

The Democratic Riddle

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Abstract

Democracy means popular control, by almost all accounts. And by almost all accounts democracy entails legitimacy. But popular control, at least as that is understood in many discussions, does not entail legitimacy. So something has got to give. Democratic theories divide on what this is, so that the question prompts a taxonomy of approaches. The most appealing answer, so the paper suggests, involves a reinterpretation of the notion of popular control.

Keywords: Democracy, Control, Legitimacy

There are three plausible assumptions that are commonly made about democracy and that we should be loath to reject; they are axioms of democratic discussion. Yet those assumptions are inconsistent with one another, and constitute a riddle for democratic theory. This paper presents and motivates those assumptions and shows how standard approaches to democracy resolve the riddle in an unsatisfactory *ad hoc* manner, restoring consistency by the blunt rejection of one or another axiom. The paper goes on to outline a different strategy of resolution, involving the reinterpretation rather than the rejection of an assumption, and it uses this to identify a novel way of conceptualizing democracy as a regime of deliberative regulation. Under this conception the assumptions become jointly consistent, while remaining individually plausible.

1. The riddle

The assumptions that give rise to the riddle are these:

- *The equivalence axiom:* democracy means popular control.
- *The legitimacy axiom:* democracy entails legitimacy.
- *The tyranny axiom:* popular control does not entail legitimacy.

These assumptions are clearly inconsistent with one another. Two items, democracy and popular control, are presented as logically equivalent; that is how ‘means’ is to be understood. Yet one of those items, democracy, is said to entail legitimacy whereas the other, popular control, is said not to entail legitimacy. Clearly something has got to give: one assumption has to be rejected or the assumptions have to be reinterpreted so that consistency is restored. But the assumptions all look to be unambiguous and compelling. And so the inconsistency between them presents something of a riddle.

The first axiom elaborates on the meaning of democracy, as that is registered in the very etymology of the word. ‘Democracy’ comes from two Greek words, ‘demos’ meaning people, and ‘kratos’ meaning power. The idea in any democracy is that the people have influence, where the extension of the people may be taken as given and unproblematic; specifically, the people have influence in or over the exercise of government. The influence they have must not be partial and wayward, however, like the influence of the weather on government. It must be significant in degree, and it must be directed to a systematic, equally welcome end; otherwise it will not give the people the requisite power or control. The first, equivalence axiom equates democracy with a regime in which the people have an influence of that controlling sort.

The second axiom formulates the intuition behind a standard move in democratic debate. I will make this move if I argue in minimal defense of a law or policy that since it was introduced under democratic arrangements, it has the backing of a legitimate regime and you ought to recognize this. The move is hard to resist and that is why the second assumption has a natural appeal. The assumption does not offer a full defense for a given law or policy, of course, for in agreeing that the regime is legitimate, you do not necessarily agree that its laws and policies are invariably just or for the best. You will have to acknowledge is that since they were adopted within the regime—and, we may assume, in accord with the regime’s procedures—the government has the right to enact and enforce its laws and policies, and you will have to accept your obligation, if you are to oppose them, to do so within the system.¹

Opposing a decision within the system will mean exploiting the resources of democracy to challenge it in the courts, in the forums of politics, in the media, or even on the streets. At the limit it may mean resorting to civil disobedience. Such disobedience remains within the system insofar as you accept the right of the government to penalize you for disobeying. By displaying such an acceptance of the regime—and therefore an acceptance of censure and punishment—you underline the intensity of your feeling and, in consequence, the strength of your claim to be given a democratic hearing.²

¹ Notice that I define the legitimacy of a regime without connecting it to an obligation, pro tanto or otherwise, to comply with the dictates of the regime. For the record, I think that such legitimacy connects rather with an obligation, if you oppose the laws, to oppose them within the system. See Pettit 2012 and on related matters Simmons 1979.

² It may also be best to oppose an illegitimate regime within the system, of course, especially via civil disobedience. Civil disobedience in this case would mean treating the regime as if it

I describe the third axiom as one of tyranny because it picks up the common claim that popular control may involve a tyranny of the majority. This claim is as old as democracy itself, marking the fact that a majority may serve its own interests in government, and act in a way that treats the members of one or another minority as less than equal. The word 'tyranny' is significant for it clearly suggests that a system of popular control may be, not just suboptimal or unjust, but downright illegitimate. The idea behind the assumption is that popular control does not entail legitimacy, precisely because certain majoritarian decisions may systematically offend against a minority in a way that makes them illegitimate.

2. Standard responses

There are three standard responses to the democratic riddle. More exactly, there are three standard positions in democratic theory that present different responses to the riddle, each denying a different axiom. For reasons that will become clear in discussion, I describe them as populism, liberalism and eclecticism.

The populist response accepts that democracy means popular control and that it also entails legitimacy but avoids the riddle by denying the third, tyranny assumption and asserting that a system implements popular control then it is a legitimate regime. The idea is to live with the logic of majoritarianism and embrace the conclusion that majority rule is always legitimate rule, even if it offends against a minority in some way. The position is populist insofar as it prioritizes the collective rights of the people over the individual rights of members, including members in minority categories.

The liberal response accepts that democracy means popular control, as in the first axiom, and that popular control does not entail legitimacy, as in the third, but avoids the riddle by rejecting the second assumption that democracy entails legitimacy. I describe this response as liberal, because it is associated in particular with William Riker's (1982) case for liberalism against populism. He accepts the equation between democracy and popular control but argues that as it is exemplified in standard voting systems, popular control does not guarantee legitimacy; it is consistent with a violation of minority rights that would, intuitively, make a regime illegitimate. Thus he embraces the conclusion that democracy does not entail legitimacy. In order for a regime to count as legitimate, he suggests, public decision-making will not only have to emanate from a democratic source but also respect individual rights on the part of those whom it affects. Democracy, on this approach, is not a guarantor of legitimacy. It will have to be balanced by a counter-majoritarian regime

were legitimate, while not thinking that it actually is. The tactic might put pressures in place that would push the regime towards an increasingly legitimate pattern of organization and behavior. Holding an individual or institution responsible when they are not properly fit to be held responsible may help to make them responsible; it may 'responsibilize' them (Garland 2001; Pettit 2007). Similarly treating a regime as legitimate, say in civil disobedience, may elicit support from others and expose the government to publicity in such a way that the system performs in an ever more legitimate pattern.

of individual rights in any legitimate system; this regime will operate via a constitution that restricts the scope of the democratic will.

Where populism rejects the third assumption, and liberalism the second, eclecticism rejects the first. It argues that democracy should not be equated with popular control but only with an eclectic dispensation of popular control constrained by an independent factor: usually, some set of individual rights. It embraces a compound conception of democracy, as it has been called (Mayerfield 2009). In order to count as democratic a regime will have to display both the control element and the constraint element; the control element alone will not ensure democracy. This being so, the second and the third axioms can stand; democracy in the eclectic sense will entail legitimacy but popular control on its own will not. This position is quite commonly adopted in contemporary legal and political theory. It is exemplified in the view of democracy taken by Ronald Dworkin (2006: 131) when he writes: ‘a community that steadily ignores the interests of some minority or other group is just for that reason not democratic’.

The pattern in the three positions given is straightforward. Each affirms two of the axioms and derives the falsity of the third from the two affirmed. Eclecticism holds that democracy entails legitimacy but that popular control does not and concludes that democracy is not equivalent to popular control: it also requires a regime of individual right. Liberalism holds that democracy is equivalent to popular control but that popular control does not entail legitimacy and concludes that democracy does not entail legitimacy either; the respect for certain rights is also required. Populism holds that democracy is equivalent to popular control and that democracy entails legitimacy and so concludes that popular control entails legitimacy. The positions map out as follows.

	Equivalence axiom	Legitimacy axiom	Tyranny axiom
Eclecticism	No	Yes	Yes
Liberalism	Yes	No	Yes
Populism	Yes	Yes	No

Should we be attracted by any of these positions? I do not think so. They each suffer from a glaring deficiency, which is that the presumptive justification for rejecting the targeted axiom in each case is just that doing so will resolve the riddle; the rejection is in that sense *ad hoc*. Eclecticism appeals on the grounds that it saves the legitimacy and tyranny axioms, liberalism on the grounds that it saves the equivalence and tyranny assumptions, and populism on the grounds that it saves the equivalence and legitimacy assumptions.

This might not be a problem for any of these theories if the axiom it rejected were not persuasive. But, intuitively, each of the axioms is quite compelling. The equivalence axiom spells out the core idea in democracy that the people rule by exercising control in or over government. Rejecting it by requiring that the people rule

according to an independently given set of rights looks like redefining democracy to one's purposes: in effect, rigging the books. Things would be different if the argument were that the very notion of popular control, in a relevant sense, requires a regime of rights; this is the sort of view for which I argue later.³ The eclectic position is that democracy is not just a matter of popular control, despite the etymology and the meaning of the word; it requires an extra element that has nothing to do with the notion of control.⁴

The legitimacy axiom articulates an assumption that figures on two fronts in regular democratic discussion. It appears, first, in the common assumption that if you admit that a regime is democratic but deny that it is legitimate, then you are an elitist who rejects the terms of democratic exchange. You say that it is not enough for legitimacy the people rule; the people must rule rightly: that is, rule rightly by the lights of a presumptively higher authority. The legitimacy axiom appears, second, in the assumption commonly made in the classification of regimes that if a system of government is intuitively illegitimate, say because of not giving independence to the courts, then it is not properly democratic. If illegitimacy entails the absence of democracy, then democracy must entail legitimacy.

The intuitive grip of the tyranny assumption is probably even stronger than the grip of either of the other axioms. This axiom figures prominently in the canonical commentaries on democratic practice, classical, modern and contemporary. It has always seemed obvious that the rule of the many can be deleterious for the life of the few and it has always been taken for granted that any systematic abuse of the few will make for illegitimacy. Electoral control can make for a tyranny of a majority, where a tyranny is the very paradigm of an illegitimate regime.

The three responses rehearsed here, and the criticisms just leveled against them, are most naturally interpreted in terms of the electoral or representative conception of the people as the members of the society, considered as independent subjects. But it is worth noticing that they also apply under the rival, participatory conception of the people as an incorporated assembly in which members are committed to acting as one. This is the people considered *en bloc*, rather than *en masse*, in the corporate image under which Hobbes (1994) and Rousseau (1973) depicted the sovereign people. Hobbes thought that the people could legitimately assume this self-incorporating, sovereign status, though he did not think that was necessary for legitimate government; in fact he preferred the arrangement under which the people were represented by an individual sovereign. In contrast, of course, Rousseau held that the people in assembly constituted the only legitimate sovereign.

³ For the record, Ronald Dworkin's phrasing occasionally suggests that individual rights should be introduced, not as an independent constraint on popular rule, but as a constraint required by the very notion of popular rule itself.

⁴ Stephen Holmes (1995: 206), who adopts something like the eclectic position, softens it by arguing that while the notion of democracy does not require a regime of individual rights, the organization of democracy does; the idea is that a democratic regime would be overburdened with decision-making if individual rights did not put a broad range of questions off the table. This is probably the best defense possible for what remains a distinctively eclectic line.

As interpreted in the electoral model, eclecticism says that it is not enough for democracy that the people are in electoral control, liberalism that while this is enough for democracy it does not ensure legitimacy, and populism that electoral control does not allow for an illegitimate tyranny of the majority. But those claims are also defined under the assembly model. Eclecticism would say that it is not enough for democracy that the people rule in assembly; liberalism that while assembly rule is enough for democracy it does not guarantee legitimacy; and populism, most brazenly, that assembly control does not allow an illegitimate tyranny of the majority.

3. The reinterpretation strategy identified

Each of the three positions identified is tenable but in view of the problems raised, none is particularly attractive. Eclecticism requires a rigged redefinition of democracy, liberalism a rejection of the fundamental idea that democratic approval is a guarantee of legitimacy, and populism an acceptance of the repugnant idea that no collective impositions can intrude illegitimately in the lives of individuals. So where, then, are we to turn?

The strategies discussed each involve the rejection of one assumption, with the cost attendant on letting that assumption go. An alternative strategy for resolving the riddle would support reinterpretation rather than rejection. It would find a base for arguing that, properly understood, the assumptions are individually true and yet jointly consistent. So is there any hope on this front?

If the reinterpretation strategy is to work, then at least one of the crucial terms—‘democracy’, ‘popular control’ or ‘legitimacy’—has to have a different sense in the two axioms where it figures. But ‘democracy’ and ‘legitimacy’ are used in a way that is supposed to be appropriate, no matter how the term is interpreted; the idea is that however democracy is understood it involves popular control and entails legitimacy, and that however legitimacy is understood it is entailed by democracy and not entailed by popular control. Thus the only hope for the reinterpretation strategy is to be able to argue that ‘popular control’ has one sense in the equivalence axiom and another in the tyranny axiom.

In the tyranny axiom popular control is clearly associated with the rule of numbers—roughly, with majoritarian rule; and taken in that way, the axiom is clearly true. So that means that the reinterpretative strategy will work just in case the idea of popular control in the equivalence assumption can be interpreted in a non-majoritarian manner; specifically, in a manner that preserves the entailment from democracy to legitimacy. If popular control is understood in one way within the equivalence assumption, and in another within the tyranny assumption, then there will be no problem of inconsistency among the three assumptions.

We saw earlier that if control is exercised democratically by the people, then the people must exercise a significant degree of influence on government and the influence must be systematically directed to a welcome, shared end. The majoritarian exercise of influence can certainly be significant, whether in the electorate or in an assembly, and the reason it is problematic is the likelihood of its being directed systematically to a majoritarian, unshared end: the satisfaction of the many, in relative

indifference to the few. This end may be systematically furthered because voters act as factions for group ends and the end of the majority faction wins out, or because voters each act as individuals for their own ends and the end sought by most—that is, by the majority faction—is successful. But if the tyranny assumption interprets popular control as majoritarian influence for majoritarian ends, then perhaps we can understand control in the equivalence assumption as a form of influence that differs from any such majoritarian process.

If we can do this plausibly, then we can run a credible version of the reinterpetative strategy. We will be able to recast the three axioms in a form that makes them individually persuasive but collectively consistent. The formulation will look like this.

- *The equivalence axiom*: democracy means popular, non-majoritarian control.
- *The legitimacy axiom*: democracy entails legitimacy.
- *The tyranny axiom*: popular control does not in itself entail legitimacy.

Is there a plausible interpretation of popular, non-majoritarian control such that we can think of that control as answering to the idea of democracy? The challenge is to find a non-majoritarian means-end package that would allow us to say that the people exercise the popular control associated with democracy when they use those means for that end. In particular, the challenge is to find a package that we can hope to implement under a suitable institutional design; it should not be a utopian package that feasible institutions would be unable to promote reliably.

Once the question is posed in this way, it becomes clear that there is at least one candidate answer available in the literature. It is found in the assembly model put forward by Rousseau in *The Social Contract*, published in 1762. Rousseau thinks that, strictly speaking, democracy requires that the people not only legislate in assembly, as his assembly model has them do, but also that they should act as an executive of their own laws—something that he thinks would not be desirable. But, putting aside his terminological idiosyncrasy, we can reasonably treat his assembly rule as a model of democracy.⁵

Rousseau accepts the second axiom according to which democracy in the relevant, assembly sense entails legitimacy and he also agrees, in line with republican tradition, with the third axiom that popular control on its own—majoritarian, assembly control—does not entail legitimacy. What he does in order to resolve the riddle is to reinterpret the first, equivalence assumption according to which democracy is equivalent to popular, assembly control. He argues that this assumption is true only when popular, assembly control is constrained so that it is exercised by the assembly as a whole in pursuit of the will of the assembly as a whole—the general or

⁵ Hobbes (1994) takes a different line, of course. He argues that the third axiom should be rejected insofar as he maintains that there is no such thing as tyranny; any individual or body that exercises sovereign rule effectively, guarding against the state of nature, is a legitimate ruler. This position derives from an overall theory of the nature of the state or commonwealth. Hobbes thinks that democracy might give rise to legitimacy, without falling foul of the democratic riddle, but he also thinks that other effective regimes would be equally legitimate.

corporate will. Constrained to that effect, the assembly decisions will be proof against the sub-corporate or particular interests of factions or coalitions. Thus Rousseau can represent the equivalence axiom as consistent with the assumption that assembly control as such, since it can be unconstrained, does not entail legitimacy. He recasts the three axioms in the following consistent form.

- *The equivalence axiom*: democracy means suitably constrained, assembly control.
- *The legitimacy axiom*: democracy entails legitimacy.
- *The tyranny axiom*: assembly control does not in itself entail legitimacy.

Rousseau's resolution is not of great interest in its own right, for at least three reasons. First, it presupposes, unrealistically, that an assembly of all the members of a society can take charge of government; there isn't a plausible version that would apply in an electoral rather than an assembly democracy. Second, the corporate or general will that is to be enacted in democratic decision-making remains an obscure target.⁶ And third, the measures proposed for constraining the assembly, allowing the enactment of the general will, are just not very persuasive. One proposal is that the assembly should vote only on general matters, not on issues of special interest to some individuals, and the other that there should be no discussion of the kind that might lead to the formation of faction. It is not clear how either measure could be reliably implemented.

The key idea in the Rousseauvian approach is that the control exercised by the people should be constrained so as to reflect their corporate or general will, where this need not always be reflected properly in majority voting. The idea is that the means of popular control should be constrained so as to target the enactment of that will, thereby avoiding a tyranny of the majority and implementing a regime that ensures legitimacy. Given that the Rousseauvian general will does not look like a feasible target on which to train popular control, however, is there any alternative available to do the same job? What other popular ends, and associated popular means, might be identified as essential to the sort of popular control that is equated in the first axiom with democracy?

⁶ Actually the preference or will of a group agent—the corporate will—cannot be identified with that which a majority supports. Take simple on-off preferences over whether *p*, whether *q*, and whether *p*&*q*, among a group of three individuals, *A*, *B* and *C*; the scenario parallels a scenario with judgments that is later discussed in the text. *A* and *C* may prefer that *p*, so that a majority support it, with only *B* against. *B* and *C* may prefer that *q*, so that a majority support it, with only *A* against. But *A* and *B* will prefer in consistency that not-*p*&*q*, so that a majority will prefer that *p*, a majority that *q*, and a majority that not-*p*&*q*. The only resolution for the group, if it is to act as a corporate agent, is to go against the majority preference on some matter: say, as a group, to form a will that *p*, that *q* and also, against the majority, that not-*p*&*q*. See (Pettit 2001, Ch.5; List and Pettit 2002; Pettit 2003b; List 2006; List and Pettit 2011). Rousseau might welcome this result insofar as it shows that the corporate will is not necessarily identical with the majority will. But of course the result also shows, contrary to Rousseau's claims, that the corporate will need not be identical with the majority will, even when that will is formed under suitable constraints. And it does not show that the corporate will, so formed, will be free of factional influence.

4. The reinterpretation strategy applied

The most salient alternative to making the general will into the target of popular control is suggested by the traditional opposition between will and reason. One of the great divides in thinking about the control that an individual subject has in his or her life is between the voluntarist school of thought that associates it with the control of the will, however that is conceived, and the intellectualist approach that would identify it with the control of reason. This suggests, then, that if we are to find an alternative to the Rousseauvian approach that can evade the democratic riddle in a parallel way, then we should think about the possibility of a form of popular control that is designed, in the means and ends adopted, to implement something that we might think of as popular reason.

The idea of a reason-based system of popular control divides into two varieties, depending on whether the system is meant to empower the reasoning of people about what they should collectively do, or to empower the reasons that they validate as considerations pertinent to questions of what they should collectively do. The term 'deliberative democracy' is generally used of the first of these proposals, though the proposal is often applied only to democracy at one or another local site: in a town meeting, or voluntary association, or formal committee (Cohen 1989; Gutmann and Thompson 1996; Bohman and Rehg 1997; Elster 1998). The second proposal, which I find more attractive, is sometimes in the background of discussions of deliberative democracy but is rarely spelled out properly. Where the first argues for a deliberatively conducted democracy, the second comes out in favor of a deliberatively regulated democracy. It puts the emphasis, not primarily on the exercise of reasoning among people, but on the fact that government, be it representative or participatory, is required to account for its decisions on the basis of reasons that are invoked in popular debate and pass muster among the people generally.

Those who espouse a deliberatively conducted democracy recommend reasoning among members of the relevant group, in particular reasoning about what option in a given decision will serve the group well, not about what will promote their self-interest (Coleman and Ferejohn 1986). But since democracy never escapes disagreement, this individual deliberation will have to give way at some point to voting. And since voting on connected issues is always liable to generate an inconsistent set of judgments on the part of the group, the ideal of deliberative democracy requires members to be prepared to deliberate as a group, not just individually, about how best to resolve such inconsistencies. Such collective deliberation will be impossible outside of a relatively small group, however, and so the strict ideal of a deliberatively conducted democracy is bound to be infeasible at the national level (Pettit 2003a).

The only point in this argument that may be obscure is the claim that majority voting on connected issues is liable to generate inconsistent group judgments. But the point is demonstrable (Pettit 2001: Ch. 5; List and Pettit 2002; Pettit 2003b; List and Pettit 2011). In order to illustrate it, let a group of just three people, A, B and C have to vote, at the same or different times, on whether p , whether q , and whether $p \& q$. A and C may vote that p , B that not- p . B and C may vote that q , A that not- q . And so a majority, A and B, will vote in consistency that not- $p \& q$; A thinks that not- q , after all, and B that not- p . The group, if it goes on straight majority voting,

will have to hold that p , that q and that $\text{not-}p \& q$. No sensible group agent will be happy to settle for such an inconsistent set of judgments, however, at least not if the judgments relate closely to decision-making. And so the group will have to deliberate as a group about which of the majority judgments to reject in order to ensure that the group will act on a coherent vision.

But if the idea of popular control via deliberative conduct does not look feasible, what of the related idea of popular control via deliberative regulation: that is, regulation by popular reasons? In order to introduce this possibility, we need to answer three questions. What are popular reasons? How might they regulate government? And would such a system of democratic regulation enable us to resolve the democratic riddle?

First question

Suppose, as routinely happens in an electoral democracy, that the members of a society indulge in constant debates about what they or their government should do in this or that predicament. We may think of the discussions as occurring on shop floors, office corridors and public houses, as well as in more formal debates in the media, at party meetings or on the floor of parliament or congress. Such discussions do not normally come to blows in a successful, ongoing democracy, even as they cross different lines of division among members and generate quite sharp disagreements. That this is so means that participants must be able to identify considerations that they can each present in arguing for their views, and expect others to find relevant or pertinent to collective issues. The disagreements will be generated by people's weighting those considerations differently or by their having different views on related matters of fact—or, of course, by failures of coherence or logic on one or another side. But however much disagreement materializes from such sources, the fact that discussions continue among the different parties, not giving way to straight conflict, means that the parties must be able to find or forge reasons for their proposals that pass muster on all sides as considerations that may be taken into account in collective decision-making. Those reasons will be relevant, by all lights, to resolving issues of what the collectivity should do; they will not be reasons that cite sectional interests only, or that depend on beliefs that are held only in some sections of the community, or that fail to connect in some other way with shared concerns.

As parties learn their way around in discussions about collective decisions, including discussions outside their immediate circle or across different circles in the society, they are bound to familiarize themselves with the considerations that have this standing. Those considerations will count as reasons for or against certain collective decisions that each recognizes as relevant, each recognizes as having this recognized status, and so on in the usual hierarchy. They will constitute a shared currency, in principle capable of constant development, for the evaluation and regulation of collective decision-making.

How variable are the common or popular reasons that we might expect to emerge in a society and serve in the regulation of government? Some reasons will have to be recognized as a condition for the very possibility of a currency of popular reasons emerging, developing and gaining regulative influence. These will include

considerations of respect that rule against treating people as something less than conversable persons who can be reached by reasoning—they will argue against restricting free speech, for example, and in favor of limiting the reach of government—as well as equality considerations that rule against treating any parties as worthy of less than equal respect; these may rule against denying them equal rights of speech and association, for example, or against denying them equal immunity to certain government actions. Other considerations will be more or less universally compelling, if not required as conditions for the very possibility of deliberative regulation, such as those that rule in favor of providing for the basic education, material welfare and legal security that are essential for commanding respect. Others again may be culturally variable considerations, bearing on limits to private property, or the position of a certain religion in public life, or the need for cultural homogeneity.⁷

Second question

How might popular reasons of this kind be empowered in political life and be used to regulate government? Elections are clearly going to be of the first importance, both for guarding against takeover by a dynasty or clique, and for providing a context for the sort of public discussion and deliberation that allows popular reasons to materialize and gain recognition.⁸ But equally clearly there will have to be non-electoral safeguards and institutions that help to ensure, first, that no collective decisions are made in favor of options that popular reasons would outlaw; and, second, that collective decisions between other, more or less acceptable options are made on the basis of procedures that popular reasons would support: depending on context, the procedures supported may be a parliamentary vote, referral to an impartial or expert body, a general referendum, or whatever.

The non-electoral devices used will be various, reflecting the requirements of implementing deliberative regulation and the influences of the particular reasons validated in common exchange. They are almost certain to include rule-of-law constraints on how government acts; individual-right constraints on what it does; institutional restrictions such as the separation of powers, accountability measures and

⁷ John Rawls (1999) may often have popular reasons in mind when he speaks of public reasons and my ideas have clearly been influenced by his discussion. I prefer to speak of popular reasons, emphasizing points that are not made in Rawls and might even be rejected by him: first, that they are generated as a byproduct of ongoing debate; second, that they are relevant to such debate, no matter at what site it occurs, private or public, informal or formal; and third that in principle the popular reasons that operate in a society, or even in the international public world, may not be reasons that carry independent moral force: we may disapprove of their having the role they are given in debate. The language of popular reasons, as used here, may be more in the spirit of Habermas (1984, 1989) than Rawls. I am grateful for a discussion on this topic with Tim Scanlon.

⁸ Knights 2005 makes a persuasive case that it was the frequency of elections in the late seventeenth and early eighteenth century, together with the existence of a culture of pamphlets, journals and coffee houses, that gave rise to the formation of a discursive politics: a politics in which interest-based factions gave rise to ideological parties that focused on deliberatively negotiable differences public policy.

the depoliticization of certain decisions; and, perhaps most important, exposure to a power of effective invigilation and contestation on the part of ordinary people and their representatives. Electoral institutions will combine with these arrangements to generate a characteristically democratic dynamic of exchange between those in government, those out of government, and ordinary people. If the dynamic works well, then it will help to ensure that government does not act against popular reasons and that when popular reasons require that it act, then it actually does so. It does not violate the requirements of popular reasons either in the way it acts or in the way it fails to act.

Third question

Does the model of a deliberatively regulated regime give us a plausible image of popular control and enable us to resolve the democratic riddle? I believe it does. It involves a system in which people exercise influence on government in many different forums, as we have seen, and at many different levels. All going moderately well, this influence ought to have the systematic effect, though perhaps only over the long run, of disciplining government so that policies or processes that offend against popular reasons get to be sidelined. And that effect ought to be welcome on all sides insofar as it is generally accepted that such reasons should prevail in public life; this acceptance will show up in how people expect others, including those in government, to behave in pushing their various causes.

If the electoral and non-electoral institutions that prevail by courtesy of general acceptance do actually facilitate the deliberative regulation of government, therefore, then it is plausible to think of the network that they constitute as mediating the control of the people. Various actors will play a part within that network, ranging from citizens in their electoral and contestatory roles to those they elect to legislative or executive office, to those who are appointed in judicial roles, to those on central banks or electoral commissions to whom public decisions are outsourced. The network involved will generally sustain a global, more or less coherent pattern of outcomes—else the society would be anarchic—and in doing so it will have to be faithful to the sorts of reasons that are valorized in public discussion; it will have to rule out policies or processes that are inconsistent with such considerations.

We are now in a position to see how the approach sketched here can serve to resolve the democratic riddle in the reinterpreted manner that parallels the otherwise very different approach found in Rousseau. Deliberative regulation counts as a form of popular control, by the argument just given, and the popular reasons it empowers promise to impose a regime that ensures legitimacy; certainly it does not hold out the danger of a tyranny of the majority. Thus we can reinterpret the three democratic axioms in a way that makes them individually persuasive and jointly consistent.

- *The equivalence axiom*: democracy means popular, deliberatively regulated control.
- *The legitimacy axiom*: democracy entails legitimacy.
- *The tyranny axiom*: popular control does not in itself entail legitimacy.

The point of the discussion in this last section has not been to provide a proper defense of the idea of a deliberatively regulated democracy, or of the institutional means whereby it might be advanced; I tackle those goals in (Pettit 2012). I think that it is important to have a conception of democracy that solves the democratic riddle and my only wish has been to show that there is a candidate that promises to be able to achieve this goal: one that stands in for a family of candidates, indeed, since deliberative regulation can be variously interpreted.⁹ Democracy should not be thought of in purely electoral, majoritarian terms, despite the preference of many professionals (Przeworski 1999), at least not if the democratic riddle is to be resolved. And it need not be thought of in that way. There is an alternative approach available, although it has not had as much attention as it deserves, and needs.¹⁰

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⁹ If Ronald Dworkin's comments are interpreted in a non-eclectic manner, as noted earlier, then his approach might be situated in this broad family. And so might the approach espoused by Jürgen Habermas (1996: 142) when he argues that a regime of individual rights is required for deliberative participation in government; it depends on whether 'deliberative participation' is understood broadly enough to include or overlap with deliberative regulation.

¹⁰ A version of this paper was presented as the Inaugural Edmund Burke Lecture at Trinity College, Dublin, in 2007, where I benefited greatly from the comments of those in the audience but in particular from the remarks of my respondent, Leif Wenar.

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