

RESEARCH ARTICLE

Boundary assembly: An institutional proposal for democratizing membership politics

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Abstract

How should democratic communities decide who should belong? Recent debates about issues such as voting rights for prisoners, denationalization policies or citizenship tests raise this fundamental democratic question. While many scholars argue that decisions about citizenship and voting rights should be more inclusive of subjected outsiders and more independent from electoral partisan politics, we still lack institutional proposals for inclusive and independent membership politics. This article contributes to the nascent institutional turn in the debate about democratic membership boundaries. My aim is to show that normative debates about membership politics can benefit from recent advances in democratic theory on sortition-based democratic innovations, constructive representation and systems thinking.

I argue that membership politics could be democratized by introducing a randomly selected political institution, which I call ‘boundary assembly’, that equally represents members and nonmembers and is charged with making binding decisions on a subset of a state’s membership questions. I argue that the strongest objections to empowered randomly selected assemblies (shortcut objection, alienation objection, capture objection, technocracy objection) lose most of their force in the ‘extraordinary’ political context of decisions on membership boundaries. Boundary assemblies cannot ‘solve’ the democratic boundary problem, but they could be a first step toward more democratic membership politics.

Keywords: belonging; citizens’ assemblies; democratic boundary problem; democratic innovations; democratic theory; legitimacy; political membership

1. Introduction

Political membership, citizenship and voting rights belong to the most prominent topics in political theory today. How should democratic communities decide who should belong? There now is a burgeoning literature on issues such as the democratic boundary problem (Abizadeh 2012; Erman 2014b; Magaña 2023; Miller 2020; Owen 2012; Song 2012) political rights for migrants (Bauböck 2018; Schutter and Ypi 2015), the denationalization of suspected terrorists (Gibney 2020; Lenard 2018, 2022), prisoners’ voting rights (Poama and Theuns 2019; Ramsay 2013) and investor citizenship (Shachar 2017; Surak 2023). While many scholars argue that decisions on citizenship and voting rights should be more inclusive of subjected outsiders and more independent from electoral

politics, we still lack institutional proposals for inclusive and independent membership politics. This means that we continue to make undemocratic decisions on membership boundaries. I address this deficit by asking: *If we hold that membership politics should be more inclusive and more independent, what could such an institution of membership politics look like – and how would this be an improvement?*

This article contributes to the nascent institutional turn in the debate about democratic membership boundaries. My starting point is that membership theorists do not have to reinvent the wheel but could instead build on recent debates on democratic innovations, sortition and systems thinking, as this burgeoning field addresses many institutional design challenges. Building on these contributions, I propose and critically discuss a new political institution, a boundary assembly, equally representing a state's members and nonmembers. Boundary assemblies would be randomly selected deliberative assemblies charged with taking binding decisions on a subset of domestic membership questions. Decisions on membership boundaries taken by a boundary assembly would be more inclusive and more independent from electoral politics. Boundary assemblies cannot 'solve' the democratic boundary problem, but they could be a first step toward more democratic membership politics. The article speaks to two audiences. On the one hand, I show that membership theorists could benefit from the recent democratic theory debates on democratic innovations and citizens' assemblies; on the other hand, I highlight that democratic innovations scholars should take the challenges arising in extraordinary contexts, and especially in membership politics, more seriously.

The article is structured as follows. I start by briefly introducing recent debates about membership theory (Part II). In the next step, I outline the main institutional features of the boundary assembly focusing on inclusion and independence (Part III). I then turn to four objections that are often raised against empowered randomly selected assemblies (shortcut objection, alienation objection, capture objection, technocracy objection) and argue that they have to be reframed when it comes to membership politics (Part IV). While my main focus is on how membership theory can benefit from the democratic innovations literature, the article also shows that democratic innovations scholars can benefit from membership theory – especially because they often presuppose or neglect the question of membership boundaries.

II. The coming of age of membership theory: From principles to procedures to institutions

The question of who belongs to a political community is an old and fundamental political issue. We can distinguish formal and informal dimensions of belonging. While formal belonging or political membership means being officially part of the group of those who have a legal status and/or political rights, informal belonging focuses more on affective attachments, feeling at home or being recognized as an equal by others (Blajer de la Garza 2023; Smith 2022). Here, I focus on formal belonging understood as political membership. Drawing on recent membership theory, this notion of membership includes the boundaries of the 'citizenry' as well as the boundaries of the 'demos' (Bauböck 2018:44–47).¹

¹The 'citizenry' encompasses all individuals who count as citizens/nationals of a community, including those who do not (yet) have full political rights, such as children or people with disabilities. The 'demos' describes a group of people who have full political rights in a community. Residents of New Zealand can get access to political rights (demos) without counting as members of the citizenry.

One of the most prominent political puzzles arising in membership theory is the so-called democratic boundary problem. According to the democratic boundary problem, the question of who should belong to the political community or demos cannot be decided democratically because a *democratic* decision would require the existence of a demos in the first place (Miller 2020; Song 2012; Whelan 1983). The boundary problem is not only a theoretical puzzle but is connected to contemporary questions of membership politics from prisoners' voting rights to denationalization policies. Sketching membership theory's development in the last twenty years in broad strokes, we can distinguish three main debates, focusing on *principles of inclusion* (1), on *procedures of membership decisions* (2) and, most recently, on *institutions of legitimate membership politics* (3).

The key question of the *principle-oriented debate* is: Who should be included in the demos? It mainly revolves around competing interpretations of the all-affected and the all-subjected principle (Erman 2014a; Goodin 2007, 2016) but also the stakeholder principle (Bauböck 2007; Owen 2011). Such normative principles are meant to indicate who has a legitimate claim to be a member of a particular political community. Controversies within the principle-oriented debate revolve around questions such as whether being potentially affected is sufficient to ground a claim to inclusion and how subjectedness is related to coercive law (Abizadeh 2021b; Beckman 2022). Some authors argue that different membership principles each have their merits but should be seen as grounding inclusion in different kinds of communities. Rainer Bauböck, for example, argues that all those whose interests are affected by a decision can claim that their interests are represented in the process but do not automatically have a claim to political membership (Bauböck 2018: 49).

The *procedural debate* emerged as a critique of the endeavor to identify ideal principles of inclusion. Proceduralists take as their starting point the idea that all membership principles are open to disagreement, interpretation and contestation and that these disagreements have to be settled in democratic processes (Beckman 2019; Benhabib 2007; Fraser 2009; Hultin Rosenberg 2023; Owen 2014; Zurn 2010). The main question proceduralists address is: Who should be included in a decision about membership boundaries? They draw (at least implicitly) a distinction between members and those who should take part in membership politics. Contesting the dominant view that 'the people' should make membership decisions unilaterally, many contributions to the procedural debate argue that legitimate membership decisions require *more inclusive* democratic procedures giving a say to subjected outsiders (Abizadeh 2008; Fraser 2014; Milstein 2017). As David Owen summarizes the problem: '[T]he imposition of a civic status is an arbitrary act of public power unless all subject to such imposition have the effective power to shape and contest' (Owen 2014:104).

The nascent *institutional debate* builds on these developments and puts political institutions involved in membership politics center-stage.² The problem is that ordinary legislatures, the institutions usually empowered to take decisions on membership boundaries, seem inadequate for two reasons: The first challenge is that legislatures only represent citizens and not subjected outsiders. From this perspective, legitimate membership politics requires *more inclusive* institutions ensuring the meaningful participation

²'Membership politics' or 'boundary-making' describes political processes in which norms for allocating or withdrawing citizenship or voting rights are changed. This understanding of membership politics captures a variety of pressing empirical cases, such as introducing a naturalization procedure with citizenship tests, granting migrants voting rights, disenfranchising prisoners or denationalizing suspected terrorists (Ahlhaus 2024).

of nonmembers. Second, legitimate membership politics seems to require an institutional solution ‘outside the regular game of partisan politics’ (Abizadeh 2017:195). The thought here is that it is questionable whether ‘legislatures [ought] to be able – in effect – to determine their own electorate by changing the terms of citizenship’ (Shaw 2020:40; cf. Abizadeh 2021a). As elected members of parliament could be seen as self-interested parties in decisions on citizenship and voting rights, a *more independent* institution is necessary.

Scholars discuss the potential benefits of involving nonparliamentary institutions such as referenda (Beckman 2019) or international human rights courts (Ahlhaus and Niesen 2014) in membership politics. While referenda and international human rights courts are more *independent* from partisan electoral politics, both seem to be insufficiently *inclusive*. Beckman, for example, discusses the legitimacy of referenda on voting rights (Beckman 2019, 2022). Although he provides a thorough analysis of the merits and shortcomings of referenda on ‘demos decisions’, he assumes that we already know who should have a say in such decisions: the democratic people. Tuomo Käkälä, on the other hand, analyzes the role of inclusive ‘transboundary associations’ (such as the Scottish Refugee Council) in informal everyday boundary making, but he does not show how such encounters can be sufficiently *independent* from sovereign institutions (Käkälä 2023).

In the remainder of this article, I will assume that membership politics should be more inclusive of nonmembers and more independent of partisan politics. I make this assumption to be able to focus on questions of institutional imagination contributing to the institutional debate in membership theory.³ After all, despite calls for ‘creative institutional thinking’ (Fraser 2009:45), we still lack institutions and processes of membership politics that are more inclusive of nonmembers and less dependent on partisan politics. My starting point is that membership theorists can build on recent debates on democratic innovations, sortition and systems thinking, as this burgeoning field addresses many institutional design challenges.

In recent years, democratic theory has witnessed a turn toward institutional design (Celis and Childs 2020:107; Curato et al. 2022; Saward 2021). The idea is not to provide *institutional blueprints* that could be easily applied without modification or translation. Instead, the shared goal is to develop institutional proposals that ‘should be taken as illustrations of possibilities rather than as claims about the optimal design’ (Gastil and Wright 2018:312).⁴ The proposal developed in this article follows this idea. It is not an institutional blueprint but an *illustration of institutional possibilities* for rethinking membership politics. Not only deliberative theorists but also agonistic, realist and feminist scholars have started to focus on questions of institutional design and democratic innovations (Bagg 2024; Khoban 2023; Prinz and Westphal 2023; Vergara 2020).

In this diverse and growing field, where should we look for inspiration for rethinking institutions of membership politics? I propose to focus on the debate about mini-publics and citizens’ assemblies, especially on citizens’ assemblies on ‘extraordinary’ political questions. By ‘extraordinary’ I mean a subset of political questions that are foundational, constitutional or ‘metapolitical’ as they address the way in which (normal) political decisions should be taken (Patberg 2020:145; Landwehr 2015; White and Ypi 2017). Extraordinary political questions touch upon the foundations of ordinary political

³I have argued elsewhere that unilateral decisions on membership boundaries are problematic and that a post-sovereign approach is required (Ahlhaus 2020, 2024).

⁴Although Landmore aims to offer a ‘blueprint for democracy’, she does not have in mind specific *institutional* models but principles of democracy (Landmore 2020: 53).

decision-making: ‘Should we raise the minimum wage?’ (ordinary) vs. ‘Who should be allowed to vote in a referendum on the minimum wage?’ (extraordinary). For the purpose of my argument, it is not important to decide why exactly some questions are extraordinary – is it because they touch on questions of constituent power (Patberg 2020) or on deliberations about deliberative institutions (Landwehr 2015)? – but it is important to see that any version of the question of who should belong to the demos changes the normative parameters of our debate, as the demos itself is in question.

The idea of giving randomly selected lay citizens a say in fundamental political questions has gained enormous traction in recent years (Reuchamps and Welp 2024). But how can we rethink the idea of citizens’ assemblies in the context of membership politics where the boundaries of citizenship are at stake? Let me now turn to the question of how we could re-imagine more inclusive and independent membership politics building on the idea of citizens’ assemblies in extraordinary contexts.

III. The boundary assembly: The case for a sortition-based institution in membership politics

There is a lively debate about the advantages and shortcomings of randomly selected assemblies in political decision-making (Abizadeh 2021a; Lafont 2020; Landa and Pevnick 2021), but the arguments either focus on mere *advisory* assemblies or on *replacing* parliaments with lottocratic alternatives. My argument is located between the two ends of this spectrum as I propose an *additional* empowered institution with a single-issue scope.⁵ Instead of replacing parliament, the idea is to circumvent it only in the context of membership politics. In this section, I introduce the idea of a boundary assembly and discuss how it could be designed to improve independence and inclusion in membership politics. Put briefly, I argue for a permanent empowered sortition-based institution representing members and nonmembers in decisions on domestic membership policies. The most important feature of my proposal is that it takes the competence to redraw membership boundaries out of the hands of parliaments and creates a new institution for this purpose.

Membership boundaries raise a number of questions, ranging from very specific questions such as ‘Should 16-year-olds vote in national elections?’ to very broad questions like ‘Should our world be divided into citizens and noncitizens at all?’. Following Owen (Owen 2014), I think that it is helpful to distinguish the *general membership regime* from *domestic membership regimes*. The general membership regime describes the global legal frame of international law and human rights law that sets the general terms of membership politics (e.g. defining the concept of a citizen or a stateless person, or norms establishing that access to citizenship and voting rights is part of the sovereign states’ *domaine réservé*). A domestic membership regime encompasses the more specific norms of how to gain and lose membership in a specific state (e.g. enfranchisement rules or norms specifying the duration of stay before one can apply for citizenship).⁶ While both levels might require institutional innovations, I do not engage with global membership politics in this article. The boundary assembly is an institutional proposal for

⁵This section expands and revises an idea presented in (Ahlhaus 2020:220–34).

⁶Between these two levels, there can be additional questions of legitimate membership politics, for example, in supranational institutions such as the EU with a separate (but derivative) citizenship framework.

democratizing domestic membership regimes. The proposal aims at the state level where most specific membership decisions are taken today.

A first key design question is whether an institutional innovation is envisaged as temporary or permanent, that is, as a one-off or short-term institution or rather as a permanent addition to the political system (Landa and Pevnick 2021:47). While most empirical examples of sortition-based democratic innovations are temporary institutions focusing on specific political questions, such as climate policy or electoral reform, many scholars propose permanent or at least long-term institutional changes, such as a second legislative chamber selected by lot (Abizadeh 2021a; Gastil and Wright 2018; Owen and Smith 2018). I follow these scholars who see sortition-based institutions not only as a promising tool for one-off policy problems but aim to improve citizen participation and independent deliberation permanently. Membership politics cannot be ‘fixed’ in one decision – we are never really ‘done’ with the problem of boundary making. This is why the boundary assembly is envisaged as a permanent institution. Terms of representatives could be limited to about one year. This would give members some time to get used to their new role without overburdening them and their life plans.

A lot has been written about the advantages and challenges of randomly selected institutions. In the following sections, I focus on those aspects that might contribute to improving *inclusion* and *independence* in membership politics.

Who should be included in the boundary assembly?

It is by now widely discussed that assemblies whose members are selected by lot are considered highly diverse, inclusive and representative. While elected parliaments are relatively socially homogenous, randomly selected assemblies selected by lot recruit ‘normal citizens’ and represent diverse social groups (Fournier et al. 2011:51–64). The necessary representativeness can be approximated by using the technique of random stratified sampling, combining random selection by lot with quotas (e.g. concerning demographic characteristics such as gender, age or race) (Beauvais 2018:150).⁷ The idea is that descriptive criteria correlate with different social perspectives, emerging from structural positions of differently positioned individuals in society (Young 2000; Bohman 2012:77).

For membership politics, the most important difference is the one between perspectives of members and nonmembers. The social position of nonmembership provides a specific experiential perspective on membership norms. Experiences of asylum-seekers, disenfranchised prisoners or nonnaturalized long-term immigrants cannot be easily accessed, understood and represented by citizens. These perspectives should therefore be represented descriptively in the boundary assembly. Descriptive representatives can be understood as ‘epistemologically, experientially and affectively close to those they represent and, thus, more knowledgeable and best suited to advocate and judge on behalf of the represented’ (Celis and Childs 2020:178; Khoban 2023). While it would be too simple to say that descriptive representation automatically improves substantive representation, recent studies have suggested that the correlation between a representative’s characteristics and the way they substantively act for certain groups is particularly strong for hitherto marginalized groups (Lowande, Ritchie, and Lauterbach 2019).

⁷ Although Landemore objected to stratified sampling in earlier works (Landemore 2013:108–17), she now sees the advantages of this technique for the purpose of minipublics and citizens’ assemblies (Landemore 2020:91–93).

Good enough representation. However, the focus on ‘perspectives’ does not answer the tricky question of which nonmembers should be represented in the boundary assembly. Indeed, selection by lot requires that we clearly identify the group of those who have to have an equal chance of becoming representatives in the boundary assembly. If the procedural debate about the boundary problem has taught us anything, it is that it is highly contested who should have a say in membership politics. While most proceduralists agree that all those subjected to a membership regime should have a say in shaping and contesting it (Owen 2014:201), they often disagree as to what subjectedness entails (Abizadeh 2021b). Instead of defending a specific interpretation of this principle, I propose to start with a pragmatic ‘good enough’ solution. According to this position, legitimate membership politics does not require perfect inclusion but merely ‘good enough representation’. Similar to what Nancy Fraser calls ‘good enough deliberation’ the idea would be that we have to start with a basic level of representation, which ‘would be “good enough” to legitimate additional, slightly less modest reforms that would in turn improve the quality of the following round – and so on’ (Fraser 2009:45).

This ‘good enough’ solution builds on the recent ‘constructivist turn’ in representation theory according to which groups are constituted and mobilized if someone speaks for them (Disch 2011, 2015; Disch, Sande and Urbinati 2019). Once we introduce an institution that claims to represent the perspectives of a new group – in my case: subjected members and nonmembers in boundary making – this group is slowly turning into a constituency (Disch 2021). The claims of certain agents to speak for nonmembers can be accepted or rejected – a process through which a group is formed. Representation ‘renders “the people” politically present to decision-makers and even to themselves, forming the very demos necessary for democracy to operate’ (Montanaro 2017:201 emphasis removed). Speaking for members and nonmembers creates a new group we might call ‘boundary-making community’ including all those who have a claim to be represented in decisions about a particular political community’s boundaries. They can reject and contest proposals for who should form part of the boundary assembly’s constituency – but to do so, this constituency needs an initial composition to criticize.⁸

One might wonder if the fact that a boundary-making community needs to be defined prior to institutionalizing the boundary assembly is in conflict with a constructivist notion of representation. There is no consensus within constructivist representation theory on whether representation *creates* or merely *shapes* groups (Talisso 2022). While I think that there is – theoretically – a group of people who have a claim to be represented in membership politics (boundary-making community), it only becomes a political reality once representatives claim to speak and act for this group. Institutionalizing a boundary assembly is one way to provide a forum around which competing representative claims can be articulated. It is a necessary step to get the process of improving ‘good enough representation’ off the ground. Once it is in place, the democratic contestation of representative claims has a clear target. Thomas Fossen’s interpretation of constructivist representation expresses this idea. His insightful comments on representing peoplehood can be transferred to my proposal of representing the boundary-making community. The idea of the boundary-making community ‘may be logically presupposed but chronologically anticipated or prefigured in the claim’ (Fossen 2019:833). The boundary-making community can be challenged on two levels: ‘by saying “I’m not one of you,” or by saying

⁸I thank the anonymous reviewer who pressed me on this problem.

“that’s not who we are.” The former is to refuse to take oneself as part of the referent of the claim, and the latter is to reject how one is characterized’ (Fossen 2019:833).

As boundary assemblies are supposed to deal with domestic membership policies, I propose to use two *pro tanto* principles: First, all citizens (resident and nonresident) should be among those who might be selected as members of the boundary assembly. Second, all resident noncitizens should be included. I use a broad definition of residence, including all noncitizens who are currently living on the state’s territory, with or without papers or legal residence.⁹ These principles should be considered as imperfect approximations. For example, there will be nonresident noncitizens who are subjected to a state’s boundary making. Take the example of a person who takes language classes abroad to fulfill naturalization requirements. In later iterations of the boundary assembly, these composition principles can be contested and changed. Despite the limits of this ‘good enough’ strategy, it provides a pragmatic alternative to both, the political status quo of unilateral membership politics and the paralyzing search for perfect principles.

What is important for ensuring ‘good enough representation’ is not only that members and nonmembers are descriptively represented but also that their respective internal diversity is reflected in the boundary assembly. This means that asylum-seekers, disenfranchised prisoners or nonnaturalized long-term immigrants should be represented in every boundary assembly. When it comes to citizens, it is important that not only a particular segment of society (e.g. wealthy citizens with a cosmopolitan mindset) are represented. Not all members of a political community share the same perspective on membership norms. Depending on their age, gender, ethnicity, religion or social status they can have diverging perspectives on membership issues. This internal diversity is also important as the boundary assembly is responsible for all membership issues that arise in a specified period (e.g. one year).¹⁰ Most examples of citizens’ assemblies include 100 to 150 representatives which seems sufficient to allow for diversity without losing the capacity to work and decide efficiently.

Ratio of members and nonmembers. So far, I have argued that the representatives of the boundary assembly should be selected by lot and should descriptively represent members and nonmembers of the political community in question. But what members/nonmembers ratio should we aim for in the boundary assembly?¹¹ Let me briefly mention four options: We could envisage proportional representation of members and resident nonmembers in the assembly (option 1). This would mean that the ratio would depend on the actual proportion of members and resident nonmembers in a given state. For the sake of simplicity, we could take the proportion of resident noncitizens as a starting point. For example, a boundary assembly in France would include 13 per cent of representatives of resident noncitizens, in Germany 18 per cent, in Luxemburg 48 per cent and the US 15 per cent (World Population Review 2024). But we could also have a fixed ratio of members and nonmember representatives in all boundary assemblies: There could be more members than nonmembers (option 2), more nonmembers than members (option 3)

⁹In this article, I cannot further show why residence is a good proxy for subjectedness to membership decisions. See Lenard for a recent discussion of immigration and residence (Lenard 2023).

¹⁰While there may be a case for changing the boundary assembly’s composition for every membership question at hand (e.g. including resident noncitizens in decisions on naturalization, including prisoners in decisions on prisoners’ voting rights), this would lead to endless discussions about potential new compositions of these assemblies. It is preferable to ensure that the representatives already include a diverse set of members and nonmembers.

¹¹I thank the anonymous reviewer who pressed me on this point.

or an equal number of members and nonmembers (option 4). While I cannot discuss the merits and shortcomings of each option in detail, our guiding idea for evaluating these options should be whether they ensure more inclusivity by allowing nonmembers to shape and contest decisions on membership boundaries. This can only be ensured if noncitizens cannot be easily overruled and their perspectives therefore have to be taken seriously.

The options that do not (at least) ensure an equal representation of members and nonmembers (option 1 in most states and option 2) could only count as sufficiently inclusive if they included additional competencies for nonmember representatives, such as veto powers or special agenda-setting powers. Ratios that include an equal or higher number of nonmembers (options 3 and 4), by contrast, would entail that nonmembers have at least an equal share in decision-making power on membership boundaries. If nonmembers were represented as an overwhelming majority (for example, option 3 with 90 per cent of noncitizen representatives), there would have to be institutional ways to ensure that members do not lose their partial power to shape and contest the future of the political community.

Against this background, the parity of members and nonmembers appears as a plausible composition. It would give both sides an equal chance to be heard and taken seriously. Parity makes dialogue between members and nonmembers at least necessary and both parties would need to convince representatives of ‘the other group’ to gain a majority. This setup makes it more likely that membership norms are in the ‘in the equal interest of members and applicants’ (Habermas 1996:125).

Whatever we might ultimately choose as the preferred member/nonmember ratio, the representation of nonmembers in the boundary assembly also has symbolic value. It shows that membership norms draw a line between insiders and outsiders, impacting both. The boundary assembly represents a boundary-making community that can be conceived of as ‘post-sovereign’. The ‘old’ sovereign – the people – loses the right to redraw membership boundaries unilaterally. Instead, the right to make decisions on membership norms is shared among members and nonmembers. The unusual institutional design might help participants realize that membership politics is indeed a special object of political decision-making. When similar assemblies are proposed on issues such as climate politics, one argument is that randomly selected representatives, especially because they feel less accountable to specific electors or donors, are ‘more likely to feel accountable to future generations, groups that do not yet exist’ (Sintomer 2018:354). An inclusive boundary-making community could be considered such a *group that does not yet exist* as current membership politics is characterized by national interests and sovereigntist arguments.

Deliberative equality. The boundary assembly’s deliberation and decision-making process could be divided into three phases, as is standard by now in the design of citizen assemblies: a learning phase, a hearing phase and a decision-making phase (Fournier et al. 2011; Abizadeh 2021a). Let us take the example of the introduction of citizenship tests in Germany: in an election year, the governing party calls for restricting access to citizenship by introducing citizenship tests. Instead of debating these questions in parliament (Bundestag) as is the case today, this question would have to be decided by the boundary assembly. The representatives would have to be informed about different models of naturalization: Where and since when are citizenship tests required? Which kinds of citizenship tests can be distinguished? What are their effects? In the second phase, the boundary assembly should organize public hearings to collect proposals, comments and standpoints on these matters. Boundary assembly representatives could travel all around

Germany to host public forums in which the public could present their worries and ideas. The third phase would include deliberations among the representatives about the introduction of citizenship tests before the decision is taken.

Let me address two minor challenges to this idea at the outset: inequality and consensus-bias in deliberation. First, can *formal* equality in the assembly really help to address differences between, for example, rich citizens and poor noncitizens? Consider diverging financial and temporal resources but also linguistic difficulties (Young 2000; Karpowitz and Mendelberg 2014:51; Lupia and Norton 2017:69). If we assume that there are structural problems that impede the equal participation of nonmembers, the question arises as to how their *equal* representation can be guaranteed (Siu 2017:125). Here, recent insights from deliberation research are crucial. Deliberations should be monitored by experienced moderators who make sure that everyone participates equally and that the discussion is not dominated by single individuals (Wojciechowska 2019). In addition, alternating phases of mixed and separate (enclave) deliberation seem preferable. There are worries that deliberations in homogeneous groups will lead to polarization and ‘groupthink’, that is, that the group will ultimately adopt more extreme positions than the individual members before, and that group cohesion will become the overriding goal of the group, so that worse and more uninformed decisions will be taken (Karpowitz, Raphael, and Hammond 2009:580). Empirical studies indicate, however, that deliberations among structurally disadvantaged minorities – for example undocumented migrant women and socially disadvantaged citizens – can enable them to develop and formulate their specific perspectives and arguments, thus constituting themselves as a group with common interests. Preventing these integrative processes among minorities, could lead to a ‘conservative bias against innovative views or a centrist bias against minority positions’ (Karpowitz et al. 2009:581–82). For the boundary assembly, this could mean that intragroup deliberations and phases of joint deliberation should alternate.

According to the second challenge, the mode of deliberation is unsuitable for questions of membership norms due to the divergence of interests between members and nonmembers. In her well-known critique of the idea of deliberative democracy, Lynn Sanders writes: ‘When the perspectives of some citizens are systematically suppressed in public discourses, then democratic politics should aim simply and first to ensure the expression of these excluded perspectives’ (Sanders 1997:372; Westphal 2019; Lupia and Norton 2017). A forum for exchanging different experiences and perspectives on citizenship and voting rights may be more appropriate than a deliberative forum which seems to presuppose that some form of provisional agreement will be reached. Indeed, many citizens’ assemblies aim at presenting a common statement or a set of recommendations in the end – but how likely is it that, for example, citizens and immigrants will agree on introducing naturalization tests? One worry is that a 50/50 forum of members and nonmembers will tend to produce confrontations that would be disguised by a consensus-oriented process (Dryzek 2005:229; Maddison 2015). Disagreement over inclusion and exclusion runs so deep that it is unclear whether a common decision could be reached at all.

In response to this objection, let me stress that a boundary assembly’s point and purpose would not be to ignore or *downplay disagreement* but to *institutionalize disagreement* and to provide a way for weaker voices to be included in conflicts about belonging and membership (Westphal 2019). Identifying an institutional space for fundamental disagreement about inclusion and exclusion could structure collective struggles and learning processes in a potentially productive way. New research on

deliberation in divided societies (such as South Africa or Bosnia) has shown that deliberation can enhance trust and solidarity among social groups (Steiner et al. 2017; Fishkin et al. 2021). In the Citizens' Assembly on Brexit, for example, the organizers tried to ensure a balanced ratio of people who voted for leave and remain. The results suggest that '[e]ven on a highly polarised issue such as Brexit, [assemblies] can foster informed, considered, open-minded discussion' (Renwick et al. 2018:657). Of course, it is an open empirical question of which effects a boundary assembly would have on societal conflicts about membership politics. However, the proposal provides a forum to make disagreement and conflict explicit.

How independent should the boundary assembly be?

In the last section, I have argued that more inclusive membership politics could be envisaged by focusing on the composition and internal deliberation of the boundary assembly. I will now move on to the question of *independence*, that is, how membership politics could be more independent from partisan politics. When thinking about the independence of democratic institutions, we combine two questions: '[H]ow tightly *coupled* institutions should be; and with how much *authority* different bodies should be endowed' (Kuyper and Wolkenstein 2019:662, emphasis added; Mansbridge et al. 2012:22). 'Coupling' refers to the strength of connections and institutional links between different institutions of a political system (Hendriks 2016) while 'authority' describes the status of decisions and contributions. We have to address both 'coupling' and 'authority' to ensure that boundary assemblies have the power to shape and contest membership politics without relying on established partisan institutions that would undermine their independence.

In the following, I draw on Jonathan Kuyper and Fabio Wolkenstein's thesis that 'in thinking about the design of mini-publics, it is the democratic performance of partisan representative bodies that remains the main yardstick' (Kuyper and Wolkenstein 2019:666). They argue that the level of coupling and authority should depend on background conditions in representative democracies. If a system can be described as representative, other levels of coupling and authority are necessary than in contexts characterized by fundamental democratic deficiencies. The representative system should be considered as pathological and illegitimate if parties defend racist or 'antidemocratic policies' or if they 'distort democratic equality via gerrymandering' (Kuyper and Wolkenstein 2019:664). In such contexts, 'mini-publics should be de-coupled and made authoritative' (Kuyper and Wolkenstein 2019:670). Although we cannot simply adopt these indications for the context of membership politics, this proposal provides an innovative framework for thinking about the levels of coupling and authority of boundary assemblies. I will turn to coupling and authority in the next two subsections.

Coupling: two institutional contexts. The idea of 'coupling' refers to the links and connections between different institutions and highlights that democratic design has to go beyond inventing isolated individual institutions and instead has to consider the broader institutional context. In democratic theory it has become common place to argue that we should think about democratic innovations as part of a broader democratic system. There are a number of different ways to approach this kind of 'systems thinking' (Dean, Rinne, and Geissel 2019), the most prominent being the 'deliberative systems' approach (Mansbridge et al. 2012). For membership politics, this means

discussing how a boundary assembly would be integrated into the larger system of democratic decision-making. We need to think of membership politics as an interplay of different institutions, ‘including informal networks, the media, organized advocacy groups, schools, foundations, private and non-profit institutions, legislatures, executive agencies and the courts’ – and consider how the boundary assembly would be coupled with other political institutions (Mansbridge et al. 2012:2).¹² The value of democratic innovations becomes apparent only once we consider them in relation to the democratic system at large. This insight of the systems literature is compelling but it raises a difficult issue for membership politics. Close coupling might be damaging to the idea of *independent* membership politics. More precisely, the closer a boundary assembly would be institutionally connected to the ordinary political system, the more dependent it seems to be on ordinary partisan politics.

How can boundary assemblies be more independent without being isolated? Here, it is helpful to distinguish two sets of institutions, referring to the decisional contexts to which a boundary assembly contributes. The normal, ordinary or ‘sovereign’ institutional political system of a state, including its legislature, judiciary, executive and informal public sphere on the one hand, and the ‘extraordinary’ or ‘post-sovereign’ institutional context of membership politics on the other. I argue that boundary assemblies should be *weakly coupled* with the ordinary political institutions but *strongly coupled* with (potential future) extraordinary political institutions. To defend this distinction, we can go back to Kuyper and Wolkenstein’s argument. In contexts of deep-seated representative failures, low levels of coupling are justified ‘due to the dangers of cooptation and to provide space for the mini-public to reinvigorate the public sphere (i.e., generate elements oppositional to formal representative politics)’ (Kuyper and Wolkenstein 2019:670). The claim that sovereign membership politics is insufficiently inclusive and too dependent on partisan politics, can be reformulated as a claim of deep-seated representative failures of the ordinary political system. Noncitizens are systematically underrepresented in membership politics and sovereign institutions claim the right to take boundary decisions unilaterally. The political equality of nonmembers is undermined and membership decisions reflect an exclusionary bias. The whole framing of membership politics as similar to private club membership shows the distorted image of boundary making dominant in legislatures and the citizenry (Ahlhaus 2024).

In this situation, a boundary assembly should be de-coupled from parliament as the most important sovereign institution. To start with, random selection can shield representatives in the boundary assembly from electoral and party politics (Landemore 2020:39). As they do not stand for re-election, they do not have to take decisions their

¹²As an anonymous reviewer has rightly pointed out, there are a number of important objections against the idea of deliberative systems. As Owen and Smith have prominently argued, for example, the holistic evaluation of deliberative systems might lead to positive evaluations despite the fact that none of the system’s parts meets deliberative standards in the end (Owen and Smith 2015). In this article, I do not engage with this objection as my proposal does not presuppose this specific idea of deliberative systems. Instead, I refer to the more general idea of ‘systems thinking’. My point in this section is not to address the question of deliberative quality of decisions and debates but rather the question of how closely connected the boundary assembly should be with other political institutions. In other words, I build on the systems framework to discuss coupling, i.e., linkages of the boundary assembly with other political institutions. The dilemma I am focusing on is the following: How can membership politics be more independent from ‘sovereign’ and electoral institutions without proposing an implausible isolated boundary assembly?

voters or parties might favor.¹³ Nonelectoral accountability ensures more distance from party politics and electoral competition, which reduces the risk of populist membership politics to gain votes (Guerrero 2014:139). Contrary to mixed-membership assemblies (Irish Constitutional Convention) or elected lay citizens (Iceland), the model defended here provides a clear break with partisan logics. In addition, de-coupling involves only limited interaction with sovereign institutions.

But this does not mean that boundary assemblies should be imagined as free-floating or isolated. Instead, a boundary assembly could be coupled with other political institutions. While it is beyond the scope of this article to fully map such a set of ‘post-sovereign’ institutions, let me briefly outline the potential role of three institutions: crowdsourcing, an ombudsperson and international courts. First, a process of crowdsourcing could be introduced in which preliminary drafts of new membership policies could be discussed online by all interested individuals. By institutionalizing a crowdsourcing process, a broader participation of nonmembers and members could be achieved (Landmore 2020). The boundary assembly’s ‘hearing phase’ could also include public hearings where citizens and noncitizens can exchange views and share their perspectives with the assembly’s representatives. Open meetings would involve the local population, while online crowdsourcing would enable cross-border inclusion.

Second, we could think of an ‘ombudsperson’ for membership politics, similar to ombudsperson for future generations (Beckman and Ugglá 2016). The role of this person could be, on the one hand, to review legislative proposals as to whether they imply changes to electoral or citizenship law; on the other hand, to identify and politicize problems in existing norms or debates. The ombudsperson could fact-check controversial statements or debunk popular myths about membership. Another potential task for the ombudsperson for membership politics could be to initiate the boundary assembly. If a membership issue is debated in other, ‘unauthorized’ bodies such as parliament, the ombudsperson could delegate the task to the boundary assembly. A third way to develop a broader institutional context of membership politics is to examine the role of courts. They could provide contestatory mechanisms adding an additional feedback loop to membership politics (Chambers 2017). As a next step, it would be crucial to discuss whether existing courts (such as the European Court of Human Rights) could also be appropriate for membership politics, or whether new institutions – such as a potential ‘Court of Justice for Membership’ – would be preferable.

¹³An alternative to randomly selecting all representatives of the boundary assembly could be the Irish model of mixed membership (Farrell et al. 2020) and the Icelandic model of elected ordinary citizens (Landmore 2020). The Irish Constitutional Convention of 2012–2014 was composed of 33 elected members of parliament (self-selected) and 66 randomly-selected lay citizens (Farrell et al. 2020). Although the Irish model of mixed membership reduces the risk that proposals are simply ignored by professional politicians and parties, it raises the worry that more powerful and experienced politician members could dominate the deliberations and distort the outcomes (White 2017:324–26). Recent studies of the Irish Constitutional Convention have not confirmed this worry. Politician members did not dominate the discussions, rather their presence was judged as helpful and providing ‘a sense of realism to some of the discussions’ (Farrell et al. 2020:62). In Iceland, the twenty-five members of the constitutional assembly (later re-established as the ‘Constitutional Council’) were directly elected by the Icelandic people (cf. Landmore 2020:155–57). Both options seem problematic for the context of membership politics as they are not sufficiently independent from the ‘sovereign’ electoral process and its institutions. As mentioned above, I assume that membership politics requires ‘extraordinary’ political institutions that avoid the shortcomings of electoral logic with potential populist campaigns. Even if only a third of the represented were elected MPs this would undermine the separation between ‘normal’ political system and the boundary assembly’s extraordinary function.

In contexts of systemic exclusion of nonmembers from decision-making on membership politics, boundary assemblies should be de-coupled from the ordinary political system and strongly coupled with a new set of extraordinary political institutions.

Decisional authority and discursive scope. Let me now turn to the second component of independence: authority. How authoritative should the contributions of boundary assemblies be? To return to the argument discussed above, the authority of boundary assemblies should be stronger in deeply distorted contexts. If we assume that current forms of membership politics are deeply distorted, this seems to suggest that boundary assemblies should have full decisional authority on all membership decisions. However, the dilemma is the following: We might move from a situation in which membership politics is dominating because it only includes members, to a situation in which membership politics is dominating because it is only debated and decided in a single institution: the boundary assembly. A boundary assembly taking binding decisions on all membership decisions seems too far reaching but a boundary assembly with merely advisory powers would not be able to challenge and go beyond the status quo of sovereign membership politics. As Sintomer puts it: ‘Reasonable discussions in modest committees are not enough to impose positive change in a world where the structural resistance of dominant interests is enormous’ (Sintomer 2018:349). But how could the boundary assembly be less modest without defeating its purpose of democratizing membership politics?

Let me draw a distinction between the boundary assembly’s decisional and discursive scope: What are questions a boundary assembly should be allowed to decide upon and what are questions that should be deliberated but not decided by the assembly? My proposal is that boundary assemblies should be assigned limited decisional authority:

Decisional Authority: Boundary assemblies could decide upon a small subset of membership questions. Following the debate about disagreement about democratic inclusion, the focus should be on questions that are considered to be within a margin of appreciation for democratic states – in the sense that all options could count as democratically justified (Beckman 2019; Hultin Rosenberg 2023). For example: Should second-generation expatriates retain the right to vote? Should the voting age be lowered to 16? Should resident non-citizens be enfranchised or naturalized? Should there be citizenship tests and language requirements? Should citizenship be mandatory for immigrants?¹⁴ Boundary assemblies should have the authority to take binding decisions on these questions.

The direct decisional authority is limited to a small number of cases. This does not mean that these decisions are inconsequential. Such decisions have a far-reaching impact on many citizens and noncitizens and require changes to many laws and policies. Granting decisional authority to the boundary assembly entails that parliaments lose their

¹⁴One objection could be that this domain is too limited and that it should include all membership questions. The legitimacy of membership politics is not purely procedural but has to meet certain substantive criteria (Beckman 2019). The limited scope of the boundary assembly is crucial as membership politics is a sensitive political issue that can easily be misused. Clearly, a decision to disenfranchise all women would be illegitimate even if it were taken by a perfectly democratic institution with the competence to take decisions on membership norms. Some membership decisions are not on the democratic menu of the boundary assembly.

competence to redraw membership boundaries. This is a fundamental change to any democratic system known today.

What is important from the perspective of membership politics is not whether the boundary assembly should have the right to make binding decisions unilaterally but rather whether the decisional authority remains de-coupled from the ordinary political institutions. Once we develop further the idea of ‘extraordinary institutions’ outlined in the previous section, we do not have to insist on a single institution that is supposed to have decisional authority. Instead, we could sketch how the different post-sovereign institutions interact to make legitimate binding decisions on membership politics. Similar to the idea of ‘good enough representation’ democratic states would have to experiment with different modes of decision-making on membership boundaries.

In addition to the decisional authority, boundary assemblies could have discursive competencies. Here, we can follow Lafont’s distinction between contestatory, vigilant and anticipatory functions of sortition-based assemblies – I adapt these functions to the context of membership politics (Lafont 2020).

Contestatory Function: Boundary assemblies could problematize claims about membership politics that arise in parliament, the media, or in the general public. Take the example of a journalist arguing for the denaturalization of suspected terrorists with dual citizenship (Lenard 2018). While the majority of the population might agree with this position, the boundary assembly could debate the issue and prepare a public statement contesting this argument. This mismatch between public opinion and the boundary assembly’s considered position could be used as an argument in public debates problematizing the status quo.

Vigilant Function: Boundary assemblies could scrutinize the existing body of membership norms to identify norms that (might) contradict public opinion. Take the example of laws that prevent children of longterm immigrants to gain citizenship of their birth state. Such laws are widely criticized but parliamentarians are often afraid of tackling the issue for fear of losing votes in the next election. Boundary assemblies could provide visibility for such issues and help put membership controversies on the political agenda.

Anticipatory Function: A third function of boundary assemblies could be to initiate a public debate about issues that are widely ignored. If certain membership norms are hardly debated at all this does not mean that the general public agrees with them but it might also indicate that they lack relevant information. Take the example of voting rights for prisoners. Many citizens are simply unaware of the restrictions of felons’ political rights while or after imprisonment. The boundary assembly could organize an open debate about this topic to ensure that more citizens gain access to social, legal, and political facts to form an informed opinion.

In this section, my starting point was that a boundary assembly’s independence could be improved by focusing on the level of *coupling* (How closely connected should the boundary assembly be with other institutions?) and on the level of *authority* (Which status should the boundary assembly’s decisions have?). I have argued that the case of membership politics requires de-coupling from the ordinary political institutions and stronger coupling with (future) extraordinary political institutions. Regarding the authority of its decisions, I have argued that boundary assemblies should have decision-making

power on a small subset of questions and discursive power on all other questions of membership politics.

IV. Reframing objections against boundary assemblies

The idea that a randomly selected institution, representing members and nonmembers, should take binding decisions on some questions of membership politics is bound to be controversial. In recent debates about sortition-based democratic innovations, there is a lively discussion about entrusting randomly selected bodies with decision-making powers (for proarguments (Abizadeh 2021a; Landemore 2020) and counterarguments (Lafont 2020; Landa and Pevnick 2021)). While I will not engage with this debate on a general level, I will show how the main objections to empowered sortition-based assemblies have to be reframed for the specific context of membership politics. I discuss the shortcut objection, the alienation objection, the capture objection and the technocracy objection. My aim in this section is not to refute all four objections but to show how the extraordinary context of membership politics changes the terms of these debates.

Shortcut objection

According to a well-known objection, empowered mini-publics are antidemocratic shortcuts as they ‘require[] or expect[] citizens to blindly defer to the decisions of [...] randomly selected groups’ (Lafont 2020:8). As citizens lack democratic control over them, such institutions are ‘incompatible with the democratic ideal of self-government’ (Lafont 2020:8). In response to this objection, we might be tempted to insist on the limited scope of boundary assemblies. They should not replace parliaments but create an additional issue-specific institution for membership politics. But instead of addressing this objection head-on, let me reframe the challenge. It is indeed the idea of the boundary assembly to question the ‘self’ of ‘self-government’ (Schmalz-Bruns 2011). It is the case that ‘the people’ lose a key competence – the right to unilaterally decide who should belong. At the same time, a more inclusive boundary-making community is empowered at the expense of the ‘the people’.

In the context of membership politics, the democratic demand to ‘let the people decide’ raises more questions than it answers. Questioning the people involves questioning what it means for a decision or an institution to be democratic in the first place. While many democratic theorists simply do not address boundary questions, others consistently include noncitizens in their proposals (e.g. Lafont uses the term ‘citizens’ for ‘anyone who is subject to the laws of a country, regardless of their specific status (e.g. undocumented immigrants)’ (Lafont 2020:5 Fn. 15)) – but neither engages with the institutional challenges of democratizing membership politics. The shortcut objection loses some of its bite in the context of membership politics because it builds on a problematic assumption: that we already know who belongs to the people and the self of self-government. The shortcut objection takes the existence of the people as its starting point and asks whether empowered randomly selected assemblies can ensure that they do not have to blindly defer to an institution or a particular group of citizens. The worry is that such assemblies disempower the people. In the case of the boundary assembly, however, the question could at best be whether it requires blind deference from the boundary-making community (that is, all those who have a claim to participate in membership politics).

The question then is what advantages and disadvantages different institutional solutions for empowering a boundary-making community have. There might be alternatives to a sortition-based assembly, such as special parliamentary committees tasked with considering the interests of nonmembers.¹⁵ Benjamin Boudou, for example, provides an overview of different ways of representing nonmembers in political decisions (although not with a focus on boundary making), for example, in supranational parliaments, via ombudspersons, through reciprocal representation, or by self-appointed representatives (Boudou 2023; Dobson 1996; Schäfferle 2022). It is beyond the scope of this article to provide a comprehensive normative evaluation of competing institutional solutions for legitimate membership politics. The next step in the institutional debate about the democratic boundary problem could consist of evaluating such proposals comparatively. If we accept the challenge of democratizing membership politics as I have presented it here, we do not only have to ensure more *inclusive* membership politics (which might also be realized in a special parliamentary committee, for example) but also more *independent* membership politics. I think that there are good reasons to assume that sortition-based institutions that do not require electoral authorization have the advantage of being more independent from partisan politics. Randomly selected members of a boundary assembly, who do not need to stand for re-election, have an independence that is lacking in parliament. In short, the response to the shortcut objection is that it carries less weight in the context of boundary making, where we have reasons to prioritize independence over accountability.

Alienation objection

This already points to the second potential objection, according to which the majority of citizens might feel alienated from the boundary assembly as they cannot identify with the decisions and deliberations (Lafont 2020:19). Even if critics might agree that the extraordinary political context calls for creative institutional procedures, we might face the problem that many citizens will feel alienated from the decisions and positions of the boundary assembly. Let us reframe this objection: It is important to note that this objection relies on an implicit idea of a ‘majority of citizens’. Making membership politics more inclusive means that citizens will lose privileges and might feel alienated from the proposals. We should not only ask how the privileged will react but also how the ‘majority of noncitizens’ might react. Political ‘backlash’ is an important topic at the moment, but it is not at all clear whether all instances of backlash should be seen as involving problematic kinds of alienation. Consider the backlash of conservative citizens to LGBTQIA+ rights – how seriously should we take perceived alienation in such cases (Laborde 2017:135)? It is important to address the disconnect between citizens and new policies but we should be careful not to overstate potential alienation of (formerly) privileged groups. As with the shortcut objection, the problem with the alienation objection seems to be that democratizing membership politics might indeed alienate citizens because it challenges a core conviction of what it means to be autonomous.

Capture objection

A third objection focuses on the problem of ‘capture’. Capture describes the problem that wealthy and powerful groups influence policy-making (Landa and Pevnick 2021). While

¹⁵I owe this idea to an anonymous reviewer.

it is often argued that randomly selected assemblies evade the problem of capture prevalent in electoral systems, they are not free from this danger. As Landa and Pevnick have argued, powerful groups will also have incentives and means to influence members of assemblies that are selected by lot. As assembly members will be lay citizens, they will not be experienced in dealing with lobbyists (Landa and Pevnick 2021). For membership issues, the boundary assembly's *independence* from partisan politics is crucial. It is important to be aware of different ways in which powerful groups could attempt to influence members of the boundary assembly. Assembly members and their support staff would have to be shielded from lobbyists, for example, by creating a 'firewall' and implementing 'anti-corruption codes (which, e.g., outlaw promises of future payoffs)' (Abizadeh 2021a:12). There might be other institutional strategies to address this challenge in the context of membership politics.¹⁶

More importantly, however, we can reframe the capture objection. My proposal can be understood as a reaction to a different kind of capture diagnosis: Contemporary membership politics is captured by citizens. The political advantages of full membership are considerable. Privileged groups (citizens) decide about the inclusion and exclusion of disadvantaged groups (noncitizens). The idea of institutionalizing a boundary assembly would be to challenge this mode of membership politics and to empower marginalized groups *against citizens*. Building on the recent debates on Machiavellian or plebeian democratic innovations (Bagg 2024; Prinz and Westphal 2023; Vergara 2020), we could envisage membership politics as counter-hegemonic. Building on Samuel Bagg's terminology, the normative ideal behind institutionalizing a boundary assembly would not be 'participatory inclusion' or 'responsive representation', but rather 'resisting capture' in the context of membership politics (Bagg 2024). If our main goal is to protect membership politics from the undue influence of privileged citizen interests – which institutions and rules would be required? This question reiterates the idea of independence outlined above and my claim is that despite their limits boundary assemblies are a step toward more independent membership politics.

Technocracy objection

According to a fourth objection, democratic innovations such as boundary assemblies are orchestrated top-down institutions merely *activating* but not *empowering* citizens (Hammond 2020). To put it more bluntly, the boundary assembly does not only contribute to a problematic trend in democratic theory to propose technocratic fixes to deeper political malaises but, worse, it instrumentalizes lay citizen participation and even noncitizen participation. Is the proposal of the boundary assembly guilty of 'citizen-washing' or what we might call 'noncitizen-washing'?¹⁷

On a general level, this objection points to a key challenge discussed throughout this article: Can one institutional proposal really solve this fundamental democratic problem? I

¹⁶Landa and Pevnick conceded that their objections against empowered sortition-based assemblies lose their force in the context of less ordinary policy areas that do 'not have clear ex ante winners and losers', such as election reform (Landa and Pevnick 2021:68).

¹⁷The term 'citizen-washing' was recently used in the context of the participatory process of the Conference on the Future of Europe. The European Ombudsman Emily O'Reilly said that 'without clear action on these ideas, the conference may be seen simply as gesture politics, a hollow exercise in "citizen-washing"' (O'Reilly 2022). Other authors speak of 'democracy-washing' when referring to citizens' assemblies that are 'convened primarily for elites to claim them for political show' (Lacelle-Webster and Warren 2023:108).

have tried to show why I think that the democratic boundary problem cannot be neatly solved. It is a problem that can be taken more or less seriously in political theory and practice and we can discuss proposals for how to deal with (not: solve) the problem (Donahue and Ochoa Espejo 2016). In addition, I have argued that boundary assemblies should be seen as part of a complex institutional context and not as single institutions making binding decisions. *But*: my focus was on *democratization* in the sense of making membership politics more inclusive and more independent. The incremental logic in this proposal is that these ideals might lead us in the right direction – toward more democratic boundary making.

On a more specific level, this objection builds on a dissatisfaction with the recent democratic innovations trend of proposing randomly selected assemblies as the ideal remedy for seemingly every political problem (including genome editing, climate change and foreign policy). This is not only institutionally-unambitious but also seems to favor a top-down approach to institution-building (Machin 2023). Critics therefore object that we should rather look at social movements and democratic innovations from below (Bua and Bussu 2023; Della Porta and Felicetti 2019). While these objections seem pertinent for ordinary political contexts, I think that bottom-up organizing is insufficient in the case of membership politics. A clear institutional break with established sovereign practices would be necessary to challenge existing patterns of membership politics. It requires institutional experimentation to identify different potential avenues for democratizing membership politics. The boundary assembly *illustrates one possibility* of institutionalizing membership politics differently, but we need more normative research comparing alternative institutional proposals.

In this section, I have discussed four objections to the idea of institutionalizing boundary assemblies. Instead of addressing each objection head-on, I have tried to indicate how they can be reframed for the context of membership politics. The objections lose some of their force once we question democratic boundaries. More work would be necessary to fully address all four objections.

V. Conclusion: Institutional imagination in membership politics

In this article, I have argued that we should start thinking about institutional alternatives for legitimate membership politics. I have focused on the idea of citizens' assemblies to see how this now widely discussed institutional model would have to be adapted for the context of extraordinary decisions on citizenship and voting rights. More precisely, my question is how can we rethink the idea of citizens' assemblies in the context of membership politics where the boundaries of the demos are at stake. I have emphasized the strengths of randomly selected boundary assemblies for democratizing membership politics in two regards: Making membership politics more inclusive and more independent.

More inclusive membership politics could be realized by institutionalizing boundary assemblies representing members and nonmembers. While different members/nonmembers ratios can be justified, I have argued that parity of members and nonmembers has symbolic, epistemic and egalitarian benefits. I have proposed two pro tanto principles of inclusion. Representatives should be selected by lot from the group of *all citizens* (50 %) and *all resident noncitizens* (50 %). This proposal should be seen as the first proposal of 'good enough representation' that requires political contestation and discussion.

To realize more independent membership politics, we could rethink both the institutional interplay (coupling) and decisional status (authority) of boundary assemblies. If our goal is to make membership politics more independent, boundary assemblies should

not be closely integrated within the established ‘sovereign’ political system. Instead, we need to envisage a broader set of extraordinary institutions that provides a background for boundary assemblies. In addition, I have argued that boundary assemblies should take binding decisions on a subset of membership question and play a variety of discursive roles (contestatory, vigilant, anticipatory) in all other membership issues. In my discussion of four objections (shortcut, alienation, capture, technocracy), I have highlighted how the normative background assumptions for evaluating and proposing institutional alternatives change once we focus on membership politics. For example, we can reframe the problem of elite capture often raised in the context of citizens’ assemblies as a problem of “citizen capture” that might be addressed by institutionalizing a counter-hegemonic boundary assembly in membership politics.

Although it might not be realistic that states will introduce boundary assemblies any time soon, it is important to note that empirical scholars witness a major shift in citizens’ and politicians’ support for randomly selected assemblies (Goldberg and Bächtiger 2023; Maier and Bächtiger 2023; OECD 2020). Democratic theorists can build on this momentum and discuss the promises and pitfalls of institutional alternatives. Instead of proposing supposedly “perfect” blueprints the goal should be to use the insights from recent democratic theory debates to develop institutional imagination in membership politics.

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