

3 Citizens' assemblies and accountability

Abstract: The main theoretical objection pressed against empowered citizens' assemblies is that randomly selected representatives would not be accountable. In contrast, accountability is often held to be one of the key benefits offered by elections. To allow readers to assess the validity of this objection, this chapter starts by distinguishing different understandings of accountability. It then explains why citizen representatives would not be accountable in the same way as elected representatives are, while qualifying the accountability of the latter. It explores the notion of deliberative or discursive accountability, which can apply to CAs, and different forms of non-electoral sanctions that may strengthen the accountability of citizen representatives. Finally, considering that it is often the organizers of CAs that make the representative claim as well as key design choices, the chapter explores different ways in which organizers can be made accountable.

Keywords: sortition, citizens' assemblies, accountability, legitimacy, control, representation

3.1 Introduction

Citizens' assemblies (CAs) composed through random selection (or stratified sampling) are increasingly seen as offering a new form of democratic representation, complementing or competing with electoral representation (Warren 2008; Farrell and Stone 2020; Landemore 2020; MacKenzie in this *Handbook*). The main objection pressed against this new form of representation is that randomly selected representatives (hereafter "citizen representatives") would not be accountable (Parkinson 2006; Lafont 2015; Pourtois 2016; Abizadeh 2021; Landa and Pevnick 2021). In contrast, accountability is often held to be one of the key benefits offered by elections, along with authorization (Pitkin 1967: 55–59; Young 2000: 128–132). As CAs become more and more empowered and achieve genuine influence on policymaking or even constitution-writing in some contexts (see Reuchamps and Suiter 2016), this question of accountability matters increasingly. The very democratic legitimacy of CAs is at stake, as it is often considered that an unaccountable political power is undemocratic.¹

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¹ Another interesting debate about the legitimacy of CAs is whether it can be claimed to derive from a form of popular authorization. The process of authorization of CAs certainly does not work in the same way as in elections, but elections are not the only possible vehicle of authorization. In the case of CAs, authorization can be indirect, either by an electoral mandate received by those who set up the CA, or a

Arguably, the lack of direct popular accountability is a less salient problem when CAs are embedded in a broader democratic system (see Parkinson and Mansbridge 2012) where key decision-makers are accountable, and when the output of CAs is submitted for approval either to elected representatives or to the general population through a referendum. Nevertheless, as many roles can be imagined for CAs, including strongly empowered ones, the question is worth investigating.

To allow readers to assess the validity of the claim that citizen representatives would not be sufficiently accountable, this chapter starts by distinguishing different understandings of accountability. It then explains why citizen representatives would not be accountable in the same way as elected representatives are, while qualifying the accountability of the latter. The next section explores the notion of deliberative or discursive accountability, which can apply to CAs. I argue that citizen representatives can be made accountable without sanction, but that this form of accountability may seem insufficient to non-participating citizens, especially if the CA is empowered. Therefore, I explore different forms of non-electoral sanctions that may strengthen the accountability of citizen representatives. Then, considering the fact that it is often the organizers that make the representative claim – not citizen representatives themselves – as well as key design choices, I mention different ways in which organizers can be made accountable.

One aspect of the relation between CAs and accountability that is not discussed in this chapter is the way CAs can be used to hold elected actors accountable (see Goodin 2008: 33–34; Setälä 2021). It is discussed in another chapter of this volume (MacKenzie in this *Handbook*).

3.2 A polysemic notion

The validity of the accountability objection to representation by lot largely hinges on the definition of accountability that is used. As Robert Goodin (2008: 156) puts it, accountability “is a concept that takes a three-part predicate: the accountability is *of* some agent *to* some other agent *for* some state of affairs”. Within electoral representation, it is 1) elected officials who are accountable 2) to their constituents (at least) 3) for their (in)actions in office. Within representation by lot, it would be 1) citizen representatives (individually or collectively) who would have to be accountable 2) to the whole citizenry (at least) 3) for their (in)actions in office.

Now, what does it mean for representatives – be they elected or randomly selected – to be accountable? In the most general contemporary sense of the word, it means that they can be asked to give an account of their decisions, to justify themselves for what they do or fail to do in their function of representatives. See Goodin again:

referendum legitimizing (at regular intervals) the use of CAs for predefined purposes (see Landmore 2020: 108).

“For public officials, accountability requirements are characteristically satisfied when they show that the action was within the scope of their official powers, and that some reason (within the scope of legitimate reasons) was given for the action” (Goodin 2008: 164).

In political science and political philosophy, accountability is often associated with sanctions. In their important book on electoral representation, Przeworski, Stokes and Manin (1999: 10) thus affirm that governments are accountable “if citizens can discern representative from unrepresentative government and can sanction them appropriately, retaining in office those incumbents who perform well and ousting from office those who do not” (conditions, they argue, often fail to be met²). The reason for this association of accountability with sanction is probably that it is harder to imagine what could force representatives to justify themselves if they did not face the prospect of popular sanction (in the form of deselection). And if they are not forced, if they can escape the duty to give accounts, are they really accountable in a meaningful sense?

Nevertheless, sanctions are not necessary for accountability to occur. Initially, accountability did not have this restrictive meaning that became dominant in political science (see Bovens, Goodin and Schillemans 2014). It meant “having to describe, explain, and justify one’s actions to those to whom one is responsible” (Mansbridge 2019: 194). People can feel accountable and can decide to justify themselves even when they are not sanctionable. As Jane Mansbridge (2014) has argued, there are at least two different forms of accountability: sanction-based and trust-based. The former is relevant in contexts where agents cannot be trusted by principals to behave appropriately; the latter in contexts where there are enough agents with an intrinsic motivation to behave as expected by principals. To give examples, when a lot of power is at stake and when we know that the agent (a minister, typically) will face a risk of corruption, the threat of sanction seems appropriate. In contrast, when we can expect an agent to do her job properly because we can count on her innate motivation (a researcher, for example?), trust and discursive accountability (like a frequent report on activities) may be more appropriate than sanctions (like the threat of dismissal).

Accountability always incorporates a discursive element – the demand and supply of reasons or justifications – which can (but need not) be completed with an element of sanction. In contexts of trust, it can take a purely discursive form, without an institutionalized mechanism of sanction. People – including citizen representatives – can internalize an expectation to provide justifications and do it spontaneously. Or they can be asked – by citizens, journalists, or associations, for example – to justify things in the absence of a sanction mechanism. In such cases, one can speak of “discursive” (Dryzek and Niemeyer 2008: 490; Goodin 2008: 155–185; Warren 2008: 61) or “deliberative” (Mansbridge 2019: 197–199) accountability.

² To mention just a few problems: citizens often lack relevant information, partisans may not want to sanction their misbehaving leaders, and as a result many politicians stay in power even when there is evidence of misconduct. Furthermore, several politicians do not run again for office anyway. Qualifications to elections’ capacity to deliver accountability are introduced below.

One advantage of this form of accountability is that it extends the scope of accountability beyond the constituents. In a world where decisions made locally have huge impacts elsewhere, where only a slight portion of affected interests are enfranchised, this is desirable. It means that people can be asked to justify their actions by affected parties (or in the name of affected parties) that do not have the power to sanction them electorally. As Goodin (2008: 148) puts it a bit emphatically, with discursive accountability “the problem of political boundaries disappears.” Hence, it can be a “powerful supplement to electoral accountability” (p. 149).

Note however that sanctions are not entirely absent from such deliberative forms of accountability. When expectations are attached to actions, there is always a social form of sanction faced by people who act against these expectations. Thus, even if some public officials or representatives cannot be dismissed or deselected, they can suffer from the sanction associated with public disapproval, or even shaming. Imagine for example a CA neglecting completely the interests of foreigners or future generations. It could be blamed and shamed by spokespersons of these affected interests, which would be a form of social sanction. As we shall see, sanctions can take very different forms. At this stage, the key point is that accountability does not necessarily entail an *institutionalized sanction mechanism*, nor does it entail sanctions as costly as losing one’s job.

3.3 Accountability beyond electoral sanction

The exploration of the different possible meanings of accountability shows that accountability is conceivable independently of electoral sanction. So, the accountability-based objection to CAs is not valid if the claim is that citizen representatives *cannot* be made accountable. It is valid, however, if the claim is that citizen representatives would not be accountable in the same way as elected representatives are. They would not be because they would not face the same incentives. As they do not have the possibility to run for reelection, they are dispensed from the electoral obligation to defend their performance at the end of their mandate. And as most of them are not member of political parties, they do not have to care about the party’s reputation either. Whether the public is satisfied or not with their performance in office matters only for their reputation and self-esteem – which is not negligible – but not for their career as such.

Admittedly, electoral accountability is deficient in many respects (see Przeworski, Stokes and Manin 1999; Guerrero 2014; Achen and Bartels 2017). In most democracies, voters have been found largely ignorant about the work (or even identity) of their representatives (Brennan 2016; Achen and Bartels 2017). Most of them also face profound difficulties “in connecting specific policy proposals to their own values and interests” (Bartels 2008: 27). Therefore, they are often not properly equipped to judge their representatives’ policy choices. What is more, according to some scholars, they usually “have great difficulty making sensible attributions of responsibility for hard times” (Achen

and Bartels 2017: 304) or even to assess whether times have been good or bad during a term in office. As a result, when voters do vote retrospectively, they may reward or sanction representatives for things they are not responsible for, such as droughts, floods, or a suddenly changing economic dynamic in the months preceding an election (whatever the economic results of the whole term in office). Finally, it seems that things are getting worse with time, as contemporary democracies are witnessing a decline of accountability as a result of a shift of decision-making power from the frontstage to the backstage of politics, with an increasing amount of power in the hands of actors that are not electorally accountable (see Papadopoulos 2013).

Hence, the degree to which existing democracies honour the value of accountability should not be overestimated. Yet it does not invalidate the accountability objection. It is not because electoral accountability is deficient that it is useless. As Achen and Bartels (2017: 318) themselves recognize, reelection-seeking politicians will at least “strive to avoid being caught violating consensual ethical norms in their society”. And parties still clearly face incentives to monitor their representatives in power and to encourage them to honour most of their electoral promises. From this viewpoint, if accountability is already fragile within electoral representation, there would be a high danger of reducing it further in alternative forms of representation.

What can advocates of representation by lot respond to this challenge? Either they can downplay the importance of accountability for democracy, or they can put forward ways other than elections to promote accountability within a CA. The first strategy is for example used by Hélène Landemore (2020: 88, 103–104), who argues that accountability is a concern of secondary importance. It is not essential for a regime to count as democratic, but it is a matter of good governance. Hence, democrats should first identify institutions that respect core democratic values such as inclusiveness and equality, and then see how to promote accountability within the most inclusive and equal political system. In a slightly different perspective, Alexander Guerrero (2021) argues that responsiveness matters more than accountability as such, and that citizen representatives can be expected to be responsive to the demands of the general public without being accountable in the way elected representatives are.

Let us now focus on the second strategy: promoting accountability without electoral sanctions. The deliberative form of accountability presented above can be promoted in several ways. First, if participants deliberate before reaching collective decisions, they will feel accountable to one another. Some attitudes or ideas will be challenged, and it can be expected that the social norm condemning purely self-interested behaviour in public missions will play its civilizing role (see Elster 2000). Yet what the accountability objection points out is not a lack of *mutual* accountability within a CA, it is a lack of accountability to the general public, to non-selected citizens. Such outward accountability can be promoted by demanding public reports on the assembly's activities and deliberations. One could imagine that citizen representatives have at least a collective obligation to motivate their decisions. This, however, could be considered insufficient if the public has no power to challenge these official justifications or

to demand more. Hence, one could imagine allowing the press to interview citizen representatives (or their spokesperson).

The important thing to see is that there is a trade-off between accountability and independence, and one between accountability and participation or inclusion (see Vandamme and Verret-Hamelin 2017). The more the deliberations and decisions of a CA are open to public scrutiny (for the sake of accountability), the more their independence will be weakened. If citizen representatives are public figures rather than anonymous citizens, they become more exposed to undue influence and risks of capture (Guerrero 2014). This is why Gastil and Wright (2019: 28) recommend the use of secret ballots in their legislature by lot. They want the whole assembly to give accounts of its collective decisions, but they do not want individual citizen representatives to be exposed to public pressure and lobbying.

One additional reason to limit individual accountability to the public within a CA is that it could discourage participation. As Mansbridge (2019: 200) notes, 40 per cent of US citizens “say they fear speaking in public in front of an audience”. This number is likely to be much higher for disadvantaged groups. Hence, if we want to avoid very low rates of participation by randomly selected citizens – and if we want to include members of disadvantaged groups in particular – we should pay attention not to put too much pressure on participants’ shoulders. An obligation to defend their positions in public would certainly increase accountability yet be dissuasive for many. This is the second trade-off, between accountability and inclusion.

To sum up, a deliberative form of accountability can be fostered not only within a CA, but also in its relation to the wider public (on which, see also Rountree and Curato in this *Handbook*). However, this accountability is likely to be somewhat limited in order to preserve the independence of citizen representatives and to keep the mission attractive to a wide diversity of social profiles. And it will also be limited by the fact that citizen representatives would not face the same incentives to stay aligned with public opinion as elected politicians and parties.

Because deliberative accountability will be limited, one could consider it insufficient. As argued by Elizabeth Anderson (2006), there is a discursive dimension in electoral accountability as well, but recurring elections also have the added value of incentivizing representatives to take people’s discursive feedback more seriously. So, without any threat of sanction other than public blaming or shaming, one might consider that discursive or deliberative accountability alone is not enough.

3.4 Sanctions within representation by lot

There is a diversity of sanctions that can be imagined in order to promote adequate behaviour in CAs. Participants could be asked to take an oath or sign a chart of conduct, deviations from which could be sanctioned by the steering committee, by their peers, or a combination of both. Taking some inspiration from ancient practices of accountability in Athens – which were particularly harsh (see Elster 1999) – one might

also imagine popular juries (also randomly selected) tasked with assessing the appropriate behavior of citizen representatives (Landemore 2020: 100–101).

To allow non-selected citizens to sanction misbehaviour, one could also imagine a right of popular recall.³ Several countries allow citizens to recall elected representatives through the gathering of a required threshold of signatures followed by a popular vote (see Welp and Whitehead 2020). In the absence of elections, one might see the recall as the ideal way to empower non-selected citizens and to hold citizen representatives accountable. However, leaving aside the broader discussion about the benefits and limits of the recall in general, one might see a public revocation as excessively harsh for citizen representatives who have not asked to be there and who are just kind enough to accept a time-consuming public mission (see Vandamme 2020: 9). Moreover, there is once again an important trade-off between accountability and participation/inclusion. Allowing for the recall of citizen representatives might make the mission unattractive to many, and in particular to those who are not full of self-esteem – at the cost of inclusion and descriptive representation. Finally, even if the recall of individual representatives were desirable, it might be illusory to think that the public will be sufficiently informed about the actions and opinions of individuals within the CA to exercise such form of control. It is likely that part of the deliberations (and maybe even final decisions) will occur behind closed doors. And even if votes and deliberations were public, the process is likely to be less readable for citizens than the opposition of a few coherent political visions offered by parties (see Rummens 2016).

On all these accounts, a right of *collective* recall might sound more appealing, certainly if terms in office are relatively long. The idea, here, would be to allow non-selected citizens to demand the dissolution of the CA in cases where its decisions deviate too much from public opinion in a way that citizen representatives cannot convincingly justify. This is unlikely to be necessary with low-empowered CAs, but it might be a way to hold powerful CAs accountable in a meaningful way. This right of collective recall (for elected assemblies, though) is currently practiced in Latvia, Slovakia, and in six Swiss Cantons (Magni-Berton and Egger 2019: 81–82). It might be better suited to a CA than the individual recall. Furthermore, recall initiatives, whether successful or not, might have the benefit of politicizing the work of the CA for the wider public, thus attracting the latter's attention and giving the CA's work more visibility.

Nevertheless, it is worth pointing again to the classical trade-off between accountability and independence. It is often the independence of CAs from electoral promises and public pressure that is invoked to justify their epistemic added value. Yet, if they cannot deviate from public opinion without sanction, these epistemic benefits (including the possibility to leave room for the interests of foreigners and future generations)

³ In the *popular* recall, the idea is to allow non-participants to sanction participants. An *internal* recall mechanism can also be used to strengthen mutual accountability among participants. In the mixed “deliberative committees” of the Brussels Parliament, the rapporteurs, who are randomly selected among the participants, can be recalled by the rest of the group (subject to 90 % of approval). I thank Min Reuchamps for attracting my attention to this rule.

might be jeopardized. This, however, will depend on the degree of demandingness of the recall procedure. One could imagine a demanding threshold of signatures, and possibly a demanding quorum of participation in the recall referendum that would make of the recall more a last resort option for serious deviations from public opinion than the norm. It could also play a symbolic role: reassuring non-selected citizens about their empowerment (Vandamme 2020: 4–5), thereby partly countering the objection that CAs making final decisions harm the agency of the non-selected (see Abizadeh 2021) and require them to defer blindly to their unchosen representatives (Lafont 2020).

3.5 The accountability of the organizers

There are at least four reasons why a CA might deviate importantly from public opinion, and two of them raise important accountability concerns:

- The information acquired through hearings of experts and stakeholders improves their understanding of the issue at stake and corrects for mistakes that are widespread among the general population.
- Deliberations within the CA can lead to a revision of the dominant view on an issue through the consideration of a legitimate minority perspective.
- Citizen representatives may pursue private interests at the expense of the general public.
- Distortions of judgement may occur through bad or voluntarily biased organizational choices: the framing of the question dealt with by the CA, the governance committee, the sample of participants, and the panel of auditioned experts might all be biased; besides, deliberations might be dominated by charismatic or skilled participants.

If the panel of experts is not biased and if deliberative domination is weak, the first two reasons to deviate from the dominant public opinion seem legitimate. In such cases, the independence of the CA from popular accountability mechanisms can even be desirable. The third calls for forms of control as the ones put forward in the previous section. The fourth set of reasons falls within the responsibility of the organizers of the CA and calls for additional accountability considerations.

It is important not to neglect the power of influence in the hands of organizers. They are usually the actors making the representative claim (Gül 2019) – claiming that the CA they designed reasonably reflects the diversity of relevant social categories among the population, will deliberate in appropriate conditions, hear a balanced set of experts⁴ and stakeholders, and hence can be trusted to represent the whole population

⁴ Experts themselves are usually subject to a deliberative form of accountability through peer networks relying on mutual monitoring and reputational sanctioning (Goodin 2008: 162).

in an appropriate way. Hence, they should be accountable – and possibly more so than participants themselves.⁵ And this accountability should concern the whole process. Design choices should be transparent and justified publicly *before* the CA starts, to allow for contestation and revisions. Choices made *during* the meetings of the CA should also be justified – to participants in particular, but also to the general public. And finally, organizers should be held accountable for the follow-up of the CA's recommendations and their possible implementation.

This question of the accountability of organizers, however, cannot be dealt with appropriately in abstraction from the institutional context in which the CA is embedded. If it is elected actors (be it the executive or the parliament) who initiate the CA, like the recent French citizen convention for climate, they can be made accountable through the traditional electoral way. Most likely, initiating political actors will appoint an organizing or supervising committee, that will be accountable to them, while they remain accountable to their electors.

If it is a grass-root initiative, the question will be different (see Bussu and Fleuß in this *Handbook*). We would then face “self-selected representatives” (see Montanaro 2012) who claim that the CA they set up is representative, without clear accountability mechanisms. This might not be too much of a problem, however, given that CAs initiated by civil society actors in isolation from public authorities usually do not have much power and do not produce major impacts on policymaking. The demand for accountability grows with the political power of CAs.

In a political system where a CA would be permanently integrated, as is the case in East Belgium (Ostbelgien) for example (Niessen and Reuchamps 2022), there would be a need for a clear chain of accountability. One would have to hold accountable the actors in charge of the selection of participants, of experts and stakeholders, and of moderators. This could be achieved, for example, by the inclusion in a steering committee of people accountable to the parliament, or even members of the different parties. Yet even if there is a specific institution – like the Citizen Council in East Belgium, also composed of lay citizens – designed to supervise CAs and make sure that the initial aims and requirements are met, these processes cannot be entirely self-regulated.

In the more utopian scenario where elections would have been entirely replaced by CAs (or would still exist, but where a CA would be the main locus of power), the problem would be more salient.⁶ One possibility would be to have clearly identifiable decision-makers (elected, or randomly selected and revokable) in charge of all these choices and directly accountable to the whole population. Another one would be to count on a form of self-regulation by citizen representatives. The method of random selection would have been decided once and for all, and the remaining decision (whom to invite for hearings, how to moderate deliberations, etc.) would be taken

⁵ One might also think that organizers should be accountable to participants themselves, at least in a deliberative way: they should be able to justify their organizational choices to the first affected and willing to consider the latter's alternative suggestions.

⁶ Along with other problems discussed in Gastil and Wright 2019; Lafont 2020; Abizadeh 2021.

by citizen representatives themselves in the assembly. Alternatively, a specific CA could be designed to oversee the correct application of rules previously set (and open to revisions) by yet another citizen body, as is the case in Terrill Bouricius' (2013) multi-body sortition model. In all these cases, it could seem wise to allow for a right of collective recall of the different bodies by non-selected citizens in cases of abuses of power.

3.6 Conclusion

One of the most powerful objections to representation by lot is that citizen representatives would not be accountable enough, as they could not be sanctioned through elections and would not face the same incentives as elected actors. In this chapter, I argued against the view that citizen representatives would not be accountable at all. There are different ways of being accountable, and different possible strategies for promoting accountability besides the electoral sanction. It remains true, however, that citizen representatives would not be accountable in the same way as elected representatives. Whether that is a reason to reject representation by lot altogether, to oppose democratic systems that would rely exclusively on sortition, to object to the transfer of important political power to CAs, or whether that brings more democratic benefits than losses are normative questions on which this contribution does not wish to take a stance. My hope is that it helps the reader see more clearly through this debate and to make an informed judgement about the validity and strength of the accountability objection and about possible ways of making CAs more accountable when it is judged desirable.

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