# IV. INTERNATIONAL PIRI REIS LANGUAGE, HISTORY, GEOGRAPHY CONGRESS
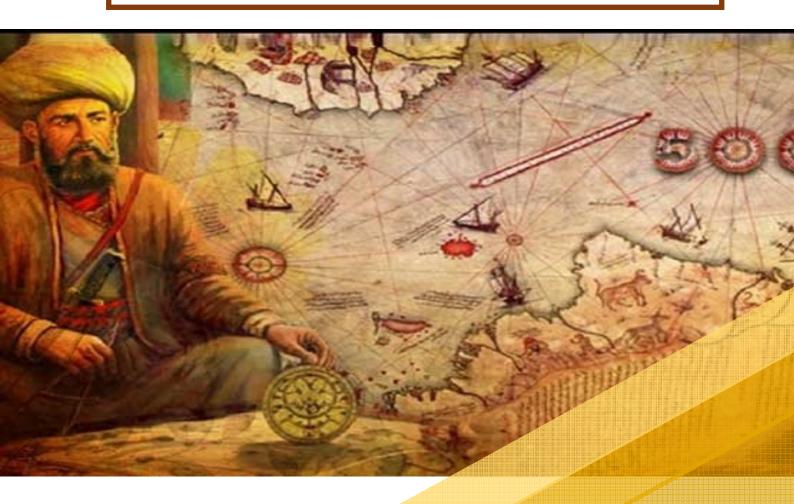
## 10-12 October 2021, Ankara / TURKEY

### (THE PROCEEDINGS BOOK)

**EDITED BY**
**Prof. Dr. Alenka Pavko-Čuden**
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# 4. INTERNATIONAL PIRI REIS LANGUAGE, HISTORY, GEOGRAPHY CONGRESS
## 10-12 October 2021, Ankara / TURKEY

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| TURKEY TIME 09³⁰:12³⁰ | PAKISTAN TIME 11³⁰:14³⁰ | CANADA TIME 02³⁰:15³⁰ | SRI LANKA TIME 12⁰⁰:15⁰⁰ | MACEDONIA TIME 08³⁰:12³⁰ | THAILAND TIME 13³⁰:16³⁰ | INDIA TIME 12⁰⁰:15⁰⁰ |

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| Assoc. Prof. Hristina Runceva-Tasev & Assist.Prof. Aneta Stojanovska-Stefanova | Ss.Cyril and Methodius University & Goce Delcev University | REPUBLICANISM: ROMAN RES PUBLICA AS AN INSPIRING CONCEPT FOR THE WESTERN CONSTITUTIONAL THOUGHT |
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# REPUBLICANISM: ROMAN RES PUBLICA AS AN INSPIRING CONCEPT FOR THE WESTERN CONSTITUTIONAL THOUGHT

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**Abstract**
The paper aims to present republicanism as an inspiring democratic idea, advocated and passionately defended by famous philosophers and thinkers, from the founding of the Roman res publica to the present day. Namely, the authors refer to the concept of res publica in ancient Rome and its two meanings: the first meaning is in the context of a political system, political community, i.e. its separation of powers, while the second meaning is related to the time period of Roman history in which there was a new social and political order. The revival of republicanism occurs with the specific development of Italian cities in the late 11th century. The Roman republican ideal has strongly influenced the early modern philosophical thought of Machiavelli, Harrington, Locke, and Montesquieu, and thus exerted a significant influence on the foundations of modern political thought as well as on the basic postulates of Western constitutional law. The authors refer to republicanism as a concept that is inextricably linked to democracy and constitutionalism, but also to freedom as a bearing pillar of republican societies. In their concluding remarks, the authors claim that Republicanism has undoubtedly exerted a significant influence on the foundations of modern political thought, as well as on the basic postulates of Western constitutional law.
**Keywords:** republicanism, Roman res publica, constitutionalism, political system, separation of powers

## 1. Introduction- About the term res publica in ancient Rome and today

Republicanism is an inspiring democratic idea, advocated and passionately defended by famous philosophers and thinkers, from the founding of the Roman res publica to the present day.

The term res publica, which is close to the modern notion of "state", cannot be equated with it in its entirety. The ancient Romans used several terms that referred to their political community: civitas (from civis- citizen); populis Romanus (Roman people) or res publica (common good, public thing, i.e. something that belongs to all citizens), and often the "Roman state" is denoted by the abbreviation S.P.Q.R. (Senatus Populisque Quiritium Romanus, i.e. the Senate and the Roman people). Indicating the Senate, along with the Roman people, shows the importance of this institution which is the cradle of democracy in Rome. The modern term "republic" derives from the Latin "res publica", meaning public matter, public good, but at the time when it was used it simply referred to "government with participation of the governed", rather that anarchy or tyranny, both understood as forms of lawlessness.[1]

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[1] Harriet, I. Flower. Roman Republics, New Jersey: Princeton University Press, 2010, 11.

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In the Roman Republic, power was divided between three basic segments, magistrates (mostly consuls), senate (or assembly of the aristocracy) and citizens organized in assemblies. The existence of a balance of power, i.e. the existence of the so-called "Mixed constitution" according to the famous Greek author Polybius, contributed to the fact that during the Republic neither of the three segments had a dominant position and power was not centralized in only one of them, but was interconnected and conditioned by the other two segments. The Roman Republic existed  between the late sixth century BC, when the early monarchy was terminated, and the late first BC, when a new monarchy, which we know as the principate, was established by Augustus.[2]

During the Roman Republic it was not possible to develop proper political analysis and classification of its form of government. Namely, the citizens of Rome did not use the term "republic" to classify the form of government. At the same time, the absence of an article in the Latin language leads to the impossibility to distinguish "republic" and "the Republic", and the term is used continuously during the Roman Empire.[3] Namely, the term "republic" itself is often used in its two basic meanings: the first meaning is in the context of a political system, political community, i.e. its organization of power, while the second meaning is associated with the time period of Roman history in which there is the new social and political order.

 During the last years of the Roman Republic, Marc Tullius Cicero wrote the first Latin books on political theory where he used the term republic. Namely, his famous work De Republica was written in the period between 54 and 51 BC, and according to the available data, his work De Legibus was created during the same period.[4] Many authors who were active during the Roman Empire used the term res publica when they aimed to emphasize the democratic character of the republican political order, as opposed to the power of the emperor, but then this expression was often accompanied by the phrase: libera res publica.[5]

In this period, the term res publica is an expression that is associated with transparency and openness in decision-making in front of the eyes of the citizens, instead of deciding behind closed doors. Hence, the political and legal culture of the Romans during the Republic experienced a gradual development based on several factors. First of all, the Roman kings were replaced by the power of the vote of the citizens, whereby every adult male citizen of Rome could personally participate in decision-making by giving his vote in various forms of participation. Second, the rules of common law, following the example of Solon's laws in Greece, were translated into a codification of Roman civil law, known as the Law of the Twelve Tables[6]. They were published and made publicly available to every citizen in the middle of the 5th century BC. A third factor is that during the Republic the state strengthened the guarantees on private property and its ownership was connected with military service. Therefore, the Roman Republic strengthened the connection of the citizens with the state, but at the same time the civic responsibility has been increased.

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[2] Shotter, David. The Fall of the Roman Republic. London and New York: Routledge, 1994., 1.

[3] According to the Oxford Latin Dictionary of 1982, the meaning of the term res publica is defined as: 1. Activities that affect all people, state affairs, a matter of public interest; 2. Welfare of the state, public good, national interest, state resources; 3. Council of the Wise or Constitutional Council; 4. A free state in which all citizens participate.

[4] Both works by Marcus Tullius Cicero are considered to be inspired by Plato's dialogues.

[5] Bujuklic, Zika. Forum Romanum: Rimska Drzava, Pravo Religija i Mitovi. Centar za publikacije Pravnog Fakulteta u Beogradu, 2005, 458.

[6] See more at Puhan, Ivo. Mirjana Polenak-Akimovska. Roman law. Skopje: University "Cyril and Methodius", 2008, 25-26.

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In contrast, the term "state" in the modern sense refers to the dominant form of political integration in modern society,[7] which has a monopoly on state coercion (military, police). Hence, normative acts are necessary to guarantee human rights in order to mitigate the antagonism between the citizens and the state apparatus.

## 2. Republicanism: Emergence and expansion in the Middle Ages

The rebirth of republicanism took place when Renaissance humanists rediscovered and restored the classical heritage.[8] Republicanism is thought to have developed as an antithesis of the respublica christiana,[9] after emerging from the medieval era in which God's state and divine law played a dominant role, and the overall functioning of the state was subject to God's will and "passion of the heavenly state."

From this period it is important to single out the work of St. Aurelius Augustinus (354-430), as the greatest thinker who was the first one to offer the Latin Western world the full picture of his theocentrically grounded Christian worldview.[10] As the greatest philosopher of Western patristy and an influential theologian of the church in Western Christianity, he created the major work "The City of God" ("De Civitate Dei") in the early period of the fall of the Roman Empire.

Augustine reflects his city of God, that is, the kingdom of God "civitas Dei" through the church, which he considers to be a more numerous and superior community compared to polis (city-state). It is a general community of all who believe in God and which differs from civitas terrena (earthly state, kingdom), shaped into various state forms (res publicae, imperia, etc.). The internal order of the state, which Augustine describes as res publicae, is based on the principles of Christian love of neighbor, on Christian peace between soul and body and between mortal man and God. In such a community of love, the basic principle is righteousness, contained in the requirement that "every man shall have his own".[11] According to Augustine, in order to participate in salvation, the state must be submissive to the church, a view that stems from the position of the Jewish state in the Old Testament.

State-related work in the Middle Ages comes down to the absence of secularism and a complete Christian worldview towards the polis. In this regard, Pocock will not accidentally emphasize that "the Hellenistic view based on the idea that man was created to live in the city, was replaced by the Christian view that man was created to live in communion with God." [12]

Leaving the traditional religious framework, and movement to gradual separation of the secular from the ecclesiastical power, leads through the work of Thomas Aquinas. Aquinas lived in the 13th century (1226-1274) and as the "father of Western Catholicism" reaffirmed Aristotle's philosophy within the so-called high scholasticism. [13]

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[7] Podunavac, Milan. Ed. State and Democracy. Beograd:Sluzbeni Glasnik, 2008, 18

[8] Lakoff, Sanford. Democracy: History, Theory, Practice.Westview Press, 1996, 94.

[9] Bouwsma, J. William.Venice and the Defense of Republican Liberty. Univ Ersity of California Press, 1968, 8

[10] Augustinus, Aurelius. The City of God. Skopje: Culture, 2008, 7.

[11] Kambovski, Vlado. Philosophy of law. Skopje: MANU, 2010, 75-76. Augustine's determination of justice alludes to Ulpian's definition of legal principles: to live honestly, not to harm another, to give to everyone what belongs to him.Камбовски, (Iuris praecepta sunt haec: honeste vivere, alterum non laedere, suum cuique tribuere.)

[12] Pocock, J. G. A. The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition. Princeton and Oxford: Princeton University Press, 1975, 84.

[13] Ibid, 81.

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Although his philosophy is strongly influenced by church dogmas, there is a significant deviation from traditional church positions. Inspired by Aristotle, and following the heritage of his predecessors, Aquinas points to the monarchy as the best form of government, but only if the monarch's power is limited. According to him, the power of the monarch should be limited by natural law and only in that case it is legitimate. Aquinas believed that the legislator had limited freedom in the law making, because positive law as a human act is a declaration of the norms of common law. Therefore, he pointed out that if the legislator exceeded the powers to pass laws and adopts a law in his personal interest or legally allowed violence, then these unjust laws have more in common with violence than with legality.[14] Hence, Aquinas derives the notion of legality from the notion of legitimacy. However, he believed that the state had no right to interpret religious doctrines, so Aquinas demanded that the church be an entity that would suggest how rulers should act.

With the idea of limited monarchy, Thomas Aquinas heralded the rebirth of republicanism within Renaissance legal thought. Namely, Christian Europe has been preoccupied for centuries with the question of how God's will will be interpreted and harmonized with the order of secular power, until the very notion of the only religious truth was shaken by the Reformation.[15]

The revival of republicanism occurs with the specific development of Italian cities in the late 11th century. According to Held, during the Renaissance, new ideas of political power, popular sovereignty, and civic affairs were fostered, and the sources of new beliefs of the citizens were found in ancient Greece and Rome. However, the Roman Republic was the greatest inspiration for the newly created legal and political thought. This is due to the fact that Rome established a model of government in which freedom was associated not only with virtue but also with civil fame and military power, the balance of institutions, the mixed constitution, and the importance of political participation as a principle. The sources and argumentation of this thought were in Cicero's classic works.[16] The Roman republican ideal has strongly influenced by the early modern philosophical thought of Machiavelli, Harrington, Locke, and Montesquieu, and thus had a significant influence on the foundations of modern political thought, as well as on the basic tenets of Western constitutional law. [17]

The emergence of the Renaissance republics was accompanied by fear and caution not to appoint individuals who would rule the republics despotically, as a result of their previous negative experiences. To this end, the monarchical order of the republics was replaced by constitutional and parliamentary systems of government in which citizens, or some of them, could manage "city affairs, prevent threats of arbitrary rule or the influence of special interests, and thus and to better protect the republics from external threats."[18] The Duke of Venice at the time was described as a "ruler" because he represented the sovereignty of the republic, but he differed significantly from other rulers because he was subject to the laws of Venice and the control of the patricians.[19]

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[14] See more in Kambovski, Vlado. Philosophy of law. Skopje: MANU, 2010, 83.
[15] Held, David. Models of democracy. Skopje: Academic Press, 2008, 48.
[16] Ibid 53-54.
[17] Zetterquist, Ola. A European res publica. URL< http://people.su.se/~folke/Ola%20Zetterquist.pdf>, 4.
[18] Lakoff, Sanford. Democracy: History, Theory, Practice. Westview Press, 1996, 95.
[19] Bouwsma, J. William. Venice and the Defense of Republican Liberty. University of California Press, 1968, 62-63.

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The need for the introduction of legal and later constitutional restrictions in the republican system arises as a necessary guarantor of the rule of law and legal certainty of the order. They will be successfully implemented by the competent authorities of the new Renaissance republics.

## 3. Republicanism, freedom and constitutionalism

Republicanism is inextricably linked to democracy and constitutionalism,[20] but its connection to freedom as a bearing pillar of republican societies is no less significant.

The republican conception of freedom is based on the principle of non-domination, i.e. freedom exists where no branch of government has a dominant position, but there is a balance of power. Freedom, as a central category in the republican tradition, is considered as a condition that exists only in when there is proper legal regulation. According to the earliest republican doctrine, the laws of a suitable state, in particular the laws of a republic, create the freedom enjoyed by citizens.And the republican view that the laws create people's freedom makes sense if freedom consists in non-domination.[21]

According to Philip Pettit, one of the founders of neo-republicanism and author of the famous work Republicanism: A Theory of Freedom and Government, the republican view that laws create the freedom of citizens only makes sense if freedom consists of nondomination.[22]

Namely, good laws, according to Pettit, can free people from domination - they can protect them from the dominium of those who would otherwise have arbitrary power over them. However, the threat that is present is the fact that the political authorities, recognized by the law, can take the dominant position in the country. But the Republican idea envisages constitutional restrictions, which would prevent arbitrary rule over others by providing mechanisms for representative power, rotation of public office holders, separation of powers, and so on. [23]

Constitutional mechanisms for limiting power are becoming a necessity in modern concepts of republicanism. Namely, the government seeks to prevent the use of the common, public good (res publica) for private purposes, and in that direction sets constitutional restrictions on abuse. Today's republics compared to the Roman Republic as a model (including Greek city-states and even Renaissance city-states such as Florence and Venice) are larger and less homogeneous political communities, which often results in social divisions on different grounds. Such divisions are detrimental to Republican values, but successful republics should not be homogeneous in order to preserve their core features, but should manage conflicts to prevent differences from turning into rival factions. [24]

In a state of social division, the best approach is to build a strong sense of loyalty to the republic that will replace the sense of belonging to one of the existing fractions.

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[20] Waldron, J. "Judicial Review and Republican Government." in C. Wolfe (ed.), That Eminent Tribunal: Judicial Supremacy and the Constitution. Princeton: Princeton
University Press, 2004, 159–80.

[21] Pettit, Philip. Republicanism: A Theory of Freedom and Government. Oxford: Clarendon Press, 1997, 36.

[22] The negative definition of freedom as domination is also inherent in Quentin Skinner Liberty Before Liberalism. Cambridge: Cambridge University Press, 1998, 30-35.

[23] See more in Oldfield, Adrian. Citizenship and Community: Civic Republicanism and the Modern World. London: Routledge, 1990.

[24] This idea is present in Miller, David. "Republicanism, National Identity and Europe" in Republicanism and Political Theory. Laborde, Cecilie and Maynor, John. (Eds). Oxford: Blackwell Publishing, 2008, 139.

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Hence, the idea of republicanism is woven into a thread of "constitutional patriotism" that has German roots and means "loyalty to the political institutions of post-war Germany, to the Constitution and the principles that flow from it."[25] This idea becomes known from the work of Jürgen Habermas,[26] who has a less institutional understanding of constitutional patriotism than the existing definition. For him, loyalty is not only loyalty to the constitution as an act, but above all, loyalty to the principles arising from the constitutions, which are a common feature of societies with a republican system, but which receive a specific interpretation in each society.[27]

The larger and less homogeneous the republic, the more necessary is the need to introduce appropriate constitutional mechanisms. Knowing the fact that in the Roman Republic and in the Greek city-states it was necessary to establish legal order and respect of the principle of the rule of law, accordingly in modern states, the constitutional and legal framework becomes a necessity.

Regarding the significance of the constitution for regulation of organization of power in the republic, some authors, such as David Miller, believe that there are two standpoints.[28] According to the first one, the constitution is an act that refers only to the division of power in a certain political community, between the legislative, executive and judicial powers, i.e. the division of competent bodies that perform their functions separately. According to the second standpoint, the constitution is a formal act in written form, whose the normative text regulates the organization of the political community, but also it regulates issues such as human rights. At the same time, for this purpose Miller considers that it is necessary to establish a special body that resolves constitutional disputes (constitutional court, author's note), and which is not necessary to be established for the constitution according to the first standpoint.

Modern constitutions include the features of constitutions in their two meanings, upgraded with other issues, such as the overall functioning of the country's political system. Today, most of the legal and political theorists use the second meaning of the constitution, considering it as a "true" constitution, without emphasizing its first, political conception, which is considered "tautological"[29] or "nominal"[30].[31] Regardless of the name, however, the constitution in the political sense is a distant ancestor of the "true" constitution that emerges as a discovery of the eighteenth century.

Hence, proponents of republicanism dating back to the 11th century favored the constitution in its first sense, arguing that the republican form of government should be based on the separation of powers and the balance of power for several reasons.

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[25] Müller, J. W. On the Origins of Constitutional Patriotism. Contemporary Political Theory, 2006, 278–96.

[26] Habermas, Jürgen. The Inclusion of the Other: Studies in Political Theory, eds. C. Cronin and P. De Greiff. Cambridge: Polity, 1999.

[27] This idea is also present in Miller, David. "Republicanism, National Identity and Europe" in Republicanism and Political Theory. Laborde, Cecilie and Maynor, John. (Eds). Oxford: Blackwell Publishing, 2008, 148.

[28] Ibid, 139-140.

[29] Raz, Joseph. "On the Authority and Interpretation of Constitutions." in L. Alexander (ed.), Constitutionalism: Philosophical Foundations. Cambridge: Cambridge University Press, 1998, 153.

[30] Sartori, G. "Constitutionalism: A Preliminary Discussion." American Political Science Review, 1962, 861.

[31] Bellamy, Richard. "Republicanism, Democracy and Constitutionalism" in Republicanism and Political Theory. Laborde, Cecilie and Maynor, John. (Eds). Oxford: Blackwell Publishing, 2008, 160.

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First, different functions of government can best be performed by bodies of different sizes, second, so that authorities can control each other, and third, so that different segments of society, especially different social stratums, can participate in government. [32] Despite the numerous variations, the main topic addressed by the supporters of republicanism is the need for the so-called mixed constitution, or a balanced constitution, which will prevent the concentration of power in one authority, but at the same time it will provide control and balance for the other authorities.

These positions were characteristic for the proponents of traditional republicanism, but modern conceptions impose changes. Namely, the traditional understanding of republicanism as promoting the idea of freedom as non-domination, in modern times it is perceived as a search for a state model that will exclude the arbitrary action of the state towards the citizens. State arbitrariness can be considered, for example, the adoption of laws against the interests of citizens, and this process includes those who implement and sanction laws against their will. In this case, the freedom is jeopardized and the dominant position of the government is emphasized in order to achieve its own goals, which is visible through the loss of the  value of freedom as non-domination. Proponents of the modern form of republicanism tend to find a model of a state where the degree of arbitrary action of state authorities is minimized.

One of the modern theorists who made a significant contribution to the development of modern republicanism, Philip Pettit, in his work Republicanism: A Theory of Freedom and Government, talks about the three conditions that the state must meet in order to reduce the level of arbitrariness of state authorities to the lowest level. [33] According to him, instruments used by the republican state should be, as far as possible, non-manipulable, and they should be maximally resistant to being deployed on an arbitrary, perhaps sectional, basis. Pettit believes that no one individual or group should have discretion in how the instruments are used and no one should be able to take them into their own hands. The institutions and initiatives involved should not allow of manipulation at anyone's individual whim[34].

 Hence, he proposes three conditions that will prevent the arbitrary action of the authorities. The first condition is, that the system should constitute an 'empire of laws and not of men'[35]; the second, that it should disperse legal powers among different parties (legislative, executive and judicial); and the third, that it should make law relatively resistant to majority will.

The first condition bears on the place and content of the laws,  under the principle of rule of law; the second condition, which refers to "dispersion of power", refers to the conduct of everyday life and aims to prevent the concentration of power and arbitrariness; and the third condition, which opposes the domination of the majority, refers to the ways in which laws can be legitimately changed, i.e. to ensure that the laws which rule in that empire are not subject to excessively easy, majoritarian change through mechanisms such as "bicameral division of parliament, the recognition of constitutional constraints on law, and the introduction of a bill of rights."[36]

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[32] Viroli, M. Republicanism. New York: Hill and Wang, 2002, Chapter 1.

[33] See more in Pettit, Philip. Republicanism: A Theory of Freedom and Government. Oxford: Clarendon Press, 1997, Chapter 6.

[34] Ibid, 173.

[35] This condition is known previously from Harrington, James, The Commonwealth of Oceana and A System of Politics, (ed.) J. G. A. Pocock. Cambridge: Cambridge University Press, 1992.

[36] Pettit, Philip. Republicanism: A Theory of Freedom and Government. Oxford: Clarendon Press, 1997, 181.

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The purpose of introducing the third condition is not to ban legislative changes, but to complicate the procedure so that the majority does not intervene simply, because according to Pettit, majority support for changes in laws is not always a criterion of good law.

Pettit points out that these three conditions "serve to thwart the will of those who are in power; they make government more difficult to organize, not less. In this sense they operate like formal constitutional constraints and represent a belief in what we may call constitutionalism. "[37]

In this sense, constitutionalism is understood as a legally established way of constraining the will of the powerful, even if the constraints are not transposed in a formal constitution.

Hence, the intention of the proponents of republicanism is to create a more complex form of organization of government, whereby the bulkiness of the state apparatus and complicated procedures will reduce the possibilities for its arbitrary abuse for personal purposes. The first two elements that Pettit mentions, the rule of law and the separation of powers, are the two pillars of republicanism, often found in his predecessors and having deep roots in the historical development of republican thought.

In contrast, the introduction of the third condition, which refers to passing laws that will be relatively resistant to the will of the majority, severely restricts free will, and is an obstacle to exercising the constitutionally guaranteed rights of representative democracy. This criterion may cause restriction to the freedom of amendments as a general precondition for any law; or may be applied only to limited number of amendments to certain laws; or may cause passing amendments by a bicameral parliament or with a two-thirds majority as an additional condition to limit the will of the majority. Pettit's third condition is characterized by a series of contradictions: in the protection of "freedom as non-domination" it restricts the freedom and will of the ruling majority; the replacement of the simple majority with a two-thirds majority when the party/coalition in power got two-thirds of the electoral votes is pointless; The process of amending laws may be entrusted to a special body of appointed experts who would exercise this competence without legitimacy that can be gained only in elections, thus losing the democratic character of the republican government.

Today's form of democratic republican government resembles Schumpeter's definition of democratic method that refers to that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote.[38] In today's conditions, this means that democratic decision-making power is in the hands of the majority that gains confidence through democratic elections, and this constitutionally established mechanism is a barrier that protects the basic features of republicanism.

## 4. Conclusion

Undoubtedly, the Roman res publica and its founding principles had a strong influence on the emergence of republicanism that comes to life with the specific development of Italian cities in the late 11th century. The Roman Republic was an inspiration for the newly created legal and political thought because Rome established a model of government where freedom was associated not only with virtue but also with civil fame and military power, the balance of institutions, the mixed constitution, and the importance of political participation as a principle.

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[37] Ibid, 173.
[38] Schumpeter, J. A. Capitalism, Socialism and Democracy. London: Unwin., 1976, 269.

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The sources and argumentation of these ideas can be found in Cicero's classic works. [39] The Roman republican ideal is strongly emphasized in the early modern philosophical thought of Machiavelli, Harrington, Locke, and Montesquieu, and thus exerted a significant influence on the foundations of modern political thought, as well as on the basic postulates of Western constitutional law. [40]

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[39] Held, David. Models of democracy. Skopje: Academic Press, 2008, 53-54.
[40] Zetterquist, Ola. A European res publica. Пристапено на 4.07.2014 година. < http://people.su.se/~folke/Ola%20Zetterquist.pdf>, 4.

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