

Collective Responsibility in the State

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It is common practice to hold states responsible for their wrongdoings. Consider the following examples: In the aftermath of the Second World War, West Germany accepted responsibility for the crimes of the Holocaust, and transferred compensatory payments to the State of Israel and to diaspora Jewish survivors (Colonomos and Armstrong 2006). In 1991 the United Nations Compensation Scheme held Iraq responsible for its invasion of Kuwait, and imposed on it compensation payments to individuals and businesses that were harmed by its actions. In 2015 CARICOM – the umbrella organization of Caribbean states – issued demands of apology, compensation and investment in rehabilitation from European States, based on their historical involvement in the transatlantic slave trade (CARICOM, 2015).

It is also a common view that citizens are responsible for their state's wrongdoings. Consider the following examples: In 1947 the German philosopher Karl Jaspers wrote an influential text - *The Question of German Guilt* - where he identified four different senses in which German citizens share guilt for the Nazi administration's crimes (Jaspers 2000).

In 2014 dozens of Israeli Military Intelligence Officers signed a letter in which they announced their refusal to continue to serve in the Israeli military, in light of its record of human rights violations, and their responsibility as citizens to oppose them (8200 Refusniks letter, 2014). And (by far more controversially) in 2005 a terrorist blew himself up in a crowded London Underground train. He justified his actions by referring to the responsibility of British citizens for the British Government's policies in the Middle East (*The Guardian* 2005).

However, recent philosophical literature suggests that assertions about state and citizens' responsibility are not as straightforward as they might appear. Even the few examples I mentioned raise various challenges. The first is conceptual: in what sense are states and citizens responsible for wrongdoing? Does the claim translate into the idea that a state and its citizens are *blameworthy* for wrongful policies? Does it follow that they ought to apologize, offer compensation and even be punished when they commit such wrongs? These are all very different meanings of what being responsible means, with various practical implications. A second challenge is normative: the idea of collective responsibility that underpins claims about state and citizens' responsibility might appear to be in tension with common individualist sensitivities, according to which people should be held responsible for what *they* do and not for other members of their groups do. In their discussion of state responsibility in international law, Crawford and Watkins (2010: 290) phrase this worry well:

“In virtually every case of state responsibility, the population that is eventually called upon to carry the costs of responsibility includes members who are, by any standard, morally blameless. [...This] may seem as unfair and ethically

backwards as the treatment meted out under primitive systems of collective responsibility in which whole tribes or nations are subject to reprisals.”

Finally, even if we are able to resist these conclusions, and to offer a solid argument for why citizens are responsible for their states’ actions in a way that does not violate our individualist sensitivities, there is the question of the scope of that responsibility: are citizens always responsible for their state’s wrongdoings, or might some citizens be off the hook? And does the argument apply equally to all regime types, from radical totalitarian states to advanced democracies?

Each of these questions has received attention in the burgeoning literature on collective responsibility in the state. My goal here is to provide an overview of these debates and to highlight what I think are some of the most promising solutions they offer to these challenges. The chapter develops as follows. I first overview the various conceptual ways in which states and citizens might be responsible for state wrongdoing.¹ I then turn to whether, and how, states are responsible in their own right for their wrongful policies. Finally, I explore whether individual citizens are responsible (in the various senses I identify) for the wrongs committed by the state.

Collective Responsibility: Conceptual Clarifications

As discussed elsewhere in this volume, the term responsibility has multiple meanings. Authors on collective responsibility in general, and on collective responsibility in the state in particular, offer various typologies and definitions (e.g. Goodin 1987; Miller 2007). For the purposes of this chapter I shall use a broad distinction between two

meanings of the term. The first denotes culpability or blame (I will use these terms interchangeably): A blameworthy agent is liable to, or deserves to be met with, appropriate reactive attitudes for her transgression: resentment, anger, and (in the case of a legal violation) legal punishment. Blame in this sense attaches only to agents who acted (or failed to act) in ways that brought about (or failed to prevent) a wrong; who acted (or failed to act) in a culpable state of mind (i.e. purposely, knowingly, recklessly or negligently), and who had sufficient level of control over their choices and actions (Fischer, 1999).

The second conception of responsibility is what David Miller (2007) refers to as 'remedial responsibility'. It concerns the tasks or duties agents need to perform in order to fix a wrong. In the context of state wrongdoing these remedial liabilities are likely to involve the following tasks: (1) to put an end to the on-going unjust policy (as argued by the Israeli Refusniks) (2) to compensate those who were harmed by a wrongful policy (as did Germany and Iraq) (3) to offer remedies that go beyond direct compensation to the victims (as demanded by the CARICOM committee) and perhaps even (4) to take steps to ensure that similar wrongs will not occur again (e.g. by introducing new regulations or new institutions).

This distinction between culpability and remedial responsibility bears some similarity to Iris Marion Young's influential distinction between 'backward looking' and 'forward looking' responsibility (Young 2004: chapter 4). Young introduces these terms in her discussion of responsibility for 'structural injustices'. Such collective injustices (e.g. the

appalling working conditions in the global apparel industry) are caused by the uncoordinated interactions of vast numbers of individuals operating under shared practices and norms. Young argues that we should avoid attributing ‘backward looking responsibility’ which blames specific individuals for their past contributions to these wrongs, and instead focus on the forward-looking ‘political responsibility’, which requires agents to engage in a political process of change. I shall return to Young’s cautions against backward-looking responsibility later in the chapter, but for now it’s important to note that culpability and remedial responsibility are both ‘backward’ and ‘forward’ looking: If an agent is culpable for wrongdoing, then most likely she will have some forward looking remedial obligations to compensate the victim, to offer an apology and perhaps even to incur punishment (Tadros, 2011). Furthermore, as David Miller (2001) points out, like culpability, remedial responsibility can be grounded in backward-looking factors (i.e. factors that relate to facts that happened in the past): for example, people can be responsible for putting a wrong to the right because they have caused that wrong, because they have benefited from it, or indeed because they are morally responsible for it.

I now turn to examine what *collective* responsibility means. A useful distinction here is between ‘corporate’ and ‘shared’ (or collective) responsibility. Corporate responsibility describes the responsibility of a group, over and above that of the members. For example, public international law holds states (rather than their individual citizens or members of cabinet) liable to pay compensation for their wrongdoings (Crawford, 2007). Shared (or collective) responsibility refers to the responsibility of individuals for what they do

together in groups, in light of their contributions for the collective wrong. The extent and scope of each member share of responsibility depends on her position in the group and her relation to the collective harm. Sometimes, each member of the group plays such a pivotal role that each shares responsibility for the collective wrong itself. Consider for example a gang of three criminals, who co-plan a bank robbery and divide the task between them: A is the lookout, B is the getaway car driver, and C opens the safe. In this case, given their respective roles as co-planners and executors of the crime, we would commonly think that A, B and C all share responsibility for the bank robbery itself (cf. May, 1996 38). But in other cases, such as for example wrongdoings committed by very large, or highly hierarchical groups (like the typical state), some members play a much less pivotal role in the planning and execution of the wrongdoing. As we shall later see, in such cases it is far less clear that each member is fully responsible for the wrongdoing itself. Precisely these cases raise concerns about holding people unjustly responsible for things that are beyond their control.

Holding states responsible

Article 1 of the ILCC Articles on State Responsibility clearly states that “every international wrongful act of the State entails the international responsibility of that State” (Crawford 2007 77). Public international law is also clear that this responsibility is corporate - it attaches to the institution of the state itself - a complex system of legal and political institutions that are coordinated under a single decision making process – rather than to specific individuals within it (see discussion in Crawford 2007: 28-36).

But although the idea of state responsibility is common in legal practice, several philosophers remain uncomfortable with that idea (Hindriks, 2014). Normative individualism, the view that what fundamentally matters, morally speaking, are individual humans (and perhaps other sentient beings) might seem in tension with the claim that states are in themselves actors that are responsible for their actions, at least in the moral sense. Because, the objection goes, states lack the relevant attributes to be moral agents: as corporate agents they are not real persons, they have no minds of their own and do not engage in moral reasoning. Therefore, it would be nonsensical to blame them for their wrongdoings. Furthermore, at least on some views of punishment, which see it as a form of moral dialogue with a perpetrator, it would also make little sense to punish states, given their lack of dialogical capacities.² Perhaps there are pragmatic reasons to treat states as fictional, legal persons, and to assign them some forward looking compensatory duties, but ultimately, moral responsibility for state policies lies with the individuals who play their role within the state apparatus (Fabre 2016).

However, recent voices in the burgeoning literature on corporate agency challenge these assertions. These views hold that groups can be moral agents in their own right, and morally responsible for what they have done, over and above their members. One highly influential account of corporate moral responsibility has been offered by Christian List and Phillip Pettit (2011). They focus on structured groups with central decision making procedures and enforcement mechanisms. As List and Pettit show, such groups cannot rely on a simple majoritarian decision making process, as it is likely to lead to conflicting

beliefs and goals at the group level. In order to maintain rationality over time, such groups must adopt a decision making procedure that ‘collectivizes reason’: i.e. it collects members beliefs and desires on various separate premise, and then aggregates them on the basis of a logical combination. When groups adopt this type of decision making process (and they often do), their beliefs and goals become ‘functionally independent’ from those of their members, and the group can end up ‘believing’ or ‘desiring’ that are distinct from what some or even all group members believe and desire. As List and Pettit conclude, such groups have a ‘mind of their own’, which supervenes upon, but is functionally independent of, the minds of their individual members (65-72). Given that such groups have a mind of their own, they can qualify as moral agents, who understand and respond to moral reasoning. As List and Pettit conclude, a corporate entity of this type is the appropriate subjects of moral evaluation, and “has to answer as a whole for what it does at the corporate level, drawing on the resources provided by its members” (163).

List and Pettit’s influential account of corporate moral agency has been used to show that states too are moral agents (Tanguay-Renaud, 2013. cf. Erskine 2001): they are unified organizational actors, which set and follow laws and principles, and which have stable decision making processes and binding authority structures that ensure organizational autonomy and rational consistency over time (e.g. constitutions, defined role responsibilities and internal accountability mechanisms). Their decision-making process ‘collectivize reason’ in the way List and Pettit’s suggest and therefore they can meet the requirement of moral agency. As such they can be morally responsible when they act

wrongly (e.g. declare an unjust war) or negligently (e.g. fail to prevent a culture of implicit racism). If we accept this view, it follows that states are not just responsible in a thin, legal sense. Rather, they are the appropriate subjects of reactive attitudes like anger and resentment, directed at the state itself, as the agent that plans, directs and orchestrates the actions of its members. This idea gives further grounding to current legal practices, and also suggests they can be taken a step further. Currently, international law does not recognize states as criminal wrongdoers, and does not subject them to criminal punishment. But if states are moral agents, then there may be good reasons to expand criminal international law so that it applies to them as well (whether this is a change that is feasible, given the structure of international relations, is a separate question) (see Tanguay-Renaud, 2013; Wringer 2016: 154-177).

List and Pettit developed an influential framework for thinking about corporate moral agency in general and that of states in particular. However, as some commentators have noted, their novel conception of corporate moral agency also opens up a host of questions about the moral status of corporate agents and their place in our moral universe. For example, should corporate moral agents follow the same normative standards we deploy for individual agents, or might they have their own special morality? And if states are indeed moral agents, over and above their members, does it also follow they have own moral rights, which deserve protections in and of themselves? These important questions require further exploration in existing literature.

I have explored so far the idea that states are corporately morally responsible for their wrongful policies. But what about their citizens? Much attention has been paid in recent years to the question of the responsibility of individual group members for collective harm in general, and for state harm in particular. I'll examine these debates first with relation to moral responsibility and then with relation to remedial responsibility.

Citizens' Moral Responsibility

As I noted in the introduction, the idea that citizens are to *blame* for their government's actions raises concern for normative individualism, given that one of its key tenants is that, guilt, or blame, may attach only to offending actors, in light of their own state of mind and actions. As Joel Feinberg famously put it, "there can be no such thing as vicarious guilt" (Feinberg 1968: 676). Blaming a citizen for the wrongdoings committed by her government, just because she is a citizen of that state, violates this widely-accepted principle. However, on the other hand, even supporters of the idea of corporate moral responsibility warn against it becoming a form of blanket exoneration for all citizens, who might use it to argue that they are "only acting on behalf of the truly responsible party, the State itself", and are therefore immune from either moral or criminal liability (May 2005: 139).

Clearly, even when it is the state that commits a serious wrongdoing, there will be at least some individual members within the state who will share the blame.³ This applies most clearly to high-level officials and policy makers, who have prominent influence on the

state's decision-making process. One interesting puzzle in this context concerns the gap between policy-makers' actions and the actual wrongdoings: often policy makers are not the direct perpetrators of the wrongs committed on behalf the state. They contribute to the shaping of the state's decision to, for example, engage in an unjust war, but they do not fight or commit human rights violations on the ground. Are they morally responsible for acts that they themselves have not taken part in? Scholars of international criminal law suggest that the answer to this question is positive: leaders of states are responsible for crimes committed by their soldiers when they have ordered these crimes, and even when they are merely aware of them and failed to prevent them (May 2005: 139-143).

In his discussion of the normative foundations of prosecutions of crimes against humanity, Larry May goes even further. He argues that central policy makers such as heads of state are morally (and criminally) responsible for the very collective wrong the state commit – e.g. engagement in an unjust war, because they are the ones who set the intentions of the state, so its criminal state of mind can be attributed to them (140). However, this claim is in tension with the corporate moral agency I have described earlier. As we saw, on that account the state's mind is not reducible to the state of mind of any of its individual members, including its policy makers. Precisely for that reason, as Tracy Isaacs suggests, all members of an organization, including policy-makers, share responsibility for their *contributions* to the state's collective wrongdoing (Isaacs 2011: 106-111). These contributions might be central and even essential for the wrong to have taken place, and such factors will increase the seriousness of the relevant individual wrongdoing. In some very rare cases, an individual might be in such a pivotal position as

to be morally responsible for the state's wrong itself (as were the three criminals in my earlier example). Whether or not that is the case, we should not assume that holding such individuals responsible for their contributions to the state wrongdoing substitutes holding the state responsible as well.

Holding policy makers morally responsible for state wrongdoing may seem fairly straightforward. But what about ordinary citizens?⁴ Do they share the blame for what their government does? In answering this question it is worth noting that the line between 'policy makers' and 'ordinary citizens' is not that easy to draw. At least in democratic states (and to an extent in some non-democratic states as well), citizens can be 'policy makers' too in the sense that they contribute to the decision-making process and to the execution of state policies: they vote for the political parties in charge, and have various other formal and informal channels of influence on their political representatives. They also pay the taxes which are used to execute state policies, and they contribute to the state apparatus by obeying the state laws. If, as we saw, policy makers can be morally responsible for their contributions to state wrongdoing, should not ordinary citizens be blamed as well? A negative answer to this question might follow from Young's analysis of "backward looking responsibility". As I mentioned earlier, Young warns against holding ordinary individuals to blame for their participation in collective structural injustices which, she explains, are "produced and reproduced by large numbers of people acting according to normally accepted rules and practices". In such scenarios each participant's contribution to the outcome is untraceable, and therefore it is not at all clear that it makes any difference for which one can be blamed (Young 2011, 100). For

example, it is impossible to draw a direct causal link between a single citizen's income tax payments and her state's engagement in, say, violations of the codes of just war in the course of a military operation. The state mechanism is such that specific contributions are not linked to specific outcomes.

Furthermore, Young points out that most participants in structural injustice do not act with the relevant guilty state of mind. Their contributions to the on-going injustice are the outcomes of habitual conventions and practices. Those who perform them do not intend to contribute to the wrong, and they don't engage with "explicit reflection on the wider implications" of what they do (107). Not only that, but thirdly, refusing to contribute to the state apparatus can be extremely difficult. Ordinary citizens participate in their state in a wide variety of ways, and it is hard to think how one can entirely abstain from making such contributions. Even if that were possible, it is likely to entail high personal costs. Given all these difficulties, one might draw the conclusion that pointing the finger of blame at citizens for the wrongdoings of their governments is misguided. And it might also be counter-productive: rather than motivating citizens to act against the wrong they are part of, a "rhetoric of blame in public discussion of social problems [...] usually produces defensiveness and unproductive blame-switching" (Young, 2004:378-9). As I noted earlier, Young suggests we should instead engage in a different "forward-looking" strategy, which assigns all citizens the role of bringing an end to their state's wrongdoing, regardless of their share of blame for it.

Young offers a powerful critique against backward-looking responsibility in the context of collective structural harms. However, might she be letting ordinary citizens off the hook too quickly? In answering this question we should separate her strategic and substantive critiques against the ‘rhetoric of blame’. Whether or not blaming ordinary citizens is politically counterproductive is by and large an empirical question, which cannot be settled here. But it’s worth noting that some commentators argue that blame (and praise) can actually play a constructive role and incentivize actors to “seek good actions in the future and avoid bad ones” (Nussbaum, 2001 ii).⁵ Setting this strategic question to the side then, Young’s substantive critiques of the backward-looking model of responsibility have been critically examined in recent debates. Some authors suggest, *pace* Young, that attributing blame for participation in structural injustices is possible: First, because a contribution need not make a traceable difference to the outcome in order to satisfy the causality condition of moral responsibility (for extended discussion see for example Kagan 2011; Nefski forthcoming). Second, because individuals who contribute to a collective wrong need not necessarily intend to commit that wrong: it suffice that they are aware that their actions contribute to some wrongdoing (Lepora and Goodin, 2013: 80-81). Thirdly, all agree that if citizens have no choice but to contribute to their state wrongdoing, they are excused. But it is far from clear that all citizens are equally coerced to contribute to their state’s wrongdoing. More affluent citizens, for example, often do have the resources to cope with legal and financial costs of civic resistance to state injustice, including the refusal to contribute to the state apparatus (Thoreau, 1991). In fact, as Eric Beerbohm (2012) has argued, especially in democratic states, where public officials are acting in the name of the citizens, citizens, and especially those with

the resources to do so, have a democratic duty to engage in political activity to ensure that their representatives act justly. Beerbohm's notion of democratic duty is closely related to Young's claim that citizens have a forward-looking political responsibility to resist structural injustices. But, as Beerbohm points out, what follows from it is that, when citizens negligently fail to comply with their forward looking political duties (i.e. assuming that the costs of such engagement are not too high for them), they become blameworthy for their failure, and for its consequences. Young's plausible assertions about forward looking duties then have important backward looking implications which might be overlooked, given the sharp conceptual distinction she draws between forward- and backward-looking responsibility: if one has a duty to resist injustice, and one fails to do so without a reasonable excuse, then one becomes morally responsible for her contribution, via omission, to the ongoing occurrence of the injustice ((Nussbaum 2004: xxi).

To conclude the point, on the one hand, sweeping attributions of blame to whole populations (as did the terrorist in the example that opened this chapter) are wrong and misguided. Holding citizens and policy makers for state wrongdoing must take into account their own actions, omissions, intentions and choices. But, on the other hand, ordinary citizens cannot use the collective nature of state wrongdoing as a shield against attributions of personal blame. Given their citizenship status and their inevitable contributions to the state apparatus, each citizen has a special responsibility to ensure that unjust policies are counteracted. What, and how much, each citizen is expected to do is a complex and difficult question. But clearly citizens who have the capacity to act and yet

do nothing to resist unjust policies, even when the costs of resistance are fairly low, share some blame for the consequences. Given the limited scope of their actual and potential contributions, the scope of their blame will be fairly low. But it may justify some moral responses: self-reproach and shame (Abdel-Nour 2013), and some moral censure from fellow or other citizens.

Citizens' Remedial Responsibility

I now turn to examine the question of citizens' remedial responsibilities. As we saw in previous sections, it is commonly assumed that when a state commits a wrongdoing, it incurs forward-looking remedial duties to address that wrong, including investing resources to end the wrong, compensation to its victims and investing resources in correcting the factors that led to the wrong (e.g. faulty decision making procedures and culture). On the corporate account, these duties fall on the state in the first instance. But in order to execute them, clearly the state must draw on its citizens' resources, e.g. in the form of increased taxes or reduced services. This has been referred to as "the distributive effect" of state responsibility (Pasternak 2011). Is there a normative justification for it?

One affirmative answer to this question is provided by Stephanie Collins (2016). As we saw earlier, there are various factors that determine which agents are responsible to put a bad situation right, including moral responsibility for the wrong; benefit from the wrong, association with the victims and even mere capacity to act. Collins argues that once we identified the source of the state's remedial duties to put the bad situation right, we can

justify the distribution of the burden amongst the citizens, as long as it is done in accordance with the same factor that grounds the state's remedial duties. For example, if the source of state's remedial duties is its moral responsibility for the wrongdoing, then citizens who also share moral responsibility for the wrong should be expected to share the burden, in proportion to their level of blame. Here, as we saw in the previous section, various factors will determine citizens' level of blame, and corresponding share of the burden: the centrality and proximity of their contributions or omissions to the state wrongdoing; the extent to which they knew, or should have known that they are contribute to a wrongdoing; how enthusiastically they were acting; and the extent they could have avoided contributing in this way (Lepora and Goodin, 2013: chapter 4).

Collins' "source tracking" model gives a sound rationale for why, and when, citizens are remedially responsible for the state's wrongful policies, and - importantly - her rationale is compatible with normative individualism, as each citizen's burden is determined in light of their own actions and omissions. But one difficulty this model faces is that it is hard to implement in practice, given the size of the state, its complex structure and the varying levels of blame of the different actors within it. Collins (352) points to some ways of addressing these difficulties. For example, she argues that taxation can target activities that we consider wrongful contributions to state wrongdoing (e.g. in the context of climate change injustice the state can raise resources by taxing polluting activities). However, even if these proposals are implemented, it is hard to avoid the conclusion that given the highly complex structure of the state, and the type of information the source-tracking model requires, it is going to be impossible to fully implement it. Indeed, if we

look at political practice (e.g. the case of German or Iraqi Reparations with which I opened this chapter), we find that usually states deviate from this model and instead use resources from the general tax pool to pay for their wrongdoings. Does doing so constitute a wrong against the citizens who are not to blame for their government policies (e.g. those who protested against the wrong), or who bear less blame than say, high-ranking policy makers? Or can a distribution that does not track blame be normatively justified? In the rest of this section I will explore two models that offer a positive response to this question.

The first model is developed by Anna Stilz (2011), and revolves around the idea of democratic authorization. Stilz's starting point is Kant's theory of legitimate state authority. Kant famously argues that all persons have a basic, natural right against unjust interference from other agents, and also a basic, natural duty to respect the freedom of others. These rights and duties justify the existence of the state, because they can only be respected under a joint political authority which will coordinate individuals' actions and subject them to shared laws. A state that performs these functions has the right to be obeyed by its subjects, and it is also authorized by them, in the sense that they grant it the right to act in their name. But not any state that subjects citizens to its laws is authorized by its citizens. Rather, the state must pass a threshold of moral acceptability: it must respect its citizens' basic liberal freedoms, guarantee their equality before the law, comply with basic requirements of distributive justice; and give all citizens equal democratic rights. Stilz argues that when a state complies with these conditions, its policies are authorized by each of its citizens, even those who disagree with a specific policy. For

even when a citizen disagrees with a specific policy, given that the state crosses the threshold of moral acceptability the policy remains a 'plausible interpretation' of what the state may do in her name. In that specific sense, each citizen's will is "implicated" in the state's policies, and each citizen "has a reason to "own up" to what an authorized state does" (Stilz 2011, 198, cf. Parrish 2009). Owning up means accepting a share of the task of discharging the state's remedial responsibilities, when it acts wrongly. Importantly, each citizen's share of the burden need not necessarily be determined by her level of moral responsibility.⁶ What grounds citizens' remedial duties is the fact that as free and equal members of the state, their will is implicated in their government's actions. Stilz's model seems well placed to justify then a distribution of the burden that is spread amongst all citizens. Even citizens who protest against the unjust policy of a reasonably just state are implicated in it, and ought to share the burden.

However, one lingering worry concerns this account's core claim that citizens authorize the reasonably just state to act in its name, and that therefore they are implicated in its actions. As we just saw, according to Stilz, the authorization is objective – it is grounded in the characteristics of the state itself and not in the citizens' subjective perceptions of their citizenship status. But, as David Miller (2004: 245) points out, a core guiding principle in matters of distributing collective responsibility is that "as far as possible, we want people to be able to control what benefits and burdens they receive ...". Arguably, the claim that citizens authorize their state and share responsibility for its policies regardless of their own subjective attitudes to these policies is an overly restrictive

requirement, which gives citizens too little control over the extent of their remedial responsibilities.

A different attempt to explain citizens' remedial responsibilities, which does pay attention to their internal attitudes, revolves around the concept of collective action. There is by now a very rich literature on the meaning and normative implications of this concept (see Roth, 2017). One influential model within that literature is offered by Christopher Kutz (2000). He suggests that “[c]ollective action is the product of individuals who orient themselves around a joint project” (67). Kutz argues that all participants of collective action share a participatory intention to act as part of the group or to contribute to a collective outcome. Furthermore, he argues that when agents intentionally participate in a collective action, they become the “inclusive authors” of that act – part of the “we” who performed the act. As such, they are complicit in it and remedially responsible for its outcomes (122). These obligations, he explains, “mirror the nature of their participation” as members of a joint venture (201).

Like much of the literature on collective action, Kutz's analysis focuses primarily (but not exclusively) on relatively small-scale groups like military units and business corporations. However some authors (e.g. Jubb 2014, Pasternak 2013, cf. Kutz 2002) have argued that the model of participatory intentions could be scaled up to the state itself, and can explain why citizens are remedially responsible for their state policies.⁷ The idea here is that the state is a site of collective action, and that citizens are acting together in their state, as they perform their various roles in it state (paying taxes, obeying

the law, voting etc.). Performing such actions amount to orienting oneself around a collective project, that of maintaining the authority of their state and its ability to execute its plans. As participants in the state itself, citizens are inclusive authors of its policies – they are part of the “we” who decides upon and executes these policies. They therefore ought to share in the task of undoing the wrongful impacts of their state policies.

Like Stilz’s democratic authorization model, this model can justify a distribution of the burden that does not track each citizen’s personal moral blame. The explanation is related to the subjective, intentional feature of participation in collective action. When people decide to orient themselves around a joint project, they take certain risks upon themselves: when we act together with others, we lose some control over the action and its consequences. Sometimes the result would be beneficial to us, but sometimes it would incur unexpected burdens on us. This will be the case, for example, when a source-tracking distribution of the burden of the type Collins envisions is too difficult or too costly to implement. In such scenarios, it is not unreasonable to expect of all citizens who intentionally participate in their state to part also in the task of assisting their state discharge its remedial responsibilities. This would simply be a burden that they risk having when they engage in collective action of this type. But given that the justification for this burden revolves around citizens’ intentional stance, it gives citizens more control over the scope of their liabilities than Stilz’s objective account. Indeed, this account is able to explain the remedial responsibilities of citizens even in states that fail to pass the standard of moral acceptability. Consider again the case of Nazi Germany, which I mentioned in the introduction. This regime surely did not pass Stilz’s test of moral

acceptability. Yet many people might think that it was not unjustified to impose duties of compensation on its population in the aftermath of the war. As Robert Jubb (2014, 60-61) explains, one way to support this common intuition is by reference to the popular support on which the Nazi regime relied, and the general consensus on its right to rule. Many citizens in Nazi Germany were intentional participants of their regime, and hence shared remedial responsibility for its wrongdoing (regardless of whether their support was morally excused).

Given this approach's emphasis on the import of citizens' subjective, internal stances towards their state, at least some of its advocates (e.g. Pasternak 2013, for critique see Jubb 2014) suggest that intentional participation generate remedial duties only when it is genuine. Genuine intentional participation does not mean consent. Clearly, Citizens do not consent to become members of their state – most of us are born into are citizenship status, and few of us have the option of giving it up without considerable cost. What I mean by genuine participation is that citizens do not view their citizenship status as something that is forced on them against their will, and that they would have given up if they could. When individuals do view themselves as coerced to take part in a collective venture that they deeply resent, it seems wrong to argue that they ought to take responsibility for the outcome; if anything they are the victims of that collective project rather than its inclusive authors. But when citizens endorse their citizenship status, in the weak sense that they do not resent it, and would not have given it up if the opportunity was there, they are genuine participants in this collective venture.⁸ In reasonably open states, which respect their members' basic rights, people are free to develop their attitudes

towards their citizenship status (Pasternak, 2013; for a related account see Miller 2007). And many, indeed most, citizens in such reasonably decent states do not see their citizenship status as something that is forced on them against their will, even at times when they disagree with their current governments' policies. Consider again the Israeli Refusnik's letter which I mentioned earlier: it seems that these soldiers' membership in their state is in fact a constitutive part of their identity, and the reason why they see themselves under the duty to act when they disagree with its policies.

Unlike Stilz's democratic authorization model then, the intentional participation model seeks to hold citizens responsible and at the same time to give them some control over the extent of that responsibility, by leaving open the option that they reject their citizenship status. But here too challenges remain. First, not all agree that the models that explain collective action in the context of relative small groups can be scaled up to the state: the highly complex and hierarchical nature of the state, which places citizens at a great distance from actual policy making, casts doubt on the extent to which citizens are indeed intending to take part in each of its actions, and the extent to which its actions are attributable to them (see discussions in Shapiro 2014; Lawford Smith forthcoming). Second, the model seeks to leave open the door for citizens to negate their responsibility for their state's actions, but the fact that it relies on the internal attitudes of citizens for doing so raises important challenges: How can policy track these attitudes? And what do citizens need to do in practice in order to show that their participation is not genuine especially given that, as a matter of fact, most cannot leave their state?

To conclude, I have explored in this section various models for justifying citizens' remedial responsibilities for their states' wrongdoing. These various models attempt to balance between, on the one hand, offering a justification for the distributive effect that gives citizens adequate control over their responsibilities, and on the other hand offering a model of distribution that states can adopt in practice. As we saw, the various models I discussed offer different answers to the correct balance between these two considerations. But they also share some important insights. First, they confirm that many, indeed most citizens in reasonably just state will share some remedial responsibility for their state's wrongdoing. Second, they all suggest that we should be much more cautious about assigning remedial responsibilities in states that do not pass some threshold of moral acceptability. Consider the oppressed citizens of a dictatorship like North Korea. While they contribute to their state policies, and at least some of them do so enthusiastically, none of the models I discussed here would support the claim that they are either morally or remedially responsible for their government's policies. Given the dire conditions in North Korea, it is clear that most ordinary citizens will have valid excuses, from the fact of coercion to that of extreme manipulation that will exonerate them from moral responsibility for their limited contributions to their state's policies. And the fact that the North Korean State fails to meet basic standards of moral acceptability implies that its citizens are not genuinely participating in it, nor that its actions are reasonable interpretations of their rights (Jubb, 2014). It follows then that often in those regimes that commit the most egregious human rights violations, collective attributions of responsibility to the citizenry are the least plausible.

Conclusions

This chapter has provided a review of recent debates on state and citizens' collective responsibility. As we saw, recent philosophical literature on the nature of corporate agency has given a boost to the idea that states are morally responsible agents, and that when they do wrong they are the appropriate subjects of moral reactions, from resentment to anger and even criminal punishment. On the other hand, as I emphasized throughout, we should be careful not to conflate our moral reactions to the state with our moral reactions to its citizenry as a whole. Moral blame attaches only to citizens who wrongly contributed, or failed to prevent their state wrongdoing, and in proportion to the centrality of these contributions to the wrongdoing. But according to at least some models, remedial responsibility can be distributed amongst all, or nearly all, citizens in light of their membership status in the state (assuming the state complies with the conditions I outlined).

These assertions have important pragmatic implications. For example, they can help to assess the various demands for compensation for state wrongdoing with which I opened this paper. As we saw, these demands were targeted at wrongdoer states, in light of their atrocious actions. However, at the same time, given the corporate nature of the state and the distributive effect, it was the populations of these countries who felt the impact of burden. The analysis here cast doubt on the normative justification of this burden in some of the cases: Iraq, for example, was ruled at the time of its invasion to Kuwait, by a highly oppressive and brutal regime. Given its treatment of its own population it is highly

questionable the population should have been held remedially responsible for the regime's crimes.⁹ This is not to deny that the victims of this state's atrocities ought to have been compensated. But the discussion here suggests that when the state fails to meet certain conditions, the international community ought to look for alternative compensation schemes, that would not excessively burden the population of the wrongdoer states (see some suggestions in Fabre 2016: 166-68). On the other hand, the analysis suggests that were the democratic states that participated in the 2003 invasion of Iraq demanded to pay compensation for the serious harm they inflicted on the Iraqi population, then the distributive effect of that burden could be justified to American and British citizens, in light of the democratic nature of their state and/or their participation in it. Furthermore, many of these citizens, who regularly contribute to the democratic state and who had sufficient information about its policies, share at least some level of blame for the wrongdoings committed on their behalf.

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End Notes:

¹ My focus here is on responsibility for wrongdoing. States and Citizens can be responsible for policies which are not wrongful and even praiseworthy, and that responsibility may carry with it various entitlements (e.g. to the fruits of a beneficial policy).

² For review of these critiques see Wendt 2004.

³ List and Pettit note that conceptually, there can be cases where a group agent is to blame but none of its citizens will share the blame (166). But in reality it is hard to see how such cases can come about.

⁴ Another important question, which I lack the space to discuss here, concerns the moral responsibility of non-citizens for state policies: for example the responsibility of migrant communities for the policies of their hosting states, or the responsibility of diaspora communities for the policies of the state with which they have strong cultural ties.

⁵ The impact of blame would change from context to context. For example, post-conflict societies often avoid using a blame-based model when apportioning reparations for the crimes committed during a recent conflict, precisely because of concerns about the disastrous political effects this model might bring, including instigation of further conflict.

⁶ Stilz is careful to separate moral blame and forward-looking task responsibility. She thinks that given that many citizens have done nothing wrong, and object to their state policies, they do not share blame for what it does. Nevertheless, it is authorized acts in their name, and in that sense their will is implicated in its actions, and grounds their task responsibility (Stilz, 2011-194-195)

⁷ Another influential work that understands citizenship as collective action is offered by Margaret Gilbert (2006).

⁸ On this weak endorsement view, a citizen need not harbor especially positive views of her state. The citizen may be indifferent to her state, or have merely instrumental reasons to take part in it. Such weak attachments are sufficient to ground genuine participation.

⁹ For analysis of the German case see Jubb 2014. The CARICOM committee claims raise additional challenges about state responsibility for past wrongdoing. See Butt for a good starting discussion on this issue.