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A Philosophical Inquiry into the Fundamental Legitimacy of Civil Servant Disobedience

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A Philosophical Inquiry into the Fundamental Legitimacy of Civil Servant Disobedience

MA Philosophical Perspectives on Politics and the Economy

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Introduction

From 2004 to 2019 the Dutch government wrongfully accused thousands of families of tax fraud. Early in 2000, the department of taxes had suspicions of enormous fraud with the childcare allowances some families received. The accused concerned mostly Bulgarian immigrants. The tax department issued rigorous checks and concluded that the families, who (supposedly) committed tax fraud, had to pay back all the allowances they received, with sometimes additional fees. For most families this meant paying back thousands of euros, resulting in enormous economic debts. The families lost their jobs, were forced to sell their house, and in a lot of cases it resulted in children being displaced from their parents. These families are now called ‘the harmed’ [*gedupeerde*]. This went on for years and years before, finally, civil servants started asking critical questions and resisted contribution to this work. Some incriminating documents were even leaked by civil servants. From March 2020 it became clear that a great deal of the families had done nothing wrong and had a right to their allowance money. A little later, in June 2022, the Dutch government officially established that most of these families had been wrongfully prosecuted under racist conditions. This was a shock for all those involved and it created a dent in the government’s trust. Soon after, the Dutch cabinet fell, and many politicians were forced to resign their post due to the grave mistakes. Currently, the families are being compensated, but this will naturally be mostly monetary. Still, those families’ situations are, in some cases, irredeemable. Some of the damage can never be undone and it is unclear if all the children that were removed from their parents, will get back to them (Rijksoverheid, n.d.-a). This is what has been called the Dutch ‘Childcare Benefits Scandal’ [*toeslagenaffaire*].

We have learned two things from this case example. First, as is apparent, governments or organs of the government can make mistakes. Some of these mistakes, like the Dutch Childcare Benefits Scandal, are grounded in moral injustices. As stated, the Bulgarian and other families were prosecuted on discriminatory pretences. Furthermore, discrimination is prohibited in The Netherlands as stated in the Dutch constitution. Second, problems with the Benefits Scandal were already signalled in 2017. Long before this, civil servants must have seen and felt that something was not right. Regardless, civil servants intervened only 3-6 years later. This shows is that somewhere between 2004 and 2020 civil servants felt as though an injustice had occurred, yet it took almost 20 years for the government to acknowledge that they were in fact wrongfully pursuing the families to return their received allowances. This case, and many like it, have brought to the forefront critical questions about

civil servants' obligations to act when they contribute to or witness government wrongdoing. This includes questions about the general role obligations of a civil servant and their obedience towards them. The issue of government wrongdoing invites philosophical discussions on civil servants' resistance to political mandates, including policies, orders, and general bureaucratic conduct. Much philosophical literature is already available on a related topic; civil disobedience. These include discussions on what citizens can or should do when government wrongdoing occurs. However, what can or should be said about the disobedience of civil servants, as well as their obedience for that matter, is less commented on. Fortunately, questions like these have gained more popularity over the years. For example, what constitutes the obligations of civil servants in non-ideal circumstances? Or; how should we deal with the tensions between the personal moral judgments of civil servants and their responsibility as public official?

In this thesis I would like to explore the philosophical landscape of (dis)obedience of a civil servant. Specifically this thesis is concerned with the main research question: Should we be fundamentally opposed to civil servant disobedience? With this I aim to provoke a discussion into the moral limits of civil servants' role obligations, and the extent to which they should act on their personal judgements considering government wrongdoing.

Before I can evaluate the fundamental legitimacy of civil servant disobedience, I will establish what is most generally understood to be a civil servant's role obligation and their obedience towards it. The first two chapters will thus be aimed at conceptualizing role obligations and (dis)obedience. Due to the scope of this thesis these conceptualisations will not include in depth philosophical reasoning. The aim is merely to map the conceptual landscape of this thesis. In chapter one, I will first establish what is considered, currently, the obligations of a civil servant. I will give an overview of the various role obligations of a civil servants, as they have been previously determined by other authors, by the Dutch law or how they are experienced by civil servants themselves. In chapter two, I will clarify what I believe is the most common conception of obedience as well as how disobedience of a civil servants is usually described.

After this I turn to the philosophical arguments concerning fundamental critiques of civil servant disobedience. I will discuss three of the most significant objections. In chapter three I will consider the argument that civil servants must not be disobedient because of epistemic constraints. Civil servants are only a key in a chain of the organisation and therefore they can never make fully informed judgments regarding the government's actions. In chapter four I

will consider the argument that due to their status and influential position, civil servants must remain neutral and impartial while performing their role obligations. Their neutrality is a virtue and thus disobedience or even dissent, cannot be justified. In the fifth and final chapter, I will consider the argument that civil servants are prohibited from being disobedient because it threatens the legitimately chosen democratic government. Their disobedience is thus a way of showing that their judgments matter more than a majority vote. I will offer my counterarguments against these three claims, primarily drawing on the works of Daniel Markovits, Stephanie Collins, Eric Pool and Isak Arthur Applbaum. At the end of my thesis, after having criticized the three central objections against civil servants' disobedience, I conclude that we should not be fundamentally opposed to civil servant disobedience.

Chapter I Role Obligations and Their Morality

1.1 How to define a role obligation?

Civil servants are guided by their professional requirements and responsibilities. While working, civil servants are guided by those prescriptions that are specific to their job.

Adhering to the role specific prescriptions is often called ‘professional’. It is, however, not easily articulated what constitutes those requirements and might differ extremely, depending on one’s position and actual job descriptions.

The professional prescriptions of one’s job are called role obligations. So, role obligations can be considered those obligations one has, specifically in terms of the role they occupy.

The establishment of a role is different depending on the role. Being a mother for instance, is often considered a ‘role’ one occupies. This role is not articulated in the form of a contract or in state law but is composed of a collection of social expectations. It is often the case that roles are measured against the institutions they are present in (Appelbaum 2000; Cordell 2023; Hardimon 1994). Arthur Isak Appelbaum articulates it the following way: “For the role of doctoring is not discovered in the natural order of things. It is stitched together from the shared social meanings of those who profess to be doctors and those who call upon their services” (Appelbaum 2000, 59). This is also how Michael O. Hardimon and Sean Cordell have understood institutions to shape roles. Hardimon states: “a ‘role-obligation’ is a moral requirement, which attaches to an institutional role, whose content is fixed by the function of the role, and whose normative force flows from the role” (Hardimon, 1994, 334). Or, Cordell, who takes it from an Aristotelian perspective and looks at function fulfilling. Meaning, what a role should be is derived from the function it needs to fulfil. The normativity appeals to an institution’s as well as a role’s function (Cordell 2023, 191-95). Ambiguity is not uncommon when it comes to the specific articulation of role obligations. It is however common that role obligations provide some form of authority—e.g. authority to dictate what a civil servant must do while adhering to their position of civil servant. The role obligations of civil servants flow from the norms and expectations of the institution. It is useful to consider what can be interpreted to be the exact role obligations of civil servants. For this, I turn to several existing articulations of the role obligations of civil servants.

Mark Bovens has, in his book *The Quest for Responsibility*, considered obedience, loyalties and obligations (Bovens 1998). Here he articulates ‘loyalty’ as being loyal to the

responsibilities civil servants have. He states: “Loyalty to one’s superiors is only provisional, loyalty to the public interest and to the democratic process are the ultimate obligations of functionaries” (Bovens 1998, 164). Bovens tackles an important distinction, loyalty to one’s role and loyalty to one’s superiors. For civil servants this distinction can be specifically laden as often part of their role obligation is to facilitate the democratically legitimately chosen leaderships (In The Netherlands these are elected parties who each put forward ministers). Some civil servants directly work under a minister, others are further removed.

Bovens argues here specifically that a civil servant’s responsibility should be oriented towards the citizens. A hierarchical account of obligations is in this sense sometimes ‘anti-political’—i.e. “Within government bodies and business, civic duties and civil rights set limits to one’s obligation to obedience and confidentiality” (Bovens 1998, 162). At first, I am inclined to take Bovens’ lead and argue that role obligations are not so much towards those who are your superior, but to the overall democratic values present in the institution. It is from the inherent values of that role that authority flows, not from a specific person (a boss or a minister for instance). However, a civil servant’s superior is also bound by their role obligations and the democratic values, which thus might give them legitimate authority. For bureaucratic and practical reasons, it may be the case that civil servants thus have obligations to their superior as well.

The role obligations of civil servants in The Netherlands could be considered contractual. In his paper, Hardimon has differentiated between contractual and non-contractual role obligations (Hardimon 1994, 337). Contractual role obligations are for Hardimon those roles that we actively sign on for. He specifies this as “making a promise. In signing on for a role, we promise to carry out the duties of the role, the tasks that the role requires” (Hardimon 1994, 354). Applebaum has provided something similar and says: “One way a role applies to us is if we agree to it” (Applebaum 2000, 59). Because of the specific ‘civil-servant-law’ [Ambtenarenwet 2017], civil servants in The Netherlands can be said to have contractual role obligations (Overheid.nl. n.d.-b). When a citizen accepts their role as civil servant they have to swear that they will uphold the specifics of the civil-servant-law 2017 (article 7). In the civil-servant-law it is specifically stated what the requirements and obligations of a civil servant are. They are required to take this as an oath to the expectations and rules as articulated in that law. This is a very prominent example of how the role obligations of a Dutch civil servant are contractual. It is important to note that this law was initiated in the

1960s but that, when necessary, the oath can be renewed (as it has been in 2024). Hence, the law stays up-to-date about the modern institutional values.

Since I wish to discover those role obligations that are really specific to the role a Dutch civil servant occupies, I want to note that the law also contains obligations that are in my opinion not really role-specific. There are obligations that can also be considered for other professions or that fit the duties of regular citizens. For example, “I will behave myself according to the laws, the jurisprudence and the codes of conduct that uphold for me” (Rijksoverheid, n.d., my translation). I believe that this is a general demand of all Dutch citizens and thus not specific to the role one occupies. Civil servants still have to adhere to it, but not in virtue of their role, rather in virtue of them also being a citizen.

I want to establish the role obligations of civil servants as they are generally understood, not just how they are written down for contractual and accountability purposes. Therefore, as I believe the civil-servant-law is an insufficient articulation of the role obligations of a civil servant, I want to incorporate the thoughts and opinions of civil servants themselves. A report on the introspection of a series of dialogues with civil servant has recently been published by University Utrecht; Civil Servants on Activism and Dissent [*Ambtenaren over Activisme en Tegenspraak*] (Al Salman and de Jongh 2024). The report from University Utrecht contains summaries and findings of what civil servants themselves thought of their role obligations, and specifically, to what extent they can be disobedient. Its actuality gives us a good consideration of what civil servants themselves consider to be part of their job obligations.

Drawing on the civil-servant-law and the findings of the report, I propose—by way of further reflection on civil servant disobedience—that at least four core role obligations can be identified in the context a civil servant serving the Dutch government. These obligations are thus, as I have found, a reflection of what is widely understood to be expected of civil servants. They are not absolute and the goal here is not to argue for these specific four role obligations. I have merely settled for these four since they are helpful for my discussion of the disobedience of civil servants, as examined in this thesis.

A further justification and explanation is written below the four role obligations.

1. A civil servant should be committed to working in the general interest of society.
2. A civil servant should work with integrity and treat everyone rightfully, fairly and with respect. This includes prohibiting discrimination.
3. A civil servant is obligated to maintain confidentiality of information that is in connection to their duties, to the extent that this follows from the nature of the matter (Article 9, Overheid.nl n.d., my translation).
4. A civil servant should follow the democratically chosen political leadership and remain neutral in their position.

The first obligation shows that a civil servant should dedicate their work towards the overall benefit of society. We can and should expect for them that they serve societies interest, and not their own or one group in particular. This specific obligation shows that civil servants are not just working for themselves or for their boss but for the benefit of society.

The second obligation highlights that this can only ever be in a rightful, fair and respectful manner. What is best for society should never be discriminatory or unjust, as then it is no longer in the interest of society as a whole. It also requires a civil servant to work with integrity. I will briefly explain what integrity means. Integrity is a complicated concept and this can relate to personal integrity as well as professional integrity. Integrity relates to being committed to the values you have. Personal values can conflict with professional values. Professional integrity is the commitments to the values one has, in virtue of their role. Personal integrity is the moral values you have, regardless of your job. These two could in some cases be in conflict (Al Salman and de Jongh 2024, 14-15).

The third obligation is also important for the role of a civil servant. It is perhaps the most debated one in cases of disobedience or activism. Even though the implications of this obligation are debated, it is listed, in this form, in the Dutch civil-servant-law, and it is reported by civil servants themselves when they were questioned (Al Salman and de Jongh 2024). Sometimes situations might ask for citizens to remain in the dark, because for others to perform their duties they need to do so in secrecy. Imagine the following situation. Civil servant Anne works at the department of safety. On a daily basis she receives messages about dangerous or incriminating situations. Examples are notifications of illegal drug labs or reports of human trafficking. It is often 'normal' citizens who see these activities and report suspicious activities, crimes or inhumane acts. To protect the citizens that report such incidents, but also to protect the civil servants who process these alarms, it is necessary for

their job to remain private, and for the information of the reporters identity to remain confidential. This is a clear cut example that it can be in the general interest of society for civil servants to keep certain information confidential.

The fourth role obligation is also derived from existing opinions and the dialogue report from civil servants. In The Netherlands the political parties are democratically chosen. The results from elections will point to the parties that will implement policies and laws. It is important that, regardless of personal conviction, the civil servants will act according to what is democratically chosen, to follow the policies of the biggest party for instance. Otherwise we might risk our democracy being challenged. However, this obligation can also be challenged by some. It is often questioned if we can expect neutrality from civil servants or at least to a certain extend. This is often discussed when considering disobedience from civil servants. A more in depth discussion of these challenges will be left for chapter four and five.

These four role obligations provide a general description of what is expected of civil servants in virtue of the role they occupy. Before I move to the next chapter, where I consider the obedience and disobedience towards role obligations, I will consider if these role obligations are also moral obligations.

1.2 Are role obligations moral?

I have articulated a conceptualisation of civil servants' several role obligations. A separate question, however, is whether these role obligations carry moral weight. To address this, I will first examine two approaches to this, as discussed by Cordell and Applbaum. Following that, I will explore how Hardimon, Cordell and Appelbaum each conceptualize the moral nature of role obligations.

The Natural approach

Cordell uses the function of a tea cup to illustrate this approach. A tea cup is created to hold hot drinks, so this is what it *should* do. This might be easier to establish for objects, but is harder for an occupation. As discussed earlier, it is difficult to precisely define specific role obligations of a civil servant, this complicates the task of establishing what they ought to do. Nonetheless, Applbaum uses a naturalistic approach to establish the obligations of a doctor. Simply because humans tend to fall ill, and you have the ability to do something about it, it "creates a set of natural moral obligations that bind those who have the skills to cure and relieve suffering" (Applbaum 2000, 50). This is a you-should-because-you-can reasoning.

The morality of doctor is found in observing and reasoning what a doctor should be. This approach is often criticised for being a naturalistic fallacy, or the is-ought fallacy. Just because a civil servant is a certain thing, does not mean that it should be that thing. Cordell identifies another problem with this approach; the natural function description can be outdated. While it might seem natural to define an institution's function based on how and why it was originally created, this approach fails to capture how we actually understand and evaluate institutions today. At some point a function was created, but this does not translate to "what it is for now" (Cordell 2023, 184-85).

The Positive Approach

Applbaum is unconvinced by a naturalistic approach and argues for a different approach: practice positivism, derived from legal positivism. "On this view, the concept of a practice does not impose any general content requirements or restrictions on the rules of all practices. The rules of a practice simply are what they are, not what they ought to be or what we want them to be" (Applbaum 2000, 51). So, a practice does not follow any specific kind or rules. We don't look at what we think they should be but we look at what they actually are. Here is an example from legal positivism. The law that murder is prohibited, does not rest on some external moral determination, but on the fact that we have decided that the law is simply as it is, regardless of what we want it to be. Applbaum argues that this is a correct view to roles. It allows us to criticise the role from the outside, and not internal to the role. For this we thus infer what a role is, simply because that is what it is, and we examine its moral worth from the outside. Applbaum says that there are rules of 'political morality' that are external to the role and can be applied to the role.. These rules are for instance conceptions of substantive justice or of equal opportunity.

It remains a critical metaphysical question where we derive the morality of our roles from. But, whether this be a Kant's categorical imperative, or a Utilitarian rule; the authors disagree on the *reasoning behind* moral laws, not that they don't exist.

Cordell also acknowledges that there are many difficulties that can arise when considering the normativity of role obligations:

As with standard cases of professional and applied ethics, the role-indeterminacy problem starts with thinking how an individual should act in relation to the requirements of this or that role. But then, whether this or that role-determining institution is (or is not) correctly defining these role(s) and prescribing their requirements and obligations, and if so why (or why not), are themselves questions within the purview of any adequate answer. Role ethics will, and should, also be political philosophy. (Cordell 2023, 196)

Considering these difficulties, and the scope of this thesis, a full in-debt discussion of the normativity of social roles is not plausible here. I now want to highlight the key assumptions and arguments made by Hardimon, Cordell and Applbaum in their discussion of the ethics of roles.

Recall that for Hardimon a role obligation is a moral requirement. He also mentions this: “Instead of flowing from the roles, the normative force of obligations deriving from the principle of fairness attaches to roles, providing an additional moral reason to act in accordance with their requirement” (Hardimon 1994, 335). But Hardimon does not further specify how these principles of fairness are attached to roles, and how this attaches a moral reason to act. He states: “Whether people actually have morally binding associative obligations is a matter about which to remain agnostic” (Hardimon 1994, 335). He does explain, at least in part, how roles come to have normative force. For this he uses Rawls’ principle of fairness (when citizens profit from a just and fair institution, they have to follow the rules out of a moral obligation). From the principle of fairness normative force is derived. It provides a moral reason to act in line with what their role requires (Hardimon 1994, 335).

Cordell also asserts that role obligations are moral. He argues that institutions define roles and a purpose is derived from them; “...role ethics [...] will necessarily overlap with normative enquiry into the structure of institutions. As with standard cases of professional and applied ethics, the role indeterminacy problem starts with thinking how an individual should act in relation to the requirements of this or that role” (Cordell, 2023, 196). The institutional purpose shapes the role obligations for civil servants (Cordell 2023, 178). Cordell is sceptical about establishing what this specific function or purpose is. Because of many institutions’ complexity, attributing a fixed function or purpose is not plausible. Still, he takes

on the challenge of how one might begin to conceptualise an institutional purpose or function. For this, Cordell turns to Aristotle's *Nicomachean Ethics*. A kind is good "by virtue of its fulfilling its function." (Cordell 2023, 191). 'Function' does not refer to 'what it does', but 'how it does what it does'. Cordell refers to Aristotle's *ergon* and translates this to 'characteristic activity'. He summarizes; the characteristic activity of an institution is "(i) the good or set of goods it serves and (ii) the particular configuration of its features and activities by which it serves that good or those goods" (Cordell 2023, 193). He obviously does not come with a specific character activity for a government, and I will not either. But his account does specify that it is thus from the 'goodness' (that is the good ends it thus tries to seek) of the institution the role obligations derived from it come to have moral worth.

Applbaum is also puzzled by the correct qualification of the ethics within role obligations. Applbaum discusses morality and roles in his book *Morality for Adversaries: The Morality of Roles in Professional and Personal life*. In his chapter, *Doctor, Schmooctor*, he discusses what is a correct view of roles, and what specific role obligations can generate moral prescriptions (Applbaum 2000, 47). Through careful argumentation Applbaum establishes that roles can be moralized:

Perhaps it is like this. All roles put forward actual, nonmoral, substantive prescriptions of the institution—what the role is: "Submit forms in triplicate," "Wear a tie in court," "Don't ask, don't tell," "Be home by ten o'clock, dear." Then there are reasonable constructions of substantive role prescriptions—what the role should be: heal the sick, pursue justice, defend the nation, love your parents. Here, then, is the truth in direct moralization: though actual role prescriptions are not in themselves moral prescriptions, reasonable role prescriptions may be. To the extent that what the role is tracks what the role morally should be, the role is, in this sense, directly moralized (Applbaum 2000, 54).

This seems plausible for me. Not all role prescriptions have morality attached to them, but there are other prescription, through the reasonability of their justness, we can infer that they are directly moralized. The fact that we thus value saving a human life makes that the role obligations to save a life is moralized. So, the question of what makes healing the sick morally right remains unanswered. Is it reasonable for that role prescription to then also be moral? These questions belong to a philosophical debate about what morality is. Something that is important to ask ourselves, but that is beyond the scope of this thesis.

Though Hardimon, Cordell and Applbaum reach their conclusion through different arguments and means, they amount to a fairly similar conclusion:

Not all role obligations have moral content, but we can state that those role obligations, that flow from the overall virtues as established by an institution for instance, are moralized. Their job obligations derive from an overall morality of what we believe is just governance, based on norms and virtues we have in the institution.

In this chapter I have thus established that civil servants in The Netherlands face several role obligations. These role obligations are contractual, through the Dutch civil-servant-law. Civil servants themselves also have an idea about what their obligations are and act accordingly. From these I have loosely established four role obligations for civil servants. Furthermore I have discussed that generally, these role obligations can have moral content. From this moral content there can be those role obligations civil servants are also morally obliged to follow.

Chapter II (Dis)obedience

This chapter is needed to establish what is exactly meant when we state that a civil servant is being ‘obedient’ or ‘disobedient’. It is a conceptualization that is necessary for me to further discuss the implications of disobedience for a civil servant.

2.1 How are public officials obedient?

Very plainly put; the obedience of civil servants is the conformity to their role-obligation. I believe it is additionally important to note that one can be obedient to one’s job and the job prescriptions that comes with it, but one can also be obedient to one’s boss, and to those whom have authority over you. For civil servants specifically this distinction, and the interplay between them, can be laden and complicated. Civil servants in The Netherlands work for a cabinet that has been democratically chosen. This government manifests itself in different parties and of course different people: mainly ministers. The democratically chosen authorities can in this way manifest themselves in specific persons. If a minister from a democratically chosen party asks you to do something that in your opinion fits outside of your role obligations, it becomes problematic if adhering to a superior’s authority, like a ministers, is part of that same role obligation. The four key role obligations, as described in chapter one, are an estimate of the most important role obligations for civil servants. In the fourth obligation a sense of loyalty to a minister and the democratic leadership is mentioned. Let’s recall that role obligations are set-up by the institution and that civil servants have to take an oath, stating to be obedient to those role obligations. Therefore, for a civil servant, the role obligations and the obedience towards them are besides moral also contractual.

My position is that a civil servant can be obedient to all four obligations, but that there can be a difference in moral weight for the role obligations. When considering my four obligations I would argue that there is a chain of priority. With this I mean that the first obligation takes priority over the second, the second over the third and the third over the fourth. Let me give an example to explain why. After democratic elections a party was chosen that is extremely strict on immigration. Suppose the fourth obligation is being ‘triggered’; a civil servant is asked, by the democratically chosen political leadership (say a minister), to perform an extra background check on refugees with a specific nationality. The minister wants to, out of prejudice, sharpen the control of the applications for refugees coming into The Netherlands. Now, let’s look at our fourth obligation, ‘A civil servant should follow the democratically

chosen political leadership and remain neutral in their position.’ From this role obligation alone it would be obedient to follow the minister’s request, following the ministers’ authority. However, this would be in conflict with the second role obligation: ‘A government official should work with integrity and treat everyone rightfully, fairly and with respect. This includes prohibiting discrimination.’ This example shows that certain role obligations can be in conflict. It is therefore necessary to create a certain chain of priority. For the four role obligations I have mentioned a chain of priority would thus look like this:

The second role-obligation should take priority over the fourth role obligation. It is important that civil servants do not, out of a personal political agenda, go against the policy of a democratically chosen minister (fourth role obligation). But, it is more important that when they follow the policy of said minister, they do so while also adhering to the first three obligations. The role obligations are made from a general premise of morality. As discussed previously in chapter one. It is I believe first and foremost important that civil servants act for the general benefit of the country and its citizens. It is for practical and democratic reasons it matters that civil servants are obedient to the elected cabinet (fourth obligation). However, when a minister departs from one of the other role obligations, it's legitimate authority automatically seems to fail. So, in line with the first obligation, a civil servant can never act discriminatory. Therefore, a civil servant can still be obedient, while not following a minister’s request, as long as that request is unjust. Considering this, we can thus establish that civil servants have several role obligations, but they do not all have the same moral weight. We can thus have an ordering of morality between different moral role obligations. I therefore take the position that moral authority takes precedence over democratic legitimacy. This view rests on the premise that the legitimacy of democratic governance ultimately derives from its moral justifiability: a government is authoritative not merely because it reflects the will of the majority, but because it enacts principles of justice. Applbaum also addresses this concern. While he acknowledges that democratic legitimacy is partly constituted through majority rule, he insists that certain fundamental moral principles “ought not to be decided by the will of the majority” (Applbaum 1999, 220-21).

This raises a deeper philosophical question: if moral constraints on democracy cannot solely be determined by a majority vote, who or what determines them? How can claims about justice, legitimacy or the public good be justified in the absence of democratic consensus? This tension is what I will consider further in my fourth and fifth chapters, where I discuss

the neutrality of civil servants and explore the base for a legitimate democracy. To summarise section 2.1, the obedience of civil servants can be classified as the conformity to the four role-obligations, where the former obligation takes priority over the latter.

2.2 What is considered disobedience?

Since obedience is defined by the conformation to one's role-obligation, we will consider disobedience as going against the role-obligations one has. Since I just established a chain of priority for the obligations considering obedience, a chain of priority also plays an important part here, when discussing disobedience. If a civil servant refuses to comply with a minister's request out of a commitment to their primary role obligation, such an act should not be regarded as disobedience. So, disobedience should always be reflected upon, taking all four obligations into account (or whatever we decide upon the role obligations being). If a civil servant is disobedient to a minister, not because of any other role-obligation this can be considered disobedience.

Disobedience can manifest itself in different ways. It can start small, like refusing to finish an assignment, or it can be a larger form of disobedience, not just withholding doing something but actively going against job prescriptions or trying to actively undermine the role obligations you have. I believe it is important to make a distinction first. This is a distinction between dissent and disobedience. Dissent is when civil servants address a concern or mistake to one's supervisor or colleagues. Dissent does not automatically mean that a civil servant takes additional steps to do something for or about the supposed wrongs. By some, this has been already considered disobedience, since it is not neutral of the civil servant, and neutrality remains, for them, part of a civil servant's role obligation. However, I strongly discourage this to be considered disobedience at all. By stating that it is disobedient to one's role to address certain wrongs to one's boss, might create an unwanted status to those who report it. It should be clear that when mistakes happen people feel free to address this, without also feeling as though they are doing something they ought not to do (what disobedience is implying). Dissent in this sense is thus not disobedience. A more detailed discussion about this will be held in chapter four.

A helpful way to talk about and classify disobedience is to differentiate between internal and external disobedience. Internal disobedience is showing your resentment to do something or

going against a certain policy within your own team/department. Your personal concerns and judgements lead you to be disobedient to your supervisors or a specific assignment. A clear case of internal disobedience could be; not finishing an assignment or obstructing a project. Ideally we would like for people to first explore disobedience internally, because it allows for critical introspection of what has gone wrong by those who committed it. When it concerns a specific issue or moral wrong it would be preferential if a solution can be found internal, soon, before the problem worsens. This helps the organization to remain critical of its own work and be able to grow and learn from its mistakes. If this does not succeed, if it does not give the wanted results or does not show to be effective, then one can explore external disobedience. There are two types of external disobedience. First, civil servants can go against government plans in their role as citizens. Secondly, civil servants do so while presenting themselves in the role they have as civil servants. What explains the difference? While civil servants may have serious disagreements with their government, they can express these concerns on the basis of personal integrity. Although civil servants are bound by professional loyalty to their roles, they also remain citizens themselves. When they can do this thus in their role as citizens with individual rights. For instance, when they protest, they may do so in their capacity as ‘private’ citizens rather than as representatives of the civil service. However, some objections stem directly from their professional conscience and commitments. In such cases, civil servants can feel compelled to speak out *as civil servants*, rather than merely as private individuals.

Naturally, it might be strange to be against the civil disobedience of civil servants. Still, there are those who argue that when you chose to perform your duty of civil servant it is not preferred that you challenge that in your citizen role. The second form of external disobedience receives more critique. An objection to this form of external disobedience is that one is undermining the image, credibility and integrity of all civil servants. Furthermore, this form of external disobedience goes directly against the fourth obligation discussed in the previous chapter, where civil servants are to remain neutral. A more in depth discussion about the arguments concerning this form of disobedience will be discussed in chapter four. Let us now look at specific cases of disobedience and activism done by civil servants.

2.3 Types of disobedience

First, I will discuss some forms of disobedience that are considered internal. Some of these have been reported by civil servants themselves to be possible forms of disobedience (Al Salman and de Jongh 2024, 16). A first form of internal disobedience is when a civil servant

refuses to perform a specific task. Consider the following scenario. Your boss is asking you to perform task X. After you look over the task you have several objections to X. You voice your concerns to your boss but he disagrees and asks you to still perform X. A form of disobedience would be to not perform task X. This form of disobedience is not always a preventative form of disobedience. After you have voiced your personal concerns, your boss might still ask others, who are more willing or do not feel a conflict, to do the task you refuse to do. So, by refusing to do a task, you might not prevent task X being performed by someone else but you remove yourself from the 'wrongful' situation. This could occur when a civil servant's personal integrity conflicts with their professional integrity.

Another way to be internally disobedient is to undermine the role requirements. This is different from the previous example because now one not only does not perform task X but tries to actively undermine it (for instance by sabotaging it). This is a more extreme form of internal disobedience, and I am inclined to say that people should exhaust the other forms of internal disobedience before resulting to this. This specific form of disobedience is very personal, meaning you are, with your personal objection, going against general orders. Even if you feel as though it does not fall within your role obligation, it remains important to voice this to others and check others' opinions about this. This prevents people singlehandedly making very impactful decisions. This is what I have referred to as dissent. Undermining a task strongly goes against role objection four. Obstructing certain work is perhaps more effective but also very risky. A civil servant will be risking their job, giving probable cause for termination for instance. Therefore, this form of disobedience is often done in secret, to prevent such termination.

Now I will be discussing two clear cases of external disobedience. These two cases have also been discussed by other authors. The first form of disobedience is whistle blowing. This is a form of activism where the civil servant discloses secret government wrongdoing to the public media. A fairly recent example of government whistleblowing is the case of Edward Snowden. He was working for the National Security Agency when he discovered mass surveillance. He showed his concerns about this internally first, but when this was not effective he disclosed to the world the unlawful surveillance that was going on. Specifically, he leaked information to newspapers (Brownlee 2016, 965). It is important to acknowledge that this form of disobedience can only be performed by those internal to an organisation.

Eric Boot has therefore even argued that there is an obligation for civil servants to disclose government wrongdoing, specifically when one is complicit in it (Boot 2019).

The second form of external disobedience is protesting. This can be done acting outside of the role of civil servant but it can also be done within one's role of civil servant. Civil disobedience is generally understood an individual right for everyone. John Rawls, in *A Theory of Justice*, states that civil disobedience is "a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government" (Rawls 1971, 364). Rawls thinks it is important that this is part of the general rights of citizens. "...[civil disobedience] is justifiable (or may seem so) by the political principles underlying the constitution" (Rawls 1971, 387). According to Rawls civil disobedience needs to be a right because "a conception of civil disobedience is part of the theory of free government" (Rawls 1971, 385). For Rawls there are however certain requirements for civil disobedience to be justified (that are wildly debated by others, but the general idea of all those authors is that civil disobedience, for the sake of free government and democracy, should be allowed and is in fact a constitutional right of each citizens). In agreement with this I will thus say that when civil servants protest in their role as 'citizens', this should not be considered disobedience to their role as civil servants.

A different case is protesting *as* a civil servant. They can do this by making this explicit on social media or carrying their work-access-pass while protesting for instance. Why is this so different? Because, there is a different choice here. When civil servants show up for their own personal convictions in their role as civil servants they include the government in their personal affairs. This form of obedience is mainly done after all other options have been exhausted. Civil servants try to specifically show up as being a civil servant because it adds weight to the protest. It adds weight because of the status of a civil servant. Civil servant have an expected professionalism and in this sense sometimes a neutral one. This is discussed similarly in a different context: for instance, when scientist protest with Extinction Rebellion against the little progress being made for climate change mitigation. Protesting in their role as scientist adds weight to the debate. This is because they are in a sense experts on the issues and feel as though this makes them specifically liable. This form of external disobedience could be considered a good thing, specifically because it adds weight to the issue. But we could also argue that it is wrong for civil servants to abuse their status or influence in such a way.

Further philosophical evaluation on the different forms of disobedience is certainly interesting but not the goal here. The goal of this chapter has been to give an overview of the discussions on what is considered obedience and disobedience of civil servants. I have also tried to explicitly name and mention several ways how internal and external disobedience manifests. This was merely to show the scope of possible ways to be disobedient for civil servants. The pertinent question I am now interested in is if civil servant disobedience should fundamentally be prohibited (regardless of the individual justifications for several forms of disobedience). In the next three chapters I will consider three fundamental and serious objections to civil servant disobedience.

Chapter III Epistemic Constraints

Now that I have discussed the role obligations of a civil servant and clarified how a civil servant can be (dis)obedient, I turn to discussing some of the philosophical questions, issues and arguments involved in civil servant disobedience. Even though disobedience does not occur without serious thought and philosophical questioning, there are those who are fundamentally opposed to disobedience. In the following three chapters, I will discuss three of the major concerns. These arguments show fundamental concerns for civil servant disobedience. The first argument, that I will discuss in this chapter, is the epistemic constraints argument. In the fourth chapter I will discuss the expected neutrality of civil servants as an argument against disobedience. In the last and fifth chapter I will discuss the argument of democratic legitimacy. In these chapters I thus put forward fundamental objections to civil servant disobedience and offer my reflections and response to these. As stated, first, I will consider the argument on epistemic constraints.

3.1 Epistemic uncertainty

The concern put forth in this argument is that disobedience is wrong because of certain epistemic constraints. The argument is structured as follows. A civil servant is only a link in a chain full of people working on government policy or action. Therefore, they do not have access to all information regarding a certain issue or topic. Since the civil servant does not have access to all relevant information, they simply cannot know, or epistemically establish, whether something is morally wrong. As a result, civil servants are prohibited from engaging in acts of disobedience entirely. Boot (2021, 145-46) articulates this in the following way: “The average civil servant will not be a particularly good judge of whether a secret policy does indeed involve grave wrongdoing... Especially lower-level civil servants may not have access to all the relevant information, it is argued, necessary to make an adequate judgment.” Boot further summarizes; “Accordingly, it would, for epistemic reasons, be wrongful for a civil servant to substitute her own private judgement for the state’s verdict which is the product of an institutional process with significant epistemic value.”

There is another epistemic consideration in line with this argumentation. Even if all information is available, informed civil servants could always disagree on what the right course of action is. Boot calls this *reasonable disagreement* (Boot 2021, 146). Rahul Sagar also discusses the issue of disagreement and explains: “The pervasiveness of disagreement is

precisely why we value and utilize voting and representation—these procedures allow us to draw conclusions as to what we collectively see as being in the public interest” (Sagar 2016, 128). So, following this reasoning, even if a civil servant has all the necessary information, disagreement about the best course of action might still present itself. Because of this, from an epistemic point of view, civil servant disobedience cannot be justified.

The concerns that disobedience should not be allowed for epistemic reasons are of significance. Information should be a key element to the moral assessment of a situation or action. A civil servant might know what the government is doing, but not why. A civil servant might thus be challenged in assessing if the actions are morally justified.

However, I do believe that there are those cases where wrongdoing is not controversial and can be plainly unjust. It is not always the case that wrongdoing is ambiguous. For example, the violations of fundamental basic rights (the mutilation of female genitals in some African countries) or discriminatory unequal treatment (during Apartheid for instance). These acts cannot be justified considering the causes a government should serve. We do not need to know the goals before it can be concluded that the violation of fundamental basic human rights is wrong. Not all ends justify the means, especially concerning moral norms. In conclusion, we can condone the means without specifically knowing the ends. In some cases it might be sufficient to see that a law is being broken, without having all the information of why or how. So, there are those cases where something is plain enough for it to be called wrong (Boot 2021, 147).

Another important question that arises is whether it is truly possible for individuals to make fully informed decisions. In theory, a decision with epistemic certainty would have to be made with access to all relevant facts, a complete understanding of various consequences and a comprehensive awareness of the values and interests that are at stake. I think, in practice, this ideal is hard to attain. Especially in the political realm we rarely know the full extent of issues or how to solve them. In politics, limited information, uncertain outcomes, conflicting interpretations and disagreements are everyday phenomena. This raises the philosophical question of what it means to be ‘fully informed.’ I believe that concerning political issues, being fully informed is not attainable. So, rather than striving for impossible epistemic perfection, perhaps responsibility, transparency, openness to revision, and the capacity to acknowledge and correct possible errors should be the focus. In this view, good governance is

not about omniscient decisions, but about being morally and institutionally prepared to act justly amid uncertainty.

Furthermore, I believe that a lack of information should not stop the civil servant from enquiring about the morality of a case. Dissent is a good place to start and it can be a way for civil servant to require more information or spark up new debates about what is happening. If there is enough clarity about the wrongful action, and still no change has been made, external disobedience may be explored. I also think we should consider that disobedience might be explored precisely *because* there needs to be more transparency. Could we not consider, for example, that whistleblowing does not necessarily have to be a message that the government has done something wrong? It could be that a civil servant or multiple civil servants argue that the public needs to be informed of important cases. However, this does not immediately imply that a civil servant has declared it actually wrong and made that moral assessment. This argument weighs even stronger if there is a strong public interest involved (Boot 2021, 147). But how can public interest be articulated? Barry Brian comes with a definition for what counts as a public interest, one that I think satisfies: “[public interests are] those interests which people have in common qua members of the public” (Barry 1990, 190). Thus, if not all the information is available to civil servants, it can be a cause for disobedience to allow for the publication of an issue if it is in the best public interest. Recall Edward Snowden’s act of disobedience. He felt it was in the public interest to inform people they were being monitored. While civil servants thus often operate with incomplete information, this should not, in itself, prohibit them from expressing dissent or engaging in disobedience. A lack of information and questions regarding this is exactly one of the reasons I think dissent and disobedience can be explored. Thus, as mentioned before, if there is a strong public interest involved, and civil servants feel as though they have enough information about this they may explore disobedience.

This conclusion gives rise to the following questions. Who determines what exactly is in the public’s interest and when can civil servants claim authority over their own judgements? Applbaum discusses these questions in his chapter *Democratic Legitimacy and Official Discretion*. He too asks the question: “But do public officials also have the grounds on which to make judgments about whether they have the authority to act on their judgments and exercise discretion in defiance of a formal and effective mandate that they judge to be bad,

unjust or illegitimate?” (Appelbaum 1999, 219) Appelbaum argues that it is not enough to appeal to the rules or job titles in place but that we need to consider deeper values of democracy. Answering this question is crucial to determine whether it is fundamentally okay for civil servants to be disobedient. I will come back to Appelbaum’s considerations and the question of public interest and personal judgment in the following chapter on neutrality and impartiality.

Chapter IV Neutrality and Impartiality

I cannot fully answer the question of epistemic constraints without saying something about the moral agency of civil servants. A further central objection to the justification of civil servant disobedience is the principle of neutrality. Since the Dutch government is an electorate democracy, it raises questions about the room for personal judgements of civil servants. Taken from a premise that there is a legitimate democracy, a civil servant's own political or moral judgements are unwanted. The argument about a civil servant's neutrality and arguments made for democratic legitimacy are closely connected, but differ. Neutrality is a clear argument appealing to the role obligations of a civil servant and it presupposes that there is a legitimate democracy. I will consider a discussion on a legitimate democracy in the last chapter. In this chapter I will tackle the question of neutrality and impartiality.

4.1 Expected neutrality and impartiality

This argument suggests that civil servant disobedience is fundamentally not allowed because there is an expected neutrality and impartiality from civil servants. The position of a civil servant is so influential, we want them to be as politically neutral as possible. They are not in the position to serve their own political agenda but that of the public as a whole. Therefore, it would be wrong and too privileged for them to administer their own judgement as having some sense of authority.

Neutrality is often considered a virtue since there is the idea that the government should be a united front to lead a country. It looks and works bad if within the government itself there is a lot of differentiation. Besides this, it is sometimes argued that it is extremely impractical. Boot states the following: "I would argue that a civil servant's ultimate responsibility is not her superiors or the government in power, but rather to the democratic constitutional state as such. Accordingly, a civil servant may be role obligated to implement a policy she does not agree with" (Boot 2021, 144). Mark Bovens also sees that neutrality is highly esteemed. "One finds it in academic writings, in textbooks, in legal judgments, in company codes, and in civil-service rules of conduct. Often one uses the term 'neutrality' or 'impartiality' for this point of view" (Bovens 1998, 149). The fear that primarily gives rise to this objection is that civil servants will push their own personal political ideals or morals, which would directly counter the legitimate democratic process. Neutrality would prevent this. Dennis Thompson

also discusses this. He calls this the Ethic of Neutrality. He says that civil servants are expected to be ethically neutral and that they should not “exercise independent moral judgment” (Thompson 1985, 556). They are obliged to do so since they know their duties in advance of taking the position and they do so willingly, which signifies consent. This Ethics of Neutrality holds an ‘obey or resign’ mindset. Either you agree to the terms and remain morally neutral, or you disagree and have the option to then resign your position. Concluding, because of the influential position of civil servants they are expected to be as neutral as possible. Their ultimate obligation is to the democratic state and their superiors, any form of disobedience interferes with this obligation.

I disagree with this argument on several accounts. First, the expectation of neutrality increases the risk of unionising on bad ideas, because everyone remains ‘neutral’ as far as their own objections go. One might argue that a diverse set of minds and ideas, that are not necessarily in sync, can together come to better solutions. However, this requires them to think independently and develop their own convictions. We cannot expect civil servants to contribute meaningfully to the improvement of the country by encouraging “critical thinkers” and valuing their unique perspectives and personalities, while simultaneously requiring them to remain neutral. Additionally, perspective matters greatly. When someone is lacking the right perspectives this can do serious harm. Dennis Thompson in his discussion on the Ethic of Neutrality has argued that the neutrality argument endangers diverse thinking. He explains this nicely; “If this view were to consistently put into practice, public offices would soon be populated only by those who never had any reason to disagree with anything the government decided to do. Men and women of strong moral conviction would resign rather than continue in office, and we would lose the services of the persons who could contribute most to public life” (Thompson 1985, 556). Here, Thompson says that completely ignoring all strong moral judgements means that those civil servants who have a strong moral character will leave. As a result, we are left with indifferent civil servants, who do not think for themselves. This could have significant consequences for the overall quality of public administration.

Second, the obey or resign mentality leaves little to no room for regular office discussions. Letting civil servants contribute to moral judgments does not mean their input will always change outcomes. However, they will be heard and this way new dialogues about morality can be accessed, which I personally believe can improve diverse and creative thinking in the workspace. Plurality, conflict and disagreement are likely to occur even after a cabinet has

been formed. Personal judgments need to be made to tackle these issues that are innate to any democracy.

Third, we must also consider what it would mean if civil servants are expected to remain neutral and something goes horribly wrong. Should we not want to hold the civil servants accountable? I believe we do, and that we *should* hold civil servants accountable. So then, we must allow for civil servants to remain true to themselves instead of neutral. We want civil servants to act just, at least on a basic level. If we want to distribute accountability on them, which conventionally we do, we need to also let them use their individual moral judgments. And, as Thompson says: “Moral judgement presupposes moral agency. To praise or blame someone for an outcome, we must assume that the person is morally responsible for the action” (Thompson 1985, 559).

In light of these considerations, I believe it is not neutrality we should expect of civil servants but rather moral agency and their critical thinking. That said, further reflection is needed on what moral judgments can justify action, particularly when such action involves disobedience. To further explore this, I will consider the work of Eric Pool. He has written a book called *Power and Courage* [*Macht en Moed*] where he tries to offer a perspective on politics that creates more room for dissent and perhaps also disobedience. He claims that civil servants should not only be allowed to have personal judgments but that they should also act on it. Though his account is not purely philosophical, his perspective, as being a civil servant himself, is valuable. Finally, I will also discuss Applbaum’s work on the morality of professional roles and personal judgments. I hinted at his work in the previous chapter, I will come back to this at the end of this chapter.

4.2 Creating room for dissent

A different perspective on dissent and activism is offered by Eric Pool (2021). Pool advocates for more dissent by civil servants. He argues there must be more room for them to speak up against those things they (personally) believe are unjust or illegitimate. He believes we need to get rid of a dogma on this form of dissent.

Parallel to this, we need to let go of the need for civil servants to be neutral, politically, as well as morally. Eric Pool calls this a culture of dissent, which he claims is crucial for improvement.

“This is why a culture of dissent, where rebuttal is considered normal and promoted by the leadership, is so important. And with it moral leadership is necessary, to strengthen those who raise their vulnerable voice against the power, as for the resilience of the executive who, as a person in power, receives criticism, and likewise for the administrator who, as the decision-maker, faces criticism from citizens” (Pool 2021, 155, my translation).

Eric Pool believes the one solution to better political discourse is dialogue. ‘A good conversation’ is what he calls it, which can be in all shapes and sizes. Pool advocates for a different way of politics in The Netherlands. He thinks one of the faults of current politics is the way civil servants conduct themselves. It is the civil servants that have, according to Pool, “a too big of a loyalty to the incumbent power, the politicians in power” (Pool 2021, 205, my translation). He states that a significant portion of the responsibility falls on the civil servants. The challenges that are facing Dutch politics today are rooted in the broader patterns of bad politicization. Pool advocates for more autonomous behaviour and more critical thinking. One of the four lessons he gives civil servants in his book is “ ‘good work’ is the road of the most resistance” (Pool 2021, 222, my translation). Dissent is often rejected on the base of providing unnecessary resistance, but Pool is saying that only through this and critical dialogues do we better our rule of law. As Pool has nicely put: “My call for resistance to ‘politics’ is mostly meant as an appeal to the morality of the role of the civil servant, who derives her legitimacy from the fundamental principles of a democratic state ...our loyalty is found within the public cause and not with the civil servants themselves” (Pool 2021, 127, my translation). Pool clarifies here that disobedience to a certain form of politics is meant to make an appeal to the morality that is primarily attached to it.

This however still leaves unanswered the question of who is to say what counts as a legitimate judgement. Pool considers the following: maybe a clear definition of this morality is not what is needed but the heed for it does. After all, wouldn’t insisting on a clear definition risk drawing us into a broader meta-ethical debate about the nature of morality itself? The fact that morality is on some level also personal and not clearly articulated makes dialogue and dissent exactly necessary. Eric Pool puts this issue to my attention. He says: “Understand me well: a definition, in this context, is not so relevant. Our mutual dialogue

about its meaning and how this idea is reflected to what we create together, is what should really matter” (Pool 2021, 129, my translation). The focus is thus not so much on the clear definition or how we would specifically articulate it, but more so on the dialogue that is initiated with the thought of a just state, policy or rule of law. The point is that civil servants need to continuously ask themselves if their institution is still a morally just one. This is only possible if we assume their moral agency and accept their part in keeping the government moral and political. Good politics is less about a once every four years chosen cabinet, but more about the continued safeguarding of what we fundamentally believe to be democracy’s values; to safeguards everyone’s ability to create the life they want. This answers our question about the neutrality of civil servants, they should not remain neutral. But Eric Pool does not, as he is not really going into the deep philosophical questions here, give a fully satisfying answer. Should we at least not try to settle for external moral standards?

I agree with Pool on the following; it is inevitable that political ideas and discussions are met with resistance. This is as Pool mentioned not a fault of the bureaucracy but rather what makes us better politicians, better civil servants. Critical evaluations are followed by critical questions and individual reasoning about what remains the best course of action. So, neutrality is a vice, instead of a virtue. I would like to philosophically dive a little deeper into the question of this morality vs politics question. I have hinted at Applbaum in the previous chapter on epistemic constraints. I will now consider what, according to him, justifies civil servants to act on their individual judgements.

4.3 Applbaum on dissent

Applbaum makes a clear distinction between legitimacy on the one hand and justness on the other. A decision can be made legitimately but this does not mean that it is also right. For Applbaum legitimate reasons lead to legitimacy: “Deciding on the right sort of reasons may still produce the wrong sort of answer. Some legitimate conceptions of justice are mistaken. A mandate that inflicts an injustice still meets the criterion of legitimate reasons if it was decided through a good-faith effort at seeking justice” (Applbaum 1999, 222). I agree with this distinction because it helps us differentiate between the democratic procedures and democratic values. Democratic values matter alongside the mere procedures that also give democracies their worth. So, elections alone, for instance, are not enough, electoral majority votes are just one of the democratic values that give it its legitimacy.

So, how do we determine these democratic values? What are these and who decides? When civil servants make personal judgments who is to decide their authority if it is not the will of the people? Applbaum has also discussed this issue: “But reasonable people will disagree at each step about these judgments. Who is to say whose judgments are authoritative?”

(Applbaum 1999, 237) Applbaum answers and says; civil servants can decide for themselves. This does not mean that their judgements cannot be evaluated. Civil servants should not be disobedient whenever they disagree. Well-reasoned assessment must come before this. But this means there are thus no true independent moral grounds. Applbaum has considered four conditions to take into account when civil servants ask themselves to comply or resist a political mandate.

The first condition that should be considered is the basis of dissent; identify on what your disagreement is based. Is it a disagreement about what is good for society, disagreement about justice, or is it about if the procedures have been legitimate? Second, the legitimacy of the jurisdiction; does the political authority truly have the right to decide on the matter at hand? This requires moral interpretation. If the authority lacks legitimate jurisdiction, dissent is more morally justified. Third, is the dissent based on legitimate reasons; were the decisions made for the right kinds of reasons? If the reasons were inappropriate or mismatched, there is a stronger justification for the dissent. Fourth and finally, were democratic values considered—i.e. does the political mandate truly reflect substantive democratic values? If not, the dissent is more so justified (Applbaum 1999, 228-29).

A civil servant should consider all four thoroughly before dissenting or being disobedient. But if these four categories have been explored it is up to the civil servant to decide his or her authority on the matter: “...if guidance is to be given to a political actor questioning the legitimate authority of her mandate, then there is nowhere else for her to stand but in her own shoes. She cannot, without judgment, defer to the very authority whose legitimacy she questions” (Applbaum 1999, 237).

This might at first glance be counter intuitive, because could this mean that now civil servants are justified in being disobedient whenever they feel like it? The answer is no, I have clearly, as has Applbaum, stated that dissent and disobedience is more so justified for moral considerations and that four conditions (the one’s Applbaum has presented) matter when a civil servant wants to resist a mandate. But let me clarify again, the objective here is not to develop a thorough account of when, under what specific circumstances, civil servant disobedience is justified. That is another predicament entirely. What I aim to show is that

there is no reasonable consideration for why we should, principally and fundamentally be opposed to civil servant disobedience.

After this analysis of Applbaum and Pool, and my arguments generally, I have shown that the expectation of neutrality is neither realistic nor virtuous. It is precisely the moral agency of civil servants we must embrace to encourage the safeguarding of democratic values. Critical thinkers and general resistance lead us to better conclusions and thus to being better politicians. Therefore, on the account of neutrality, civil servant disobedience should not be prohibited. The final argument I now wish to turn to is the argument of democratic legitimacy. The discussion in this chapter has somewhat turned to this question: if a majority vote is not all that matters, and civil servants can act on their personal judgments, what then is democratic legitimacy?

Chapter V Democratic Legitimacy

One of the strongest arguments fundamentally opposing civil servant disobedience is the argument of democratic legitimacy. A discussion of this includes questions about what we perceive to be a just democracy. There is a vast literature on the question of what can be considered a legitimately established democracy. Generally, in democratic theory, political authority is only justified if it is democratically legitimate. Political authority refers to the legitimate right or power to govern and to expect obedience from its citizens. For democratic theorists, this power is justified because of democratic procedures (e.g. free elections). As the argument then goes, if a democracy has legitimate authority, disobedience cannot be justified. In this chapter, I would like to discuss and further clarify this argument. Following this, I will briefly discuss different arguments about what is democratic legitimacy. After this, I will consider the arguments of Daniel Markovits and Stephanie Collins. Markovits has stated that democracy comes with natural deficits and that, therefore, disobedience is democratic. With this, I will argue that disobedience is not necessarily anti-democratic. Collins argues that there is no role vs. morality conflict if we consider what she calls a fundamental purpose. Her approach helps us consider that democratic legitimacy does not just derive from electorates and obedience to superiors, but more from what we truly consider democratic values and purposes to be.

5.1 Democratic legitimacy

Disobedience by civil servants is often considered to be a threat to democracy. This argument rests on the claim that if all civil servants were to be disobedient, because of their own convictions of what is right or what is wrong, this would strongly undermine the democratic process. This is a normative objection regarding the interference with a legitimately established democratic government. It is often argued that one should obey the authority of the minister and the democratically chosen cabinet, as their authority stems from electoral outcomes in which a majority has expressed its will. From this perspective, disobedience by civil servants is undemocratic.

During the Dutch Childcare Benefits Scandal a similar argument was made. The rigorous checks were requested by the secretaries of state, Frans Weekers and Menno Snel at the time. Their department, finance and taxes, gave the order that all those families were to return all

the money they received. When questions were asked about the legitimacy of this by several civil servants, among at the time chamber member Pieter Omtzigt, they kept being dismissed (NOS 2023a; NOS 2023b). The argument suggests that it is in our interest to follow the rule of the democratically chosen ministers, to keep the democratic legitimacy.

Rahul Sagar has also made this argument: “When unauthorized disclosures occur, vital decisions on matters of national security are effectively being made by private actors, an outcome that violates the democratic ideal that such decisions should be made by persons or institutions that have been directly or indirectly endorsed by citizens” (Sagar 2016, 114). David F. Thompson explains the argument in the following way: “If the organization is pursuing goals set by a democratic public, individual dissent in the organization may subvert the democratic process” (Thompson 1985, 557). Thus, following this line of reasoning, civil servant disobedience is perceived as undermining the authority of the government, which derives its legitimacy from the collective will of the citizens. It is morally wrong because when civil servants are being disobedient, they prioritise their own political or moral convictions over those of the democratically chosen state.

The concern for democratic legitimacy is a strong fundamental objection to civil servant disobedience. To answer this objection, we first need to differentiate between political and moral judgements. Thompson also gets into this. He says, “Is the disagreement moral or merely political? This is a slippery distinction since almost all important political decisions have moral dimensions. But perhaps we could say that the more directly a policy seems to violate an important moral principle (such as, not harming innocent persons), the more justifiable dissent becomes” (Thompson 1985, 557). I argue that these moral dimensions form the foundation of democratic institutions as a whole and are what ultimately bestow legitimacy upon the government. Therefore, it is the case that strong moral convictions can oppose political policy while still being democratic. For mere political disagreement, a civil servant should not consider disobedience. Let me give an example to illustrate this difference. A political policy could be to increase the tax rate on a certain product. A civil servant could disagree, but this would be merely a political disagreement, since there does not seem to be a distinct moral principle attached to it. A more morally laden policy could be a policy mandating the forced sterilization of a minority group, under a justification of public health, for instance. This policy violates fundamental rights and human bodily autonomy. If a civil

servant were then to be disobedient towards implementing this policy, it would be more justified, following Thompson, as it is closer to a moral complaint rather than a mere political one.

Besides this, the argument needs a clear demarcation of what is democratically chosen and thus democratically legitimate. It requires a brief dive into what we should consider democratic and what is democratically legitimate. These are concerns that are voiced by many. The Stanford Encyclopedia of Philosophy (SEP) differentiates between three justification for the legitimacy of a democracy (Stanford Encyclopedia of Philosophy 2023).

First we have *democratic instrumentalism*. Democratic instrumentalism holds that democracy is valuable only if it produces good outcomes (e.g. justice, equality). The focus here lies on the outcome instead of procedures. If a system, other than a democracy produces the right outcomes, it is more legitimate. Some criticism on this view is that it can downplay the importance of political equality, undemocratic regimes could be allowed and it undermines the citizens' role as political agent.

An alternative approach is *pure proceduralism*. This view holds that democracy derives its legitimacy from how decisions are made, not necessarily the results. "In a pluralist democracy, legitimacy stems from a majority vote reached in elections that are free, equal and secret" (Habermas 1996, 269). In this way, everyone is considered equal. This form of democracy is much like I have discussed in this argument. The SEP differentiates between two forms of pure proceduralism; *aggregative* and *deliberative*. The first infers that a majority rule is the most legitimate (counting of votes). The latter infers that it is not only voting that matters, but public reasoning and inclusive discussions matter. A criticism of this is that there needs to be a stronger reasoning behind the justness of decisions. A mere majority vote does not provide a strong enough reason to comply with a outcome you disagree with. Fabienne Peter discusses this form of political authority and claims that this means that immoral decisions can be deemed right and that "they are at risk of supporting undue arbitrariness in political decisions" (Peter 2023, 23). On this account of democratic legitimacy, if the majority would vote to reinstate racism, then it would be considered legitimate. Peter states (2023, 43), "Will-based conceptions of political legitimacy wrongly ignore how the validity of some claims about what should be done, even in the political domain, depends on sources of validity other than the equal political authoritativeness of the citizens." Possible responses to this include: this is the only way to respect political equality and it includes epistemic fairness.

A third approach is called *rational proceduralism*, and it is sort of a combination of the first two views. The basic statement is: for a democracy to be legitimate, it needs both fair procedures and good outcomes. Jürgen Habermas argues for something like this. He disagrees with proceduralism: “According to this view, even a dictatorship must be considered legitimate so long as a socially recognized framework of legitimation enables the government to remain stable”(Habermas 1996, 268-69). For him, *inclusive deliberation* is what gives people a reason to endorse mandates (Stanford Encyclopedia of Philosophy 2023). On this Habermas (1996, 266-83) says the following: “A reconstructive sociology of democracy must therefore choose its basic concepts in such a way that it can identify particles and fragments of an “existing reason” already incorporated in political practices...”, and “Deliberations are free of any internal coercion that could detract from the equality of the participants.” As such, individual equality as well as a sense of reasonableness is preserved.

It remains a philosophical important issue and all of the above approaches each come with their own pro’s and con’s. Personally, I am inclined, like Habermas, to take the third approach. I am at least *not* inclined to go with democratic proceduralism. To illustrate why, I will compare it to the system in place in The Netherlands.

First, procedures alone do not result in a state’s justness. In The Netherlands, the political authority is most common to a political will approach. Political agents are chosen through elections every four years. Based on a so-called ‘party plan’ or ‘party vision’, a party is democratically chosen. As a result, a cabinet can be legitimately appointed through a democratic process of voting. But this says little about the practice of governance that happens thereafter. Who determines that, apart from voting, the process of bureaucratic governance is legitimate? After the elections, certain mandates are implemented that are themselves not chosen through elections. So, we have no way of checking if it is (still) according to the public’s will. Democratic elections are a snapshot of the political opinions (referenda could be a solution for this, but this is not very common in The Netherlands). Citizens do not co-decide in all decisions, this would be a legislative nightmare. I believe we can therefore keep (continuously) questioning policies to their moral and thus also democratic legitimacy, throughout the years.

Second, I believe that a democratic government inherently demands that the state upholds justice. When the state acts unjust, it undermines the public’s trust as it fails to treat everyone equally and to uphold the rule of law. After elections, it is still very possible that a party

departs from this. Therefore, questions about the morality, fairness and justness of a certain plan or policy must be welcomed continuously. The legitimacy of a state does not only come from the procedural elections, but also from its content. It matters both, elections are one of the great values of our democratic society, but I am stating it is not enough. In The Netherlands, a party is elected for a period of four years. In four years, much can change, so it is the moral agency of the civil servant that should continue to guide governments. This way, whatever political direction is chosen at the time of the elections, it is still morally just and thus politically legitimate.

5.2 Disobedience as a form of democracy

To help our discussion on democratic legitimacy and disobedience, Markovits' article *Democratic Disobedience* is insightful. Markovits (2005) has differentiated between two different forms of disobedience. There is the most common form of disobedience, liberal disobedience, and there is what he calls democratic disobedience. They are distinct in how they are politically justified. Markovits has established three main differences between the two forms of disobedience. I will summarize them briefly.

First, liberal disobedience is more constrictive in the ends they seek and often requests a specific change to a policy. Often, liberal protesters come with a counteroffer or an alternative policy. By contrast, democratic protesters would seek not to change the outcome but rather to initiate 'reengagement' with democratic sovereignty. They thus vouch for a democratic process instead of a certain outcome, which makes it, according to Markovits, more expansive. Second, the two forms differ greatly regarding their method of disobedience. Liberal disobedience can use coercion to force the withdrawal of an illegitimate policy. Liberal disobedience is most commonly used and justified when rights or laws are being violated. Democratic disobedience, on the other hand, can only ever be persuasive, rather than coercive. All it tries to accomplish is a reengagement with democratic sovereignty. Understanding this, democratic disobedience speaks to democratic deficits, not illegitimate policies. In Markovits' own words, "democratic disobedience may not force a sovereign to change course, it may (try to) force the sovereign to reconsider" (Markovits 2005, 1942). Third, and finally, liberal disobedience has a strong connection between its complaints and its ends. It requires a stable institution to take the time to secure a specific outcome (The withdrawal of a certain policy or the change of a law. Think about civil rights movements, these often take up quite some time). In this context, 'stable' means that it is a legitimate

democratic sovereign. Democratic disobedience, however, is more focused on a quick political reengagement with sovereignty. It is an unstable sovereign that needs to be changed. Sole engagement with an issue is therefore enough, without a certain 'end' being met. If democratic disobedience "insists on securing a substantive outcome, [it] risks undermining the justification for the movement and rendering it undemocratic" (Markovits 2005, 1944). So, these three differences mainly appeal to different political justifications for the two versions of disobedience. Democratic disobedience is mainly focused on the processes rather than the desired outcome (Markovits 2005, 1939-44).

Resulting from this difference, Markovits advocates for democratic disobedience to be included as a legitimate form of disobedience, alongside liberal disobedience. This would, in his opinion, be better for two reasons:

- 1) It allows for disobedience that is not justified as liberal disobedience to be justified as a form of democratic disobedience. It would allow for a broader scope of disobedience all together; "My proposal, by contrast, attempts to justify political disobedience from within democratic theory, emphasizing the support that political disobedience can provide for the broader political process by correcting democratic deficits in law and policy that inevitably threaten every democracy" (Markovits 2005, 1902).
- 2) Democratic disobedience causes are now only evaluated on liberal terms. The two different versions of the protest should be separately examined. Protests that have been democratic, but were assessed by liberal disobedience standards, now have the chance to be rightfully examined and thus considered justified.

Democratic deficits, how I believe Markovits uses the term, refer to situations where democratic institutions or processes fall short in fulfilling key democratic principles and values. Examples of these principles are: accountability, representation, participation and transparency. The fact that there arise deficits on these values is unavoidable according to Markovits; democratic disobedience thus enhances democratic practice. Markovits argues that it is not at all anti-democratic to speak up when wrongdoing has occurred, "Indeed, the argument has shown democratic disobedience to be an unavoidable, even integral, part of a well-functioning democratic process. Democratic disobedience, on the view developed here, enhances democracy" (Markovits 2005, 1936-37). There is, for Markovits, a very important connotation; as he explains, unlike liberal conceptions of disobedience, his form of disobedience should only assert democratic deficits and not mere political defeats. For liberals, only a serious violation of rights could justify disobedience. Democratic

disobedience should promote a legitimate democratic process. This process has, due to deficits, been violated in some way. Markovits clarifies, “Democratic disobedience seeks to initiate a process of sovereign reengagement [...]. Democratic disobedience seeks to overcome not a particular policy but the inertial institutions that prevent a democratic sovereign from taking up an issue by excluding considerations essential to the issue from the popular of legislative agenda” (Markovits 2005, 1940). This disobedience should always be in a persuasive manner of political argumentation. There cannot be any signs of coercion, as this is anti-democratic. Markovits (2005, 1942) states, “Democratic disobedience may not force a sovereign to change course, it may (try to) force the sovereign to reconsider.”

Let us consider Markovits’ example concerning the military drafting in America for the Vietnam War. Liberal disobedience resulted in the organization of protests. These were based on the fact that the war was morally unjust, and therefore the drafting was too. This is a claim to a certain right and a call for a specific outcome or change in policy. This form of disobedience was deemed unjustified since they could not establish, at the time, that the war was indeed unjust. Liberal disobedience failed. On the other hand, Democratic disobedience would have succeeded as Markovits states: “the draft might properly have been resisted on the ground of a democratic deficit in American policy, insofar as war was pursued without an adequate sovereign engagement on the issue. This deficit deprived all citizens of authorship of the collective policy and, hence, of a democratic reason to accept or obey the policy” (Markovits 2005, 1947). Note that this says nothing about the outcome of a draft or the war being stopped. It mainly calls for a new democratically established sovereign. If still, then a draft is democratically justified, it becomes a legitimate outcome.

For further clarification, I will contrast Markovits’ notion of democratic disobedience to the two examples of civil servant disobedience I have mentioned: the case of the Dutch Childcare Benefits Scandal and the case of Edward Snowden. Had democratic disobedience been accepted as a justified form of disobedience, the Dutch government could have, at an earlier stage, been halted on the grounds of there being democratic deficits, instead of true rights being violated. Questions about the legitimacy of the policy were dismissed, as there was no clear proof or claim towards a human right being broken (grounds of discrimination had not yet been found). However, had disobedience been explored and justified based on democratic disobedience, a successful outcome could have been found sooner. It took as long as it did because there was a need to prove that the government was being discriminatory, that a

specific law had been violated. Let me explain how the disobedience could have been justified earlier on, when considering the democratic deficits. Despite the clear signals of injustice, other cabinet members and oversight institutions, such as the first chamber, failed to intervene effectively. Furthermore, the affected citizens had no real shot at challenging the decisions made, as most cases of appeal were dismissed, i.e., it was legally rigid. The deficits found here are a lack of transparency, a lack of legal fairness and a weak parliamentary oversight.

Regarding Edward Snowden's whistleblowing; his disobedience could have been justified sooner had there been no moral claim about the right to privacy being violated. He would have simply stated that the way they were going about it was a democratic deficit, and that the public must simply know. What were the democratic deficits? Well, certainly a lack of transparency and accountability. His whistleblowing could be considered a legitimate form of *democratic* disobedience.

Additionally, there is the criterion for Markovits that democratic disobedience must be justified and thus is not some unrestricted form of disobedience. It must be clear that a democratic deficit has occurred; "the democratic process must involve more than merely the aggregation of private preferences, as in simple majority rule, but must instead encourage or outright require political engagement among citizens" (Markovits 2005, 1949). This can be both necessary between citizens (see Snowden's whistleblowing), but also require active political engagement internally, between civil servants. Civil servants can then appeal to democratic disobedience. Consider again, this is justified since it is democratic to be disobedient towards democratic deficits, it "trigger[s] a sovereign reengagement with the issues at hand" (Markovits 2005, 1949). It loosens the limits and restrictions for legitimate disobedience, all for the greater good of democracy as a whole. Furthermore, as I have considered, it will allow for issues to be resolved in a different timeline. Deficits can be resolved sooner if they can be addressed earlier on, through democratic disobedience.

Markovits's account gives an answer to the question whether civil servant disobedience is fundamentally wrong, considering its democratic illegitimacy. Disobedience could be a way to reengage with democracy. Democracy is more than mere elections and the procedural legitimacy it has. It depends not only on electoral procedures but also on the content of governmental actions. It must remain clear that democracy is sustained only when values like

transparency, fairness, and accountability continue to be honoured. We could even consider that disobedience justified from this point of view is a form of continued accountability to the government.

5.3 A fundamental purpose

With my discussion on Markovits and his account of democratic disobedience and democratic deficits, I have made clear that democracy is not only legitimate because of certain procedures in place, like a majority vote, but also because of its contents, and the adherence to certain values and principles. Civil servant disobedience can accommodate democracy instead of threatening it. But in asserting this, it is strange that there still appears to be this innate conflict between disobedience and adhering to one's role as a civil servant. Stephanie Collins discusses this conflict. Collins, in her article *Role Obligations to Alter Role Obligations* says: "When such conflicts arise, role-occupants face the question: does morality trump roles, or do roles trump morality? Many forms of role-based protest –such as employees' whistle-blowing or citizens' taxation boycotts –can be seen as motivated by the conviction that morality trumps role" (Collins 2023, 200). As she argues and as I will also argue, this conflict is not necessarily there. Morality and role obligations are not opposed in such a way that they can be in conflict. I will argue, thus, that under certain conditions, disobedience is part of the role obligation of a public official. More fundamentally, we could question if we should, in some situations, refrain from calling it disobedience. Perhaps we could call this noncompliance. Morality in this sense is thus not external to one's job obligation as a civil servant, but rather internal, already presupposed from the role obligation itself (Collins 2023, 200).

Let me start by discussing what Collins calls a fundamental purpose. As Collins explains, to find out what a true role obligation is, we must consider what the institution's fundamental purpose is. For civil servants, their 'institution' is the government, in its bureaucratic sense. The overall purpose created by the normative structure of its institution is what also creates the other obligations (these could be, among others, the four role obligations I have been discussing so far). Stephanie Collins has, in her essay, referred to this as an organization's fundamental purpose (Collins 2023). This fundamental purpose is what civil servants should adhere to. It is the obedience to this that should thus really be considered obedience.

As Collins goes on, we can distinguish between two sets of demands: imposed and derived demands. In short, imposed demands are the demands that are imposed on civil servants in virtue of the role they occupy. These demands are a result of the image there is of a civil servant. The image of a civil servant leads people (this can be bosses, colleagues, or even those outside of the organization yet closely connected) to infer certain demands. These demands are not derived from the fundamental purpose but exist as a result of the image. They are the demands people expect from civil servants, not based on the fundamental purpose, but from a separate image of what they consider the obligations.

On the other hand, the derived demands are demands deriving from the organisations' fundamental purpose as presented in a certain context. Meaning, they are demands based on the fundamental purpose of that role, and can thus conflict with the imposed demands. These demands are directly derived from the fundamental purpose and not from someone's image of that obligation (Collins 2023, 208-9). The use of this terminology helps to create a clear distinction between those obligations that are imposed on a civil servant and those obligations that are directly derived from the fundamental purpose of the organization. It helps a civil servant establish whether the role obligations they're facing come from a derived demand or an imposed demand. Therefore, to follow one's derived demands is always in line with the morality that is presupposed in that fundamental purpose, presupposed in their role obligation.

Those obligations we feel out of imposed demand are then, according to Collins, not true role obligations and thus can never induce a role-versus-morality conflict, as they are not genuine role obligations to begin with. Only derived demands can create true role obligations and will never conflict with an external sense of morality. The demands are themselves already derived from a fundamental purpose that predisposes morality.

I suggest further research can accommodate what the fundamental purpose of the Dutch government could be. It could be, following Kant, a universal 'rule' for all citizens in the country. Or it should, following Aristotle, be formulated in such a sense that every citizen can create their best version of their happiest life. We must build on the ground principles to which we want to hold our Dutch citizens. Pool relates to Aristotle's theory and states that we should focus on the good life: *eudaimonia*. "This 'living well together' –with as individual cause: to the best of our abilities be human: with collective cause: the circumstances necessary to realise the best life for everyone..."(Pool 2021, 136, my translation). It is for my

argument as well as the scope of this thesis impractical to fully articulate a fundamental purpose here. Therefore, I will in this thesis not consider an articulation of a fundamental purpose of the Dutch government. But it is an important question and a significant problem that presents itself from Collins' theory. How do we distinguish imposed from derived demands, and who determines the fundamental purpose? This remains something that needs continuing philosophical thinking and discussion. Something I certainly hope to invoke with this thesis.

In her paper, Collins raises a possible counterargument. Since the derived demands are derived from those fundamental purposes an organization has, what happens when the fundamental purpose of an organization is morally dubious? As an example, Collins talks about the fundamental purpose of 'making profit' as famously discussed by Milton Friedman. This fundamental purpose can create role obligations that are morally unjust, like corruption, while still being in line with the fundamental purpose. In this case, there seems to be a clear role-versus-morality conflict; the role obligation to make as much profit, and the moral concern that these means might be morally wrong or harmful to others. Collins answers this by explaining that the fundamental purpose of an organisation can never trump the fundamental purpose of the system the organisation itself is embedded. Collins states: "Thus, the role-bearer's fundamental obligations include a prohibition on corruption, lying, forgery, theft, and so on, if those actions are prohibited by the system that gives the organization's fundamental purpose its normativity-production legitimacy" (Collins 2023, 212). Thus, apart from the derived demands that create a role-obligation, the role obligation is only legitimate as long as it abides by the side constraints of those fundamental demands for the institution it's embedded in. "This demand comes from the morality, if not from the social system in which the organization acts. [...] Role-occupants bear fundamental role obligations to perform their roles in ways that abide by side-constraints" (Collins 2023, 213). This seems very promising, as it would be regressive if organisations were to create their fundamental purpose outside of the set moral rules within the system it is working with.

Still, it also raises the following question for my current debate. This line of reasoning is complicated when discussing the state as an organisation in this scenario. Because the state is an organization within a system or institution, or is the state the institution or system itself? I would say it is more likely the latter, because what else could be imposing the government with rules and prohibitions? States exist in a system that is not so tangible. Governments are the result of years of consensus among the general population. To establish what moral

system states are embedded in throws us back into the ambiguity of establishing the moral identity of an entire nation. It seems we will soon fall back to a philosophical debate about the absolute normativity of a state. We open up a metaethical debate about which universal moral rules a state needs to abide by. Therefore, I would be inclined to say that the fundamental purpose is already established with a universal moral concept in mind, namely that states are established to better the lives of citizens. And though clear formulations are practically important, I believe it should not prevent us from at least trying to continuously talk about what the fundamental purpose of the Dutch government is. Consider again my discussion on Applbaum and dissent. Civil servants can consider, with their own judgments, what should be morally just. For this, they should question themselves what is the justification and reasoning behind their dissent. The presence of a fundamental purpose helps civil servants establish for what purpose they are fighting.

While Collin's notion of a fundamental purpose is not without its flaws and ambiguities, its underlying direction resonates with the central aim of this thesis. If civil servants act disobedient not out of self-interest or defiance, but in defence of democratic principles, does this not warrant a serious re-examination of how we conceptualize such disobedience? The three objections previously discussed; epistemic concerns, concerns for neutrality and concerns for the legitimacy of our democracy, underscore the persistent tension between the individual judgement and moral agency of civil servants and how this opposes the majority will. Yet, this framing presumes that majority rule alone defines democratic legitimacy. I have argued instead that democratic governance is not exhausted by majority will; it is equally constituted by a plurality of core values such as justice, equality, accountability, and the protection of rights. If we accept that the fundamental purpose of a democracy encompasses this broader constellation of values, then civil servant disobedience undertaken in their defence may not only be justifiable but perhaps necessary. Should we consider it to be part of their ("derived demanded") role obligations? We must be compelled to reflect more carefully and critically on the conditions under which civil servants act disobedient, and on the normative frameworks through which we (and they) assess them.

Conclusion

I started this thesis with a case of government wrongdoing in The Netherlands. As a specific example I discussed the Dutch Childcare Benefits Scandal. Eventually, with the help of civil disobedience, government wrongdoing came to light. This case put forward, among other questions, the question of my thesis: should we be fundamentally opposed to civil servant disobedience?

In the first two chapters I have made conceptually clear that role obligations have moral value and I have, with the help of the civil-servant-law and a dialogue report, considered four general role obligations for civil servants. A civil servant is disobedient when they go against these obligations. I have specified that not all role obligations have equal moral weight. So, disobedience should always be assessed in virtue of the moral weight of *all* the role obligations.

In the second half of this thesis I have discussed arguments against civil servant disobedience. These are three fundamental concerns why civil servant disobedience should not be allowed and why it cannot be justified. Respectively, these are the arguments of epistemic concerns, neutrality and impartiality, and democratic legitimacy. For all arguments I have discussed possible objections and gave my own counterarguments. Though all three objections show serious concerns about fundamentally allowing civil servant disobedience, they each have their own problems.

In chapter three, I have argued that epistemic uncertainty is too demanding. Civil servant disobedience can specifically facilitate creating more clarity about government wrongdoing. Furthermore, there are cases where I believe wrongdoing is not as controversial, and where disobedience can accommodate just solutions. In chapter four, I have argued that the expectation of neutrality from civil servants is not only unrealistic but also harmful to the general politicization. Civil servants must be accepted to have moral agency and they must therefore critically assess policies and act accordingly. Therefore, disobedience, when grounded in reasonable moral judgment, should not be fundamentally prohibited. In chapter five, I have argued that arguments against civil servant disobedience, based on concerns for democratic legitimacy, presuppose a legitimacy based only on majority rule. Instead of this form of *procedural democracy*, I argue that other values must be separately upheld—e.g., values of transparency and accountability. To make sure these democratic values are

continuously upheld (its fundamental purpose), civil servant disobedience and dissent can help. Disobedience, therefore, does not have to be anti-democratic, but can accommodate it.

In light of these discussions and conclusions, I argue that we should *not* be fundamentally opposed to civil servant disobedience. In fact, civil servant disobedience *is* democratic. I believe that we might even consider dissent or justified disobedience to be part of the role obligations of a civil servant. This conclusion could spark new discussion about in what cases we should still consider their disobedience “disobedience”.

I would like to clarify again that the purpose of this thesis has not been to establish *when* civil servant disobedience is justified. Nor have I mentioned with great detail under what specific conditions a political mandate can be considered illegitimate or unjust. This has not been the aim. Rather, I have tried to show that on a fundamental level, civil servant disobedience can be justified and must not be ignored or written off. The critical moral judgments of civil servants should at all times be voiced, heard and considered. I believe we therefore must let go of a taboo or standard that all civil servants must do is to be obedient and stay silent in times of internal conflict. Even so, this thesis is thus limited. I do believe that we must try and make more explicit how government wrongdoing can be assessed, or exactly how civil servants can test if their dissent or disobedience is morally justified. I thus hope to have provided an account for why, fundamentally, civil servant disobedience can be justified. This allows for further research into the disobedience of civil servants.

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