

Self-Government in Our Times*

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June 30, 2005

Abstract

The eighteenth century conception of democracy as a system of self-government was based on an assumption that rendered it unrealistic and incoherent, namely, that interests and values are sufficiently harmonious so that each individual needs to obey only oneself while living under laws chosen by all. When faced with the reality of political parties, theorists of democracy recognized that some interests and values are inevitably divided and that nobody and no body can implement the will of all people. Yet even if no single government can fulfill the will of all the people, successive governments can implement the wills of different people in turn. To the extent that democracy is a system of majority rule, it comes as close as it is possible to fulfilling the ideal of self-government. Not very close, but the closest.

*I am deeply indebted to several friends for tearing apart earlier versions of this text. They include John Ferejohn, Raquel Fernandez, Stephen Holmes, Fernando Limongi, Bernard Manin, Pascuale Pasquino, John Roemer, Ignacio Sánchez-Cuenca, and Barry Weingast. I also appreciate comments from Mogens Herman Hansen and Wilred Nippel.

1 The Ideal of Self-Government

What is democracy good for?

The ideal of eighteenth century democrats was "self-government of the people." As Skinner (1973: 299), arguing against the "empirical theory of democracy," would insist two centuries later, democracy is a system in which people rule, not anything else. "Self-government," in turn, was desirable because it was the best system to advance liberty, understood in a particular way as "autonomy": the idea that we are free when we are bound only by laws we would choose. The problem to be solved, as Rousseau (1964: 182) posed it, was "To find a form of association which defends and protects with all the shared force the person and the goods of each associate, and through which each, uniting with all, still obeys but himself, remaining as free as before." Self-government of the people was the solution to this problem.

But what could it mean that "The people rules itself"? Note that "the people" appears in this phrase always in singular, as *le peuple*, *el pueblo*, etc. This people in singular is the only authority that can enact laws to which it would be subject. As Montesquieu (1995: 104) observed, it is "a fundamental law in democracies, that the people should have the sole power to enact laws." Clearly, not all commands constitute laws: to qualify as laws, commands must satisfy certain substantive criteria, such as those listed by Fuller (1964). Moreover, "ruling" entails commands other than laws; it is not limited to legislating. Still, if only the people can enact laws, the people is always bound only by laws of its own making. And since the laws by which the people is bound are of its own making, the people is free. Hence, at the end of this cascade of tautologies, the people is free, subject only to those laws it chose, when the people governs itself. In Kant's (1891: 43) rendering, "it is only when all determine all about all that each one in consequence determines about itself."

Yet the people in singular cannot act. As the Demiurge, the people is an apathetic one. This is why Rousseau (1964: 184) needed to make terminological distinctions: "As for those associated, they collectively take the name of the *people*, and are called in particular *Citizens* as participants in the sovereign authority and *Subjects* as submitted to the laws of the State." But how is the will of the people in singular to be determined by people in plural? One is free when one rules oneself, but is one free when the people rules?

Clearly, these questions do not arise if all individuals are in some way identical, if the subjects who choose the order which they are to obey are but copies of a species. As Descombes (2004: 337) puts it, "the man

as *subject* is not this or that man, but rather something like the rational faculty which is found among human individuals, everywhere identical.” In Kant’s view, guided by universal reason, each and all individuals will to live under the same laws. And if the same order is considered best by all, the decision of each is the same as would be that of all others. Indeed, the fact that others want the same is irrelevant: if others command me to do the same I command myself, I obey but myself. Moreover, the procedure for lawmaking is inconsequential: when everyone wants the same, all procedures generate the same decision. Each one and any subset of all can dictate to all others with their consent. Finally, this decision evokes spontaneous assent: if each individual lives under the laws of his or her choice, no one needs to be coerced to follow them.

Hence, the condition under which the people would be free in plural when they rule themselves, collectively autonomous, is that each and all want to live under the same laws, unanimity. But while in any society people share many interests, values, or norms, other interests, values, and norms divide them. All reasonable people would agree to ban murder, but we are still deeply divided whether to ban aborting an unborn fetus. Even if we were all endowed with reason, and even when all the reasons had been elucidated, rational deliberation need not culminate in consensus. Indeed, this is why we need procedures by which to make collective decisions – to terminate conflicts – and this is why the political life of democracies is organized by political parties.

The original democratic ideology was hostile to parties. The people were a body and “No body, corporeal or political, could survive if its members worked at cross-purposes” (Ball 1989: 160). The analogy with the body originated in the late medieval period and was widely utilized until recently. Even when the contractual perspective replaced the organic one, parties to a covenant or contract were seen as parts of a whole, rather than any kind of divisions. Many, but not all, democratic protagonists thought that since the people was naturally united, it could be divided only artificially. Parties or “factions” were seen as spurious divisions of a naturally integral body, products of ambitions of politicians, rather than reflections of any pre-political differences or conflicts.¹

¹The spirit of party, George Washington (2002: 48) sermonized in his 1796 Farewell Address, “serves to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms, kindles the animosity of one part against another, foment occasionally riots and insurrections. It opens the door to foreign influence and corruption....” “There is nothing I dread so much,” his successor remarked, “as a division of the republic into two great parties, each arranged under its leader, and concerting measures in opposition to each other” (cited in Dunn 2004: 39).

Yet by 1929 Kelsen (1988: 29) could write that "Modern democracy rests entirely on political parties.... [T]he hostility of the old monarchy against political parties, ..., the opposition between them and the State, are but a manifestation of poorly veiled hostility against democracy.... It is an illusion or hypocrisy to maintain that democracy is possible without political parties.... Democracy is thus necessarily and inevitably a State of parties (*Parteienstaat*)."² Several post-1945 constitutions recognized parties as institutions essential to democracy (Lavaux 1998: 67-68).² Moreover, parties developed the capacity to discipline the behavior of their members in legislatures, so that individual representatives can no longer exercise their own reasons. Indeed, in some countries representatives are legally compelled to resign their mandate if they change parties: the law recognizes that they serve only as party members.

Hence the question: Can the ideal of self-government be implemented differently than the founders envisaged? What could it mean today, in the presence of parties?

To answer these questions, we need a conceptual apparatus. Once the assumption of unanimity is dropped, it is apparent that some people have to live under laws which they would not have adopted had they been the lawmakers. The question, then, is how many people and for how long suffer from living under laws which they would want to alter had each person been legislating for oneself. This definition of autonomy is the normative criterion by which political arrangements are evaluated here.

Since what follows is somewhat of a shaggy dog story, a preview may be helpful. A detour to Greece shows one way the ideal of self-government could be implemented, but I argue that rotation in office is not a feasible implementation of self-government in modern times. I then discuss the failure of modern democratic theory to make sense of the partisan aspect of democratic politics. Only then I come to the core of the argument, namely, that partisan alternation in office through elections is the closest that we can come to approaching the ideal of self-government in modern times. It may not be close, but it is the closest.

²The Italian Constitution of 1947 was the first to mention the role of parties in "the determination of national policy" (Article 2). The Bonn Constitution of 1949 (Article 21) and the Spanish one of 1978 render to parties a constitutional status. The Swedish Constitution of 1974 mentions the preeminent role of parties in the formation of the democratic will.

2 Self-Government as Rotation in Office

To understand the role of alternation, it is enlightening to take a detour to Greece (The following is based on Hansen 1991). For Aristotle, the essential feature of democracy, the mechanism of the connection between democracy and liberty, was that everyone "would rule and be ruled in turn." Here is the crucial passage:

A basic principle of the democratic constitution is liberty. That is commonly said, and those who say it imply that only in this constitution do men share in liberty; for that, they say, is what every democracy aims at. Now, one aspect of liberty is being ruled and ruling in turn.... Another element is to live as you like.... So this is the second defining principle of democracy, and from it has come the ideal of not being ruled, not by anybody if possible, or at least only in turn. (Cited in Hansen 1991: 74)

The difference between the Greek and the modern concepts of self-government has been highlighted by Descombes (2004: 327). Commenting on a passage by Castoriadis – "I give here the term human being, *anthropos*, the sense ... of a being that is autonomous. One can say as well, remembering Aristotle, a being capable of ruling and being ruled" – Descombes observes, "It is remarkable that Castoriadis did not say, as would only naturally a partisan of autonomy in the modern sense, 'a being capable of ruling himself.' ... The good citizen is someone who is as capable to command as to obey." As Manin (1997: 28) put it with regard to Greece, "democratic freedom consisted not in obeying only oneself but in obeying today someone in whose place one would be tomorrow."

The institutional feature that implemented taking turns was rotation in office: a combination of selection by lot with short terms and restrictions on reeligibility. Thus 6000 jurors were picked by lot at the beginning of each year and as many as needed were picked by lot on a given day. About 540 magistrates, who had to prepare decisions of the Council and implement them, were picked by lot again for a year and could not hold the office more than once (or at most a few times).³ Members of the Council of 500 were chosen by lot for one year from among those who presented themselves and could hold the office at most twice

³These rules did not apply to the few positions that required special skills, mainly generals.

in their life, but not in consecutive years.⁴ Finally, the ceremonial office of the *epistates*, who held the seal of Athens and the keys of the treasuries as well as counted as the head of state of Athens in relation to other states, could be held for only one night and one day in one's life. Here is Hansen's (1991: 313) summary of these arrangements:

The rule that a man could be a councillor no more than twice in a lifetime means that every second citizen above thirty ... served at least once as a member of the Council; and three quarters of all councillors in any one year had to serve for a night and a day as *epistates ton prytaneon* (and never again). Simple calculation leads to this astonishing result: every fourth adult male Athenian citizen could say. "I have been for twenty-four hours President of Athens" – but no Athenian citizen could ever boast having been so for *more* than twenty-four hours.

Rotation could not have been the institutional form of taking turns in modern democracies. While Manin (1997) may be correct that their large size does not preclude direct democracy, size would render rotation meaningless. The 1776 Constitution of Pennsylvania, where legislators, sheriffs, coroners, tax-assessors, and justices of peace were elected for one year and executive councillors for three, all with limitations on reeligibility, came closest to the ideal of rotation in the modern era. But even if we assume that no one ever served twice, at most one person in thirteen would serve ever.⁵

One can draw contrasts between the Greek and the modern democracy in several ways. The standard distinction is that Greek democracy was direct, while the modern one is representative. Manin (1997) highlights the method for selecting to public offices: in Greece it was predominantly lot, while elections characterize modern democracies. But the power of lot stemmed not from "simple political equality" in the sense of Beitz (1989), an equal procedural chance, but from short terms in office and prohibitions of reeligibility, from rotation. After all, we could

⁴According to Finley (1983: 74), in any decade between a fourth and a third of citizens over thirty would have been Council members and fewer than 3 percent served a second term.

⁵I assume that 1000 people were elected. The population of Pennsylvania was 434,373 in 1790 and I use 400,000 for 1776. I also assume that adult life lasted 30 years.

In the United States, there were 511,039 popularly local elected officials in 1992 (www.census.gov), 7382 state, and 535 federal legislators, for a total of 518,956. Even if everyone served only one year and could not serve again ever in their life, only one in seven would ever rule.

use lot to choose even hereditary monarchs. The sharpest contrast, in my view, was that the Greek democracy assured that most citizens would rule and be ruled in turn, while nothing of the sort would even enter the minds of modern democrats. Even short terms in office and restrictions on reelection, wherever they were introduced, were intended to prevent entrenchment by the incumbents, rather than to give everyone a chance to rule. I find it astonishing how far were the early democrats from the Greek ideal of self-government. For the Greeks – Rousseau (1964) had it right – “democracy was a state in which there are more citizens who are magistrates than ordinary citizens who are not.” And while Paine (1989: 170) described the American system of government as “representation ingrafted upon Democracy,” the graft transformed the entire body. All the convoluted constructions about the common good, ideal preferences, and collective will just masked a basic fact that nothing in the modern conception of democracy precluded the possibility that some people could rule always and others never.⁶ George Washington could say, “I have been for eight years President of the United States” and almost no one else could say that they were president even for a day.

3 Partisan Divisions and Democracy

The emergence of partisan alternation in office is the most surprising aspect of democratic history. The idea of a government losing office as a result of an election could not have been even conceived within the perspective of the founders. The very language would have been incomprehensible, since all its ingredients were missing. Elections were to select individuals, not parties. As representatives, those elected were to serve the interest of all, not of those who had voted for them. Since actions of representatives were not to depend on results of elections, the notion of alternation through elections could not be envisaged, and since there were no parties, alternation could not have been partisan. What happened in the United States in 1801 – “when, without use of a coup d’état, and without armed rebellion against him, a man denounced hysterically in some quarters as a Jacobin calmly assumed the highest executive office,” as Palmer (1964: 511) describes the event – is mind-boggling.⁷

⁶Indeed, Sieyes justified representation by claiming that the people would want those who make laws to have specialized knowledge. Having observed that in modern society individuals must have specialized skills, he concluded that “The common interest, the improvement of the state of society itself cries out for us to make Government a *special profession*” (cited after Manin 1997: 3; a more extensive discussion of Sieyes’s view is in Pasquino 1998).

⁷Calm it was not. Partisan divisions were perhaps more intense than at any other time during the history of the United States. Indeed, probably at no other time in its

The silence of democratic theory, even in its most modern versions, about alternation in office is astonishing. Neither Kelsen (1988 [1929], 1954), nor Schumpeter (1942), Downs (1957), Dahl (1971, 1989), nor Bobbio (1987, 1989) even mention it.⁸ None pauses to consider its consequences. And these are theorists who emphasize the role of political parties in organizing and representing public opinion and who see electoral competition among parties as the essential feature of democracy. Yet all these writers either stop at competition (contestation) or suggest that the people are represented when parties negotiate and make compromises, not when parties alternate in office. Dahl (1971) is perhaps most amazing: his entire emphasis is on "contested elections" but he never reflects why it matters that elections be contested. His chapter on the advantages of "polyarchy" focuses exclusively on universal suffrage, with not a single word about alternation. In the end, he throws his hands up in the air: "But it is not my purpose here to make a case for polyarchy." (1971: 31).

Beginning with Kelsen (1988 [1929]: 27), these theorists take it as the point of departure that all citizens cannot rule at the same time: "[I]t is not possible for all individuals who are compelled and ruled by the norms of the state to participate in their creation, which is the necessary form of exercise of power; this seems so evident that the democratic ideologists most often do not suspect what abyss they conceal when they make the two 'people' [in singular and in plural] one." People must be represented and they can be represented only through political parties,⁹ which "group men of the same opinion to assure them real influence over the management of public affairs" (Kelsen 1988: 28) or which are groups "whose members propose to act in concert in the competitive struggle for political power" (Schumpeter 1942: 283) or "a team of men seeking to control the governing apparatus by gaining office in a duly constituted election" (Downs 1957: 25). Isolated individuals cannot have any influence over the formation of general will; they exist politically only through parties (Kelsen 1988: 29).

Parties, in turn, have followers and leaders, who become representatives through elections. Representatives will for the people. "Parliamentarism," Kelsen (1988: 38) says, "is the formation of the directive

history did the United States come as close to a coup d'état as in 1800. For detailed accounts of these events, see Dunn (2004) and Weisberger (2004).

⁸I thought that either Walter Bagehot (1963 [1867]) or James Bryce (1896) might. Neither does. Bagehot discusses whether it is good to change ministers, but only in the context of control over bureaucracy. Bryce does not breathe a word.

⁹Both Kelsen and Bobbio consider and reject the alternative of functional representation, by corporatist bodies.

will of the State by a collegial organ elected by the people... the will of the State generated by the Parliament is not the will of the people ...” Schumpeter (1942: 269) echoes: ”Suppose we reverse the roles of these two elements and make the deciding of issues by the electorate secondary to the election of the men who are to do the deciding.” While in the classical theory ”the democratic method is that institutional arrangement for arriving at political decisions ... by making *the people decide issues* through the election of individuals who are to assemble in order to carry out its will” (1942: 250), Schumpeter maintains that in fact the democratic method is one in which the individuals who are to assemble *to will for the people* are selected through elections.

Thus far these views do not diverge as far from the classical conception as Schumpeter would have it. Although they would be uncomfortable with the emphasis on interests and parties, Madison or Sieyes would have agreed that the role of representatives is to determine for the people, and sometimes against the people, what is good for them. But here comes the crucial break with the classical tradition: Kelsen, Schumpeter, Bobbio, Downs, and Dahl all agree that nobody and no body can represent the will of all the people. In sharp contradistinction to the classical view, these theorists maintain that political parties represent distinct interests and that these interests are largely, even though not exclusively, material. The theory of democracy based on the assumption of the common good is just incoherent. As Shklar (1979: 14) put it, in an article entitled ”Let Us Not Be Hypocritical,” ”A people is not just a political entity, as was once hoped. Parties, organized campaigns, and leaders make up the reality, if not the promise, of electoral regimes...”

Kelsen (1988: 25-26) was perhaps the first to systematically challenge the theory of self-government based on the assumption of unanimity: ”Divided by national, religious and economic differences, the people presents itself to the view of a sociologist more as a multiplicity of distinct groups than as a coherent mass of one piece.” He rejected what Schumpeter would dub ”the classical conception” with an equal vigor:

Moreover, the ideal of a general interest superior and transcending interests of groups, thus parties, the ideal of solidarity of interests of all members of the collectivity without distinction of religion, of nationality, of class, etc. is a metaphysical, more exactly, a metapolitical illusion, habitually expressed by speaking, in an extremely obscure terminology, of an ’organic’ collective or ’organic’ structure.... (Kelsen 1988: 32-33).

Schumpeter (1942: 250ff) offered a systematic critique of the concept

of the common good or general will by making four points: (1) "There is no such thing as a uniquely determined common good that all people could agree on or be made to agree on by the force of rational argument." (2) The individual preferences which the utilitarians adopted to justify their conception of common good are not autonomous but shaped by persuasion, "not a genuine but a manufactured will." (3) Even if a common will would emerge from the democratic process,¹⁰ it need not have the rational sanction of necessarily identifying the common good. Given the pathologies of mass psychology, nothing guarantees that people would recognize what is good for them. (4) Even if we would know the common good, there would still be controversies about how to implement it.

Schumpeter wanted us to believe that his view is "much truer to life and at the same time salvages much of what sponsors of the democratic method really mean by this term." Yet even if his conception is more realistic, this is not what the "classical" theory meant by "democracy." The association between the decisions made by the representatives and the will of the people was the justification for electing representatives in the first place. If elections do not serve to implement the will of the people, then why select rulers through elections? If democracy is only a method, what is it a method for? The classical theory had an answer to this question: democracy was a method through which people rule and maintain their liberty. Schumpeter thought this answer to be unrealistic but did not offer another in its place. Hence, he ended with a method for no purpose.

If no body, parliament or government, can will for all the people, is democracy just a method for imposing the will of some, who happen to constitute a numerical majority, on others? Schumpeter (1942: 272-3) does pose the question but quickly dismisses the only negative answer that occurs to him, which is proportional representation. "Evidently," he observes, "the will of the majority is the will of the majority and not the will of 'the people'." Then he mentions that some authors – he must have had in mind Kelsen (1988 [1929]: 60-63) – tried to solve the problem by various plans for proportional representation. He finds this system unworkable, since "it may prevent democracy from producing efficient governments and thus prove a danger in times of stress." "The principle of democracy," Schumpeter insists, "merely means the reins of government should be handed to those who command more support than do any of the competing individuals or teams."

¹⁰The difficulty of identifying the common will was recognized only nine years after Schumpeter published his text, by Arrow (1951).

Kelsen (1988: 34) does offer a solution: a compromise among parties. He argues that "the general will, if it should not express the interest of a single and unique group, can be only a result of such oppositions, a compromise between opposing interests. The formation of the people in political parties is in fact an organization necessary to realize such compromises, so that the general will could move in the middle (*dans une ligne moyenne*)."

"The application of the majority principle," Kelsen (1988: 65) maintains, "contains quasi-natural limits. Majority and minority must understand each other if they are to agree." But here he encounters a problem so thorny that it requires Freudian psychology, the "unconscious," to solve: why would "compromise," in fact concessions made by the majority to the minority, be specific to democracy? He claims – in the light of recent research (Gandhi 2004) erroneously so – that autocracies do not make compromises.¹¹ The only reason he can adduce is psychological: "Democracy and autocracy thus distinguish themselves by a psychological difference in their political state" (1988: 64). And if this solution – preserving political rule by making concessions – is not exclusive to democracy, a central value Kelsen claims for democracy vanishes.¹²

Bobbio (1989: 116), attributing this view to Max Weber, claims that the normal procedure for making decisions under democracy is one in which "collective decisions are the fruit of negotiation and agreements between groups which represent social forces (unions) and political forces (parties) rather than an assembly where majority voting operates." And when party leaders negotiate, the role of voters is reduced to a minimum. All that voters can do is to ratify agreements "reached in other places by the process of negotiation" (Bobbio 1989: 116).

Compromise among party leaders, subject to periodic ratification by voters, is as much as Kelsen or Bobbio can salvage from the classical conception of self-government. Self-government now means the government of parties in the parliament. Parties do not pursue the common good but search for compromises among partisan interests. Bargaining replaces deliberation. The outcomes are to a large extent independent of results of elections. The specificity of democracy is reduced to the requirement that these bargains must be from time to time approved by

¹¹The difference between these two types of regimes is not that compromises occur only under democracy but that autocracies can be, and many are, ruled by a minority. But dictators also combine repression with cooptation to maintain their rule.

¹²To be fair to Kelsen, at the end of his essay, having summarized the reasons that democracy should and will generate compromise, most importantly proportionality, he ends with the sentence "And it is necessary that this coercive order [democracy] be organized in such a way that the minority as well ... could at any time become majority" (1988: 93).

voters. Yet all voters can do is either to approve the deals negotiated by party leaders or to throw all the rascals out: in the language of recent Argentine outburst against the political class, "*fuera todos!*", "everyone out." And then?

In what follows, I offer an alternative view. Even if at each time a government can represent only some people, parties can take turns, and most people could be represented some of the time. This, I think, is the meaning of self-government in our times.

4 Self-government as Partisan Alternation in Office

Given the size of modern democracies, the closest substitute for individual rotation is partisan alternation in office. I know that caveats jump to everyone's mind. They will appear here as well, at length and with a destructive force. But hear me out first. Suppose that people sort themselves into parties, according to their interests, values, ideals, or what not, "wills." Suppose that this sorting is sufficient to render coherence to some notion of partisan interests. Suppose that party leaders – there are leaders – act in the best interest of their supporters. This is not yet enough: if this sorting were permanent, some parties would rule always and other parties still never. But suppose that people can change their mind and enough do, for whatever reasons. Then parties, or coalitions thereof, will alternate in office and most people will be represented in turn. Here lies the genius of elections and, in my view, the cornerstone of their staying power.

This argument is developed in three steps. First, I claim that it is reasonable to think that parties represent specific interests. Secondly, I investigate the relation between partisan alternation and autonomy, always understood as the proportion of the people who live under a legal order they would have chosen. Only then I ask whether it makes a difference whether people actually choose the order under which they live.

4.1 Partisan Interests

While governments may not be able to express the will of all the people, supporters of *particular* parties may be sufficiently homogeneous to render meaning to a notion of partisan interest. True, even the will of supporters of particular parties is still likely to be multidimensional, so partisan interest will need not be uniquely determined. But given the platform of other parties – by which I mean both the issues on which to take a position and the positions taken – the platforms to which

supporters of a particular party would agree are circumscribed.¹³ In elections, people sort themselves out by their distinct wills in response to proposals of parties which, in turn, must anticipate how people will sort themselves out. In the end, "the electoral equilibrium," people vote for particular parties because they think that they will represent them better than others. Hence, partisan interests are distinct.

To understand this process, it is useful to consider electoral competition between two parties (or coalitions) which choose policies from a single dimension of policy, say the extent of redistribution. As long as parties propose or implement different platforms, almost all voters, except for those whose ideal preferences are equidistant from the proposals of the two parties, strictly prefer one party over another. But even if the two parties offer the same platform (as in the median voter model), parties still represent different constituencies. The electoral constraint pushes the parties to the center (the position of the median voter). But the parties are still distinguishable as "left" and "right," which can be seen as follows. If the electoral constraint were relaxed by a notch, so that both parties would have had the same chance to win the election (which in this story is 50/50) if they proposed to implement the ideal preference of the voter removed from the median by one to the left, the left party would move to this voter while the right party would not. Hence, even when parties converge, they converge "from the left" and "from the right." And voters know it.

Moreover, voters have reasons to expect governments to be biased in favor of the particular constituencies who elected them. The prospect of elections forces party leaders to be concerned about the retrospective verdict of voters. Party leaders represent their constituencies because they share their interests and values, but also because they must fear that their supporters would switch sides, lured by the promises of the opponents. As early as in 1771, De Lolme (2002) rationalized the idea that representatives should be elected by the argument that people can rely on the representatives' desire to be reelected as an incentive to pursue the common good; in the modern language that elections would serve as a mechanism of accountability. As Hamilton (*Federalist #72*) observed, "There are few men who would not feel ... zeal in the discharge of a duty ... when they were permitted to entertain a hope of *obtaining by meriting* a continuance of them." And although this idea does not seem to have played an important role in history, modern theories of democracy see it as almost definitional. Once it is thought that those elected are free to will for the people, what is there to prevent them from

¹³These intuitions, and they are only intuitions, are based on Roemer (2001).

acting against the will of the people? This is why post-Schumpeterian theories of representative government have to be patched by evocations of "responsiveness," "responsibility," or "accountability." Thus Dahl (1971: 1) asserts that "a key characteristic of democracy is the continued responsiveness of the government to the preferences of its citizens." Riker (1965: 31) claims that "democracy is a form of government in which the rulers are responsible to the ruled." Schmitter and Karl (1991: 76) maintain that "modern political democracy is a system of governance in which rulers are held accountable for their actions in the public realm by citizens."

Yet what does it mean to be accountable to "citizens" or "the ruled"? The idea can be easily understood when citizens are all identical and, indeed, stories about accountability invariably invoke this assumption (Barro 1973, Ferejohn 1986, Maskin and Tirole 2004). Identical citizens set some criterion that the incumbent must satisfy to obtain their votes; the incumbents anticipate the retrospective judgment of citizens; since they want to stay in office, à la Hamilton, they discharge zeal in performing their duty. But if citizens are heterogeneous, incumbents can be at most accountable to their constituents and being accountable to one's own constituency means representing the will of some citizens against other citizens. Hence, accountability enforces partisan interests. True, to win elections, governments may seek to sway people who did not place them in office. But for the fear of losing their original base of support, partisan governments cannot stray too far.¹⁴

This is not to say that governments can admit that they act in partisan interests. The censoring power of the universalistic ideology of democracy – "no distinctions" – recurrently conflicts with the partisan organization of elections. Elections must carve the electorate into partisan constituencies; the elected governments must each time stitch the electoral wounds. After an exceptionally divisive campaign, Jefferson was the first to do so in 1801, by offering concessions to the Federalists. After an almost equally conflictive election in 2004, having appealed to most extreme religious groups, George W. Bush rushed to preach "national unity" in his victory speech.¹⁵ Salvador Allende's declaration that "*No soy Presidente de todos los Chilenos*" ("I am not the President of all the Chileans) was an enormous blunder. The accusation that parties divide people is perennial in the history of democracy. Yet elections

¹⁴As everything, this assertion is subject to exceptions in which parties switched their programs and constituencies. For these cases, and their implications for democratic theory, see Stokes (2001).

¹⁵How empty is this "unity" talk was immediately manifested by Bush's invitation to "all those who share our goals."

evolved to be partisan and governments learned that they would face elections, so they must act in partisan ways as well, even if they cannot admit it.

Thus, while governments cannot implement the will of all the people, partisan governments can fulfill the wishes of some people. But if governments represent the will of some people, can it ever be said that the system in which governments are elected represents the will of all people, that it implements the ideal of self-government of the people? The answer is provided by partisan alternation in office.

4.2 Autonomy under Majority Rule

Alternation in office enhances autonomy only if partisan control reflects the popular support for alternative legal orders. Hence, alternation promotes autonomy if it occurs according to rules. And it turns out that autonomy is maximized when alternation occurs according to the simple majority rule.¹⁶ To support this thesis, I make a number of points, most obvious, but nevertheless enlightening.

Kelsen (1988) posits the following theorem:

Theorem 1 (*Kelsen 1929*) *Simple majority rule maximizes autonomy.*

His reasoning goes as follows. Suppose that there is a status quo social order, as there always is. There are n people. Now, if the rule for changing the status quo is unanimity, $n - 1$ people may want to alter it and cannot. Hence, $n - 1$ will live under an order not to their liking. Assume now the rule is that the status quo is altered if at least $n/2 + 2$ people support a change. Then $n/2 + 1$ may still suffer under a status quo they do not like. In turn, assume that the qualifying number is $n/2 - 1$. Then the status quo can be altered leaving $n - (n/2 - 1) = n/2 + 1$ people unhappy. But under simple majority rule the decisive number is $n/2 + 1$ which leaves at most $n - (n/2 + 1) = n/2 - 1$ dissatisfied. Hence, majority rule minimizes the proportion of people who are unhappy about the laws under which they live.

This theorem was proved formally by Rae (1969) and generalized by Taylor (1969). Rae seems to have been unaware of Kelsen's argument and used a different language: what for Kelsen was "autonomy," for Rae became the criterion of "political individualism." But the intuition is the same: the virtue Rae (1969: 42) claims for majority rule is that it "will

¹⁶Note that simple majority rule has other features one may find normatively attractive: it is decisive, it does not favor one individual over another, it does not favor one alternative over another, and it responds positively to individual preferences. See May (1952).

optimize the correspondence between individual values and collective policies.”

The simplest way of proving this intuition is this. Assume that the society faces two alternative legal orders, the status quo, A , and an alternative B , advocated respectively by parties A and B . Let v_t be the proportion which supports A at $t, t \in T$, where T is the adult life span of an individual. Finally, let p_t be the probability that A is chosen at t .

Definition 1 *The autonomy of a cohort is the proportion of their aggregate adult life during which they live under a legal order they would have chosen, so that*

$$\text{Autonomy} = \frac{1}{T} \sum_{t \in T} \{p_t v_t + (1 - p_t)(1 - v_t)\}$$

Now, the corollary to Kelsen-Rae-Taylor theorem is that

Corollary 1 *Simple majority rule maximizes the autonomy of a cohort.*

Proof. Maximizing autonomy with regard to $\{p_t\}$ yields

$$\begin{aligned} p_t &= 1 \text{ if } v_t > 1/2 \\ p_t &= 1/2 \text{ if } v_t = 1/2, \\ p_t &= 0 \text{ otherwise} \end{aligned}$$

which is the simple majority rule. ■

Suppose there were no alternation when v_t falls from $v_t > 1/2$ to $v_{t+1} < 1/2$. Let $v_t = 1/2 + \epsilon_t$ and $v_{t+1} = 1/2 - \epsilon_{t+1}$, where $\epsilon_t, \epsilon_{t+1} > 0$. If there were no alternation at $t + 1$, the extent of autonomy would have been $(\frac{1}{2} + \epsilon_t) + (\frac{1}{2} - \epsilon_{t+1}) = 1 + \epsilon_t - \epsilon_{t+1}$, while under alternation it would have been $(\frac{1}{2} + \epsilon_t) + (\frac{1}{2} + \epsilon_{t+1}) = 1 + \epsilon_t + \epsilon_{t+1}$. Conversely, suppose that alternation occurs even if $v_t = v_{t+1} = 1/2 + \epsilon > 1/2$. Then the extent of autonomy would have been $(1/2 + \epsilon) + (1/2 - \epsilon) = 1 < 1 + 2\epsilon$, which would have been the case without alternation. Hence, autonomy is maximized if partisan control alternates according to current majorities. This much is embarrassingly obvious, even though important, since it justifies the simple majority rule in terms of autonomy.

Again obviously, democracy generates more autonomy than dictatorship, in which tenure in power does not depend on majority support. The laws under dictatorship may coincide with those under democracy: the dictator may will what the majority would have. But the dictator can also will against the majority, which means that he can change his mind even if the majority view remains the same or he can maintain the

same laws even if a majority turns against them. Hence, under dictatorship the coincidence of the extant legal order and the majority will be only a happenstance, while under democracy it is guaranteed by the procedure by which laws are issued.

Perhaps less obvious is that simple majority rule is equivalent to splitting time according to *expected* preferences. Imagine that you know your own preference but not what the support for the status quo will be at any $t \in T$. Specifically, assume that v_t is equally likely to take any value in some interval $[\underline{v}, \bar{v}]$, $0 \leq \underline{v} < \bar{v} \leq 1$, where \underline{v} , to be read "v lower," is the smallest proportion of people who may possibly support A at any $t \in T$ and \bar{v} , "v upper," is the largest possible proportion.¹⁷

The following result will be useful:

Lemma 1 *Let p be the constant probability that A wins at any time $t \in T$. Then the proportion of any period T during which A is expected to prevail is*

$$\frac{1}{T} \sum_{t=0}^{t=T} \binom{T}{T-t} p^{T-t} (1-p)^t = p.$$

When the probability that A wins each election is p , the supporters of A can expect to live under laws they like during the proportion p of their lives, while the supporters of B to govern during the proportion $(1-p)$ of theirs. The proof is tedious, but for an intuition consider two periods. The probability that Party A wins both elections is p^2 , the probability that it wins only the first one is $p * (1-p)$, the probability that it wins only the second one is $(1-p) * p$. Hence, party A is expected to govern $p^2 * (2 \text{ periods}) + 2p(1-p) * (1 \text{ period}) = 2p * (1 \text{ period})$, or during the proportion p of two periods. By induction, the same is true for any T .

Theorem 2 *Dividing ex ante the control of office according to the expected probability of winning and applying the simple majority rule ex post is equivalent.*

Proof. If we were to agree to divide time in office according to expected preferences, we would set $p = \frac{\bar{v}-1/2}{\bar{v}-\underline{v}}$ and $1-p = 1 - \frac{\bar{v}-1/2}{\bar{v}-\underline{v}} = \frac{1/2-\underline{v}}{\bar{v}-\underline{v}}$. But under majority rule, $p = \Pr(v_t > 1/2) = \Pr(p_t = 1) = \frac{\bar{v}-1/2}{\bar{v}-\underline{v}}$. ■

¹⁷The logic of the argument does not depend on assuming uniform distribution: it is just easier.

Observe that dividing time according to the expectation of uncertain preferences is not the same as dividing it according to the already revealed current preferences, a proposal made by Guenier (1994) to remedy situations in which the majority is permanent, so that it always wins. In Guenier’s proposal if the current majority constitutes 60 percent, then minority should rule 40 percent of future time.¹⁸ By the criterion of autonomy, the Guenier rule is inferior to majority rule. Yet note that we have been assuming implicitly that the current majority cannot bind future ones, that is, that choices are made independently at every t . This is not true of all democratic decisions, the most prominent example being the selection of judges whose terms exceed the life of the current majority. When a decision is made at $t = 0$ for the entire period T or beyond, using simple majority rule based on the current majority is inferior to dividing the time (or the number of judges) according to the distribution of current preferences, even if dividing according to the *expected* probabilities of victory is superior to dividing according to the current preferences, since it is equivalent to simple majority rule.¹⁹

Given the lemma, the extent of autonomy expected under simple majority rule is

$$E(\textit{Autonomy}) = pE(v|\bar{v} \geq v > 1/2) + (1 - p)(1 - E(v|\underline{v} \leq v < 1/2)),$$

where the expected proportion of people supporting A if more than one half support it is $\frac{\bar{v}+1/2}{2}$ and the expected proportion of people supporting B if less than one half support A is $1 - \frac{\underline{v}+1/2}{2}$.

We can now calculate the expected value of autonomy.

Theorem 3 *The extent of autonomy expected under majority rule is*

$$E(\textit{Autonomy}) = \begin{array}{ll} 1/2 & \text{if } \underline{v} > 1/2 \\ 1/2 \leq E(v) + (1 - p)(1/2 - \underline{v}) \leq 3/4 & \text{if } \underline{v} < 1/2 < \bar{v} \\ 1 - E(v) > 1/2 & \text{if } \bar{v} < 1/2 \end{array}$$

¹⁸Guinier (1994) reports that her five-year old son returned from the playground reporting that three kids wanted to play baseball and two basketball. Applying the majority rule she inferred that they played baseball. But her son retorted, "No, first we played baseball, and then basketball": the kids divided the time according to the distribution of their preferences. Guenier proposes this rule as an alternative to majority rule.

¹⁹Obviously, I have in mind the controversy about the filibuster rule in the US Senate: the argument in the text implies that super-majority rule is superior in this case to simple majority based on the current distribution of seats.

Proof. If $\underline{v} < 1/2 < \bar{v}$, then $pE(v|\bar{v} \geq v > 1/2) + (1-p)(1 - E(v|\underline{v} \leq v < 1/2))$
 $= \frac{\bar{v}-1/2}{\bar{v}-\underline{v}} \frac{\bar{v}+1/2}{2} + \frac{1/2-\underline{v}}{\bar{v}-\underline{v}} (1 - \frac{1/2+\underline{v}}{2}) = \frac{\bar{v}-1/2}{\bar{v}-\underline{v}} \frac{\bar{v}+1/2}{2} + \frac{1/2-\underline{v}}{\bar{v}-\underline{v}} \frac{1/2+\underline{v}}{2} + \frac{1/2-\underline{v}}{\bar{v}-\underline{v}} (1 - \frac{1/2+\underline{v}}{2})$
 $= E(v) + \frac{1/2-\underline{v}}{\bar{v}-\underline{v}} (1/2 - \underline{v}) = E(v) + (1-p)(1/2 - \underline{v}). \blacksquare$

Illustrative values are provided in the table:

\underline{v}	\bar{v}	$\bar{v} - \underline{v}$	$\Pr(v > 1/2)$	$E(v)$	<i>Autonomy</i>
1	1	0	1	1	1
0.501	1	0.499	1	0.7505	0.7505
0.501	0.51	0.009	1	0.5055	0.5055
0.49	0.51	0.020	1/2	0.5	0.5005
0.33	0.66	0.333	1/2	0.5	0.5833
0.25	0.75	0.500	1/2	0.5	0.6250
0	1	1	1/2	0.5	0.7500
0.25	1	0.750	2/3	0.6250	0.7083
0	0.75	0.750	1/3	0.3750	0.7083
0.49	0.499	0.009	0	0.4945	0.5055
0	0.499	0.499	0	0.2495	0.7505
0	0	0	0	0	1

The simple majority rule guarantees that at least half of citizens are sure to live under laws they prefer. When uncertainty is very low, with $\underline{v} < 1/2 < \bar{v}$ arbitrarily close to $1/2$, the extent of autonomy is arbitrarily close to $1/2$.²⁰ As the table shows, when uncertainty concerns only 2 percent of the electorate, only slightly more than one half can expect to live under laws they prefer. As the range of uncertainty increases, so does expected autonomy, reaching the upper limit at $3/4$ when no one and everyone can possibly support A .

Corollary 2 *When uncertainty spans $1/2$, so that $0 < p < 1$, at most $3/4$ of citizens can expect to live under laws they would have chosen.*

²⁰Let $\bar{v} = 1/2 + \epsilon$, $\underline{v} = 1/2 - \epsilon$. Then $E(v) + (1-p)(1 - \underline{v}) = \frac{1}{2} + \frac{1}{2}\epsilon$, and $\lim_{\epsilon \rightarrow 0} (\frac{1}{2} + \frac{1}{2}\epsilon) = \frac{1}{2}$.

Proof. $\partial E(\textit{Autonomy})/\partial \underline{v} < 0, \partial E(\textit{Autonomy})/\partial \bar{v} > 0$, so that $\partial E(\textit{Autonomy})/\partial(\bar{v} - \underline{v}) > 0$. The maximum is reached, therefore, when $\underline{v} = 0, \bar{v} = 1$. Then 1/2 can be sure and the other 1/2 has the probability 1/2 of winning, so that $E(\textit{Autonomy}) = 1/2 + (1/2)(1/2) = 3/4$. ■

When it is possible for the majority to veer either way, at least 1/4 of citizens will live under laws not to its liking. Hence, when opinions are divided, not everyone can expect to be autonomous under democracy, but most people can.

Finally, note that alternation has another virtue. The mere prospect of alternation can induce the current minority to wait for its turn while obeying the current majority (Przeworski 1991). If party *A* is certain to stay in power for ever, the supporters of party *B* know that they will never live under laws they prefer. In turn, suppose that party *A* won the current election but the probability that it would win the next one is $p < 1$. Now the supporters of *B* expect that they may win in the future. Assume that members of party *B* can either obey the verdict of elections or rebel against it. If the value of rebellion for them is greater than the prospect of life under a social order they dislike but smaller than the prospect associate with the possibility that they may win in the future, then members of *B* would rebel if they were certain to lose all elections but would obey party *A* if they had a sufficient chance to win the next election. Alternation in office enables the political forces to think in intertemporal terms, to say "All is not lost; we were defeated this time, but we will win at some time in the future, and we should wait for our turn." And if everyone makes the same calculation, then everyone obeys the current rulers while waiting for their turn to rule. As Bobbio (1984: 116) put it, "democracy is a set of rules ... for the solution of conflicts without bloodshed" (See also Popper 1962: 124 and Przeworski 1999).

Moreover, the very prospect of partisan alternation may induce the incumbents to moderation. Even if party leaders do not represent anyone else – if the system were a true "polyarchy" rather than an electoral one – as long as party leaders prefer smaller oscillations of policies to larger ones (because their preferences are concave), Kelsen's *ligne moyenne* would be supported by the threat of taking an extreme position (one's own ideal point) if control over office were to change repeatedly (Alesina 1988). Hence, in a stable party system, the prospect of alternation induces moderation in office, and this moderation is not a result of negotiations between parties but of unilateral actions on their part.

5 Conclusions and Caveats

The conception of democracy as a system of self-government was based on an assumption that rendered it unrealistic and incoherent, namely, that interests and values are sufficiently harmonious so that each individual needs to obey only oneself while living under laws chosen by all. The merit of the modern revision was to recognize that wills are inevitably divided and that no body can implement the will of all people. Yet even if no single government can fulfill the will of all the people, successive governments can implement the wills of different people in turn. To the extent that democracy is a system of majority rule, it comes as close as it is possible to fulfilling the ideal of self-government.

Yet this defense of democracy must be mitigated on several grounds. While the Greeks assured that everyone would have an equal chance to rule by using lot and that the chance would materialize by keeping the terms in office short, representative government offers no such assurances. Some people may have to wait for ever. Indeed, in an unchanging electorate, in which children inherit the preferences of their grandparents, an accountable party would stay in office indefinitely. Hence, if parties did not slip up in representing their constituencies, some people, perhaps as many as a half, would never rule. This possibility haunts democracy in ethnically divided societies (Chandra 2004). For alternation to be possible, that is, for the chances of victory of particular alternatives to be uncertain, either individual preferences must be changing or the incumbents must err in representing them. And even when every electoral outcome is equally probable, we have seen that one-fourth of the people must expect to spend their lives under laws they dislike. People who are unlucky to have unpopular preferences will never see them implemented.

Secondly, one should not confuse autonomy with welfare. Social welfare is defined over consumption of commodities from which individuals derive utility. Since laws distribute consumption and allocate resources between public and private goods, one could think that a preference for a legal order is just a preference over distributions of consumption. Autonomy, however, is not a welfarist concept. Laws differ not only in what they generate but in what they allow individuals to generate by their own actions; they differ in the extent to which they allow individual choice. A law may order individuals with particular incomes to pay a specific amount of taxes or it may leave to individual discretion how much they contribute to the welfare of others: the latter was an idea of President Bush Sr. A law may force all people to read *The Bible* or it may leave to their discretion whether they read *The Bible* or *Lady Chat-*

terley's Lover, neither, or both. Laws shape what Sen (1988) refers to "capability sets," defined as bundles of "functionings" that a person may achieve by one's own efforts. Since capability sets include the ability to exercise choice, they are not exhausted by consumption of commodities or leisure, Rawlsian primary goods, or utilities. Autonomy, thus, is not a welfarist criterion because laws determine what one can, rather what one does, achieve.

Finally, and perhaps tragically, while alternation according to majority rule does satisfy Kelsen's criterion of maximizing the number of people who live under the laws they like, autonomy is not the same as self-government. Following Rousseau, Kelsen (1949: 284) claimed that "Politically free is he who is subject to a legal order in the creation of which he participates." But as long as I live under a social order which I *would* choose, why does it matter that I *did* choose it, that is, that I did something that caused it to prevail? One could argue, à la Sen (1988), that being an active agent, a chooser, has an autonomous value for us, that a result obtained by my actions is more valuable to me than the same result generated independently of them.²¹ But why would it matter that I had voted for it rather than just observed that a coin landed on the side I prefer? It cannot be a causal difference: the probability that my vote matters is miniscule in any large electorate. From an individual point of view, the outcome of an election is a flip of a coin; it is independent of one's action. Collective self-government is achieved not when each voter has causal influence on the final result, but when collective choice is a result of aggregating individual wills.²² The value of voting rests in the ex post correspondence between the laws everyone must obey and the will of a majority: selecting governments by elections does maximize the number of people who live under laws to their liking even if no individual can treat these laws as a consequence of his or her choosing. Thus people may value voting as a procedure for making collective choices while at the same time seeing their own vote as ineffective.²³ But without effective participation, autonomy is not the same as self-government. And in modern democracies, Kelsen (1988: 35) is forced to concede, "political rights – which is to say liberty

²¹Sen's classical example is "starving vs. fasting." Whether I starve or fast, I consume the same number of calories. But starving is not a matter of choice, while fasting is, and Sen sees choosing as valuable in itself. On the value of choosing under democracy, see Przeworski (2003).

²²I owe this formulation to Ignacio Sánchez-Cuenca.

²³I do not want to suggest that this why many people do vote. That the rational choice theory, at least when it sees the voting act as costly, makes no sense, is obvious. My guess is that many people at the same time perceive their votes as effective and are dissatisfied with the limitation of their influence over collective choices to voting.

– are reduced in the essential to a simple right to vote.”

Lest you be disenchanted by these conclusions, you will be sobered by the difficulties with getting even this little. While the first ever partisan alternation in office occurred in the United States in 1801, some parts of the world had to wait two centuries for this event to be repeated: Argentina until 1990, Eastern Europe until 1993, continental Africa until 1998.

6 References

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