

**Note from Professor Yankah:**

*Attached is a new piece continuing my ongoing development of a distinct form of republicanism. This piece applies a theory of republican political obligation, based in neo-Aristotelian and Athenian theories of civic bondedness, to criminal law jurisprudence. I am developing this theory in a more complete form in a book project centering around the political value described as “franchise.”*

*Thus, this piece builds on earlier work that explicated a republican view of civic bondedness as the basis of political obligation. Though franchise is excavated from ancient Athens, the book argues that it is surprisingly relevant to today’s philosophical and political debates regarding political obligation, generally, and criminal law, in particular, in ways that gives intuitive answers and sometimes indicates surprising directions. In this piece, I argue, for example, that a republican theory of punishment can more naturally explain central criminal law practices such as increased punishment for recidivists as well as our nearly universal commitment to increased punishment for hate crimes compared to the dominant retributivist alternative.*

*In future development, I argue that this same theory, however, does not align easily with the liberal/conservative distinctions that animate political fights today. For example, once punishment is viewed as justified by our civic bonds, one sees why terrorists attacks (and their perpetrators) may constitute a distinct criminal violation than ordinary crime. At the same time, because crime is not exclusively focused on the violation of individual rights, under certain conditions, a polity may criminalize non-rights violating behavior that undermines civic equality in light of that polity’s history and constitution. One clear example might be the restrictions on denying the Holocaust in Germany. In a more controversial example, were a polity to discover convincing evidence that prostitution or pornography, though consensual, importantly undermined the ability of women to participate in that polity as equals, it may take legal steps to restrict such.*

*Though the implications are being developed in the future book project, I hope the piece here will stir conversation. At the very least, I hope the application here at least shows the naturalness with which the ancient idea applies.*