, and in the period 2001–2005 there were only 601.

⁶⁹ Ralf NEUKIRCH: Die Rettung der Volksparteien. *Der Spiegel*, no. 39., 24. 09. 2016. 8.; N.U. (Name Unknown): (2016): Der Bundestag muss kleiner werden. 500 sind genug. *Der Steuerzahler*, no. 11–16/2016. 240.

⁷⁰ BUCHSTEIN (2012) op. cit. 402.

⁷¹ To quote another striking example: There is evidence that the AfD (“Alternative für Deutschland”, i.e. Alternative for Germany) severely violated the voting right before the election of 2014 in the Federal State of Saxony. The violation could lead to re-elections in Saxony. Yet, the electoral committee of the state parliament of Saxony delayed any action up to now. The reason is quite obvious: opinion polls show that in spite of its illegal behaviour, the AfD would gain additional seats, whereas especially the Christian Democrats (CDU) and the Social Democrats (SPD) will lose some seats. Under these circumstances it can hardly be expected that CDU and SPD parliamentarians in the Committee act even-handedly (Melanie AMANN: Sächsische Zwerge. AfD-Chefin Petry hat demokratische Grundregeln gebrochen – und niemanden interessiert es. *Der Spiegel*, no. 43., 22. 10. 2016. 6.).

Evidently, in those cases the parliamentarians should declare themselves as partial, and turn the subjects for consulting and decision to members of a “House of Lots”, that consists of randomly selected members. Art. 20 of the German Constitution (GG) would cover such a procedure.⁷² Buchstein and Hein⁷³ even recommend a “House of Lots” for the European Union (see below, chap. 2.2.6.).⁷⁴

2.2.3. Citizens’ Assemblies

Buchstein⁷⁵ refers to Citizens’ Assemblies in Canada, the Netherlands, and in the State of Washington, USA, which are implemented with great success.

In the case of parliamentary allowances in Washington/State the assembly nearly came to the same results as in other states without randomly appointed assemblies. The advantage, however, is a larger acceptance of the decisions by the people.⁷⁶

In Canada (Ontario, British Columbia) and the Netherland Citizens’ Assemblies worked out excellent and fair voting right reforms. Alas, the parliamentarians did not have the courage to accept those proposals. The plain truth is that even the best proposals will run out and will lead to nothing if parliamentarians are not really willing to declare themselves as partial, and if they insist on having the final saying.

Obviously, the two proposals, namely the *House of Lots* and *Citizens’ Assemblies*, are highly similar. The main difference is that the House of Lots will not only become active if the parliament declares itself as partial, but it also approves all other legislative drafts of the first chamber, whereas Citizen Assemblies are usually limited to a special problem, e.g. designing a new voting right. If new problems of serious importance arise, a new Citizens’ Assembly will be summoned.

As already mentioned, openly discussed proposals of Citizens’ Assemblies lead to a greater acceptance among the people. Obviously, there is more confidence in discussion results of Citizens’ Assemblies than in the “wisdom” of parliamentarians. Van Reybrouck⁷⁷ refers to the matter of same sex marriage as a telling example. In Ireland, a Catholic country, a suitable proposal of the Citizens’ Assembly was backed by a referendum and finally led to an amendment of the constitution without debates full of hate, whereas demonstrations in France, also Catholic, degenerated to political upheavals, when the parliament voted for gay marriage without consulting the people.

⁷² Art. 20 sec. II GG: “All state power emanates from the people. It will be carried out under people’s power by elections and votes and *by specific bodies*” (“und durch besondere Organe”) (Basic Law for the Federal Republic of Germany = Grundgesetz für die Bundesrepublik Deutschland). Hubertus BUCHSTEIN: Wählen, Lösen und politische Gerechtigkeit – Plädoyer für einen »demokratisch-deliberativen pouvoir neutre«. *Zeitschrift für Politikwissenschaft*, 22. Jg., Heft 3., 2012. 403. f.

⁷³ BUCHSTEIN–HEIN op. cit. 371. ff.

⁷⁴ The term “House of Lots” originates from the English philosopher Barbara Goodwin.

⁷⁵ BUCHSTEIN (2012) op. cit. 400. f.

⁷⁶ BUCHSTEIN (2011) op. cit.

⁷⁷ VAN REYBROUCK op. cit. 134. f.

2.2.4. *“Drawing of Lots” as Method to Fill the Posts of Parliamentary Committees*

The greater part of parliamentary work is done behind closed doors in parliamentary committees. It is understandable that lobby groups try to promote parliamentarians, with whom they are deeply connected, into important committees, e.g. into the Defence Committee where contracts worth billions of euros will be discussed and prepared.

Appointing at least parts of the posts in those committees by aleatory methods would avoid that pressure groups dominate the committees, and it would also prevent party executives to reward „party’s foot soldiers” with seats in prestigious committees.⁷⁸

2.2.5. *“Drawing of Lots” if Laws Pass the Parliament Only by Majority Decision*

Following Mueller⁷⁹ it is also possible to think of another aleatory idea: If a law does not pass the parliament by unanimous decision, the method of allotment should be used according to the relation of YES- and NO-votes. In practical terms this would mean that one ball out of 55 white balls and 45 black balls has to be drawn when the parliamentary decision was 55 to 45 in favour of YES-votes. This proposal especially applies to laws creating new public goods. In these cases the parliamentary majority, assisted by lobby groups, are prone to put the costs to minorities or even to third parties not directly involved.⁸⁰

Given the possibility of a random selection using the probabilities of the first vote, the majority would hesitate to overrule the opinion of minorities. The risk is too high that they would have to accept the NO-votes and, accordingly, a different law to regulate the matter in discussion.

2.2.6. *Three Proposals for the European Union*

(1) *“Drawing of Lots” According to the Method of Weighted Means for the European Commission*

In spite of the growing size of the EU, the member states have not changed the right that each state should be represented in the EU-Commission by one commissioner. Obviously, a commission consisting of 27, 28, or even more commissioners is too complex to produce workable solutions. Therefore, the original proposal for an EU Constitutional Treaty restricted the number of commissioners to 15. The treaty never came into force, but the reform of the European treaties, the so-called “Lisbon Treaty”, stated that the number of commissioners should be limited to two thirds of the number of member states [art. 17 sec. 5 (ii) Treaty of the European Union (TEU)]. The new regulation should come into operation from November 1, 2014. Familiar with European

⁷⁸ SCHWEINSBERG op. cit.

⁷⁹ Quoted after SCHWEINSBERG op. cit.

⁸⁰ See also MUELLER op. cit. 81. ff., 138., 255. ff.

policy, it is not surprising that the same article grants the right to alter this regulation to the European Council. So, it has never been – and probably will never be – applied.⁸¹

Buchstein⁸² and Buchstein–Hein⁸³ stick to the original proposal of 15 commissioners as a maximum. The seats should be selected by the method of *weighted means* as also noted in art. 27 sec 5 (ii) TEU. The *weighted means*, however, should not only be defined by the number of the people but also by the principle of *degressive proportionality*. Thus, small countries have some more weight than the big ones. The allotment has to be repeated every five years after the general elections to the European Parliament.

There are several advantages to be named:⁸⁴ (1) The number of seats in the Commission will not rise if the EU is enlarged. (2) Due to the reduction of the commission there would be no „less important” departments anymore, and, (3) every five years each member state has the chance to get a seat in the commission. In the long run, in line with the law of *great numbers*, there would be a distribution according to *degressive odds*. (4) The proposal would be a big step towards more European integration, and, finally, (5) the EU-Commission could act quickly and efficiently, since long-lasting bargaining processes will fall away.

(2) *A Second Chamber of the European Parliament Drawn by Lots*

Buchstein and Hein⁸⁵ also think of a form of a *Second Chamber* of the European Parliament comprising of 200 members *drawn by lots* and according to the principle of *degressive proportionality*. The legislation period of the House of Lots should be only two and a half years, and each citizen is allowed to be a member only once. Furthermore, it should be a duty for all EU-citizens to accept the seat if they are randomly selected. During their time in the House of Lots they should be paid properly and their jobs have to be secured. The duty to participate in the lottery would guarantee a representative cross section of the whole EU-population, whereas voluntary participation would open the door for political activists.

The so-called “House of Lots” will participate in the legislative process, combined with the right to veto. A bill approved in the elective chamber can be ratified summarily or submitted to review. The review-process might result in approval, in proposals for modification, or in the final rejection of the law.⁸⁶ Besides, the Second Chamber should be equipped with the right to legislative initiatives, and it may direct proposals to all institutions of the EU.⁸⁷

⁸¹ Consequently, the European Council assured Ireland not to apply the new regulation to get its agreement to the Lisbon Treaty, and the European Council renewed its decision on May 22, 2013.

⁸² BUCHSTEIN (2009) op. cit. 437. ff.

⁸³ BUCHSTEIN–HEIN op. cit. 366. f.

⁸⁴ BUCHSTEIN–HEIN op. cit. 367.

⁸⁵ BUCHSTEIN–HEIN op. cit. 371–376.

⁸⁶ ZAKARAS op. cit. 458.

⁸⁷ For further details see BUCHSTEIN (2009) op. cit. 445–453.

The “House of Lots” as a new EU-Organ poses no problem in terms of financing. Brussels could be the permanent seat of the European Parliament, and Strasbourg the permanent seat of the “House of Lots”, thus, at the same time, solving the historically grown absurdity of the “caravan of the parliament”.⁸⁸

(3) *Committee Members, Committee Chairs, and Committee Rapporteurs of the European Parliament Selected by Sortition*

For the same reasons as mentioned above, namely the influence of lobby groups and the tendency towards corruption (see chapt. 2.2.4.), Buchstein⁸⁹ and Buchstein–Hein⁹⁰ favour the idea of selecting committee members, its chairs as well as committee rapporteurs of European Parliament by lot. The authors also believe that random decisions stop the high personal continuity in committees. Even if it has to be admitted that personal continuity increases specialist knowledge and experience, it will have severe disadvantages as well: power structures and political policy directives are cemented for a long time, and new ideas and solutions will be suppressed.

2.2.7. *“Drawing of Lots” Weekly and Small Parliamentary Committees (“Citizens’ Jury”)*

Rieg⁹¹ came up with the idea that 600 parliamentary seats should weekly be replaced by allotment. Rieg’s idea is based on the theoretical and empirical work of Peter C. Dienel.⁹² The randomly selected members of the parliament would be a real representation of the whole population. The parliament should be divided into 24 committees with only 25 members. Furthermore, these 25 members should not share their sessions with all of their colleagues in the committee. Instead, they should meet in changing small groups of five for five days. “Five” would be the ideal number to talk constructively without trying to achieve majorities, and the limited number of days prevents the formation of social status and opinion leadership.⁹³ The small group – according to Rieg – would aim to achieve consensus and not just a compromise.⁹⁴ Referenda and public initiatives are also very important to map people’s will.

⁸⁸ BUCHSTEIN (2009) op. cit. 449. f.

⁸⁹ BUCHSTEIN (2009) op. cit. 440. ff.

⁹⁰ BUCHSTEIN–HEIN op. cit. 367–370.

⁹¹ Timo RIEG: Alternative: Bürgerparlament. *Timo Rieg Statements*, 18. 09. 2013., <http://www.timo-rieg.de/2013/09/alternative-burgerparlament/> [RIEG (2013a)]; RIEG (2013b) op. cit. 145., 169., ff.

⁹² See e.g. Peter C. DIENEL: Die Planungszelle – Zur Praxis der Bürgerbeteiligung. *FES-Analyse*, 2002., <https://library.fes.de/pdf-files/stabsabteilung/01234.pdf>, and his instrument of a so-called *planning cell*.

⁹³ See e.g. DAHL (1990) op. cit. 52. f.; RIEG (2013b) op. cit. 144. f.

⁹⁴ Cf. also Peter MÜHLBAUER: Aleatorische Demokratie. *Telepolis*, 30. 09. 2013., <https://www.heise.de/tp/features/Aleatorische-Demokratie-3400752.html>.

In addition to a randomly selected short-term based laity parliament, Rieg⁹⁵ pleads for direct election of the ministers. Re-election should be not permitted but, maybe, their period of office could be extended from four to six years.

2.2.8. General Elections on the Basis of Random Sampling

The tremendous costs of general elections deliver another argument for choosing representatives at random. Only citizens who are selected on the basis of a carefully constructed random sampling are entitled to vote. Schweinsberg⁹⁶ refers to empirical studies, covering the period from 1872 to 1972, showing that none of the presidential elections would have been altered, but one could have saved approximately US-\$ 200 billions, discounted present value.

3. Summary Appraisal and Points of Criticism

3.1. Summary Appraisal

There is no doubt that *Representative Democracy* has come to its limits. Some of the proposals, above referred to as *drawing of lots* and the supplement of *aleatory elements*, promise relief. Some aspects among the proposals are well worth pursuing. Nevertheless, it needs to be emphasized that allotment can neither completely replace elections nor professional politicians. Insofar, be-representative constructions may be a solution.

- First, the idea of drawing of lots out of several social groups to enable broad levels of the population to be represented in the parliament deserves attention.⁹⁷ Bender–Graßl⁹⁸ suggest that five per cent of the parliamentary seats should be distributed by allotment. Each citizen, together with his or her ballot paper, also gets a lottery number. On election night not only the results of the general election will be publicly announced but also the numbers of the randomly selected citizens, who will get one of the reserved five per cent of the seats,⁹⁹ unless the lottery number was turned back to the elective office. The randomly chosen citizens should have the same rights as the elected members but no voting right.

⁹⁵ RIEG (2013b) op. cit. 155. ff.

⁹⁶ SCHWEINSBERG op. cit.

⁹⁷ BURNHEIM op. cit. 110. ff.

⁹⁸ BENDER–GRASSL op. cit.

⁹⁹ The proposal by Bender and Graßl is intended for the German parliament (Christine BENDER – Hans GRASSL: Losverfahren. Ein Beitrag zur Stärkung der Demokratie. *Aus Politik und Zeitgeschichte*, 09. 09. 2014.) They acknowledge that their idea is not yet in agreement with the constitution, but they refer to the situation in Berlin between 1949 and 1990. Federal elections were, according to the four-power status of Berlin, not allowed in (West-) Berlin, but the city could send 22 representatives into the federal parliament. They had the right to speak and to ask questions, and they were allowed to take on parliamentary roles, but they had no voting right.

Yet, in my opinion, five per cent of the seats are far too less for a real bi-representative model. Between one third and a half of the ordinary parliamentary seats should be reserved for those groups, whereas the rest may be distributed according the results of the general election. Less than one third randomly selected seats are only justified if there is – as complement to parliament – a *Second Chamber* whose members are appointed by sortition.

- A conceivable option is a *Parliament* mostly casted by general elections, and a *Second Chamber* whose members are drawn by lots from samples of different social groups. The so-called *House of Lots* as has been outlined by Buchstein and Hein¹⁰⁰ for the European Union. Draft legislation approved by *Parliament* also needs the approval of the *House of Lots* in order to come into force. Instead of vetoing a law, the *House of Lots* could give the law, together with proposed amendments, back to the *Parliament*. It should also have the right to launch own legislative proposals and resolutions.

Buchstein and Hein¹⁰¹ plea for a legislation period of two and a half years for the House of Lots. Yet, the political issues today are very complex in both the European and global context. I, therefore, recommend the same period as for the European parliament, namely five years.

The House of Lots resembles the idea of Citizens’ Assemblies. In my opinion, the main difference is that the House of Lots works for the whole legislative period and it is not restricted to single tasks, whereas Citizens’ Assemblies are established for single, well-defined problems, e.g. voting right reforms, parliamentary allowance, or a controversial social issue.

- Using aleatory methods to determine the distribution of parliamentary committee seats is another reform proposal worth to be discussed. It would diminish the influence of lobby groups and “party veterans”. Hein and Buchstein¹⁰² also think of allotment to fill vacancies in those authorities that are especially vulnerable for bribery, e.g. building authorities.
- To prevent the parliamentary majority from using their legislative power to pass the costs for public goods to minorities or to third parties not directly affected, a final step using random selection according to the result of the parliamentary decision would be helpful. Apart from that, this method will be recommended when crucial decisions are at stake, e.g., energy turnarounds or bail-out programmes.
- Citizens’ Assemblies are highly advised, when it comes to policy areas where the parliamentarians should declare themselves partial. This will mainly be the case when reforms of the voting right or parliamentary allowances are to be discussed. It is also advisable to involve Citizens’ Assemblies, when highly social controversial issues, e.g. same-sex marriage or ban on abortions have to be regulated by law.

¹⁰⁰ BUCHSTEIN–HEIN op. cit. 371–376.; BUCHSTEIN (2011) op. cit.

¹⁰¹ BUCHSTEIN–HEIN op. cit. 372.

¹⁰² BUCHSTEIN–HEIN op. cit. 359.

- It must be honoured that Diemel has had considerable success with his idea of a participatory process related to urban or regional planning and construction processes (so-called *planning cell*), but it is hardly imaginable to apply this process to solve complex European and global problems. Therefore, Rieg's proposal¹⁰³ of Citizens' Juries, applied to the level of federal politics, has no prospect of success.
- Certainly, the idea of restricting the voting rights to only those citizens who are selected on the basis of a carefully constructed random sampling, to reduce the tremendous costs of a general election, is economically interesting.

Members of official posts in parliament, the parliamentary committees or in a citizens' assembly who are drawn by lots have not the right to refuse the offered seat, unless, he or she is e.g. seriously ill or is obliged to constantly look after an ill family member. Also, the members must be paid properly. Moreover, most of the proposals insist on the rule that re-appointments should not be allowed. If, however, members drawn by lots are obviously lazy, inactive, or if they work destructively, they should be removed.

3.2. Points of Criticism

A combination between *drawing of lots* and *aleatory elements* as a complement to official posts distributed by general elections is an interesting idea to reduce some of the deficits of representative democracy and deserves further consideration. The following points of criticism should be taken in account to present feasible suggestions.

- In spite of the fact that politicians today have no good reputation in general,¹⁰⁴ it has to be acknowledged that policy is a very manifold, complex and global issue, and to be a politician is a very qualified occupation. Consequently, minor problems, e.g. about the question whether, where and how a water fountain should be built in the centre of a village, may be discussed and decided in small groups of some five people. When looking at policy fields like Foreign Policy, Defence Policy, European Policy or Justice Policy, to name just a few, and special issues like international terrorism, organized crime, cybercrime, data protection or free trade agreements, a lot of knowledge, experience, negotiation skills and political clout is needed.
- Against this background it becomes clear that proposals calling for constant replacements of members drawn of a random sample, e.g. the proposal by Rieg,¹⁰⁵ who insists that the parliamentary seats should weekly be replaced, are out of any question.
- The lack of continuity is a severe deficiency of all proposals. It means that the selected members have not enough time to gain and enhance all the

¹⁰³ RIEG (2013a) op. cit.; RIEG (2013b) op. cit. Chapt. 9., 143. ff., Chapt. 10., 162. ff.

¹⁰⁴ HENNING op. cit.

¹⁰⁵ RIEG (2013a) op. cit.; RIEG (2013b) op. cit.

knowledge and skills that are needed to be a good politician. Therefore, there is reason for the concern that the output of state bodies which are predominantly composed by members drawn by lots is unsatisfactory.

- If, however, some of its members are very engaged and work hard to achieve at least a respectable amount of knowledge and skills in their fields, it has to be considered as a great waste of human capital for the whole society, when they are replaced. Personally, they may console themselves with the saying that they “don’t want to miss the experience”.
- This brings up another fundamental question: Why should people drawn by lots demonstrate high social and political engagement? Of course, one can call on their civic duties, and their motivation could be aroused by an appropriate salary. Ultimately, the instrument of voting them out of office could serve as deterrent against laziness and inactivity.¹⁰⁶ Even so, one might suspect whether a period of two, four or at most five years is enough to ascertain unequivocally that a member behaves intentionally lazy, inactive or even destructive. The real reason for motivation or lack of motivation is based on the question whether their proposals are decision-oriented or mere advice-oriented.¹⁰⁷
- Using random selection after a split parliamentary decision increases the danger that not only curious but also dangerous laws come into operation. One can only hope that the people hesitate to vote for radical parties or parties with unrealistic political objectives.¹⁰⁸
- Finally, I guess that public opinion would accept aleatory elements in addition to general elections, but the electorate will certainly show less understanding for *random-restricted voting*, even if the majority of the people are fully aware of the tremendous costs that could be saved.

4. Future Prospects

Some of the ideas of combining general elections with *drawing of lots* and *aleatory supplements* to diminish or heal the ongoing crisis of *Representative Democracy* are worth to be considered. In doing so, it is not just important to present a convincing overall concept but also to convince the people that such a combination is for their benefit.

Alas, I do not see social and political forces that have the power and the will to engage for the implementation of those proposals.¹⁰⁹ Professional politicians, journalists, and lobby groups with special access to the political elite are clever

¹⁰⁶ SCHWEINSBERG op. cit.

¹⁰⁷ BUCHSTEIN–HEIN op. cit. 372.

¹⁰⁸ SCHWEINSBERG op. cit.

¹⁰⁹ FRANKE (2000c) op. cit. 14. f.

and strong enough to block democratic innovation.¹¹⁰ After all, there seems to be a continuous latent crisis and a *Two-Thirds-Democracy*. Obviously, the social pressure is not yet great enough to think of alternatives.

I hope my colleagues in this conference have better answers to the crisis of representative democracy than to the best of my knowledge I am able to offer.

¹¹⁰ Timo RIEG (2016): Gegen Wahlen – gegen neue Gesetze. der Freitag, 05. 08. 2016., <https://www.freitag.de/autoren/rieg/gegen-wahlen-gegen-neue-ideen>.