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Journal Title: Republicanism and the future of democracy /

Volume:
Issue:
Month/Year: 2019
Pages: 13-36

Article Author: Philip Pettit

Article Title: The general will, the common good, and a democracy of standards

Call #: JC423 .R4256 2019

Location: F

CUSTOMER HAS REQUESTED:
Electronic Delivery: Yes
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Note

Republicanism and the Future of Democracy

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CAMBRIDGE
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1 The General Will, the Common Good, and a Democracy of Standards

Philip Pettit

Many democratic theories start from democracy as an accepted practice, look for the most plausible account of the ends it serves, and then propose reforms to the practice that would better enable it to achieve those ends. In other words, they follow something akin to the methodology that Ronald Dworkin (1986) describes as that of constructive interpretation.

This methodology has two problems. First, it presupposes an account of democracy, raising tricky issues as to whether democracies should be characterized, for example, in the minimalist, electoral terms preferred by political scientists (Przeworski 1999), or in a way that also requires features like an independent judiciary or an unconstrained civil society. Second, of course, it sidelines the issue as to whether democracy is the optimal way of organizing government, thereby begging the question against the case in favor of alternative systems like the meritocracy that Daniel Bell (2015) has recently defended as an idealized version of the Chinese regime.

I prefer an approach to political theory, and democratic theory in particular, that begins further back from current institutions and practices, asking on more general, and presumptively more fundamental, grounds about what system of government is to be preferred. Neo-republican theory offers us such grounds, arguing that the best system or family of systems, at least from a domestic point of view, has to do best by its people's equal enjoyment of freedom: that is, freedom as nondomination; it has to provide for people's individual freedom in relation to one another and for their shared freedom in relation to the state they live under.

The chapter explores this approach to democratic theory. In the first section, I outline the core republican ideas, identify a problem that they raise about the power of the state, and explain why any plausible answer would direct us towards a regime in which the *demos*, or people, enjoy *kratos*, or power – a regime worthy of being described as a democracy. In the second, I present and critique an answer, associated in particular with Jean-Jacques Rousseau (1997a; 1997b), according to which a

suitable democracy would allow for the formation of a general will and install this will in the operations of the state. In the third, I argue for a different model, in which democracy allows for the formation of a sense of the common good and constrains the state to be guided by this. While the notion of the common good is central to the republican tradition, it is interpreted here in a novel way and recruited in support of an ideal of the polity as a democracy of common standards, *not* as a democracy of common will.[1]

1 The Republican Frame

It will be useful by way of background to sketch the main ideas in the republican tradition, according to the neo-republican construal of that tradition, focusing on the problem they raise to which democracy, suitably understood, might promise a solution. These ideas figure in earlier work of my own and in the works of many other authors.[2]

Republican Freedom

Freedom in the republican tradition is a property of the person in the first place, and of choices or indeed societies in the second (Pettit 2007b; Skinner 2008). It consists in not enduring anything like the *dominatio* or domination associated in Roman republican usage with slavery (Lovett 2010a, Appendix). It requires the absence of domination, even the domination of the good-willed or gullible master who, wittingly or not, allows the slave significant latitude of choice. For all sides in Roman politics, popular and elite alike, freedom amounts simply to nondomination (Arena 2012, 8–9).

If the *servus*, or slave, is the epitome of unfreedom in this way of thinking, the exemplar of freedom is the *civis*, or citizen. In order to be a

[1] I have defended a democracy of standards in Pettit (2012a; 2014) but without critiquing a democracy of will and without grounding it in the idea of the common good.

[2] In this account, I rely heavily on earlier works, in particular Pettit (1997; 2012a; 2014). Other works on republican theory in English include these monographs: Brugger (1999), Gourevitch (2014), Halldenius (2001), Honohan (2002), Lovett (2010b), MacGilvray (2011), Martí and Pettit (2010), Maynor (2003), Skinner (1998), Taylor (2017), Thomas (2017), Viroli (2002); these collections of papers: Besson and Martí (2008), Honohan and Jennings (2006), Laborde and Maynor (2008), Niederberger and Schink (2013), Skinner (2008), Van Gelderen and Skinner (2002), Weinstock and Nadeau (2004); and a number of studies that deploy the republican conception of freedom, broadly understood: Bellamy (2007), Bohman (2007), Braithwaite, Charlesworth, and Soares (2012), Braithwaite and Pettit (1990), Laborde (2008), Richardson (2002), Slaughter (2005), White and Leighton (2008). For a recent review of work in the tradition see Lovett and Pettit (2009).

liber, or free person, a person has to have the protection of the republic against the assumption or exercise of domination by any other, and that protection has to be provided on an equal basis with other citizens; if freedom "isn't equal throughout," as Cicero (1998, 21) has one of his characters say, "it isn't liberty at all." Thus, not being protected as a citizen among citizens, even the *servus sine domino*, the slave without a master, does not count as free in Roman thought (Wirszubski 1968). Only citizens are able to choose as they wish, within the choices that the law gives them, without having to depend on the goodwill or permission of others.

This image of freedom is maintained in the later republican tradition that dominated the West from the high middle ages to the early nineteenth century (Fink 1962; Pocock 1975; Robbins 1959; Skinner 2002a; 2002b). It shaped the guiding ideas in the Italian city-republics of the Renaissance, the Polish republic of the sixteenth century, and the seventeenth-century Dutch republic; it inspired the English revolution of the seventeenth century and the American and French revolutions of the eighteenth. The image remained influential in English thought even after the failure of its revolution, being reconciled from the early eighteenth century with constitutional monarchy. It is clearly visible in the definition of freedom in *Cato's Letters*, a radical tract of that period. "Liberty is, to live upon one's own terms; slavery is, to live at the mere mercy of another" (Gordon and Trenchard 1971, Vol. 2, 249–250).

Neo-republican thinking begins from a regimented version of the conception of freedom as the antonym of domination. This equates freedom with the protected status under which a person is not dominated by any other. It requires that in order to be free an individual must be protected equally with others in the full range of choices, however demarcated, that all can exercise and enjoy at the same time. This is the range of what modern republican thinkers came to call the fundamental or basic liberties (Lilburne 1649): the domain of what Kant (1996), faithful to the tradition, describes in *The Doctrine of Right* as external liberty.

How well protected do people have to be in order to enjoy freedom as nondomination in such choices? It is not enough for protection that rewards and incentives are put in place that encourage the more powerful not to interfere with the less; while that might reduce the extent of interference, it would preserve the ability of the powerful to interfere with others.

Protection does not require that interference be made impossible, however; it is enough for nondomination that it be made suitably difficult or costly. Plausibly, the difficulties or costs imposed on interference – say, the risks of penalty established by law – must be sufficiently severe, by

local criteria, to give people reason not to live in fear or deference in relation to their neighbors.[3]

Under realistic assumptions, and in the long republican tradition, the equal protection of individuals can only be provided by a common rule of law. However, that protective law must not be formed or maintained at the will of an independent, dictatorial controller. If it were subject to such independent control, then those it protects could act as they wished, only so long as the controlling body was willing to let them do so. They would be dominated on the public front, then, rather than on the private. They would suffer domination from the *imperium*, or public power of the polity, rather than from the *dominium*, or private power of other individual or corporate agents (Kriegel 1995).

The Republican Polity

This brisk account of republican ideas gives us a research program for thinking about how the polity or state should perform on the domestic front.[4] It should establish a law that enables people to avoid domination in their relations with one another and it should operate under procedures for making, interpreting, and implementing the law that prevent it from dominating those whom its law is designed to protect. It should guard against private domination of individuals at the hands of others and public domination of individuals at its own hands.

The problem addressed in this paper is that of public domination. The question is whether a state may be forced to exercise the power of making, interpreting and implementing that law in such a way that it does not dominate its citizens. The two responses outlined in the paper represent the two ways in which that question has been approached within broadly republican ways of thinking.

[3] More on this theme later. Some thinkers seem to treat the ideal of nondomination as infeasible, because of thinking that it requires that interference by others be rendered impossible. Thus, Niko Kolodny suggests replacing it by an ideal of nonsubordination which you may enjoy in the shadow of the powerful, so long as those agents are "resolutely disposed" not to take advantage of their power (Kolodny 2014, 297). I see no reason to downsize the ideal in this way. Downsizing the ideal to nonsubordination would also restrict its range. Thus, your undominated status can be compromised not just by factors contributing to social subordination, but also by momentary exposure to the power of an opportunistic assailant, whether exercised or not. It can also be compromised without social subordination by a power that extends just to limited choices, as in the power of an employer with whom you have signed up to a no-compete clause: a clause blocking you from leaving to take up a similar job elsewhere, within a certain period.

[4] For discussions of how it should perform on the international front, see Bohman (2007), Buckinx, Trejo-Mathys, and Waligore (2015), Laborde and Ronzoni (2016), Pettit (2010a; 2015; 2016b), Slaughter (2005).

Each of the responses argues in a different way that the best hope of getting a state or polity that does not dominate the people whom it governs is one that is subject to the *kratos*, or power, of the *demos*, or people – one in the etymology of "democracy" that is shaped by the people (Ober 2008). Each offers a republican rationale for democracy in that broad, etymologically motivated sense – that it should guard against public domination – and each directs us towards an account of how a democracy should be organized if it is to provide this sort of safeguard.

The Problem of Public Domination

The problem of public domination is particularly challenging because the legal protection that a state provides always involves interference with people's choices. Thus, the problem is to explain how a state that interferes with people can do so without dominating them. The state interferes with its own people, on any plausible conception of interference, when it determines the range of basic liberties to protect; when it coerces its people to obey protective laws, threatening those who break them with penalties; when it coerces them in the same way to pay taxes and make other contributions in support of its activities; and, of course, when it imposes penalties on convicted offenders, blocking potential options by incarceration, for example, or at least burdening their choices by fines or community service. How can the state that interferes in such ways with its subjects or citizens not dominate them in doing so?

The republican response assumes that there is no problem of domination raised by the existence of states as such, because the coercive, territorial system of law that the polity provides is inescapable in a state-run world. In a world of competing regimes, a local polity only has a choice between remaining in existence and letting another state take over the territory instead; it does not have the option of letting its members exist in a stateless condition. And the bare choice of remaining in existence is liable to be dictated by the presumptive wishes of the community, so that it does not constitute an unconstrained, dominating exercise of will. This is going to be so, at any rate, in the normal circumstances where, other things being equal, members will prefer living under their own state to living under any other.

This attitude to the existence of the state is not explicitly defended by any traditional republican writers. However, most would be disposed to endorse it since, with the signal exception of Rousseau, they treat the existence of the state as a *fait accompli* – as a natural or historical necessity, as it were – not as something that testifies in itself to a form of public domination – not, for example, as something that has to be justified by

reference to an original contract or anything of that kind. Their focus is on how the state should make its decisions – and, of course, what decisions it should make – not on how it might legitimately have come into existence without the domination of its subjects.[5]

But even if the state does not dominate its subjects or citizens just by remaining in existence, it may dominate them by how it exercises power. It will presumably do so, for example, when it imposes the will of a colonial power, a local elite, or, of course, a single powerful dictator. To return to the theme of the kindly master, it will do this even if it is ruled by someone of good will: a benevolent despot, in an image from the eighteenth century.

One of the great figures in eighteenth-century radical thought is the mathematician Richard Price, and he puts the problem particularly sharply (Elazar 2012). Individuals under the power of masters "cannot be denominated free," he says, "however equitably and kindly they may be treated"; and this, he adds, is "strictly true of communities as well as of individuals." While he was himself focused on the domination by Britain of America's colonial communities, he made it clear that the problem is more general. The offending power in any country, he explains, may be colonial or domestic – "a power without" or "a power within." And even if that power operates in a wholly benevolent fashion towards the people, say by guarding effectively against private domination, it will itself dominate people in a public manner insofar as it has "discretion" over whether the status quo is "to be altered, suspended or over-ruled."

The republican problem of domination is akin to the problem of state legitimacy, as that is taken to apply to the state's exercise of its power rather than the mere fact of its existence. But many answers to that problem argue for the legitimacy of a state on the grounds that it provides various benefits, ranging from utilitarian benefits, to the benefits of a rule of law, to the benefits of approximating, or attempting to achieve social justice – this, for example, by guarding against private domination. None of those answers can solve the republican problem, however, since the

[5] It appears to have been among fifteenth-century *monarchomachs* – "*king-fighters*" – that the idea of contract first became important in political thought; this is well represented in the *Vindiciae Contra Tyrannos* of 1579 (Languet 1994) and in John Locke's (1960) presentation of broadly similar ideas a century-or-so later. Where they argued that the breach of a potential contract would entitle people to reject their sovereign, Thomas Hobbes (1994; *1996; 1998*) used the contractual idea in the mid-seventeenth century for opposed, absolutist purposes. He argued that a people can only achieve union and peace, escaping the state of nature, by agreeing with one another to establish a sovereign, where the sovereign is not party to the contract. And so he maintained that to kill or dismiss that sovereign would be to dissolve as a people, returning to the disunion and war of the state of nature (*Pettit 2008*).

most benevolent state may still retain the power of a despot and perpetrate a public form of domination.[6]

2 The General Will

Rousseau's Problem of Public Domination

Rousseau is rightly placed in the republican tradition insofar as he is deeply opposed to any form of dominating dependence and dedicated to a form of freedom as nondomination (Pettit 2013; 2016a; Spitz 1995). This is a freedom that requires, in the words of *The Social Contract*, published in 1762, that "every Citizen be perfectly independent of all the others" (Rousseau 1997b, II.12.3). He objects throughout the work, and in various idioms, to any form of "servitude and dependence" (IV.8.28). This is the condition that he rails against in the *Discourse on Inequality* of 1755 when he says: "in the relations between man and man the worst that can happen to one is to find himself at the other's discretion" (1997a, 176).

The sort of dependence to which Rousseau objects is not that which living with others inescapably entails. Rather, it is the sort of dependence that allows others to dictate what a person can choose in the range of the basic liberties. Rousseau emphasizes in a letter of 1757 that he has nothing against distinct, inescapable forms of social dependence – say, the dependence on what others manufacture for the things that you can buy – acknowledging that "everything is to one degree or another subject to this universal dependency" (Starobinski 2003).

Given this understanding of freedom, Rousseau formulates the problem of public domination quite starkly. The problem, in the words of *The Social Contract* – henceforth the text mainly referred to – is "how a man can be both free and forced to conform to wills which are not his own" (IV.2.7). How can people live under the protective interference of the state, yet continue to enjoy their freedom; endure that interference but still not suffer the domination that would make them unfree?

The General Will Approach

It might be thought that Rousseau's answer to this question is that people are not coerced by the law because, in his view, unlike that of other

[6] For a review of non-republican theories of legitimacy, and of alternatives to the two theories discussed in this paper, see Pettit (2019).

republicans, the ideal polity rests on contractual consent; it begins with an original, founding contract to which all citizens consent (I.5.1), and it maintains its consensual character in other generations insofar as citizens consent "to dwell in the territory" by continuing in residence there (IV.2.6).[7] But in his understanding of things, this cannot be the answer to the question. For he insists that if the laws fail to express what he calls the general will, then regardless of how voluntarily someone consents to a state's rule, "there is no longer any freedom" (IV.2.9).[8]

Rousseau's view may be that for people to obey the laws of their state, and yet not be unfree – not be dominated – it is essential both that the state be grounded in voluntary contract and that the laws express the general will. But for our purposes, we may put the contractual element aside and take him as an exemplar of the view that if the law answers to the general will, that is sufficient as well as necessary to guard against public domination; it will mean that people preserve their freedom, despite the interference of the law in their lives.[9]

Why would the fact that the laws express the general will mean that they do not take away the freedom of the citizens? According to Rousseau, this is because the general will is the will of each, even if it is a will that coexists, and often conflicts, with their particular will; their general will, as he sees it, "looks only to the common interest," the particular "to private interest" (II.3.2). Thus, when people obey appropriate laws, they obey themselves. "So long as subjects are subjected only to conventions such as these, they obey no one, but only their own will" (II.4.8). And they do this even when their particular wills would have led them to want to have different laws in place (IV.2.8).[10]

[7] Even in Rousseau's time, this claim was implausible, as, of course, is the claim about a founding contract. Hume's (1994, ch. 23) essay from 1748, "Of the Original Contract," raises a telling question. "Can we seriously say that a poor peasant or artizan has a free choice to leave his country, when he knows no foreign language or manners, and lives from day to day, by the small wages which he acquires?"

[8] This paper uses Rousseau's theory of general will to exemplify a particular approach to the problem of public domination rather than providing a scholarly account of his thinking. While he was the first to introduce the notion as the centerpiece of a political theory, the concept of the general will had its origin, according to a very influential account (Riley 1986), in ideas about God's general will for the universe. For a recent collection of pieces exploring the evolution of the concept – many of them supportive of Riley's claim – see Farr and Williams (2015). Tuck (2016, 113–114, 127–128) suggests that Rousseau got the idea from Pufendorf.

[9] This construal need not introduce any distortion, since the founding contract seems designed to reconcile people's freedom with the existence of the state, rather than with the particular way in which it exercises its power. For that purpose, which is our concern here, the theory of the general will is obviously the relevant aspect of Rousseau's theory.

[10] While this paper uses Rousseau for its own purposes, rather than offering a properly argued account of his views, the line of interpretation followed is by no means unusual. See, for example, Neuhouser (1993) and Cohen (2010a).

An analogy may help to explain Rousseau's idea, as I shall take it here. Suppose that I ask another person to take coercive steps to stop me doing something – say, enjoying an alcoholic drink or having a smoke. Perhaps I hand over the key to the liquor cabinet or the cigarette box, agreeing that I have to pay a certain fee to the person if I change my mind and demand the key. In that case, I act on my own will when I operate under my friend's coercion, refraining from the drink or the smoke on pain of having to pay for the privilege. I do so in virtue of acting on my enduring will, and I do so even if my passing will would favor the other option.

Rousseau's claim, as I construe it, is that I am free when I live under legal coercion for the same reason that I am free when I operate under my friend's coercion. I am politically free in the one case, socially free in the other. In both instances, I am free, even when I have to resist a strong inclination: in the one case, a particular will in favor of a different law, in the other a passing will in favor of the drink or the smoke. The idea is that the will I follow in each case, unlike the competing inclination, is the will that is especially relevant there – the will that determines that I have no reason to complain and that I remain politically or socially free.[11]

The message, then, is that in the ideal republic, citizens are not forced to conform to wills that are not their own. "The Citizen consents to all the laws, even to those passed in spite of him, and even to those that punish him when he dares to violate any one of them" (IV.2.8). Citizens consent in this sense not in virtue of an original voluntary contract, but in virtue of living under laws that express their own will, or at least the general aspect of their own will that is relevant in this case, as the enduring will is relevant in the other. The laws express their general will, as my friend's coercion expresses my enduring will.

A Problem with the Approach

The analogy with the enduring will makes it clear why people may be free under the laws of a coercive state, if those laws all express a general will that each of them endorses, treating it as especially relevant in the way in which my enduring will is especially relevant in the other case. But there is a disanalogy between the two cases that raises a serious problem for him. This derives from the way in which the general will is established.

[11] Rousseau introduces a distinct, moral sense of freedom – one which equates unfreedom with weakness of will – when he says that when I do disobey the law, as when I indulge in the drink or the smoke, "it is then that I am unfree" (IV.2.8). I neglect this theme as, for my purposes, it is an unnecessary complication.

For Rousseau (I.5.3), the general will is formed on the basis of the "law of majority rule" in an assembly of all the citizens; that is, on the basis of a procedure that is itself "established by convention" – in his image, by a unanimous social contract.[12] Or at least it is formed on the basis of majority rule, provided that certain conditions are fulfilled. Those conditions, in a nutshell, are that the citizens in the assembly should be informed and impartial.

Rousseau thinks that in order to be informed, the citizens should establish a role for a legal adviser – unhappily named a "lawgiver" – to keep them from falling into error (II.7). In order to guarantee impartiality, they should be constrained in two respects. First, they should only be allowed to vote on matters of general law, not on matters of its application that might trigger their particular, selfish interests; they should outsource the application of the law to magistrates whom they appoint (II.6.6; III.4.2), and restrict themselves to the "acts of sovereignty" involved in making general laws (II.2.3). Second, they should put aside their selfish or factional interests in voting within the assembly; they should vote on the basis of their judgment as to what is "advantageous to the state," not what is "advantageous to this man or this party" (IV.1.6).[13]

When the majority vote in the assembly under such conditions, Rousseau thinks that the majority vote may be expected to preserve "the characteristics of the general will" (IV.2.9); when it does, he says, then it "always tends to the public utility" (II.3.1). Abstracting from the interests of particular individuals as such, it focuses on "their common preservation, and the general welfare" (IV.1.1). Rousseau makes the tie between the general will and the common good axiomatic, even while he prioritizes the idea of the general will and seeks to identify the conditions under which it can materialize.

And now we can see the problem that arises for Rousseau's claim about the general will. No matter how informed and impartial the assembly to which I belong, it is always possible, as he admits, that I, like some others, will not share the majority view. How should I feel about a law that I did not vote for, then, a law that I took to be contrary to the general will?

[12] Rousseau (1997b, IV.2.11) recommends at one point that the assembly follow the "maxim" of looking for a supermajority approaching unanimity, "the more important" and the less urgent an issue. But he obviously thinks that a majority is strictly enough and presumably thinks that the assembly might introduce the supermajority maxim on a majority basis or later reject it on that basis.

[13] Because Rousseau takes democracy – following the absolutist usage in Jean Bodin and Thomas Hobbes – to describe a system under which the participatory assembly can take decisions over any matters, say in applying the law rather than making it, he does not describe the participatory republic he favors as itself a democracy.

This question has no parallel in the case where I submit to the coercion of my friend, as it is assumed there that the enduring will I follow in submitting to the interference cannot come apart from what I take to be my enduring will; it cannot be other than what I take it to be.

Rousseau's Solution to the Problem

It would be downright paradoxical to say that I am free when I obey a law that expresses the general will according to the majority opinion – the general will that is purportedly part of my own will – but not the general will according to my opinion. If a will is to count as my own will, it must surely be a will that I can recognize as mine: a will with which I can identify. Otherwise, it would be nonsensical to say that in obeying it I enjoy freedom.

There is only one way out of this problem for Rousseau, and, apparently, he is bold enough to take it. Assuming conditions of appropriate information and impartiality are satisfied, he argues that in the wake of the majority vote, I must recognize that I was mistaken about my own will. When "the opinion contrary to my own prevails, it proves nothing more than that I made a mistake and that what I took to be the general will was not" (IV.2.8).[14]

The judgment that Rousseau expresses in this response has often troubled commentators, since it seems so outrageous. But if the theory of the general will is to resolve the problem of public domination, then it is an essential part of the view. That problem is to explain why neither I nor anyone else is dominated by the laws we live under when those laws express the general will. And since the solution is supposed to be that the general will is just part of my own individual will, as my enduring will is part of my will in the other case, it must be that the will that is supported in the assembly by a suitably informed and impartial majority is indeed part of my will and that I have good reason to recognize it as such.

[14] What is Rousseau to say if I or anyone else think that appropriate conditions are not fulfilled – that others are moved only by selfish or factional interests? He faces a dilemma, as I have argued elsewhere (Pettit 2016a). He has to say either that we may disobey the law, in which case his republic is deeply unstable, or that we must obey, in which case we are dominated by others, at least in our own view of things. Neither option is appealing, although he suggests a preference for the first when he writes in *The Discourse on Inequality* (II.45) that as soon as the "fundamental laws" that give power to the magistrates "are destroyed ... everyone would by right revert to his natural freedom."

A Counterfeit Version of the Solution

If the will formed in the assembly may not be a will in which you or I share, then there is no guarantee against our domination. At least there is no guarantee against our domination as individuals. For it may be said that if the majority will shapes the laws, then the people considered as a body do not suffer domination. The people rule themselves, as it is said, and that is surely better than being ruled by a monarch, or an elite, or a colonial power. It may be deemed to be better, even when the rule is via a representative rather than a participatory assembly, and even when it is not suitably informed or impartial. But at best, this would realize not a republican ideal of individual nondomination, but a nationalist ideal of collective or popular self-determination.

This line of thinking, which betrays Rousseau's intentions utterly, may be at the source of the so-called classical doctrine of democracy that Joseph Schumpeter (1984, ch. 21) famously criticized. The doctrine, in Schumpeter's words, is that there is "a Common Will of people" that can be identified via an "institutional arrangement for arriving at political decisions ... through the election of individuals who are to assemble in order to carry out its will" (250): deputies who "voice, reflect or represent the will of the electorate" (251). Schumpeter (254) mocks the suggestion that what emanates from voting "would represent anything that could in any convincing sense be called the will of the people." He argues that people's volitions, particularly those that they form "away from the private concerns of the family and the business office" (261), are too messy and too manipulable to support that view.

Even if it proved possible to withstand Schumpeter's criticisms of the classical doctrine, which I doubt, there would be little benefit from a republican point of view in salvaging the doctrine. The purely electoral form of democracy that it celebrates – a popular regime unconstrained by constitution, unchecked by contestation – would not guarantee any individuals against domination by the law. It would allow the law to mediate the will of the majority against persistent minorities and the will of exploitative elites against anyone outside their ranks. It would permit what James Madison in the *Federalist Papers* of 1787 describes as an "elective despotism" (Hamilton, Madison, and Jay 2003).

The Failure of the Solution

If the general will is to provide a solution for the problem of public domination, therefore, it must assume the relatively pure, individual-centred form it is given in my reading of Rousseau's theory. But the solution

offered in that pure form of the theory is hardly plausible, even assuming that it is feasible to run a society under the rule of an assembly of all the citizens. Seeking to resolve one problem, it raises many more.

First, it is wholly implausible that any one of us in an assembly of citizens, even one that is manifestly informed and impartial, would have reason to think that the will of the majority in passing a law we voted against is really our own will – indeed, that it was our will all along, if only we had been seeing things properly. Second, it is highly unlikely that an assembly of that kind could ever be fully informed or impartial, let alone guaranteed procedurally to have that character. And third, even if the assembly is fully informed and impartial, it is hard to see how this could be manifest to participants, giving them good reason to hold that the majority vote displays "the characteristics of the general will."[15]

These problems all arise, on the assumption that an assembly could do its business by majority voting, with each law being supported by most of the citizens. But an even greater problem appears once we recognize that majority voting is liable to generate inconsistencies and that the only way a lawmaking body can hope to ensure the consistency of its laws is by sometimes rejecting a majority vote.

The need to break with majority voting, or any similar bottom-up procedure of decision-making, is supported by recent work in judgment-aggregation and group agency.[16] A simple example will suffice to illustrate it. Suppose you, I, and a third person, Mary, constitute a group or assembly that needs to form consistent judgments on the basis of majority voting, and that we have to form judgments on whether it is the case that p, whether it is the case that q, and whether it is the case that p&q. Mary and I may vote that p, you that not-p. Mary and you may vote that q, I that not-q. And so, if we are individually consistent, only Mary will vote that p&q; you and I will vote that not-p&q. Hence, we as a group, following the majority rule, will vote that p, that q, but that not-p&q. Our responsiveness to individuals, embodied in our following the

[15] Even if Rousseau displays a sensitivity to these problems, they must affect the sort of will-based democracy that we are using him to illustrate.

[16] List and Pettit (2002) established an initial result in this area, generalizing the "discursive dilemma" for majority voting (Pettit 2001a; 2001b), which had in turn been derived from the "discursive paradox" in law (Kornhauser and Sager 1993). But that result was rapidly followed by other results, illustrating under varying assumptions the tension between the individual responsiveness of bottom-up procedures and collective consistency or rationality (see List and Polak (2010)). For an informal introduction to the results, which looks at their significance for the theory of group agency, see List and Pettit (2011, chs 1–3). The results in judgment-aggregation parallel, but are distinct from, the results on preference-aggregation in social choice theory; see Dietrich and List (2007).

majority, forces us towards collective irrationality; it leads us to uphold an inconsistent set of judgments.

Any procedure for solving this sort of problem will force us to change one or another majority vote. Thus, following a straw-vote procedure, we might check after every vote to see whether it introduces an inconsistency with some votes already taken; ratify the vote if it does not; and arrange to amend one of the inconsistent votes – not necessarily the vote just held – if it does. Since there is no saying which vote we may decide to change, that makes it vanishingly unlikely that, whatever collective decision we end up making, it represents a will of which each of us can think that, however we voted, it was part of our individual will all along.

3 The Common Good

Giving the Common Good a Role

Although Rousseau connects the general will with the common good, he gives the will priority; the common good, as he takes it, is constituted by those laws that would be selected by majority voting under conditions where the general will is designed to materialize.[17] But in earlier republican writing, from Rome to the Renaissance to the English revolution, it was the common good that figured much more centrally in accounts of what the polity should seek to promote via its laws. This was in line, of course, with the broader tradition of political thought associated with Aristotelian and scholastic doctrine. According to that teaching, true or legitimate systems of government – monarchical, aristocratic or democratic – are systems in which those in power pursue the common good of their people, where false or corrupt systems are the counterpart regimes in which the powerful pursue sectional interests.

The fact that the long republican tradition makes much use of the notion of the common good, hailing it as the touchstone of sound, republican rule, raises a question as to whether the common good might be recruited in the explanation of how a state can employ a coercive system of government without dominating its people. It may well be that past republican thinkers assumed that this was so – the

[17] Consistently with this reading we might take the proper majoritarian procedure to be a reliable, empirical index of the common good or to be an *a priori* guarantee. Nothing hangs for our purposes here on which construal we favor; the important point is that Rousseau only allows for the identification of the common good on the basis of an independent way of identifying the general will.

assumption would be plausible in the relatively simple societies that they addressed – and that that is why they focus so much on the idea. But without exploring that possibility as a matter of intellectual history, the line maintained here is that the common good can plausibly be recruited in response to the problem of public domination, even in complex, contemporary societies, not just the simpler worlds of earlier republics.

Fitting the Common Good for this Role

There are three assumptions that might seem to disable the common good from playing the role envisaged here. It is important, therefore, to show that none of them is inescapable and that by putting them aside, we can gain access to a conception of the common good that equips it to serve in an explanation of how a state may guarantee its people against public domination.

The first disabling assumption is that if the common good is to be realized in the laws, then it should dictate a unique form for every single law, and for every measure that the law requires. The common good should not merely constrain the laws, or the procedures by which they are chosen, so that they belong to a restricted, salient family; it should be much more determinative. Joseph Schumpeter (1984, 250), writing from a hostile perspective, suggests that it has to be determinative in the highest possible degree. The common good invoked traditionally, he says, "implies definite answers to all questions, so that every social fact and every measure taken or to be taken can unequivocally be classed as 'good' or 'bad.'"

This assumption would make it very implausible that the laws could realize the common good and thereby promise to be nondominating. For it is quite unlikely, as Schumpeter (268) insists, that there is anything that might meet his demanding specification, at least in "big and differentiated societies," as distinct from a simple society like "a world of peasants." Thus, the common good, as we conceive of it here, has to be a constraining, not a determinative, ideal.

The second assumption that would disable the notion of the common good from playing the role required would identify it with the actual common good, recognized or unrecognized, rather than with the common good as is identified by common criteria. While acknowledging that these might be the same, we may refer to the first as the objective, and the second as the subjective – better, the intersubjective – common good. Suppose that there is an objective common good and that the laws of a society target and realize that good. Would the fact that the laws promote

that good ensure that people are not dominated by their state? Would it ensure this, even if the good promoted is not the common good by the criteria with which they operate – even if it qualifies as the common good, for example, only by the lights of those in power?

Surely not. Even if it is granted that there is an objective common good, and that the laws actually promote it, the polity envisaged here imposes those laws, independently of the attitudes of subjects, on the basis of its own will and judgment. And so, in operating in that paternalistic manner, it exercises a relatively unrestricted power of interfering as it wishes – by its own *arbitrium* – in the lives of its people (Shiffrin 2000); it is an exemplar, in the seventeenth-century sense, of an arbitrary and so dominating power. Thus, the common good recruited to serve the role envisaged for it here has to be the intersubjective common good.

The third assumption that would deny the common good a role in responding to the problem of public domination is less obviously avoidable. It would hold that the common good in the intersubjective sense – the common good by common criteria – can only be that which people explicitly recognize, perhaps as a matter of shared awareness, as the common good. This assumption, like the commitment to a general will, would require people to converge, not now in forming a collective will that favors certain laws, but in making a collective judgment that those laws are what the common good requires. It would imply that, at least given full information and impartiality, people would inevitably vote for the same laws, or at least for laws in the same constrained family. This is a fantasy, as even Rousseau would concede. It is because he thinks unanimity in the general will is precisely such a fantasy that he claims that people in the minority on any issue must be mistaken about their own will.

It is possible to see how we might conceptualize the common good in an intersubjective rather than objective sense, and treat it indeed as a constraining rather than a determinative ideal. But how could the common good be intersubjective – be the common good by common criteria – without being recognized as the common good by the people involved? How could it be an ideal that implicitly answers to common criteria – to criteria that people actively endorse – without being explicitly recognized by them as the common good?

The answer is that it might count as the common good just in virtue of being such that it appeals to each, on the basis of attitudes displayed in their practices. It appeals in the way in which competitive prices are assumed in economics to answer to the attitudes of consumers and to constitute a common good. Standard economics endorses this

assumption when it argues in favor of the open market on the grounds that it makes goods and services accessible at competitive prices: at prices such that if they were lower, then producers would go out of business. The assumption is that such prices constitute a common good insofar as they answer to the attitudes revealed in the practice of consumers. For each of the consumers in the market, after all, buying goods and services under competitive pricing satisfies their manifest desire to buy what they want at the lowest possible cost to themselves.

These observations show that if the common good is to play a role in responding to the problem of public domination – if it is to play the sort of role that Rousseau envisages for the general will – then it had better be taken to constitute an ideal that is constraining rather than determinative, intersubjective rather than objective, and implicit in people's practices rather than explicitly recognized by them. But it is not only necessary that we be able to specify the common good in this way if it is to play a role in countering public domination by the polity. If we can specify it in that way, as we shall now see, then that ought to suffice for letting us recognize how, at least in the abstract, the problem of public domination might be countered.

The discussion that follows moves from the very abstract to the somewhat more concrete. We look first at how the common good might rule; at how it would counter public domination if it did rule, satisfying the tough-luck test; and at how such a rule might be implemented under a simple arrangement that is described as the acceptability game. Then we gesture at how those ideas might be given a more concrete, institutional form in what is described as a democracy of standards, and at how that democracy would answer to the traditional republican ideal of a mixed constitution, which Rousseau rejects. The discussion moves rapidly over ground that is covered in more detail in *On the People's Terms* (Pettit 2012a).

How the Common Good Might Rule

If the state is not to dominate people in the coercion it exercises, then it is essential that the people themselves be able to act together, with each having access to an equal piece of the action, in order to reduce the discretion of those in political office and ultimately of the state itself. There are a variety of ways in which people might hope to influence government in such a way. One might be via a participatory assembly, such as that imagined by Rousseau, another via a more or less familiar constitutional-cum-electoral regime. But let us assume that, whatever form it takes, there is some individually accessible system of popular

influence that can restrict the discretion of government in making and applying the law, and in thereby interfering with its people.[18]

Could an individually accessible system of popular influence be mobilized to promote the common good? Could the system be directed by the requirements of a constraining, intersubjective conception of the common good, which is implicit in people's practice? In particular, could it be directed in this way, robustly over variations in the wishes of those in office? If the answer is affirmative, then such a system would have a good claim to guard people against public domination. And there is good reason to think that the answer is affirmative.

Suppose that the system of influence is organized so as to ensure the following effects more or less reliably. First of all, no laws or measures can be passed that are inconsistent with the common good; all policies are constrained to cohere with the common good according to common criteria, in particular criteria ratified implicitly in the practices of people in the society. Second, in at least some cases, the decision between any candidate policies that happen to cohere equally with the common good – this is bound to be possible, given the merely constraining character of that good – has to be taken under processes that themselves cohere with the common good; they are not left to the unchecked discretion of officials. Third, in perhaps further cases, the decision between processes for breaking policy ties has to be made by a higher-level process that coheres with the common good. And so on, at least in principle, to further levels.

If the system of popular influence is designed to generate such effects robustly or reliably – that is, independently of what the powerful wish – that may still leave some discretion in the hands of government – say, in the decision between processes for breaking policy ties, or in the decision between higher-level processes for breaking first-level process ties, or wherever. But suppose that the system leaves the government with unchecked discretion only at a level where no one is disposed to challenge its exercise or, if they are disposed to challenge it, they do not succeed under a process for assessing such challenges that is itself accepted on all sides. In that case, presumably, the exercise of that remaining discretion poses no danger to the cause of the common good, to the promotion of a good that counts as common by criteria that are ratified in people's practices.

[18] Might it be enough to have a robot in power, as some have suggested, arguing from the absurdity of the idea for the need to invoke a popular will (Forst 2018; Zuehl 2016)? No, because a robot would have to be installed and maintained by will and if this will does not operate under a suitable system of popular control, it is a dominating presence.

How this Rule Might Counter Public Domination: The Tough-luck Test

This is a wholly abstract, and indeed idealized, account of how a system of government might be organized, giving people an equal share in a system of influence designed to discipline government to promote the common good. But supposing it could be realized, would it mean that individuals are not dominated by the polity? Would it guard over a sufficiently wide range of choices, and with sufficiently high obstacles, to eliminate public domination?

As we noted earlier, there is no such thing as a perfect set of institutional safeguards against interference and domination, private or public. But there are criteria that provide us with a working sense of when the guards in place are sufficient, and a sense therefore of the ideals by which we should regulate in making republican proposals for improvement on either front. A plausible criterion for whether private domination is adequately reduced in a society is the eyeball test, which requires that, short of excessive timidity, people can look one another in the eye without reason for fear or deference – or at least without reason derived from another's power of interference. And a plausible criterion for whether the same is true in the case of public domination is the tough-luck test.

Under any system of government, some individuals are bound to be displeased with some of the laws passed or the measures taken. They will dislike having the prison or the airport built in their backyard, for example, or smart at laws that hinder their business or reduce the prospects for their industry. If those who are negatively affected by such policies see an independent will at the source of those initiatives – if, for example, they think that government favors others over those in their sector – then they will naturally feel resentment, which is the standard reaction to the ill or indifferent will of another agent or agency (Strawson 1962).

If those affected in this way take the decision to have been made under constraints and processes that guard sufficiently against the rule of an independent will, however, then they will presumably not feel resentment. They may lament the decision but they will presumably view it, in the way they might view a natural catastrophe, as sheer bad luck. And that gives us a nice test of whether safeguarding devices are sufficient to block public domination. This test would require, as an ideal, that people should be able to accept unwelcome policies without reason for feeling resentment; they should be able to see them as just tough luck.

If the government is disciplined at the level of policy and process to conform to the demands of the common good, as in our abstract and idealized model, then the polity would certainly pass the tough-luck

test. Some individuals might rail at having only the same status as others in the system of influence. But like complaining about the existence of the state system, that would involve a complaint about the human condition, not a complaint about subjection to an independent will. It is inevitable that people have to live with others under any political system, and it is scarcely a cause for resentment that they have to treat one another as equals; this is a postulate of any plausible normative theory. Hence, they can scarcely view subjection to a law that they share equally in controlling as a form of domination by an independent will. And they can scarcely regard personally unwelcome laws as matters for resentment.

The law in such a regime may not impose a purportedly general will in which all share, as that is envisaged in the Rousseauvian approach. But the will that it does impose – a will formed under its procedures as a corporate agent (List and Pettit 2011) – is a will that is forced to operate on terms that the people share equally in imposing. And that is surely enough to ensure their public nondomination.

How this Rule Might be Implemented: The Acceptability Game

In order to play the role required in a democracy of the kind sketched, the common good has to be constraining, not determinative; intersubjective, not objective; and implied in people's practices, not explicitly recognized and targeted. But is there any more concrete, if not fully detailed, manner in which we might see the common good taking shape and playing its part in democratic arrangements?

If the common good is to be constraining rather than determinative, then presumably it consists in a set of properties that one or another mix of policies and processes may instantiate. The set of properties would be such that any policy-process mix that realized them was in the common good. The properties would identify a family of satisfactory candidates, not a uniquely satisfactory arrangement.

If the common good is to be intersubjective, however – if it is to be the common good by common criteria – then the properties that make for the goodness of a policy-process mix must be acknowledged as suitable good-makers or desiderata by people generally in the society. It must be the case, by their lights, that the fact that such a property would be realized by a certain policy, for example, would count in its favor; in that sense, it would be a reason to prefer the policy. It might be a reason that is overruled, of course, as when a rival policy realizes that property and other, similar desiderata as well. But, at the least, it would contribute by everyone's lights to the common *pro tanto* goodness of the policy.

If the common good is to be implicitly registered in people's practices, not recognized and targeted as such, then that puts a further requirement on the properties or reasons that constitute it. While people treat those reasons in a way that implies a connection to the common good, it must be that they need not explicitly register the connection. They must give the reasons such a role, ratified on all sides, that there is ground for concluding, as a matter of theoretical analysis, that when a policy-process mix satisfies such reasons, it counts as being in the common good. But this need not be something explicitly registered by all.

What sort of practice might give reasons a role such that the properties involved must then be taken as constraints that identify an intersubjective common good? The most salient candidate is a practice that I call the acceptability game. This is a practice that has been hailed in particular among deliberative democrats, who traditionally contrast it with exercises in bargaining – instances, as we may say, of an acceptance game instead.[19]

Both the acceptance and the acceptability games involve a number of people negotiating a solution to a problem about which of a number of candidate outcomes they should together seek. The assumption is that some solution is better than none but that different solutions appeal to different parties. The group in question may involve just two people or many. And the problem they address may be as simple as where to meet or how to divide a cake; or it may be as complex as who to install in a leadership position or what general policy to adopt on behalf of a collectivity, whether that be a loose coalition or a corporate body.

The acceptance game is most easily illustrated with a buyer and seller negotiating over price. They each make an initial bid and, assuming the buyer offers less than the seller demands, they adjust their bids to the minimal extent that appears necessary to achieve resolution. In this game, presumptively, the only reasons recognized as relevant on either side are reasons of self-interest. Of course, either may seek to introduce commonly relevant reasons, asking the other to recognize the fairness of their offer, for example, or the fact that it would be to the advantage of each to coordinate around that offer. But such moves would take the parties beyond the acceptance game proper.

In fact, those moves would take them into the domain of the acceptability game. In this exercise, the parties do not make self-interested bids in the hope of gaining the acceptance of others. Rather what they each do

[19] The founding proponents of deliberative democracy include Jürgen Habermas (1984; 1996), Joshua Cohen (1986; 1989; 2010b), and Amy Gutmann and Dennis Thompson (1996).

is to identify their preferred solution and make a case for it on the basis of reasons that are purportedly relevant, if not given the same weight, in every perspective. They argue that in virtue of the reasons adduced in its support, the solution is acceptable from every point of view; it is a solution that each has a reason to prefer.

The parties may argue on this pattern in the hope of securing an eventual consensus on a solution that is supported in the view of all. But they may also argue on the assumption that at the end of the exchange there will be a number of candidate solutions standing and that differences have to be resolved by recourse to voting or some such device. And in that case, of course, they will look for a device that itself passes muster under the acceptability game. This might involve any of a range of voting measures, referral to a select committee, recourse to an outside arbitrator, or even the toss of a coin.

The appeal of the acceptability game from our point of view derives from an effect that it promises to have, without anyone's necessarily noticing it. This not-necessarily-visible effect – in standard hyperbole, this invisible effect – consists in the fact that the game should ensure that no solution will figure as a candidate unless it can be defended on the basis of reasons that all take as relevant; no solution can succeed in being selected, even short of consensus, unless it is chosen under a process that can be defended on the basis of such reasons. If someone put up a candidate or a process that could not plausibly be defended on such a basis – say, a candidate or process that clearly benefitted only people in their particular corner of society – they would presumably be exposed to mockery for their ignorance of the local folkways or for their ingenuousness in expecting others to go along.[20]

These observations are sufficient to show that the common good we might hope to recruit in controlling the polity can be given an institutional specification by reference to the acceptability game. Suppose that people could organize their political decision-making around acceptability games, relying on such exercises to determine acceptable policies, acceptable processes for breaking policy ties, and so on. Our observations suggest that they could hope thereby to establish a system where public decisions are so constrained by commonly endorsed reasons that they serve the common good. The decisions have to conform to the requirements of desiderata that have the implicit status, acknowledged

[20] For an interpretation of Habermas that nicely emphasizes this aspect of the approach, see Elster (1986). The motivation that moves people to stick to reasons acceptable to all derive, presumably, from their desire to stand well in the opinion of others – to fare well in the economy of esteem (Brennan and Pettit 2004).

in general practice, of properties valued in common by all. And so, they should at least approximate decisions that do not dominate any member of the polity. Even when they are unwelcome in some quarters, they can be treated with good reason there as just tough luck – a result of how the cookie happens to crumble – not as a reason for resentment.

Towards a Democracy of Standards

For all that we have just argued, a centralized Rousseauvian assembly might offer a possible site at which to try to give the common good control over the polity; it might realize a system of influence that could be robustly directed by the ideal. Such an assembly would have to allow corrective initiatives as well as straightforward voting, of course, as illustrated in the straw-vote procedure. But this is consistent with letting decisions be taken only in acceptability games in which all can participate.

Where a democracy of the general will would require such a centralized assembly, however, there is no reason why the empowerment of the common good may not be institutionalized in other, very different ways. And this is just as well, since the centralized assembly would be very hard to organize, particularly a centralized assembly that allows for top-down initiatives, such as those involved in the straw-voting procedure described earlier, as well as bottom-up voting (Pettit 2003).

The important feature of the common-good republic, as we have described the idea, is that it allows for the emergence and empowerment of common desiderata or standards that are recognized as relevant on all sides, even if they are not always given the same weight. But such a democracy of standards, as we may call it, looks like a much more feasible project under institutional arrangements that are quite different from the single Rousseauvian assembly.

Under alternative arrangements, not every decision would be taken in the deliberative conduct of a single assembly, or even in the deliberative conduct of a number of assemblies. True, there would have to be various sites and channels of public deliberation, both among citizens and officials, in order to allow common standards to emerge and stabilize. But those standards could be given a role in constraining government decision-making via a range of other regulative devices – say, by electoral pressures on representatives to put forward relatively acceptable proposals, by requirements on agencies to conform to the constraints of their brief, or by adversarial structures in the courts and elsewhere.

The system envisaged would sponsor deliberative conduct at a number of decision-making or decision-reviewing sites. But the important point is that it would program at every center for deliberative regulation, even

in the absence of explicitly deliberative conduct – even, for example, in forums where it requires quite mechanical routines of choice. It would regulate for the satisfaction of the standards ratified at the various centers of deliberative conduct, constituting what has recently been cast as a deliberative system (Mansbridge and Parkinson 2012).

The Mixed Constitution

At this point we return to a theme in the Italian-Atlantic tradition of republican thought that preceded and outlasted Rousseau. For in this tradition the institutional framework that is universally preferred, albeit under varying interpretations, is the mixed constitution, as it was called in an established Greek image. The mixed constitution, which republican Rome was taken to exemplify, is invoked in different versions by Polybius (2011) over a century before the common era, by Machiavelli (1997) in the early sixteenth century, and by Harrington (1992), Sidney (1996), and many others in the seventeenth.

This institutional arrangement was taken to guard against public domination in a number of ways, differently stressed by different authors: by organizing society under a rule of accepted law (that is, constitutionally); by dividing up power in making law and in administering law between different bodies, reflecting the influence of different sectors of society; and, to connect with deliberation and the acceptability game, by requiring those bodies, both in their internal structure and their interaction with one another, to operate in the give-and-take of justifications and reasons.[21]

Where it is hard to see how a Rousseauvian assembly could be established in advanced societies today, there is no such difficulty with the mixed constitution. For it is illustrated in many of the arrangements, manifestly capable of further improvement, that characterize our most functional democracies. This ought to be no surprise, since the ideas that have shaped those institutions – for example, ideas of election to office,

[21] Rousseau (1997b, II.2.2) follows the anti-republican absolutists Bodin and Hobbes in representing the mixed constitution as an impossible fantasy (Pettit 2013). Supporters, he says, "turn the Sovereign into a being that is fantastical and formed of disparate pieces." Comparing them to Japanese conjurors, he says that "it is if they were putting together man out of several bodies one of which had eyes, another arms, another feet, and nothing else." Like other absolutists, Rousseau thinks that the law is sovereignly and uniquely determined by the legislature, with the courts and executive merely applying it (II.2.3), and so he holds that separating other branches from the legislative branch is acceptable. On a more plausible view of the incompletely constrained nature of legal interpretation by other agencies, such a separation of powers, like any sharing of power – say, between different legislative chambers – will also exemplify a mixed constitution.

a constitutional framework, a rule of law, and a system of checks and balances – are sourced in the republican tradition.

Institutions exemplified in the best democracies allow the people to have three forms of influence over those in power within the polity. First, people can reduce the range of government discretion by imposing constraints under a popularly maintained, if not popularly installed, constitution. Second, they can reduce it by being able to hold out the prospect of collective contestation at election time, when they are positioned to reject those in office. And, third, they can reduce it, directly or indirectly, by being able to contest their proposals or decisions non-collectively and, assuming the complaint is well-grounded, to do so with a real prospect of success.

Taking up this third possibility, the people can directly contest those in power, elected or unelected, by acting on their own or with one another to challenge government in the courts, in the media or on the streets. And they can contest it indirectly in any of a number of ways. First, via opposition parties in the elected legislative chamber, or via the members of a second legislative chamber, who can interrogate government, seeking or challenging justifications for the policies adopted. Second, via statutorily appointed authorities with a capacity to act more or less independently of elected government in domains where those elected to office have salient conflicts of interest, for example: in providing information, forecasts and statistics; in setting electoral boundaries and rules; in putting limits on certain market transactions; and in regulating financial arrangements. And third, via statutorily appointed authorities with a capacity to exercise judicial, auditor, or ombudsman functions in review of government – this, in review of any agency, elected or unelected, including other agencies in the reviewing category.[22]

A system of influence of the kind envisaged might be enhanced in various ways, which we cannot explore here. Thus, to rehearse some recent proposals, it might introduce citizen assemblies, chosen on a statistical basis, to advise or rule on particularly contentious issues (Warren and Pearse 2008), or a people's tribunate, selected on a random basis, to give a continuing voice to those outside the elite (McCormick 2011), or

[22] The statutory authorities whereby people can indirectly contest government have to be appointed rather than elected, in order to guard them against the very conflicts of interest they are designed to avoid. But the appointments must come with tight constraints, limited briefs, and, of course, protections – often, as with the judiciary, constitutionally guaranteed protections – against those they replace or review (Tucker 2018). To the extent that these devices are established in the constitution or in ordinary law, and are designed appropriately, the officials and bodies involved may be expected to operate according to relevant, community standards.

indeed a number of other statistical or lottery-based devices (Guerrero 2014; Lopez-Guerra 2014). Some such measures are likely to be essential, in particular, to guard against the backdoor influence of wealthy elites; this, in a time of growing inequality, threatens to lead many democracies towards a new form of oligarchy (Winters 2011).

Whether with or without the help of such innovations, however, the system of influence characterized can encourage the emergence of community standards, by imposing acceptability exercises at appropriate sites. And it can enforce responsiveness to those standards in the processes and policies of government.

What sorts of standards might we expect to emerge under such an equally accessible system of influence? Standards, for sure, that support and extend the commitment to equality. Standards requiring equal protection before the law, equal political rights, equality of access to government across economic divides, and equality across race, gender, and religion in the public square, the workplace, and the home. Standards that dictate the areas where people generally may expect the protection of the law against intrusion, as in matters of personal privacy, religious affiliation, and free speech. Standards that support state provision for those in need, as in requiring access to education, security against impoverishment, assistance at time of unemployment, medical attention, at least in emergencies, and relief for any area of the country that suffers a natural catastrophe. Standards that articulate the preconditions of democracy such as impartiality in gathering and circulating demographic and economic statistics, protections against conflicts of interest amongst those in public life, and respect for conscientious objectors in times of war. And, of course, standards that support the institutions of the system, such as popular election, the rule of law, and the dispersion of power.

4 Conclusion

A democracy of standards holds out the promise of being able to guard people against public domination, delivering an appealing republican ideal. But there are two themes to emphasize in conclusion. One is that this is a designer's ideal, and so an ideal that need not normally guide the political activist. And the other is that while actual democracies may approximate or adumbrate it, the realization of such a democracy is subject to constant frustration and is essentially a work in progress.

The ideal is a designer's ideal, not an activist's, to the extent that those involved in politics, whether as citizens or officials, need not actively recognize that the democratic goal is to impose community standards on government. When people participate in a democratic system, as when

they play tennis or chess, they compete with one another – in the one case for electing a favored candidate or promoting a preferred policy, in the other for achieving victory in the game. And they compete under a mutually recognized plan whereby they attain a result that is presumably welcome to all: in tennis or chess, the enjoyment of the competition itself; in the political case, the peaceful resolution of differences about who should rule or what policies should prevail.

Suppose, plausibly, that in each case this result is welcome with such salience that if participants did not think it was likely to be attained, they would give up on the practice. That means that there is a sense in which the tennis players act jointly with a view to enjoying the competition, democratic participants with a view to resolving differences peacefully.[23] But while acting intentionally for such an end, democratic participants need not recognize the way in which their behavior is governed by constraints associated with acceptability games, assuming that it is, and the extent to which it imposes community standards on government, achieving a version of the common good. And so, they may not intentionally target the imposition of standards in the sense in which they target the goal of resolving differences peaceably. The goal of a democracy of standards may be visible to designers without necessarily being visible as such to activists.[24]

The fact that a democracy of standards is a designer's ideal, not an ideal normally targeted by practitioners, exposes it to a sort of corruption that has always bothered republican thinkers. And that takes us to the second concluding theme. Focusing on their own ends, the participants in politics can often fail to recognize when they are letting the system down, allowing it to fall away from our democratic ideal. The commitment to their ends, and to attaining or keeping the power needed to realize them, may lead participants to bend the rules of the system in their own short-term interest but to the long-term detriment of the common good.

[23] This approach does not presuppose any particular theory of joint action, although it is unusual in identifying competitive as distinctive from cooperative coordination as a form of joint action. The approach may fit most naturally with that of Michael Bratman's (2014) analysis of joint action; other accounts are offered by Margaret Gilbert (2013), Raimo Tuomela (2007), and John Searle (2010). It is important that the people who control the government in acting under a democracy of standards – or any arrangement of broadly the same kind – act to that effect together but do not constitute a corporate or group agent and do not dominate individuals as an agent of that kind. For a mistake on this point, see Simpson (2017), and for a critique of the mistake, see Lovett and Pettit (2019).

[24] This means that the democracy of standards does not support an activist rhetoric – the sort of rhetoric designed to build community support and solidarity – in the manner of the democracy of the general will. This argues for construing the ideal in terms of a more accessible concept as a democracy of the common good.

The oldest continuing democracy, that of the United States of America, illustrates the possibility forcefully. The salient distortions to which that system has succumbed include systematically supported restrictions on the opportunity to vote; the gerrymandering of electoral districts for party purposes; the private financing of electoral campaigns and the presumptive paybacks it secures; the power given to corporations, and effectively their CEOs, to join in this scramble for favor; the massively funded lobbying exercised by private interests; the dominance of openly partisan, unreliable media organizations; the forced deference to party extremes that the primary system encourages; the near-impossibility of significant amendments to the Constitution; and the power of a Supreme Court whose members are appointed for life under an effectively politicized process that rewards party profile.

A democracy of standards, so we have argued here, holds out the prospect of resolving the problem of public domination. But rather than conclude in upbeat celebration of that prospect, it makes sense to end on a downbeat note, emphasizing the variety of ways in which a democratic system can be distorted and corrupted. Doing so should alert us to the fragility of democratic institutions, in particular institutions that are designed to keep things faithful to accepted standards and responsive to the requirements of the common good. The more clearly we see their fragility, the more likely we are to appreciate their importance.[25]

[25] My warm thanks to Yiftah Elazar and Geneviève Rousselière, the editors of this volume, for their helpful comments on an earlier draft. I wrote the paper for the volume without having the opportunity to consider the other contributions.