**Socrates and Sortition**

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*Montesquieu wrote: “Selection by lot is in the nature of democracy; election by choice is in the nature of aristocracy.” It is therefore hardly surprising that the* Gilets Jaunes*, gripped by democratic fever, called for sortition as a means of appointing political officials. What is less well known is that the question of drawing lots preoccupied Classical Greece, a period to which we must always go back in discussions about politics. Let us be led along this path by a Hellenistic scholar. He reminds us that Socrates, according to Xenophon, was opposed to the drawing of lots with regard to political matters. However, Socrates was willing to participate in the lottery that determined who would be appointed to the Council of Five Hundred, the supreme body of Athenian democracy. Things are therefore more complicated than they appear, but we can turn to Xenophon and Plato to illuminate these matters and thus gain a better understanding of democracy.*

*COMMENT*

According to Xenophon, who gives voice to a fictitious accuser, Socrates was completely opposed to selection by lot in political matters, and this was one of the reasons put forward to condemn him (*Memorabilia* 1.2.9):

*But by Zeus, said the accuser, he made his associates despise the established laws, saying it was silly to* appoint *the city’s magistrates by lot, when nobody would want to use a lot-selected shipmaster or builder or flute-player or anyone else for work in which mistakes are far less disastrous than those which concern the city; such talk, he said, aroused the youth to contempt for the established political system and made them violent.*

Thus, to be against sortition was to be against the Athenian political regime of the 5th century BC; it was tantamount to denigrating democracy and to inciting revolutionary activities in favour of an oligarchy. Xenophon does not respond directly to this accusation (except for the last point about incitement to violence), which Plato’s work also documents. Yet Socrates, this great opponent of sortition, was willing to enter the annual drawing of lots for the composition of the Council of Five Hundred, the supreme body of Athenian democracy. His name was indeed drawn, and he went on to hold the office of councillor (*bouleute*) and even presided over the Assembly of the People in this capacity on one occasion.

**A brief historical overview**

First of all, let us briefly look back at the importance that sortition gradually acquired in the development of Athenian democracy.

Surviving inscriptions attest to this explicitly. One of the earliest examples comes not directly from Athens but from a city that was under the leadership of Athens as a member of the Delian League: Eritrea, on the Ionian coast, opposite Chios. An inscription on a stone tablet, which was probably engraved after a revolt had been suppressed by Athens around 453/452 BC, tells us exactly what Athens expected of its governing bodies. It was decreed that: “The Council shall consist of 120 men appointed by drawing lots. [...] no foreigner or person under 30 years of age may be a councillor. Any offender shall be prosecuted. No councillor can be reappointed within a period of four years. The special envoys and the garrison commander shall draw lots to appoint the Council, and the garrison commander the future Councils, not less than 30 days before the Council leaves office. May they swear an oath by Zeus, Apollo and Demeter” (Meiggs-Lewis n° 40, IG I3, 14, lines 8-16). The model of Athenian democracy has been adapted here to accommodate some local peculiarities: the Council has only 120 annual members, not 500 as in Athens, and a new term of office is possible after four years, which was not allowed in Athens. However, this model is quite recognisable.

Literary works confirm this link between democracy and sortition, extending it across time and space. In his *Histories*, Herodotus, who was writing in the mid-5th century BC, dates the practice of drawing lots back to the 6th century BC. Using direct speech, he recounts a debate that took place in Persia, following the death of King Cambyses in 522 BC, about which regime the country should adopt. The choice is between three high dignitaries: Otanes, who defends democracy; Megabyze, who proposes an oligarchy; and the future king Darius, who demonstrates the superiority of a monarchy (III, 80-83). Otanes praises isonomy (“equality before the law”), the name given to the regime in which “the people rule”: “the people establish the magistracies by drawing lots”. Herodotus knows (and says again later at VI, 43, though this time employing the word “democracy”) that this will seem “unbelievable” to many Greeks, but this proposal was indeed made in Persia, he affirms. In *The Suppliants* by Euripides, the same idea of equality in the distribution of offices is expressed, this time going back even further to the mythical Athens of Theseus, in an allusion to the drawing of lots: “The people rule in turn in annual succession” (v. 406 ff.). Sortition as a mechanism of democracy thus takes on a sort of transhistorical and universal value.

In fact, it was only gradually that selection by lot took on such importance and significance in Athens. The popular law courts seem to have been the first institutions to practice the drawing of lots, perhaps as early as the time of Solon (594-593 BCE), according to Aristotle (*Politics* II 12, 1274a5). The essential governing body of Athens, the Council of Five Hundred, was probably created (or substantially modified) under the series of reforms implemented by Cleisthenes (508-507 BC). Even then it was no doubt composed of citizens chosen by lot each year. As for the appointment of chief magistrates, or archons, the pool of candidates for drawing lots was extended to include the third class of Athenian society, the Zugites, from 457/456 BC onwards, and this was a key development (*Constitution of the Athenians* 26. 2): there was thus a shift from a selection process restricted to the elite to the alternation and distribution of power among a large number of citizens.

In the final years of the 19th century, the discovery of the *Constitution of the Athenians,* attributed to Aristotle*,* provided a remarkable source of documentation on all this. The first part gives a history (albeit biased) of the evolution of the Athenian regime towards this democracy based on sortition. To attract volunteers, there were paid functions, and this remuneration (known as *misthophoria*) was gradually extended to magistrates, councillors and judges, and even to ordinary citizens of the Assembly, as compensation for the time they dedicated to public affairs. The opponents of extreme democracy vehemently objected to this system of civic payments.

The second part of the treaty presents a description of the Athenian regime in the latter half of the 4th century BC. With regard to “all the ordinary magistracies” the words “they draw lots” or “are selected by lot” are mentioned repeatedly. These ordinary magistracies excluded the treasurers of the military and entertainment funds, the superintendent of the fountains and military functions in general (including the office of strategist). Those who were selected by lot included: the 500 citizens of the boule (called bouleutes or *bouleutai*), the 10 treasurers of Athena, the 10 merchants, the 10 (tax) collectors, the 10 accountants, the 10 inspectors (with 2 assessors), the quartermaster, the 10 guardians of the temples, the 10 officials in charge of the city, the 10 officials in charge of the markets, the 10 officials who oversaw measures, the 10 then 35 supervisors of grain, the 10 port overseers, the Eleven, the 5 initiators of legal proceedings in accordance with the *Eisagogè* (and 40 for other kinds of legal proceedings), the 5 overseers of the roads, the 10 accountants (and 10 associates), the secretary of the *prytaneion* (formerly elected), the legislative secretary, the 10 priests, the 10 festival attendants, the archon of Salamis, the demarche of Piraeus, the 9 archons and their secretary (who themselves drew by lot the names of the judges, who were known as heliasts), the 10 organisers of the Dionysia festival and the 10 competition supervisors. In total, hundreds of citizens were thus chosen by lot each year to fulfil various duties, and nobody (with few exceptions) could renew their term of office. And to this must be added the 6,000 heliasts whose names were drawn by lot to serve for a term of one year, allocated by lot to the different courts that opened daily; a wealth of precautions were taken and the treaty ends with these in a very characteristic way.

The analysis presented in the *Constitution of the Athenians* therefore strongly supports the link between democracy and sortition that Aristotle highlights elsewhere, for example, in this passage of Book IV in *Politics*: “It is accepted as democratic when public offices are allocated by lot, and as oligarchic when they are filled by election” (IV, 9, 1294b8). Previously, Plato offers a similar definition, adding the social context of the struggle between the rich and the poor (*Republic* VIII 557a5):

*A democracy comes into being when the poor are victorious over their opponents – when they kill some of them, drive out others and grant the rest of the population an equal share in government and offices; these offices are most often assigned by drawing lots.*

The significant role (both ideological and real) that the drawing of lots played in Athenian democracy is thus well documented. However, it should be noted that the most important offices – financial and military, notably the post of strategist – were still filled by election and subject to renewal every year (an exceptional case is that of Pericles, who was re-elected at least fifteen times but stigmatized by Plato’s Socrates as being responsible for the misthophoria which, it was said, “made the Athenians lazy, cowardly, talkative and greedy”, *Gorgias*, 515e5-6).

**Good democracy**

The first impulse of those who Jacqueline de Romilly has called (not without euphemism) the Athenian “moderates” was to advocate a return to the democracy of the past, sometimes referred to as “Solon’s” regime, in order to put an end to the political and moral decadence which, in their eyes, was a consequence of this practice of drawing lots that had become gradually more prevalent. In the 4th century BC, Isocrates was perhaps the most characteristic representative of this trend. He called for the reinstatement of the function of the Areopagus, that prestigious council composed of former archons descended from the wealthier classes. Since the first half of the 5th century, their role had been reduced to certain judicial functions but, according to Isocrates, they had once done a very good job of city administration in Athens (*Areopagitica* 21-23):

*But what contributed most to their good government of the state was that of the two recognized kinds of equality – that which makes the same award to all alike and that which gives to each man his due – they did not fail to grasp which was the more serviceable; but, rejecting as unjust that which holds that the good and the bad are worthy of the same honors, and preferring rather that which rewards and punishes every man according to his deserts, they governed the city on this principle, not filling the offices by lot from all the citizens, but selecting the best and the ablest for each function of the state; for they believed that the rest of the people would reflect the character of those who were placed in charge of their affairs. Furthermore they considered that this way of appointing magistrates was also more democratic than the casting of lots, since under the plan of election by lot chance would decide the issue and the partizans of oligarchy would often get the offices; whereas under the plan of selecting the worthiest men, the people would have in their hands the power to choose those who were most attached to the existing constitution.*

The underlying model of this reconstruction is that of the election, or designation, of a body made up of “the most virtuous and the most capable” (and also the richest) within which lots can be drawn, if necessary. Plato, too, defends “geometric” equality, which is proportional to the merits (and wealth) of each individual, against the “arithmetic” equality of the drawing of lots, which establishes absolute equivalence between all citizens (*Laws* VI, 757b1-6):

*There are two kinds of equality which have the same name but are in fact almost opposite in many respects: any city or lawmaker can rely on the first – equality in measure, weight and number – by using allotment for the distribution of honours; on the other hand, the truest and best form of equality is no longer for everyone to see. It is a matter of Zeus’s judgement.*

The city that Plato constructs in the *Laws*, his last work, is not at all presented as a return to the past but rather as a sort of Panhellenic colony founded by an Athenian, a Spartan and a Cretan, intended to function on the basis of a complex system of censal elections to which a very small dose of drawing lots is added, as a kind of procedural concession, simply to take into account the people’s hostility, counting on divinity to ensure that the drawing of lots will give good results (*Laws* VI, 757e2-758a2):

*This is why we have to utilize the equality of allotments to avoid the hostility of the many, while asking divinity and good fortune, in this case too, to ensure that the draw goes in the right direction, that of the highest justice; it is thus necessary to utilize both kinds of equality at the same time, while keeping to a minimum use of the second kind, which employs luck.*

**The question of political science**

Let us now return to Socrates. In Xenophon, the anti-democratic argument attributed to Socrates by his opponent – that the drawing of lots is irrational – is corroborated by many passages in Plato, especially in *The Republic*, where he has Socrates speak. In Book VIII, he paints a famous and devastating picture of the degeneration of political regimes, in which democracy is placed at the end of the process, just before tyranny. As we have seen, the description of the establishment of democracy through violence straightaway involves the drawing of lots, but then the definition of the regime is not explicitly linked to the practice of drawing lots; Plato more generally caricatures democratic anarchy, the absence of power (*archè*) in this regime, which is therefore not really a *politeia* but a jumble of constitutions. However, the drawing of lots is certainly implicit. As we know, the degeneration of political regimes is coupled with the degeneration of the individual-types of each regime. In the case of democracy, just as the democratic regime collectively recognizes no authority, so the democratic individual, far from obeying reason, falls prey to unnecessary desires as much as necessary ones, without any safeguards. This is where the drawing of lots comes in. Indeed, assuming that the democratic individual, as he grows older, is less caught up in madness and drunkenness, he will then, says Socrates, surrender his self-governance (i.e. the “magistracy” or *archè* of himself) to every successive pleasure that comes to mind, according to an entirely random distribution, for he values all pleasures equally (*The Republic* VIII, 561b3-4):

*But if he is fortunate and not too carried away by madness, and if, as he grows older, when the worst of the tumult in him has passed, he receives the desires that come upon him in portions and does not surrender himself entirely to their irruption, then he puts them all on an equal footing and lives in such a way that he surrenders rule over himself to whichever desire comes along as if it were drawn by lot, until it is satisfied, then another, successively, without considering any of them as improper, but satisfying them all equally.*

This comparison with the drawing of lots must be deciphered to understand it properly: unlike Xenophon’s Socrates, Plato’s Socrates does not attack the institution head-on. It is indeed the generality of the description of democracy and of the democratic temperament that, among other reasons, has allowed these pages to be used in the later history of political ideas, in relation to democratic political regimes that are nevertheless very different from Athenian democracy. But the allusion is clear: for the democratic man, each choice is as if drawn by lot in a real moral anarchy.

In contrast, the philosopher, who has been able to grasp true realities, outside the cave in which men live amid the shadows, will knowingly and willingly choose the Good. The shipmaster, the flute player and the architect each has knowledge in their own field. In politics, too, there is knowledge, an art, a science (*technè*), excellence and virtue (*arétè*), for which Plato’s Socrates develops the preconditions at length: these are bound up in philosophy, that is, in particular, an advanced musical and scientific education and the learning of dialectics.

**Socratic ignorance**

Such knowledge is contradictory to Socrates’ famous assertion that his only superiority over his fellow citizens, particularly with regard to politicians, is that, while they think they know something, he knows that he knows nothing (Plato, *The Apology of Socrates* 21b8-e2). In fact, prior to the emergence of *The Republic*, the Socrates of *Protagoras*, for example, does not really know how to understand the reality of the city in which he lives, and he forces his interlocutor, the sophist Protagoras, to admit that he does not understand it either. He does not mention the drawing of lots, but he does evoke the democratic principle of *isègoria* (“equal right to speak”). When it comes to technical subjects, the Athenians, says Socrates, only welcome onto the speaker’s platform specialists who know their subject, but when it comes to political subjects – though much more important – anyone can take the floor, which proves that there is no political science. This is not surprising, Protagoras replies: political competence has been given to all men, and characterizes man, yet there are men who are more competent than others in this field, and he prides himself on being a successful teacher in this respect. But neither Protagoras nor Socrates manages to explain what exactly the required qualities are and whether or not they can be taught – their initial positions being reversed in a final aporia.

Plato’s Socrates is therefore constructed in a deliberately enigmatic fashion. In *Gorgias*, he successively declares: “I am not a politician” (473e6) and, conversely: “I believe that I am one of the few Athenians, if not the only one, who practices the true art of politics, and among my contemporaries I am the only one who does politics” (521d6-8). Of course, Socrates does not practice politics in the ordinary sense of the term, but in a new sense which he defines as the only “true” civic sense, namely, according to Gregory Vlastos, “the art of improving the moral character of one’s fellow citizens”. He can thus define the purpose of life in *The Republic* as being a “quiet” citizen (VI 496d6-9), who minds his own business and does not meddle in other people’s “affairs” (in Greece, *pragmata* are public affairs, including trials). At the same time, he can also define himself, in *The Apology of Socrates*, as a man who constantly concerns himself with public affairs. This is the definition of the Athenian politician who has reached his height: the one who meddles in other people’s business (*philopragmôn* or *polypragmôn*), the sycophant, the one who goes around suing everyone, always pretending to defend the community. For he then transposes his concerns to the realm of moral life. But are things that simple?

**Socrates the *bouleute***

When Socrates declares, in the first quoted text of *Gorgias*, that he is not a politician, he immediately provides the following evidence.

*I am not one of the* politikoi*. Last year, I was chosen by lot to serve on the Council. As my tribe held the presidency, I had to put a question to the vote and I made a fool of myself: I did not know how the procedure worked!*

Thus, Socrates was a *bouleute*, a member of the Council of Five Hundred, chosen by lot along with 49 other Athenians of his “tribe” (the Athenians were divided into 10 “tribes”, themselves divided into smaller sections, which since the time of Cleisthenes united the different demesnes of Attica in a remarkable melting pot). It should be highlighted here that in the drawing of lots the Council did not automatically have access to every citizen, as would be implied nowadays in the case of a lottery drawn from computerized lists. The expression employed by orators, “coming for the draw”, leaves no doubt that it was necessary to express one’s wish to take part in the draw by intentionally volunteering. “It is likely that there were rarely more candidates than the quota allocated to the demesne, and the draw was essentially to decide who would be the incumbent and who would be the substitute” says Mogens H. Hansen, who hypothetically concludes that the Council was composed of “a mix of genuine volunteers and others more or less appointed ex officio”.

It is difficult to imagine Plato or Isocrates volunteering to enter the lottery, nor being appointed ex officio. And the fact that it was possible to serve on the Council twice in a lifetime, contrary to the general rule (Aristotle, *Constitution of the Athenians* 62, 3), suggests that it was a struggle to fill all the positions (in addition to the 500 *bouleutes*, the same number of substitutes had to be appointed). The Athenians stood as candidates within their basic constituency, called a deme (*Constitution of the Athenians* 62, 1), each deme then sending a certain number of candidates for the general drawing of lots, tribe by tribe, using “instruments for drawing lots” (*klèrôtèria*) (incidentally, we have been able to reconstruct the ways in which these instruments operated). Once drawn by lot, and their citizenship credentials checked, the *bouleutes* governed Athens for one year, each tribe serving additionally as “presidents” for one tenth of the year (a prytany), during which period they were responsible for convening the Council each day and setting its agenda; they were also required to set the agenda for the Assembly of Citizens when it took place and to convene and preside over these meetings.

In Plato’s *Apology of Socrates*, Socrates also mentions a particularly spectacular speech he made when he was a *bouleute*, either in the year of the *Gorgias* episode, or another year, if he held the office of *bouleute* twice, which is something we do not know (32b1-c2):

*I never held any other office in the city apart from that of* bouleute*. It so happens that my tribe, Antiochis, was serving as* prytaneis *when you wanted to put on trial, illegally (as you all later acknowledged), the ten generals who had not collected the dead of the naval battle [of the Arginusae islands, in 406 BC]: I was the only one of the prytans to oppose you, to tell you not to do anything against the law and to vote against the proposal. In spite of those speakers who demanded my indictment and arrest, in spite of your protests and cries [...].*

This testimony is confirmed by Xenophon, in two places. Firstly, in *Hellenica*, where he gives a detailed account of the Arginusae affair (I, 7, 14-15):

*Some of the prytanes refused to put the decree to the vote illegally. Callistratos then went up to the rostrum and repeated his accusations. Some cried out that legal action should be taken against those who refused. Frightened, the prytanes all agreed to propose the measure, except Socrates, son of Sophroniscus: he refused to do anything illegal.*

Then in the *Memorabilia*, where he seems to amplify the account to the point of making Socrates the president (or *épistate*) of the Assembly, which does not coincide with what happened (the vote did take place) (I 1, 18, see also IV 4, 2):

*Although he was a bouleute, having taken the oath of the bouleutes that he would fulfil his duties in accordance with the laws, in his capacity as president before the people – who wished to put to death (…) in a single vote, contrary to the laws – he refused to proceed with the vote, despite the anger of the people and the threats of a large number of notables. He preferred to respect his oath rather than please the people, which would be to go against justice, and wished to protect himself against those who were threatening him.*

For Mogens H. Hansen, the fact that Socrates was a *bouleute* shows that “serving on the Council was a citizen’s duty, not active politics”. But this may be reading these Platonic texts without sufficiently taking into account the authors’ perspectives. It is of utmost importance to Plato and Xenophon to show that Socrates is not a democratic political activist and therefore to minimise all signs of his involvement in democratic institutions. When Socrates presides over the Assembly, he either does not know how to vote on the proposal or he votes against the “desire” of the crowd and the threats of the notables, in order to defend justice and keep his oath. However, despite these precautions, the question of Socrates’ embeddedness in Athenian democracy presents some difficulties.

**The Socrates of *Crito* and the *Apology***

One of these difficulties is that there seems to be a contradiction in the Platonic portrait of Socrates, when we pass from the *Apology* to *Crito*. In the *Apology*, at the time of his trial, despite the risks he faces, Socrates explicitly refuses to obey an Athens that would forbid him to philosophize (29c6-30a7), whereas in *Crito*, once condemned by the Athenian laws and imprisoned, he considers obedience to the law of democracy as an unconditional requirement, to the extent of refusing his friends’ earnest proposal to help him escape. Socrates’ submission is described in terms of three comparisons, which are not very compatible: it stems from a sort of pact between Socrates and the City; the City is like his mother or his parents; and above all, Socrates is like a slave of the City. Seventy years of mutual agreements and covenants (*Crito* 52d8-e5) make Socrates “the slave” of the laws of Athens and of his fatherland (50e4). The image recurs several times, reflected in the verb *apodidraskein* which is used to refer to Socrates’ possible escape but which in Greek has a connotation specific to the escape of slaves. This shows us the key to the success of the city-state, of the fatherland (Richard Kraut) of the citizens.

For Karl Popper, Socrates’ insistence on obedience to democratic laws is an aspect of his characterisation as a “good democrat”, which Plato later betrayed. But, as Kraut points out, in *Crito* Socrates declares that the Spartan and Cretan regimes are well governed (52e5-6). Socrates’ tacit contract, or slavery, is one that binds together every individual citizen and his city, whether it is democratic or not, provided that its basic laws (on education and marriage, for instance) are acceptable. The distinctive feature of Athens, however, is the freedom it grants to everyone, unlike Sparta or Crete: it tolerates “unorthodox speech and moral criticism” so that, for as long as the nature of virtue remains undiscovered, it is the least bad regime for seeking moral improvement; hence it is the least bad regime for Socrates. From this perspective, Socrates’ integration into the city of Athens, once he has “observed the affairs of the city” (51d2-3: the verb is well chosen, he observes, he does not participate), only happens, in a way, for want of a better “feasible alternative”, to use Kraut’s expression, if we take seriously the famous Socratic aporias, which, in turn, clearly distinguish Socrates from Plato.

This concern for observing led him to volunteer to be a *bouleute*, but, once his name had been drawn, he then behaved, according to Plato, either in a ridiculous way, out of ignorance of the way democracy operated, or in a provocative manner, out of respect for justice. At least this is how things appear. We shall never attain the historically accurate version of Socrates. In the *Apology of Socrates*, Plato establishes quite an exceptional narrative pact with his reader: from the first line, without any introduction, he is transformed into a juror in a court hearing. But the readers are always readers, either as individuals or as part of the Academy, not jurors! One cannot read the Platonic *Apology* as one reads a collection of defence speeches to learn rhetoric. It is the reader, only the reader, not a judge, who hears Socrates’ declaration that he gets involved in everything and concerns himself with everyone he meets. Readers must therefore understand, in the situation of reading, that Socrates is ‘meddling in their business’ too. There can be no question of Plato’s Socrates leaving readers in peace. Just as Plato transposes the erotic experience, he transposes the political-judicial experience to the realm of morality and to the life of the soul. Just as true love is the path of Beauty, so true activism is the way of justice. These paths are forged by the transposition of Socrates’ voice to the books of Plato.

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