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## The *politics of non-domination: populism, contestation and neo-republican democracy*

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“Democratic life, as it is sometimes put, has to have an agonistic – better perhaps, an antagonistic – character.” (Pettit, 2012, p. 226)

This article is concerned with the antagonistic character of democratic politics, specifically in relation to the neo-republican conceptualisation of politics – as outlined over the past twenty or so years by Philip Pettit (1997, 2001, 2012). Proceeding through an examination of what I call Pettit’s *method* of political theory, I take a sideways approach to the concept of ‘contestation’ as a marker for a sublimated antagonistic dimension of neo-republican politics, using Pettit’s anti-populism as a point of entry. If ‘Method’ is traced to its etymological roots, as in the ancient Greek *methodos*, then we find that it is not simply a quest for knowledge, or a system of investigation, but a combination of *meta-* and *hodos*, in which the latter implies a ‘path’. In other words, a *method* is a path – not a ready-made path that one merely follows, but the path that must be constructed in order to ‘figure out the characteristics of the territory you are going through, the places it allows you to go’ (Rancière, 2009, p. 114). Most importantly, what *forging* (in both senses of the word) such a path entails, is the articulation of the objects that populate the route; objects which, for better or worse – whether markers that point the way forward or obstacles to be circumvented – oblige one to move in certain ways.

Central to Pettit’s *method* is his signature mode of explication, which I will refer to as *oppositional elucidation*. This mode of theorising proceeds through the articulation of ideal typical oppositions between recognisable and generalizable tropes of the so-called “canon” of political theory and his own retroactively mediated positions generated through the process of what Rawls terms ‘reflective equilibrium’ (Pettit, 2012, pp. 20-21; cf. Rawls, 1971). My emphasis on articulation points to the contingency and fabricated nature of any discourse (Laclau and Mouffe, 2001 [1985], p. 105), including political theory, not least when political theorists invoke the phrase ‘political ontology’ in order to describe their endeavours (see Pettit, 2012, p. 288).

Beyond engaging critically with Pettit's method, this article undertakes a 'questioning' of neo-republican political community as well as the actuality of 'politics' itself. I take up a problem not addressed in the neo-republican scholarship, namely, the broader dispute over the practice of contestation and the scope of its reach in relation to the activity of politics. In 'post-Nietzschean' (Connolly, 1995) and post-structuralist thought, broadly conceived, contestation/antagonism is central to the attendant and diverging conceptualisations of politics, or more specifically 'the political'. Such a turn in thinking about politics arises from a suspicion of the 'politics of consensus' characteristic of deliberative and Rawlsian paradigms of Anglo-American political theory.<sup>1</sup> It is in contradistinction to both of these paradigms, while also appropriating from each, that Pettit articulates his own republican account of freedom and government as well as its attendant theory of democracy. In so doing, Pettit (1997, p. 202) emphasises in a Lockean fashion the importance of 'contestation' over that of 'consent' as the basis for political legitimacy, and further, it's significance in order to secure the ideal of liberty as non-domination. On this basis, neo-republican democracy presents itself in the "radical democratic camp" in relation to the prevailing conceptions of democracy within analytical political theory. Furthermore, Pettit co-opts and re-signifies the grammar of radical and 'agonistic' democracy<sup>2</sup> in theoretically as well as politically interesting ways. This then is the terrain that Pettit's method covers, and which leads to his cardinal reference point: non-domination.

In order to cash out non-domination as an ideal in greater detail, especially in its relation to neo-republican politics, the discussion that follows commences through a disentangling of the problem of 'populism' and its association with the challenge of majoritarian tyranny. In part two, I examine the instrumental value of democratic contestation, as posited by Pettit in defence of non-domination, reading Pettit's politics through the critical theorist Jacques Rancière. The closing section argues the need to think the '*politics* of non-domination', as opposed to the '*politics* of *non-domination*'.

### "Populism" and Republican freedom

In the opening pages of his *Republicanism, A Theory of Freedom and Government*, Pettit outlines his neo-republican project through opposition to a "populist" form of republicanism, which he attributes to the influence of, most recently and among others, Hannah Arendt's writings on politics. 'Populism' and *freedom as non-domination*, then, are the first two objects (caught in the dyadic relation of an *oppositional elucidation*), we encounter as we follow the methodological path of Pettit's neo-republicanism. This rhetorical move, which is made in order to ensure the primacy of non-domination, marks the beginning, of what culminates in Pettit's work as a placing of limits on democratic contestation and politics.

Populism as a concept of politics and political theory, as Rancière notes, has had a somewhat perverse history, as ‘the clerics’ of the Republic hope that ‘under this name they will be able to lump together every form of dissent in relation to the prevailing consensus’ (Rancière, 2014, p. 80; see also Laclau, 2005). This dissent, Rancière argues, is as much that of ‘democratic affirmation’ as it is the ‘religious or racial fanaticism’ of the far-right movements we have encountered since the twentieth century (Rancière, 2014, p. 80). What troubles Rancière is the way in which the concept presents itself in political and theoretical debate as a convenient name, a name moreover that disguises the contradiction between ‘popular legitimacy and expert legitimacy’, that is, between those who are entitled by class or pedigree to rule and those who are not (*ibid.*). In each denunciation of ‘populism’ resides the possibility, through rhetorical displacement, to perform a discrediting of the claim of the power of the *populus*. That is, through a simultaneous masking and revealing of the desire of those harbingers of oligarchic power, politicians and political theorists alike express a commitment ‘to govern without the people’, or otherwise put, ‘without any dividing of the people; to govern without politics’ (*ibid.*). At stake here is not the normativisation of the emergence of right-wing populisms (Brexit, Trump or Bolsonaro etc.), but precisely the opposite: an analysis of the conditions of possibility by which these manifestations have emerged, and an examination of the possibilities of a radically democratic response to the present political conjuncture.

As an initial approximation of why it matters to bring non-domination and populism within the same analytical frame, Rancière presents us with a claim in need of demonstration or ‘verification’, that is, a totalising critique with polemical intent, demanding to be demonstrated otherwise, or not. It is, as we might say, over to us to demonstrate that when we speak of ‘populism’, we do so in terms of democratic affirmation, and not as a strategy of de-politicisation. At the same time however, Rancière provides a thorough and defensible critique of the ‘consensus’. Here it is worth recalling that consensus in Latin combines two words: *con-* (com), with/together; and *sensus* from the Latin *sentire*: to feel, to hear, to sense, drawing us to sensibility and the sensible. In other words, consensus evokes a proper order of “actually existing” liberal democracy which is figured through a particular rendering of political philosophy, as two discourses of ‘politics’, with each in its own way placing limits on ‘democratic politics’. As such, a hypothesis emerges through a theoretical juxtaposition, and an opening for critically engaging Pettit’s account of political community presents itself.

Put in question form, I commence by asking: What does Pettit mean when he speaks of populism? Why, precisely, does he try to foreclose on ‘populist politics’, and how does this relate to the antagonistic character of politics? These questions pave the way for another: What remains of a theory of democracy in light of the elevation of the sign of non-domination to that of a master signifier, or nodal point of Pettit’s political theory? To this final quandry, I return in the concluding section to Rancière, and a political reading of

Jacques Derrida's (2001) essay 'Structure, Sign, and Play in the Discourse of the Human Sciences'. It is through such an engagement with Derrida that non-domination can be opened up, and 'the *politics* of non-domination' made available for a more comprehensive exploration.

### Pettit against Populist republicanism

When Pettit refers to Arendt and what he later (2013) designates as a tradition of *Continental* or *Franco-Prussian Republicanism*, as opposed to an *Italian-Atlantic* tradition to which neo-republicanism is particular, he does so by characterising Arendt and her successors – as well as the *Continental* tradition, epitomised by Rousseau – as simultaneously communitarian and populist (Pettit, 2012, p. 12). Communitarian insofar as it takes homogeneity as a requirement for popular participation, and populist in that it presents popular political participation as a good in and of itself (Pettit, 1997, p. 8). Such a complexion to the republican tradition writ large, Pettit argues, paints the people 'in their collective presence as master and the state as servant', thereby taking direct democracy, whether through assembly or plebiscite, as the optimal form of political action (*ibid.*). Invoking the association of political participation with positive conceptions of liberty (cf. Berlin, 1958), Pettit favours a conception of the people as 'trustor' and state as 'trustee'. It is thus the state that ensures the conferral of non-dominating rule, consistent with the third, and *properly political* negative conception of freedom as "rediscovered" by Quentin Skinner and his studies of Machiavelli,<sup>3</sup> a central figure of this neo-Roman story about freedom as non-domination (Pettit, 1997; Skinner, 1984, 1998). On this basis, Pettit argues that direct democracy is normatively undesirable 'since it may ensure the ultimate form of arbitrariness: the tyranny of the majority.' Democracy then is normatively desirable, but too much (or rather, direct) democracy is 'politically infeasible' and not necessarily conducive to 'good government' (Pettit, 1997, p. 8). When it comes to seriously considering democratic participation, which he equates with populism, Pettit asserts, 'such a participatory ideal is not feasible in the modern world, and in any case the prospect of each being subject to the will of all is scarcely attractive' (*ibid.*, p. 81). In this alignment of participation, populism, and majoritarian tyranny, we encounter something of the substance of non-domination as formulated by Pettit. As such, democracy has an instrumental value in supporting non-domination, but the latter is the supreme political good (*ibid.*, p. 80). Tying democracy to non-domination as a status concept of freedom in this way, has strong implications for his figuring of the subject of non-domination as well as political community. At its core is a foreclosing on particular modalities of democratic action.

### Neo-Republican freedom as non-domination

Freedom as non-domination is the status one acquires when they 'live in the presence of other people and when, by virtue of social design, none of those others dominate them,' that is to say: they possess the status of non-domination when 'no other has the capacity to

interfere on an arbitrary basis in their choices' (Pettit, 1997, p. 67). The paradigmatic case of domination for Pettit is the relationship of master and slave, whereby the slave is subject to the arbitrary will of, and interference by, their master – who acts with impunity (*ibid.*, p. 22). Domination involves, however, something more than interference on an arbitrary basis; it persists as un-freedom in the absence of interference, as it is the subjection to the will of a master (public or private) that renders the agent un-free, even if the master does not exercise their *rights* of interference. In other words, domination need not require interference, and interference is not always dominating (Pettit, 1997, p. 63-66). Underpinning such an account of domination is the Lockean subject conceived of as proprietor of their own person (Locke, 1980 [1690], Ch. V, §27), otherwise known as the possessive individual (MacPherson, 1962, p. 231). The presupposed subject of non-domination naturalises independence and ties the capacity for freedom to the possession of logos, figured as a rational, moral, free-willing, responsible, individual adult (Pettit, 2001).

Private domination often takes the form for Pettit of 'bending the knee,' or 'tugging your forelock', and is identified through what he calls the 'eyeball test' (2012, p. 72), which goes something like this: in any given situation, has the agent adequate protection and resources so as to make their own choices and to look others in the eye, without fear or deference? If not, then there is an asymmetry of power at work, and private domination is at stake. Those who are free from domination can in turn walk tall, safe in the knowledge they are free by status both objectively and subjectively (*ibid.*, p. 84). That is to say that there is common knowledge of their freedom between both the would-be-dominated party and the would-be-dominator (1997, pp. 58-61). Accordingly, Pettit posits through this negative measure an account of non-domination as a symmetrical intersubjective power relation between agents; an account somewhat equivalent with the 'ideal speech situation' in the discourse ethics of Jürgen Habermas (1998). It is the mere capacity for interference on an arbitrary basis, even if not exercised, which constitutes forms of domination. Here we encounter another of Pettit's oppositional elucidations, whereby servitude is the opposite of freedom as non-domination. Moving from the private to the public realm, and reminiscent of the later Frankfurt School's deliberative turn, Pettit conceives of politics as *a space of justifications* in so far as interference ceases to be arbitrary and dominating, and as long as it 'is forced to track the interests and ideas of the person suffering the interference' (1997, p. 55). The question of 'relevant interests' is what is at stake here, as 'my relevant interests and ideas will be those that are shared in common with others, not those that treat me as exceptional, since the state is meant to serve others as well as me' (*ibid.*, pp. 55-56). Non-domination secures one's freedom from the very contingency of any freedom one might 'enjoy' under the minimalist ideal of non-interference (*ibid.*, p. 24). How does it do this? It does so through the law.

Republican freedom since its classical rendering in the Roman republic is secured through the presence of laws made by and in accordance with the interests of the citizens. ‘Citizens were each to be protected against private domination by the law; and that was itself to be imposed on them without any public domination’, that is to say, the law interferes to protect the freedom of citizens so long as that law answers to the general interests and ideas of the people; a non-mastering interferer: interference without domination (*ibid.*, pp. 35-41). Citizens were free in so far as they lived *sui juris*: that is under their own jurisdiction, in the double sense of the term. *Libertas* is equivalent with *civitas*; freedom is a status, experienced as a relation of non-domination, which comes with citizenship (Wirszubski, 1968). Laws created by free citizens create the freedom that citizen’s share (Pettit, 1997, p. 36), such that freedom can only exist under a suitable legal and constitutional regime, a regime that conforms to the people’s ideal image of law, or as Pettit phrases it, a law that governs “on the people’s terms”. In short, freedom as non-domination is a *universally egalitarian*, intersubjective relation, between citizens under properly constituted laws. Non-domination is a status theory of freedom, which equates civic or political liberty with the experience of being a citizen of a republic, and thus secure from arbitrary forms of interference, free from arbitrary power (Pettit, 1997, pp. 66-67). Non-dominating laws track the interests of citizens through ostensibly ‘democratic’ procedures and instruments.

**Majorities, dominating law and the neo-republican approach to the problem of legitimacy**

As we can see from above, the basic republican contention is that one can be free, insofar as one is un-dominated, and this is made manifest and is commensurate with living as citizens in a political community with laws that secure such freedom. Such freedom resides first, in the independence from the will of another, i.e. a master; and second, when citizens are ruled by laws of their own making. Assuming however the impossibility of unanimity of decision-making when it comes to the process of “democratically legislating” for such laws by every member of the community, a rather fundamental problem emerges for republicans, namely: the possibility of the tyranny of the majority. One has to assume, therefore that even in the “most democratic” states, there will always be citizens who, for at least isolated periods of time, will be governed by laws which are imposed upon them by others. As such the question of whether such a minority of citizens can be said to experience non-domination, becomes an obdurate problem for any theory of political liberty that stresses freedom under the law. What is more, such citizens are not simply those who are cast outside of the majority due to contingencies such as race, gender, class or religion, but rather any individuals or members of a group that experiences themselves as holding opposing views and “interests” to the prevailing majority (Pettit, 2012, p. 212). In light of such a challenge as the potential of a *tyranny of the majority* type situation, one might argue that ‘republican freedom becomes a chimera, an ideal impossible to institutionalise’ (De Dijn, 2018, p. 64). ‘Tracking interests’ will always be more or less (im)perfect, more or less (in\ex)clusionary, in any (electoral) representative system. Non-domination, as such, seeks to attend to forms

of private domination through recourse to public laws, and thus the line between public and private interests becomes politically ambiguous at best.

The problem of the *tyranny of the majority* is largely missing from the works of the Italian-Atlantic tradition that Pettit conjures, mainly because of the republican preoccupation with tyrannies of another kind: namely those of a minority, not least in their monarchic form. However, in Rousseau's *On the Social Contract*, we find an engagement with the question of dominating law by the will of a majority. The problem for the social contract, is put by Rousseau (2011, p. 164) in the following terms:

Find a form of association that defends and protects with all common forces the person and goods of each associate, and, by means of which, each one, while uniting with all, nevertheless obeys only himself and remains as free as before. This is the fundamental problem for which the social contract provides the solution.

As is well known the proposed solution for Rousseau, found in Book One Chapter Six, was the negation of majority or 'aggregated will', in favour of the 'general will' as that 'common interest' separate from, yet consistent with the continuing existence of private interests (*ibid.*, pp. 163-167). As already established, Rousseau, however, does not feature positively in Pettit's rendering of the dual republican traditions, and for reasons I discuss below. Pettit's taking up of this problem is in part down to the necessity to address the liberal critique which ultimately shaped the decline/reconfiguration of republican thought in the eighteenth and nineteenth centuries.<sup>4</sup> Such a liberal critique and performative redundancy of republicanism must be addressed by Pettit, not least if the political task of neo-republicanism as an 'excavation' of this older ideal of freedom (Laborde, 2008, p. 3), and if its relevance is to be asserted and maintained (Kalyvas and Katzenbach, 2008, p. 5).

The liberal rejection of freedom under the law is presented, in the Anglo-phone tradition, by John Stuart Mill in his essay *On Liberty*, and resides in the challenge of individual liberty in the presence of a 'people' which is ambiguously constituted:

It was now perceived that such phrases as 'self-government', and 'the power of the people over themselves', do not express the true state of the case. The 'people' who exercise the power are not always the same people with those over whom it is exercised; and the 'self-government' spoken of is not the government of each by himself, but of each by all the rest. The will of the people, moreover, practically means the will of the most numerous or the most active *part* of the people; the majority, or those who succeed in making themselves accepted as the majority; the people, consequently, *may* desire to oppress a part of their number; and precautions are as much needed against this as against any other abuse of power. (Mill, 2008, p. 8)

While Mill's argument can be read as engaging critically with republican thought as this pertains to the problem of a majoritarian tyranny, it also constitutes an exemplary case of what Rancière (2014) calls the 'hatred of democracy.' Mill's suspicion diagnoses, and needlessly pathologises, the rhetorical ambiguity of claims made in the name of 'the people',

and their embeddedness in operations of power by the under-authorised. It is against the backdrop of the challenge of potential *tyranny of the majority*, that Pettit (2012) starts to give substance to the democratic instruments which ‘track interests’, produce non-dominating laws, and ultimately form the basis of his rejection of populist politics. That is to say, the model of democracy which emerges in *On the Peoples Terms* (hereafter OPT) ought to be read as a ‘liberal-republican’ (Miller, 2008, p. 140) response to thinking democracy, justice, and political legitimacy in the shadow of the ever-present potentiality of majoritarian tyranny, whilst conceding to the basic premise of liberalism’s critique of democracy.

The model of democracy charted in the final chapters of OPT is thus built upon a republican conception of social justice and a commensurate account of political legitimacy, each of which are oriented toward the achievement, and preservation of freedom as non-domination. Social justice operates horizontally on an ‘expressively egalitarian’ basis where the state treats all citizens equally, and further, under which all citizens are willing to live, and relate with other citizens, on ‘equal terms’ (Pettit, 2012, p. 78, 132). Legitimacy, on the other hand, vertically ensures a relation of non-domination between the law and the citizen through a conception of ‘control’ (influence and direction) by the people which is ‘individuated, unconditioned and efficacious’ (*ibid.*, p. 179), with the latter condition tempered through recourse to what Pettit calls the ‘tough luck test’ (*ibid.*, p. 177). Opposition to laws, taken to be un-just, must, under conditions of political obligation, be opposed within the legal system in order to induce and maintain legitimacy in the long-term (*ibid.*, p. 138). Central to such a quasi-proceduralism is the centrality Pettit gives to ‘mutual expectations’ of behaviour on the part of the state and citizens in order to maintain legitimacy and social order (*ibid.*, p. 139). The emphasis on ‘control’ being ‘individuated’, and the state’s commitment to ‘expressive equality’, are significant to our analysis here, as these two claims are central to how Pettit figures ‘contestation’ as the antidote to majoritarian tyranny, and by which the antagonistic core of politics is sublimated.

### **Democracy and kratos: power or control?**

Throughout Pettit’s work a rhetorical and translational displacement can be traced with regards to the concept of democracy. In ancient Greek, *Demokratia* is a composite of *Demos-* (the people) and *Kratos* (power, a capacity to do things) (Ober, 2008, p. 3). As presented by Pettit however (2008, p. 46, 2012, p. 180), the undecidability of the signifier ‘power’, which it etymologically reconstructed as ‘the capacity to do things’ (Ober, 2008) is supplemented with the concept of ‘control’. Through such an act of supplementarity, the original concept, due to its iterability and constitutive emptiness, is written over in a new relational articulation. As argued by Derrida ‘the supplement supplements. It adds only to replace. It intervenes or insinuates itself *in-the-place-of*; if it fills, it is as if one fills a void’ (Derrida, 1997, p. 145). As such, Pettit rearticulates the substance of democracy as less the

“power of the people,” and more the “control by the people” over government. However, that void, which ‘control’ fills, is haunted by traces of each iteration of the supplement, and as such is vulnerable to critique, on both political and theoretical bases.

Such a transformation of democracy by stealth in Pettit’s work is not without historical precedent. Indeed, it is nascent in the tradition he conjures of Roman-rooted republican thought and negates the more Hellenistic republicanism of Arendt and Rousseau. As Pettit (1998, p. 83, emphasis mine) rather tellingly writes:

The republican tradition from Machiavelli to Madison [...] pictured Athens, rightly or wrongly, in the critical terms suggested by Polybius: as *a ship without a captain*, buffeted by *the storms of popular opinion*. They traced the Athenian problem to *excessive reliance on pure democracy* and saw the Roman republic, by contrast as a constitution in which government was built on *a democratic foundation but was better devised to guard against problems of faction and demagoguery and tyranny*.

Republican democracy is democracy in name, but not in practice. The threat of democracy in its unmediated form, is the threat of a polis characterised by faction, division, and rule by those with no qualification to govern, meaning the plebs, or those assumed to be at the mercy of their superfluous desires (Foucault, 2011, p. 200; Rancière, 2014, pp. 39-40). Whatever about intention, in effect what Pettit does is to revive the old Platonist critique of democracy, in which political truth-telling is no longer to be found in the democratic field. Rather *parrēsia* (fearless/political truth telling) is re-sutured to *logos* in the discourse of the philosopher, the (republican) law-giver, who generates a discourse of unity, vision and order (Foucault, 2011, pp. 200-201).

In order to gain some critical purchase on Pettit’s rhetorical operations when it comes to his figuring of democracy, to which we will return shortly, I think it useful to turn back to Rancière’s worry about discourses of populism. What motivates Rancière’s work, both in the above cited instance, and more generally, is the condition of *post-politics* and the paradoxical relation between philosophy and politics (Rancière, 1999).<sup>5</sup> More specifically, what he points to is a tendency in post-political and philosophical discourse to foreclose on politics in order to maintain a consensus regarding inequality and domination. As Rancière wagers, seeking a demonstration of the same or otherwise: ‘what is called “political philosophy” might well be the set of reflective operations whereby philosophy tries to rid itself of politics, to suppress a scandal in thinking proper to the exercise of politics’ (1999, p. xii). Such an aversion to politics, from a Rancièrean perspective, is equally an operation of the philosopher, as it is an empirical and everyday ‘hatred of democracy’, as a hatred of politics. The extent to which Pettit is complicit in suppressing such a scandal is the question now at stake.

The catachrestic denunciation of democratic vitality as mere “populism” (understood pejoratively) as detailed earlier, emerges as a post-political defence of the prevailing order, with its aesthetic organisation of the sensible (*con-sensus*), and the foreclosing of *politics* as the emergence of a ‘dividing of the people’ (Rancière, 2014, p. 80). Tyranny of the majority, I want to argue, as it appears as a ravenous threat, a vicious wolf along the path of neo-republicanism, is but a deep-rooted liberal fear of the *multitude* (*tyranny of the multitude*) (Virno, 2004, pp. 21-22), or even, in the psychoanalytically informed grammar of Chantal Mouffe (2005b), *tyranny of ‘the passions.’* That is, a fear of the uncontained power of ‘democratic vitality’ in all of its radical contingency, a fear of the people acting as ‘a people’, or that political abundance which exceeds any given (mis)counting of ‘the people’.

In order to fully draw out the implications of this claim, not only in relation to populism and democracy, but also to gain hermeneutic leverage over neo-republican discourse, it is necessary to further consider Rancière’s understanding of *politics*, its co-concept of *police*, and their relation to consensus and dissensus.

### Politics/Populism and the police

*Politics* on Rancière’s account in the process of staging a claim in the name of an ‘axiomatic equality’. By ‘axiomatic equality’, Rancière refers to a primordial equality of distributions of parts, which is frustrated through the order of inequalities he refers to as the *police*. This axiomatic equality, then, stands as a deconstructive presence in relation to the wrongs and inequalities of the police, and thus serves as the condition of (im)possibility of democratic politics. The staging of this claim disrupts the established consensus, or the police order, which is always based upon a miscount, a false count of “parts” of the community, it is:

a system of distribution and legitimization [...] an order of bodies that defines the allocation of ways of doing, ways of being, and ways of saying, and sees that those bodies are assigned by name to a particular place and task; it is an order of the visible and sayable that sees that a particular activity is visible and another is not, that this speech is understood as discourse and another as noise. (Rancière, 1999, pp. 28-29)

Politics exists because of this miscount of the parts of the whole, as Rancière writes: ‘politics does not happen just because the poor oppose the rich’, rather, politics ‘causes the poor to exist as an entity’ (1999, p. 11), precisely through the staging of a claim in the name of equality. It is the antagonistic emergence of the part ‘who have no part’ (*ibid.*), and it makes visible ‘what had no business being seen’ (*ibid.*, p. 30). If politics proceeds in terms of equality, then the claim for equality within the order of inequality or *the police* is always democratic. *Democracy is not a regime of governing*, but a disruption of the sensory order, the consensus that precedes and sustains that very regime. Democracy is always *dissensus*, and thus antagonistic to any given police order, the latter of which will, by necessity, be exclusionary and inequalitarian in nature.

Democracy conceived in Rancière's terms is not exclusionary, insofar as it need not perform a miscount, because it does not count. As we learn from Ober, democracy in its original meaning, need not count, unlike *monarchia*, *aristokratia* or *oligarchia*. Democracy is not an Archê or 'rule' concept and does not entail a count of those who rule: monarchy (the one); aristocracy (the excellent); oligarchy (the few) (Ober, 2009, p. 4). As a *Kratos* concept, democracy refers to an unspecified 'many', the *demos*, who can 'make things happen', as opposed to seeking to gain 'control of pre-existing constitutional authority' (Ober, 2007, p. 7). Democracy is the staging of a claim by the plebs, 'the part with no part', of their equality to exercise power, speaking for the *demos*, in the name of 'the people', as opposed to the few (Rancière, 2010, p. 33).<sup>6</sup> *Politics* in Rancière's terms then is precisely what Ernesto Laclau understands by *populism*; or otherwise put, for Laclau *politics* is always populist (2005). Given its particular historical origins in Argentine Peronism during the post-war period, I need to stress that my (generalised) Rancièrean reading of Laclau's account of populism hinges upon two claims.<sup>7</sup> First, that any act of politics which is hegemonically grounded<sup>8</sup> in itself, as opposed to what Arendt (2006) might call 'authority', entails the discursive articulation of 'the people' as the subject of politics, and in this sense draws its power from their name (Laclau, 2005, p. 169). Second, Laclau distinguishes between '[liberal] democratic demands' (equally neo-republican democratic demands)<sup>9</sup> made by *parts* or social identities, which are accommodated within the *police* (or what Laclau would present as a 'chain of equivalence' pertaining to the hegemonic order), and 'populist demands', which are, in Rancière's terms, democratic demands frustrated by and excessive of the established hegemonic order. With such a frustration, the disparate demands consolidate into overdetermined clusters of demands which take on a new unity as a contingent and contestable universal demand, or what Laclau calls an 'empty signifier', and articulate 'the people' as a radical subject constituting an alternative *chain of equivalence* to that of the hegemonic or *police* order (Laclau, 2005, pp. 77-78).<sup>10</sup>

If politics, in its ordinary language use, always presupposes a primordial equality of subjects (Arendt, 2005, pp. 117-118), it emerges for Rancière as a process of verifying such an axiom of equality within a police order which always twists and betrays such an equality. Politics is the process of equality, it is the *dissensual* and antagonistic meeting point between two logics, the logic of the police, and the logic of equality (Rancière, 1999, pp. 34-35). *Dissensus*, we might say, is the giving presence to two Worlds in one (Rancière, 2010: pp. 37-40). Politics thus arises out of the police, in that *there is nothing outside of the police*, 'politics acts on the police' (Rancière, 1999, p. 30). Politics in short is always *populist* in a minimal sense, as being concerned with the antagonistic constitution of 'the people' through processes of subjectivisation (Rancière, 2004, p. 304).

As we have learned from Rancière, the history of 'democracy' has been one of, not simply suspicion, but even 'hatred'. Invented by its opponents to name a perversion in the logic of

the order of things, ‘democracy’ was the *activity* of those unqualified to govern, and as such was a *disruption* to the logic of the prevailing *Archê*: the *con-sensus* of the oligarchy (Rancière, 2010, p. 32). It is on this basis that we must understand Rancière’s concerns with discourses of anti-populism, which are equally discourses of post-politics and thus post-democratic. On such an account, we are some distance from Pettit’s account of republican democracy if the latter is in any sense *politics*. But it would be lazy to assume, and thus dismiss, the same on the basis that there is no politics in Pettit’s account. Republican democracy is a feature of the police, but this republican-democratic scene is a complex of the two logics of *politics* and the *police*. Our task, as such, is to trace the interplay of these logics. Pettit’s neo-republican democracy certainly has democratic moments, yet it forecloses on *politics* at certain points, placing limits on democratic *politics* in order to maintain the given *police* order from radical challenges to its *Archê*: a juridico-political conception of freedom as non-domination and its attendant account of the subject.

What emerges from the preceding rethinking of the relation between populism and politics, and the critical work that ‘populism’ does for the analysis offered here, can be cashed out in the following terms: first, the problem of populism for liberal-republican thought amounts to a fear of the tyranny of the majority, or more accurately put, a fear of a tyranny of the passions/multitude, that is, those forms of ‘democratic vitality’ which are not contained within the prevailing logos of the constituted people. Second, the theorisation of politics as always populist in terms of its logic of constituting the polis, points to the problem of the constitution of the polis, and the question of ‘who are the people?’ These two strands call for an analysis of the demographic presuppositions that the republican theory of democracy entails and are equally bound together through the category of antagonism. ‘The people’ are always constituted antagonistically, insofar as this constitution is the product of the activity of politics, and the making visible of that which had no reason to be seen, the emergence of those who were dis-counted and constitutive of the multitude. The problem then of tyranny of the majority in relation to the protection of minority rights, is only a problem of politics when the latter is framed, not in terms of the verification of an axiomatic equality, but rather in terms of the management of pre-constituted identities and interests within a field of politics in which all those who ought to ‘appear’ (Arendt, 1998 [1958], pp. 198-199), have already done so. On Pettit’s account, politics presupposes the pre-constitutedness of ‘the people’ on whose terms democratic laws are made. That is under conditions in which a miscount is not conceivable – conditions posterior to *politics* as understood in Rancièrean terms. Within such a neo-republican political imagination, the emergence of new demands, new identities, new bodies seeking inclusion within the political community – founded upon the principle of non-domination – are foreclosed upon, and ‘the people’ is rendered static as a sociological fact.

#### Antagonism, control, and contestation in ‘neo-republican democracy’

As we have seen, antagonism plays a central role in any account of democratic politics, and regularly takes the form of populist forms of action which are excessive of the concessions the police order can sustain or accommodate within its limited sensibility or *consensus*. Such chimes, more or less, with the claim (from Pettit) with which this article began, namely that ‘democratic life, as it is sometimes put, has to have an agonistic – better perhaps, an antagonistic – character’ (Pettit, 2012, p. 226). What is at stake here, as I suggested earlier, is an appropriation, and sublimation, of radical democratic conceptions of antagonism, elaborated above with help from Rancière and Laclau.

Pettit does figure contestation at the centre of his account, and thus an antagonistic dimension can be traced throughout his theory of republican democracy. In order to understand precisely the tension that I am articulating, in terms of a sublimated antagonism, let us now examine precisely the route Pettit takes from the dual principles of ‘individuated control’ and ‘expressive equality’ in formulating an account of contestatory republican democracy, in which the figure of *contestation* (and its relation to legitimacy) stands as a rock behind which the political theorist can shelter from the violence/power of the law (Benjamin, 1986).

The path Pettit has charted in articulating a neo-republican theory of democracy is organised around a set of requirements and demands for any such theory to be non-dominating and thus supportive of such an ideal. Moreover, Pettit’s theory has sought to be consistent in institutional design with those very institutions which we presently observe in ‘best-practice democracies’, amending them, whilst not seeming to simply vindicate or normativise liberal democracy as we currently know it (Pettit, 2012, p. 239). The requirements pertinent to, and constraining of, such a theory of democracy commence with a monistic privileging of non-domination as a supreme political good (Bader, 2005); second, such freedom is obtained and secured through an ‘empire of laws’ (Pettit, 2012, p. 134 n. 3), and as such must make every effort to prevent potential tyranny of the majority; third, a non-dominating account of democracy must be built upon the social justice principle of ‘expressive equality’ and the legitimating name of “democracy” in the form of a principle of ‘individuated control’. Republican democracy then is concerned with individual freedom in terms of choice, as well as collective liberty, and ‘democratic procedures’ play an instrumental role in guaranteeing non-domination.

Further, pursuing his signature method of *oppositional elucidation*, Pettit argues that unlike Rousseau’s continental republican theory of participatory democracy, neo-republicans reject an absolute sovereignty invested in the people as popular assembly and favours a ‘resistive community’ premised upon the dual model of ‘mixed constitution’ and what he calls a ‘contestatory citizenry’ (2012, pp. 219-220). Whilst for Rousseau, on Pettit’s account at least, citizens have a ‘law-making’ role in establishing the ‘general will’, they are nonetheless

'forced to be free' in cases of non-revolutionary dissent (Pettit, 2013, pp. 193-194). As such, democracy does not entail *Kratos* framed in terms of 'control', and thus does not have a 'law-checking' role for citizens on the Rousseauian model, as they do have in the neo-republican variant. What is integral for Pettit in his opposition to populist republicanism and Rousseau, is the question of contestation, which in the latter's account equals resistance to non-republican/dominating *poleis*, or *police*. Contestation, or rather the antagonistic dimension of politics, is figured as non-resisting or internally mediated with the juridico-political community, and this is central to Pettit's solution to the problem of potentially dominating laws in populist or majoritarian conditions. If the political order must treat all citizens with an 'expressive equality' in order to be just, and to 'individuate control' in order to be legitimate, an individualised form of contestation is the key by which such demands must be met, and non-domination is guaranteed.

Whilst the basic ideal of a mixed constitution is designed to prevent any concentration of sovereign power within any single institution or person (Pettit, 2012, pp. 220-225), the contestatory citizenry checks power through a disposition to resist governmental abuse. Social movements, consumer and identity-based rights groups, and even civil disobedience all have a role to play in constituting such a 'resistive community', though their remit is placed under considerable constraints. Take for example the case of forms of civil disobedience which tend to entail a breach of the legal order. Civil disobedience is permitted upon Pettit's assumption that those who engage in such acts of 'lawlessness' do so, but only on the condition that they later submit themselves for punishment before the law which they hold to be still legitimate. In other words, they uphold their political obligation to the juridico-political order (2012, pp. 137-138).

The origins of the idea of a resistive community in the neo-Roman/neo-republican tradition can be identified in Machiavelli's populist (plebeian) republicanism, which figures class conflict as central to maintaining liberty. However, as McCormick (2011, pp. 8-11) has argued, Pettit's aristocratic republicanism is more aligned with that of Guicciardini, than Machiavelli (whom Pettit and Skinner mis-represent as a more liberal figure), and as a result, the form of contestation Pettit favours, beyond the collective form that is elections, is individuated further in order to maintain an equality of control through influence. Pettit writes: 'a system that allows potentially effective, individualized contestability will have to provide, not just for contestability proper but, pre-contestation, for transparency in the decisions contested and, post-contestation, for impartiality in resolving the charges raised' (2012, p. 215). The institutional mechanisms through which such effective and individuated contestation are channelled include an open legislative assembly, combined with a critical media, watchdog bodies, and the establishment of tribunals, independent ombudsman, and courts through which challenges to the decisions of the legislature can be heard and appealed (Pettit, 2012, pp. 215-216).

In short, at stake is a thin and overly institutionalised conception of contestation which is tied to maintaining the legitimacy of a hegemonic game of liberal proceduralism, which seeks to cover over the power/violence of the ‘legitimate’ yet ‘coercive’ state. The role of ‘the people’ as a collective actor is purely symbolic, and practically discounted (Axtmann, 2019). Whilst opportunities for properly democratic exercises of equality emerge infrequently, they are insistently subordinate to institutional mechanisms which reduce dissent to the service of maintaining and upholding the ‘primary good’ of freedom as non-domination as *civitas*, that is, within a juridico-political community which holds its subjects as obliged to uphold that state even under conditions of contesting or resisting that state (Pettit, 2012, pp. 136-140). As such, non-domination stands as an ideal which is not simply regulative of politics but is also the condition of possibility for neo-republican politics, standing as an external ground or foundation to neo-republican political community.

Philosophy, neo-republican in this instance, seeks to master the field of politics, or as Rancière suggests: ‘philosophy thus puts an end to political division by mending its own division with respect to the political, by employing metaphorical resources which at once distance it utterly from empirical politics and allow it to coincide exactly with it’ (1995, p. 15). What I take Rancière to be pointing to is the way in which philosophy solves politics, through the deduction of political community from a philosophical idea, an Archê, in this instance non-domination, which serves as its ground, and reconfigures the facticity of political antagonism as ‘a corruption or a lack of analytical rigour’ (Ardui and Valentine, 1999, p. 31). This archipolitical operation by Pettit – privileging a juridico-political concept of freedom as non-domination over all other political values, not least democracy – effectively suppresses antagonism. Indeed, it suppresses politics itself.

### **Non-domination as the ground of neo-republican politics**

The manoeuvre of grounding political community in a philosophical ideal is integral to foundationalist thought and insists upon the inaccessibility of that ideal to contestation or political opposition. To posit any such foundation, including a theory of a subject, as post-structuralists from Rancière to Judith Butler are more than aware, is to ‘foreclose upon the domain of the political, and that foreclosure, installed analytically as an essential feature of the political, enforces the boundaries of the domain of the political in such a way that that enforcement is protected from political scrutiny’ (Butler, 1995, p. 36). The ruse of power at work in such a grounding is precisely what comes to the fore in Jacques Derrida’s analysis and critique of structuralism in his ground-breaking essay ‘*Structure, sign and play in the discourses of the human sciences*’. In this essay Derrida establishes the basis of the relational ontology, for want of a better word, which underpins the work of theorists such as Rancière, Butler and Laclau, as well as examining something of a paradox internal to structuralist discourse. It is with this second point that I am most interested here, and as we learn from

Derrida: structuralist discourses are premised upon two distinct, yet important claims drawn from Saussure's linguistics (1983). Firstly, structures are systems of meaning, that are closed totalities containing a plurality of lower order elements which constitute the meaning of the structure. Secondly, these elements gain their meaning relationally. The creation of meaning within the structure, is thus conceived of as the *play of differences* between those elements within the structure as generative of meaning at the level of the totality.

The paradox or problem for structuralists, however, considering the relationality of elements, and their possibility of being brought into *play*, was how to account for the stability of structures, and thus of meaning. The solution emerged through the operation of attributing 'a centre' to a given structure, which generally manifested through what Derrida calls a 'presence', or what might also be described as a 'fixed origin', 'archê' or even 'essence' (2001, p. 352). The function of the 'centre', as Derrida points out, was to orient and thus organise the elements of the structure, so as to 'limit what we might call the *play* of the structure' and ensure that *play*, or contingency, does not affect the limits of the structure itself. The 'centre', in order to provide fixity, however was conceived as escaping 'structurality' (relationality), and thus 'had to be thought' as paradoxically both within and outside of the structure (*ibid.*). As Derrida notes: 'the concept of centred structure is in fact the concept of a *play* based upon a fundamental ground, a play constituted on the basis of a fundamental immobility and a reassuring certitude, which itself if beyond the reach of *play*' (*ibid.*). In the context of Saussure's linguistics, such a manoeuvre entails a privileging of speech (*parole*) over writing (*langue*) (Saussure, 1983, pp. 13-14), as he posits "Man", an autonomous subject of language which pre-exists the system, as the centre (Saussure, 1974, p. 90). The outcome of such a move is to blur the distinction between the signifier and signified, such that a contained *play* is rendered possible and the unruliness of *differance* is sequestered (Saussure, 1983, pp. 118-120). By 'centering' "Man", Saussure prioritises *logos* resulting in a logocentric metaphysics (Cavarero, 2002, p. 517; Derrida, 1997, p.30, p. 71), which presupposes a subject of language that is both stable and pre-discursively constituted. The figuring of a stable, pre-discursive and, thus, pre-political subject, is a central move of structuralist thought (neo-republicanism included), which, as noted above from Butler, forecloses upon the realm of politics itself.

Derrida's critique of structuralist thought troubles the conception of structure as a closed totality, and thus confronts philosophy with the claim that there is no centre, but rather a 'nonlocus in which an infinite number of sign-substitutions came into play' (Derrida, 2001, p. 353-354). Any such encounter with a 'presence' or purportedly fixed centre of a discourse then takes on a metaphysical or theological character and presents itself as outside of play. The attribution of a 'centre' places limits on our encounters with contingency while also removing the constituted foundation from relationality, from human agency, and from power relations, with the result that it remains beyond the reach of politics. Derrida

concludes this essay with the presentation of two possibilities concerning interpretation. On the one hand, he identifies in the ethnography of Lévi-Strauss, an interpretation that seeks the ‘deciphering of truth or an origin which escapes play’, a new humanism perhaps. Whilst, on the other hand, there exists the possibility of a Nietzschean affirmation of *play*, which tries to ‘pass beyond man and humanism’, and no longer concerns itself with any dream of a ‘reassuring foundation’, origins or ‘the end of play’.

In ‘*Structure, sign and play*’, Derrida does not engage in the act of decision, opting instead to hold in tension these two interpretations. By holding these two interpretations in tension, Derrida, maintains a view in which foundations, or an Archê, can be asserted as more or less stable, and can achieve partial fixity in meaning, so long as they are taken to be both contingent and thus contestable. *Play*, then, is the encounter with contingency, and the possibility for foundations to be re-iterated. Politically speaking, at stake is something akin to Laclau’s politics of hegemony, as cashed out in his short essay ‘*The Impossibility of Society*’(1990, pp. 89-92). This holding in tension however, nonetheless equates the activity of politics with the proffering of a contingent and contestable police order, and thus the sedimentation of inequality, the creation of consensus. If politics, properly understood is concerned with the an-archic, the activity of dissensus, it must understand its relation to *play* somewhat differently. The role of *play* must resist fixity, it must resist foundations, it must not surrender to the tension, but embrace the Nietzschean affirmation of abundance of life.

In sum, and by way of conclusion, ‘non-domination’ presents itself in Pettit’s structuralist thought as a ‘centre’ which conceives of itself as outside of structurality/relationality to the rest of the elements of the neo-republican discourse. It takes on the archipolitical function of writing over politics on philosophical terms, thereby rendering non-domination a metaphysical concept which gives an (im)possible coherency to Pettit’s theoretical method. Precisely what the archipolitical philosopher, like Pettit, refuses to acknowledge, is that political community in reality has no Archê, but rather the basis of political community is, and always will be, politics itself. In arguing for a properly political *politics of non-domination* then, that is democratic, and consistent with an axiom of equality, freedom as non-domination must be brought back into *play*. That is to say, non-domination must be brought back into politics, it must break with the rationalist and possessive individualist account of the subject Pettit presupposes (Pettit, 2001, p. 18), and become the nodal object of politics itself. Only then can neo-republican discourse start to address itself to the question of political community in terms that can deal with the most trenchant forms of domination experienced today and the antagonistic dimension of politics proper.

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<sup>1</sup> See Chantal Mouffe (2005a, 2005b) and Jacques Rancière (1999) on post-politics and the critique of consensus.

<sup>2</sup> By ‘agonists’ I refer here to the work of Chantal Mouffe (2005a, 2005b) Bonnie Honig (1993), and William E. Connolly (1991, 1995).

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<sup>3</sup> See McCormick (2011, 2019). Other recent studies on Machiavelli include Winter (2018) and Vatter (2012). Due to spatial constraints I do not engage with this historical line of analysis, as my aim is to push the category non-domination beyond the bounds of the juridico-political conception of community which underpins republican politics.

<sup>4</sup> For a critique of Skinner and Pettit's account of the decline of republicanism and the rise of liberalism historically and theoretically see Andreas Kalyvas and Ira Katznelson (2008, esp. pp. 4-5).

<sup>5</sup> For a brilliantly compelling account of the oxymoron of the name and Platonic origins of political philosophy see also Adriana Cavarero (2002, p. 506).

<sup>6</sup> For a brilliant short essay on the meaning of 'the people' in relation to biopolitics see Giorgio Agamben (2000, pp. 29-35).

<sup>7</sup> It is important to recall how *On Populist Reason* in large part is influenced by Laclau's reading of Rancière in the early 2000's (Laclau, 2005, pp. 244-249). 'The people' of 'populist demands' on both Rancière and Laclau's accounts however, is not indeterminate, but arises from an identification with the historical experience which is paradigmatically expressed in the figure of 'the plebs', those who Rancière describes as 'the part of no part'. On this basis, I read Laclau on the difference between what he calls '[liberal] democratic' and 'populist' demands, perhaps infelicitously, against Laclau, taking these populist demands, to in fact point to dimension of politics which is emergent from outside of the 'mis-count' made by the police order.

<sup>8</sup> The logic of hegemony is the process through which a demand or identity is elevated through political struggles over meaning (power/knowledge) from the status of being particular to being contingently and contestably Universal/generalisable. Laclau's major statement on this matter is to be found in *Emancipation(s)*, especially chapter 2 (Laclau, 1996, pp. 20-36)

<sup>9</sup> Here I am thinking of how Pettit (1997, pp. 130-147) argues for the superiority via coherence of the grammar of republican freedom to articulate a plurality of social movement demands, be they by feminists, socialists, environmentalists, and multiculturalists, to the effect of placing limit upon, and hence containing the antagonistic potential of such demands in relation to the police order of the juridico-political community established through the relational conception of freedom as non-domination.

<sup>10</sup> The role of 'the empty signifier' in Laclau's account is open to plural interpretations and applications in conducting political analysis, and applies equally in reference to the demand of the crowd, as it does the figure of the leader or 'prince'. Historical examples include the role of Pablo Iglesias of the Spanish populist movement Podemos, as well as Barack Obama in the USA in 2008/2009, and of course Nelson Mandela in post-apartheid South Africa. Each of these "leaders" became an empty signifier into which subjects invested their own meanings, and thus each served to open up spaces for new modes of political subjectivity. For an alternative reading of the prince/people dyad via Machiavelli (and beyond Laclau) see von Vacano (2019).