

**Moral Responsibility in Nonconsensual Democratic States**

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## **Introduction**

In international law states are considered legal persons which can be held responsible for their actions. This assumption is used to justify demands for reparations by states for the wrongs they have committed. But while states are considered legal persons, it is the role occupants of states which make the actual reparations, and the citizens whose resources are extracted if reparations require this. In this paper, I will discuss the topic of responsibility in relation to states. Here, I will focus both on the topic of holding states responsible for wrongdoings and holding them responsible for reparations on the basis of such wrongdoing.

Recently, Anna Stilz argued that, as international law implies, states indeed possess some form of personhood which justifies the assignment of responsibility for wrongdoings to them. By proposing such an account, she follows in the footsteps of philosophers such as Philip Pettit.<sup>1</sup> He argues that groups of individuals can collectivize their reason and that the collective thereby becomes a moral agent with distinctive intentionality. Furthermore, Stilz view is inspired by Peter French's argument that collectives can exhibit intentionality, rationality and the capacity for changing its courses of action. This, according to French, suffices to hold that an agent has the normative status of a moral agents that can be held blameworthy for its actions.<sup>2</sup> Importantly, Stilz doesn't focus on justifying these viewpoints proposed by Pettit and French. Instead she attempts to uses these viewpoints as the starting point of her discussion in her article 'Collective Responsibility and the State'.

In this article, Stilz does two things. Firstly, she argues that legitimate states can justifiably redistribute their responsibilities to make reparations to their members. What is distinctive about this approach is that Stilz grounds her argument in her Kantian views on political authority. From this Kantian perspective, rights to freedom, equality and independence cannot be made determinate if there is no state authority. Commitment to these values necessitate accepting the authority of states which are considered legitimate. Here, Stilz identifies equality and freedom with justice. As such the claim is that justice demands the construction of a state if one does not yet exist, or partaking in a

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<sup>1</sup> See: Pettit, "Responsibility Incorporated".

<sup>2</sup> See: French, "Blaming Whole Populations: The American People and The Iraq War".

state if a legitimate state is available.<sup>3</sup> Indeed, from this perspective one can be submitted to a state non-voluntarily.<sup>4</sup> The reason for this is that Stilz thinks that freedom should be understood in terms of independence. That is to say, to be free is to be uncoerced or unconstrained by others. This in turn implies three prerogatives. Firstly, our interaction with others cannot diminish their freedom as independence. Secondly, independence should be equal amongst individuals. That is to say that any limitation or restrictions of independence ought to be reciprocal. Thirdly, the individual's freedom should be a freedom to interact with the external world. Here, the idea is that individuals should be capable of setting their own goals and undertake action to achieve these (within the limits of the second prerogative). One might, for instance, set the goal of becoming a painter, which requires that one can interact with the external world by actually painting. Why, then, does this require the state? Primarily, the reason is that according to the Kantian framework only some rights are innate, like the right to freedom and equality. But other rights are acquired. Such rights, while not innate, are a necessary requirement if one's innate rights are to be of any substance. An example of such right is the right to property. While one does not have an innate right to property according to the Kantian view of Stilz, it is nonetheless a necessary requirement if one is to be truly free and independent. To be a painter, for example, one does not just require a formal freedom to interact with the outside world, but also a long-term possession of painting tools. The problem here, is that property might be a necessary requirement from this perspective, but what the acquired right to property actually entails is initially indeterminate. As such, acquired rights have to be defined in such a way that they are consistent with the three prerogatives. This, says Stilz, requires a state because without state individuals would be justified in unilaterally interpreting their acquired rights. I might for instance believe that equality requires a form of shared property, while another might believe that independence requires that one has sole ownership over some portion of property. This is problematic because unilateral interpretation of rights brings with it the risk of disagreement. If multiple individuals interpret their acquired rights to property differently, for instance, one risks that disagreement about these rights is solved with force. Such a system of rights, then, would not actually be about rights but about

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<sup>3</sup> Stilz, *Liberal Loyalty*, 28.

<sup>4</sup> *Ibid.*, 37.

force.<sup>5</sup> To circumvent such a situation, individuals have a duty to establish or partake in the state.<sup>6</sup>

What is at stake for Stilz by introducing the Kantian framework of political authority is that, from this perspective, being subjected to the authority of a state is not voluntary. Subjecting oneself to the authority of a state is a duty instead. This, however, prompts some questions by Stilz in regards to of the topic of moral responsibility. This is the case because Stilz believes that redistribution of responsibilities for reparations for wrongdoings by a collective requires a special justification. In many collectives, Stilz holds, voluntary association justifies such redistribution. But given the coercive nature of the state such as argument does not work here. Regardless of this, Stilz believes that the Kantian perspective implies another reason that justifies such redistribution of responsibilities to make reparations. Here, the idea is that a legitimate state is authorized in redistributing responsibilities because of its legitimacy. This legitimacy, however, is conditional on democratic circumstances According to Stilz because only these conditions can ensure the rights to freedom, equality and independence. The principle to justify redistribution of responsibilities, then, she calls the 'democratic authorization principle'. Here, the point is that a legitimate democratic state is authorized to redistribute its responsibilities for reparations for wrongdoing to its members.

Secondly, Stilz attempts to strengthen her theory by arguing that it is also very desirable from a normative perspective because this theory can help us solve what Copp calls the 'responsibility shortfall problem'. Here, the alleged problem is that taking a view which makes agents such as humans the locus of moral responsibility while not allowing for collectives to be such entities could lead to situations in which individuals that are acting collectively commit wrongdoings for which none of them can be held morally responsible.<sup>7</sup> As such, says Stilz, no one would seemingly be required to make

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<sup>5</sup> Ibid., 37-41.

<sup>6</sup> One crucial question in regards to Kantian theories of political authority is why one has a duty toward one specific state, and not all legitimate states or the state which is 'most' legitimate. Why, for instance, does a Dutchman have a duty toward the Netherlands and not to Belgium if both these states are equally just? Stilz affirms that this is indeed a problem for the Kantian framework. In 'Stilz, *Liberal Loyalty*, 197-204' Stilz fleshes the Kantian framework in democratic terms to deal with this problem for Kantian theories of political authority

<sup>7</sup> Copp, "On the Agency of Certain Collective Entities," 216.

full reparations for the results of wrongdoings they are (partly) to blame for. Stilz believes that her theory circumvents this problem. Here, the general assumption of Stilz seems to be that any acceptable theory on collective responsibility should in the very least be able to provide a satisfactory answer to the responsibility shortfall problem.

While I believe that the Kantian perspective on political authority is correct, I think that there are some problems with Stilz' theory on responsibility. Primarily, I think Stilz is incorrect in believing that collectives can be moral persons. As such, I will do two things in my paper. Firstly, I will argue that collectives cannot be moral persons and can therefore not be held responsible for wrongdoings that 'they' have committed. Secondly, I will analyze what can be said about the Kantian framework of political authority in regards to the topic of moral responsibility. Here, the question will be what remains of Stilz' argument if one denies that collectives (or in the very least states) are moral persons. On the basis of this, my thesis will be that from a Kantian perspective on political authority which denies that states are moral person, the democratic authorization principle implies that it is not the collective but (a section of) the citizens of a state (understood in terms of a joint venture as opposed to a moral person) which are to be held responsible for the wrongdoings of the state. In regards to this, I will argue two things. Firstly, that analysis of the democratic authorization principle points out that citizens can often be blamed for the wrongdoings of their state. In a sense, then, the responsibility for reparations would often not be a consequence of redistributed responsibilities, but the consequence of one's own blameworthiness. Secondly, that it is sufficient to argue that the state is a joint venture (as opposed to a moral person) if one wants to argue that citizens can be responsible for making reparations for wrongdoings committed by their state, often even if these citizens cannot be held blameworthy for the wrongdoing.

To argue for my position, I will first discuss Stilz' views on collective responsibility in the second chapter. Here, I will discuss both the argument for collective moral agency, and the argument for justifying that states can redistribute their duties to make reparations for wrongdoings to their members. Then, in the third chapter, I will explain Stilz' view on collective moral agency in terms of Pettit's views on collective moral agency. My focus here is on Pettit's view because (1) Stilz offers very little argument in regards to the claim that collectives are moral agents, and (2) Pettit offers a robust argument as to *why* collectives can be agents which are *independent* from their members in the first place. As such, Pettit gives an in depth explanation of how we should understand the claim by Stilz (and French) that states can act as independent moral

agents.<sup>8</sup> Then I will provide multiple arguments against the view that states can be moral persons. First, I will describe the argument in Sosa's '*What is it Like to Be a Group?*' to argue that Pettit *might* be right to grant collectives agency, but is wrong in arguing that this justifies a normative status which would be required for Stilz argument. Secondly, I will argue that insofar as collectives do have intentionality, it is not independent of the intentionality of its members. This, I will argue, would undermine Stilz' argument for collective moral agency because it would imply that collectives are *constitutively* coerced, which (I will argue) undermines any attempt to argue that they have the same normative status as moral persons that ordinary persons have. In the fourth chapter, I will discuss the democratic authorization principle in more depth. Stilz argues that adherence to certain democratic principles justifies the redistribution of responsibility for reparations to members regardless of whether members have associated voluntarily. Here, I will primarily do three things. Firstly, I will analyze which form of democracy would be required. On the basis of this I will argue that that form of democracy is incompatible with Pettit's argument for collective moral agency. As such, even if collectives *could* be moral agents, it would be problematic if states were structured in such a way that they are such agents. Secondly, I will argue that my analysis of the democratic authorization principle implies citizen responsibility for state wrongdoing. Thirdly, I will analyze some additional consequences of the view I propose. More specifically, I believe my view has some consequences for (a) holding states responsible for what I will call 'historical wrongdoing', and (b) statements such as "The US is responsible for the deaths of innocent civilians as a result of the Iraq bombings."

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<sup>8</sup> Notably, Stilz herself refers to Pettit as an example of an author which defends her view in more depth. See: Stilz, "Collective Responsibility and the State," 192.

## **Chapter 2 – Stilz on Collective Moral Responsibility**

In 'Collective Responsibility and the State' Anna Stilz argues that states can distribute responsibilities for reparations resulting from state wrongdoing to their own members. Making such an argument seems valuable because large-scale political interaction always brings a risk of wrongdoing, regardless of intentions. Whether these are wrongdoings committed to the state's own members or members of other states, there seems to be one general problem with assigning responsibilities for reparations to states on the basis of their wrongdoing. An example might clarify this problem. Consider the US, which can possibly be held responsible for over 90000 deaths of civilians during the Iraq war.<sup>9</sup> Let us assume that this cannot be justified, and ought to be interpreted as a wrongdoing. Regardless of whether or not the initial war is just, one might hold that some targets of military actions were illegitimate because of disproportional amount of risks for innocent civilians, for instance. One might argue that the US has a responsibility to make reparations for the deaths of civilians. Making such reparations, however, requires resources and role-occupants which undertake the actions required for making these reparations. It is the members of states and not just the states themselves that bear the actual costs and burdens of a state's duty to make reparations or compensations as a result of state wrongdoing. State members, however, are often not clearly connected in a morally significant way to the wrongdoings committed by the state or the representatives of the state. They often did not make the plans for military action, and might be unaware of or (actively) opposed to the wrongdoings which are committed. In the case of the military actions by the US against Iraq, many US citizens seemingly have no substantial control over or influence in these processes. As such, it is not directly clear why and how

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<sup>9</sup> Stilz, "Collective Responsibility and the State," 205-206.

much a state can justifiably extract resources from its members to make reparations for the wrongs it has committed.

In what follows, I will explain the problems Stilz is dealing with in more depth. To do so, I will first discuss the notion of ‘collectives’ in more detail. Here, I will differentiate between two different basic interpretations of this notion. Then I will discuss the notion of ‘responsibility’ in more detail. Here too I will differentiate between two interpretations of the notion. After discussing collectives and responsibility in general, I will discuss Stilz’ position on collective responsibility.

### Responsibility & Collectives

The discussion on responsibility is complex, especially so in relation to collective responsibility. We need not just ask how and when one can be held responsible. We need also ask *what* or *who* is responsible when we say that, for instance, that the US is responsible for the deaths of civilians in the Iraq war, or the Dutch state is responsible for some portion of the slave trade which historically transpired.

#### *Collectives*

In general, the term ‘collective’ is very broad and can be meant to imply many forms of association amongst individuals. While I can hardly discuss all relevant literature, two major views seem crucial to discuss. One I will call the ‘collectives as goal-oriented groups’ view. The other I will call the ‘collective agent’ view. Both these views focus on collectives which are purposive in some sense. That is to say that both these views on collectives focus on groups of people that associate and cooperate with the intention to achieve a certain goal. ‘The police’, for instance, is (amongst other things) a collective of individuals that share the goal of maintain peace and order within the jurisdiction of a state or community. The two views, however, differ about how the police(wo)men relate to what we collectively call ‘the police’.

Clearly, this purposive form of association in collectives is different from another type of group which we might call a collective in some sense. One might be inclined to call groups of people such as supporters of a football club, or members of an ethnicity or culture a collective in the sense that they are a group of people that have something in



common.<sup>10</sup> Such an interpretation of what collectives are would focus on having certain qualities such as being of native American descent, or liking a certain football club. I do not mean to imply these forms of collectives, however, since these forms of collectives or groups do not necessarily imply a certain shared purpose or goal. It is true, of course, that such groups might have such purposes. But initially, they merely point out some characteristic or identity.

Let me, then, discuss the two relevant interpretations of what collectives are. Importantly, the ‘collective agent’ view as I am proposing it is merely adds an additional claim to the collectives as goal-oriented groups view. On the collective as goal-oriented groups view, a group of individuals is a collective if they share a joint goal.<sup>11</sup> One might call such groups joint-ventures, then. Initially, there seem to be two forms of such collectives. Firstly, mobs. Here, one might think of a group of football supporters who destroy public and personal properties after a football game, without there being a clear group structure during the mayhem. But such groups are not relevant for the current discussion. While they might be formed on the basis of certain intentions, they lack the organizational structure of states. As such, this might mean that the mechanics of establishing responsibility in regards to mobs is different. And even if this were not the case and the mechanics of establishing responsibility were the same, I have simply no interest in them in regards to establishing an argument as to why *well-organized* states can redistribute their responsibilities for reparations. As such, when I am speaking about goal-oriented collectives, I do not mean to imply groups of people such as mobs. Instead, I mean to imply certain groups of people with a well-defined organizational structure and well-defined intentions. At this point, I do not wish to delve too deep into the question what makes a group of people well organized in this sense.

On the collective agent view, there is more to be said about a collective than that it is a joint venture. On the collective agent view, one would hold that ‘the police’ is an ‘intentional subject’ or even a ‘moral person’. That is to say that the collectives exhibit certain qualities which justify us saying that collectives are moral agents which are

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<sup>10</sup> Isaacs, for instance, refers to such groups as aggregates in: Isaacs, *Collective Moral Responsibility*, 26-27.

<sup>11</sup> Isaacs, for instance, refers to such groups as ‘Goal-oriented collectives’ in Isaacs, *Moral Responsibility in Collective context*, 24-28.

capable of intending action or, we might even argue, can be held morally accountable for actions they have committed. Stilz makes such an argument and, following Peter French's and Pettit's lead, argues that collectives (such as states) exhibit four important qualities. To start, Stilz thinks that collectives are (1) *capable of intentionality or intending actions*. Furthermore, she holds that they are (2) *capable of grasping (moral) reasons*. On top of this she thinks that collectives are (3) *capable of controlling their own actions*. Lastly, she thinks that given that conditions (1)-(3) are met, collectives can (4) *act voluntarily* so long as they are not coerced by other entities or agents. It is qualities of this kind which are often believed to imply that an entity is a moral agent.<sup>12</sup> As such, it would be these qualities which would justify holding 'the state' responsible for wrongdoings because these qualities make the state an actual moral person.

Clearly, it is not immediately evident how collective agents exhibit these four capacities. Concerning (1), Stilz thinks that collectives<sup>13</sup> can establish intentions independent from their members because they have "an internal constitution that allows it to deliberate about its intentions and control its own acts."<sup>14</sup> Concerning (2), Stilz thinks that the internal constitution of collectives "allows the group to grasp moral reasons and examine evidence, through the agency of its role occupants."<sup>15</sup> Furthermore, collectives such as the state satisfy (3) because they can issue authoritative directives to members of the collective. As such it can deliberately control its own actions through the agency of its members which act as role-occupants. Lastly, condition (4) is satisfied according to Stilz because "*Through its decision procedures, the group can voluntarily change its intentions.*"<sup>16</sup> Here, the idea is that the collective should be capable to act according to (1)-(3) without being coerced by other agents. If the collective *is* coerced, this condition would imply that the collective is not responsible for the wrongdoings which occur as a result of its actions because the collective would not act autonomously.

Regardless of whether or not one buys into the argument that a collective can be considered a moral person, there is another good normative reason why one might want to take such a view. Imagine that the state *X* is a collective moral person. In this case the

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<sup>12</sup> As an example, see: Wallace, *Responsibility and the Moral Sentiments*, 154-194.

<sup>13</sup> In any case, the well structures collectives such as states that we are talking about.

<sup>14</sup> Stilz, "Collective Responsibility and the State," 192.

<sup>15</sup> *Ibid.*, 192.

<sup>16</sup> *Ibid.*, 192.

state, while intimately connected to its members, also retains its identity as state *X* even when its constituents completely change – for instance because all initial members die of old age and get replaced by another group of persons such as their offspring. If we hold that we can usually expect that moral persons make reparations for the wrongs they have committed, then this also implies that states have such a duty in regards to wrongdoings which have been committed some time ago. Even if all the constituents that were alive during the committing of the wrongdoing are long dead. In this sense, one might hold the Dutch state responsible for some portion of the transatlantic slave trade, and argue that the contemporary Dutch state can *still* be held responsible for the wrongs that have been committed by it centuries ago, at least so long as we can establish that it is the same moral person as it was back then.<sup>17</sup> How such responsibilities can be discharged is of course another question (that I will discuss later) because, as I have indicated, states possibly require their citizens (and their resources) to make such reparations. This, then, implies a difference between the joint venture and collective moral agent view which has substantial consequences from a normative viewpoint. In contrast to the collective moral agent view, a view which denies collective personhood would imply that to say ‘the Dutch state’ or ‘the US’ is not to point to a certain collective entity. Instead, one is merely using a figure of speech, so to say, to refer to a certain group of individuals whom are working together to achieve some shared goal. If one takes a view such as this, then one either holds that states do not conform to the qualities (1)-(4), or that these qualities are for some reason not sufficient to argue that an entity is a moral person which can be held morally responsible for wrongdoings. Evidently, such a view would seem to exclude the possibility of holding the contemporary Dutch state responsible for the transatlantic slave trade, at least insofar as no alternative argument is given.

### *Responsibility*

Given the topic of the current discussion, I will be focusing on *moral* responsibility as opposed to causal responsibility. To say that one is causally responsible for something is to say that one has played a causal role in the coming-to-be of a certain state of how things are. I am causally responsible for a vase being on the table if I put the vase on the

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<sup>17</sup> This might be harder than it initially seems. The question becomes how much the organizational structure and/or function and/or legitimacy of the state has changed between then and now. These factors might influence whether or not we can reasonably say that the contemporary Dutch state is the same moral agent as it was during the transatlantic slave trade.

table. Such causal responsibility does not necessarily imply any normative judgment about my action. The type of responsibility I am focusing on, however, implies such judgement, and is therefore distinct from causal responsibility.<sup>18</sup> Likewise, Stilz argues that one can have some responsibilities in the moral sense even if one has not played a causal role in the emergence of the moral wrongdoing which prompts normative judgement.

Two forms of moral responsibility seem relevant in my discussion of state wrongdoing. Firstly, what Stilz calls ‘blame-responsibility’. to be held blame-responsible is to be blamed for one’s actions. According to Stilz, if one possesses the qualities (1)-(4), then one is a moral agent and can therefore be blame-responsible for one’s actions in this sense. Secondly, what Stilz calls ‘task-responsibility’. Task-responsibilities imply a duty one might have to ‘repair a particular situation’.<sup>19</sup>

The primary focus of Stilz’ discussion about collective responsibility is on the relation these two forms of responsibility might or might not have. Initially, the two seem closely related in the sense that task-responsibilities are a special type of responsibility which arises as a consequence of blame-responsibility. It is different from, say, a Samaritan duty. For example, one might hold that all individuals have a Samaritan duty to help a drowning child. Importantly, however, this duty would not be a task-responsibility. Instead, task-responsibilities only form on the basis of a blame-responsibility. If my negligence results in a child almost drowning, I might have a task-responsibility to help the drowning child because I bear a certain responsibility which others do not have. Of course, others might still have a Samaritan duty to help the child if my attempts fail, but their duty is not based on their being blameworthy for the situation.

The crucial question for Stilz is whether or not one can also have task-responsibilities for wrongdoings one didn’t commit. If this were possible, then it would be possible that Agent *A* is blame-responsible for a wrongdoing, while agent *B* is possibly task-responsible for the wrongdoing. At first glance, such a statement might seem problematic. Intuitively, it would seem more reasonable to hold that one can only be task-responsible for wrongdoing if one is blame-responsible for it. Stilz’ argument, as

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<sup>18</sup> Note, however, that some argue that playing a causal role in a the coming-to-be of a wrongdoing implies moral responsibility. Iris Marion Young, for instance, argues that if one is part of a causal process or structure which results in a moral wrongdoing, then one is to be held morally responsible in some sense. See: Young, “Responsibility and Global Justice: A Social Connection Model.”

<sup>19</sup> Stilz, “Collective Responsibility and the State,” 194-195.

we shall see, is an attempt to argue that such an intuition would be wrong in the contexts of collectives. Here, she focusses on relations between different agents. The general idea is that special relationships justify redistribution of task-responsibilities to individuals that are not blame-responsible. These task-responsibilities would, of course, still be based on blame-responsibilities since they are not Samaritan duties, but the agent that would be held task-responsible would be different from the one that is blame-responsible. This is clearly crucial for Stilz argument since, as I have argued in the beginning of this chapter, States require that members that are often not blame-responsible for the wrongdoings of the state make the actual reparations.

Before discussing Stilz' argument, I would like to point out that the idea that special relations justify redistribution of responsibilities is not actually that strange. Consider a dog and its owner. If the dog were to kill the cat of a neighbor, it would seem reasonable to hold the owner of the dog responsible for making reparations for this wrongdoing, and not the dog itself or a random individual. Here, it is the special relation between owner and dog which justifies making the owner task-responsible. Of course, this example is somewhat different from the argument Stilz wants to make because Stilz wants to argue that states are moral persons, while we would hold that dogs lack the moral agency to be moral persons. Nonetheless, this example shows that it is not *prima facie* implausible that task-responsibilities can be redistributed on the basis of special relationships. The question now is whether or not such a special relationship can be established between a state and its members.<sup>20</sup>

### Stilz on Collective Responsibility

In the introduction I have discussed Stilz' views on the justification of state authority. Now, I shall discuss her views on citizen responsibility for state wrongdoing. Importantly, Stilz' beliefs in regards to political authority inform her views on responsibility. While her actual argument is more complex, her view comes down to the idea that when a state's authority is justified, that state is also justified 'to pass on responsibility to its members'

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<sup>20</sup> I do not wish to dispute that there are other plausible views on responsibility. And while I will not argue for the view I have expounded in this section, I would like to point out that the views like Stilz' are quite commonly accepted. See, for instance, Goodin's *Utilitarianism as Public Philosophy*, Miller's *National Responsibility and Global Justice*, Parrish's "Collective Responsibility and the State", or Pasternak's "Limiting State's Corporate Responsibility". All these philosophers propose a similar distinction, al be it not always in the same terminology.

for wrongdoings it has committed. In other words, if a legitimate state is blame-responsible for a wrongdoing, it may redistribute its task-responsibilities to its citizen because of a special relationship between these two. Importantly, then, she thinks that the state can be blame-responsible. That is to say that the state is a moral agent according to this view. I shall discuss all of this in more detail in this section. First, I will indicate why Stilz thinks that it is important that states are capable of redistributing their task-responsibilities to members. Secondly, I will indicate how responsibility can be redistributed in voluntary collectives such as corporations. This argument serves, like the dog and owner example, to clarify that there are situations in which task-responsibilities can clearly be redistributed. Important for Stilz' argument, however, is that states are at best non-voluntary, and at worst nonconsensual. As such, I will also clarify which special relation justifies the redistribution of task-responsibilities in non-voluntary collectives such as the state.

As I have pointed out, Stilz holds that states can be held responsible for their actions and outcomes thereof because they are moral agents because they possess four qualities which indicate moral agency. This will be described in more details shortly. I have also indicated that there are good normative reasons to argue such a thing, for instance because it enables us to hold states responsible for their actions even if their members die off and get replaced by new members. Given that states are not like natural persons that can actually *personally* interact with the outside world, one might wonder how a state becomes responsible for actions or outcomes thereof in the first place. Stilz clarifies by way of an example. Here, I will discuss her argument.

Imagine that the police of a state are planning to do a house search because they suspect that the owner of the house is associated with some major criminal activity. Before and during the house search problems stack up. While the house search of the house of criminal Arnold is initially justified, the Police Administrator (henceforth called P.A.) passes on faulty information to the team of policemen responsible for the search. Instead of informing the policemen that they have to search Arnold's house, a mix-up results in them being told to search elderly Bart's house. Bart, here, is an innocent citizen. Let us imagine that the mix-up is the P.A.'s fault because he didn't notice the house number 6 should've been a 9, perhaps because he was having an off day because he decided to watch a football game until early in the morning instead of getting sufficient rest on the preceding day. Usually such a mistake, while perhaps punishable, might've been relatively minor. This might be the case when the policemen doing the actual invasion find an old man sitting in a chair and decides to abort the mission, or another

agents notices the mistake beforehand. Imagine, however, that one of the policemen, Chris, is startled during the raid and accidentally shoots Bart. Luckily, Bart survives. Here, we have what Stilz would call an ‘emergent effect’.<sup>21</sup> A multitude of mistakes or wrongful actions lead to a wrongdoing which cannot be attributed to one agent, but is the result of different smaller wrongdoings by different agents. If the P.A. had not passed on the wrong information, Chris would not have been able to shoot Bart because he wouldn’t have been in the wrong house. If Chris had not shot Bart then the wrongdoing by the P.A., while probably worthy of blame, would not have been as severe as in the preceding hypothetical situation. This leads to a ‘responsibility shortfall’ says Stilz. While the P.A. is responsible for passing on the wrong information and Chris is responsible for shooting Bart, the emergent effect makes it that no one actor can seemingly be held fully responsible. The P.A. can shift blame by claiming that Chris should not have been so trigger happy. Chris can blame the P.A. for passing on the wrong information. Furthermore, the blame-responsibilities Chris and the P.A. *do* have on the basis of their wrongdoing seem relatively minor compared to the responsibility one would have if he were fully responsible for shooting Bart. This would imply that both have to make *some* minor reparations for their relatively minor wrongdoings, while the actual event would justify quite major reparations.

Here, Stilz thinks that a special relationship can justify that certain agents are task-responsible for wrongdoings even if they are not morally responsible. Imagine that Bart’s substantial medical bills have to be paid. Reasonably, we would hold that those who are responsible for the wrongdoing would pay these bills. Chris and the P.A., however, can both shift their blame. Here, Stilz thinks that we can do two things. Firstly, the P.A. and Chris can refuse to pay the medical bills of Bart. Secondly, we can argue that we are not just asking whether individuals such as Chris or the P.A. are responsible. We are actually dealing with a collective, namely ‘the police’, to which we can attribute responsibility as a whole.<sup>22</sup> Here, we see an additional reason why one might want to argue that collectives can be held responsible for wrongdoings. Since policeman Chris and the P.A. acted as role occupants of ‘the police’, and ‘the police’ can be held responsible for wrongdoings because it is a moral person, we can circumvent the problem of the responsibility shortfall resulting from the emergent effect and argue that ‘the police’ is responsible for paying Bart’s medical bills. This is the case because while Chris and the P.A. can only be

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<sup>21</sup> Ibid., 193.

<sup>22</sup> Stilz, “Collective Responsibility and the State,” 193-194.

held responsible for their own parts in the wrongdoing, the collective can be held responsible for the complete wrongdoing. As such, there would be no emergent effect. Note that this does not mean to imply that Chris and the P.A. cannot be held blame-responsible for their mistakes. We might still blame Chris for being too trigger happy and the P.A. for being too careless in passing on criminal Arnold's address. The point is merely that we hold them responsible for their individual mistakes, while we would hold 'the police' blame-responsible for the emergent effect of their mistakes – the shooting of Bart.

Stilz thinks that a responsibility shortfall is undesirable, and that holding the collective blame-responsible can deal with this issue because an argument can be made that 'the police' can redistribute its task-responsibilities to its members because of a special relationship. Here, one might of course disagree that responsibility shortfalls are problematic. One might argue, for instance, that it is unfortunate for Bart that he will have to pay his own medical bills because of a responsibility shortfall, but that it is nonetheless just because we cannot hold the P.A. and Chris responsible for the emergent effect. But to propose that as a counterargument to Stilz would not undermine her view. She is not arguing that responsibility shortfalls justify redistribution of task-responsibilities. Instead, she argues that there is a special relationship (which I will discuss shortly hereafter) which justifies redistribution of responsibility, and that the responsibility shortfall problem is an additional *normative* reason to make her view more desirable from a normative perspective. Here, Stilz' implicit assumption seems to be that a theory which permits the occurrence of responsibility-shortfalls is unacceptable from a normative perspective. She is unclear, however, about why this is the case. But even if one disagrees with Stilz in this regard, her special-relationship argument would still seem to hold.

This brings up another question. If we accept Stilz' argument, then the question is how 'the police' can actually discharge the task-responsibility resulting from its blame-responsibility. If 'the Police' as collective agent is blame-responsible for Bart's predicaments, who then discharges the task-responsibilities of this collective agent? The collective as agent is itself is not capable of discharging its task-responsibilities emerging from its blame-responsibilities without action by role-occupants. Is there, then, a special relationship between the collective agent and other agents (which are capable of discharging task-responsibilities) which might justify redistribution of responsibilities? For Stilz there is such a relationship. She argues that *'We appeal, then, to a principle of "tracking" individuals' associative acts in order to distribute the [collective's] responsibility*



*to its members.*<sup>23</sup> Here, the idea is that members of the police force, while each having their own private reasons, have joined the collective voluntarily. Because of the associative act of voluntary association, they are also liable to be task-responsible for the wrongdoings of the collective they associate with.<sup>24</sup> As such, the voluntary association of 'the police' by its members implies a special relationship which means that all members are liable for reparations. As such, the collective can redistribute its task-responsibilities to them. Notably, Stilz is somewhat ambiguous in regards to this redistribution of task-responsibilities. She does not clarify whether or not she is saying that members actually become task-responsible, or that it always remains the collective as agent which is task-responsible, but that it can merely force its members to discharge those responsibilities. Both interpretations, however, seem consistent with Stilz' argument. From the first point of view, task-responsibility would be actually redistributed. From the second point of view, one would not speak of redistribution of task-responsibilities, because the collective as agent would remain the only task-responsible agent. Instead, one might say that the individual members are only responsible (as members) for the discharging of the collective's task-responsibilities.<sup>25</sup>

The argument of associative acts, however, would not be useful in arguing that citizens are task-responsible for the wrongdoings of their state because association with states is not voluntary. Insofar as it is not voluntary it would initially not be evident why the state can reasonably redistribute its task-responsibilities to its members. Nonetheless, an argument why states can do so anyway seems quite crucial, especially if one accepts Stilz' intuition that responsibility shortfalls are problematic. States can commit major wrongdoings. Consider for instance what would happen if a state commits a wrongdoing during a (otherwise just) war, and is held responsible for the deaths of innocent civilians. Or, if a state is held responsible for historical slave trade and is therefore also liable for reparations. How can a state make such reparations without extracting funds from its members, that are either not causally related to the wrong committed or might even be against it? Given that the argument of associative acts cannot

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<sup>23</sup> Ibid., 194.

<sup>24</sup> Ibid., 194.

<sup>25</sup> In what follows I will continue of speak about redistribution of task-responsibility. I do so out of practical consideration, and not because I prefer one view over the other. Indeed, I believe both views are in fact problematic because collectives cannot be moral persons which can be held responsible in such a way. But this, I will argue later.

help us here, Stilz comes up with another argument which justifies a special relationship. This argument explains why members of states are task-responsible for the reparations for wrongdoings of their state.

### *States Passing on Task-Responsibilities*

Only one more argument needs to be illustrated to clarify why citizens can be held task-responsible for the wrongdoings of their state. This is the argument which provides the alternative to associative acts. As indicated, the Kantian holds that the state is necessary to establish freedom, equality and independence. At the same time, however, individuals are often under threat of punishment if they do not cooperate with their state. On top of this, it cannot be said that one can reasonably exit their state if they wish to be under no (coercive) obligation to cooperate with a state. Leaving is simply very costly from a financial perspective. Furthermore, it often requires that one sacrifices their ties with friends, family, culture and territory.<sup>26</sup> As such, even participation cannot be interpreted as a voluntary associative act since participation might simply be making the best of a bad situation. This brings us to the question how Stilz argues that collectives such as states can also pass on their task-responsibilities to their members.

As alternative to associative acts, Stilz introduces the 'democratic authorization principle.' According to this principle, the citizens' will is implicated in the state's acts insofar as the state is 'democratically authorized'.<sup>27</sup> This principle is closely related to the Kantian argument for political authority. Given that the state is necessary to establish and secure rights to freedom, equality and independence, it is authorized to redistribute its task-responsibility to its members. This is the case because the state's system of law is a necessary requirement for establishing and ensuring these rights.<sup>28</sup> Clearly, this implies that a citizen's will is only implicated in the State's acts insofar as this state is (at least minimally) successful in ensuring the necessary rights.

According to Stilz, authorization requires that the state should secure three things. Firstly, freedom for each member of society as a human being. This implies for Stilz that a

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<sup>26</sup> For an in depth discussion about the problems of consent theory in regards to political obligations, see: Simmons, *Moral Principles and Political Obligation*, 57-95.

<sup>27</sup> Stilz, "Collective Responsibility and the State," 198.

<sup>28</sup> *Ibid.*, 202-205.

legitimate state grants citizens a sphere of private freedom.<sup>29</sup> That is say that there is some sphere in which individuals can act in accordance with their own views, beliefs and ambitions without outside interference insofar as this is commensurable with the private freedom of others. Secondly, equality amongst citizens. This is a political form of equality which requires moral equality in the eyes of the state. What this actually entails, is highly debatable. Stilz argues that equality requires equal opportunity and basic subsistence. But such details need not concern us here. Thirdly, the independence of citizens. This requires that citizens are consulted in the lawmaking process, according to Stilz.<sup>30</sup>

Stilz argues that ensuring these rights require that a State is democratic. For this reason, Stilz calls her principle the '*democratic authorization principle*'. Stilz holds that the values of equality, independence and freedom entail democratic values for two reasons. She argues that 'If a state *credibly* interprets my basic rights exist, then I necessarily authorize it since I require its system of law to secure me against others' interference.'<sup>31</sup> This requires democracy according to her because (1) without democratic governance political procedures might privilege certain classes of people over others, and (2) democratic principles can help explain why equality amongst citizens is respected even when the outcome of public decisions on controversial topics is in favor of one group over the other.<sup>32</sup> That is to say, proper democratic process can justify why even if a public decision is in favor of one group over another, this is not a result of privilege but of deliberation amongst equals. This principle, then, takes the need for a consensual relationship of the picture. So long as the state reasonably interprets and protects the rights of an individual and those around him, he or she is implicated in the state's act even if he or she wishes to dissent.<sup>33</sup> This explains why citizens are task-responsible for reparations of wrongs committed by their state.

Notably Stilz does not intent to imply that democratic authorization is the only associative act which justifies redistribution of wrongdoings by a state to its members.

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<sup>29</sup> Ibid., 202.

<sup>30</sup> Ibid., 202-204.

<sup>31</sup> Ibid., 200.

<sup>32</sup> Ibid., 203.

<sup>33</sup> Stilz, "Collective Responsibility and the State," 205-206.

The point of the democratic-authorization principle is that it justified redistribution of task-responsibilities to members regardless of whether they have committed an associative act. That does not mean, however, that one cannot commit associative acts to a state which is not democratically authorized. While Stilz does not go into detail, she points out that explicit commitment by an individual to the actions of an unauthorized state might sometimes still imply an associative act, thereby an unauthorized state might still be justified in the redistribution of task-responsibilities to certain individuals.<sup>34</sup> Here, a supportive member might be held task-responsible for the wrongdoings of an illegitimate regime. The strength of the democratic authorization principle, then, is not that it is the only way to justify redistribution of task-responsibilities. Instead, the principle is valuable because it justifies such redistribution *regardless* of associative acts.

In conclusion, Stilz thinks that the state is a necessary condition to secure freedom or autonomy. Given the Kantian assumption that freedom, equality and independence are of fundamental value and that every individual therefore has the duty to secure these rights for both himself and others, one has a duty to cooperate with a political entity such as the state if this state sufficiently secures these rights. when certain democratic conditions have been met, argues Stilz, the state sufficiently secures these right. So although the State might be nonconsensual, under democratic conditions citizens have the *duty* to take on the state's task-responsibilities resulting from its wrongdoings. Here, the fact that individuals have such a duty replaces the requirement for associate acts. As such the state can redistribute its task-responsibilities in the same way that other collective moral persons can, only on the basis of another criterion.

### *The validity of Stilz' argument*

There are some problematic points in Stilz' argument. Firstly, the notion that states are moral persons requires a more thorough analysis. If the state is not a moral person, then Stilz argument becomes problematic because task-responsibilities derive from the moral responsibilities of the state in her theory.

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<sup>34</sup> Ibid., 197-198.

Secondly, I will go into more detail regarding Stilz' requirement that a state is a democratic for it to be able to justifiably redistribute task-responsibilities to its citizens (without necessarily requiring consent). I will analyze which qualities a democracy ought to have to justifying such redistribution of task-responsibilities. Freedom, equality and independence require a very specific form of democracy. Especially so in regards to contemporary large-scale democracies. The problem for Stilz here is that such a form of democracy is not compatible with the view that states are moral persons. This, I will discuss in the fourth chapter.

### **Chapter 3: Are States Moral Agents?**

Stilz' argument on responsibility assumes that collectives can be moral persons. Doing this enables her to argue that states can extract resources for its task-responsibilities from their non-morally responsible members. Here, I will discuss some problems with this account of collective responsibility. To start, I will discuss the notion that the state is a collective moral agent. Here, I will chiefly argue two things. First, even if collectives possess the four characteristics which Stilz believes are sufficient for moral agency, then there is still another characteristic it lacks. This argument will be based on Sosa's 'What is it Like to Be a Group?' in which he argues that moral agency requires consciousness. Secondly, even if collectives exhibit the four characteristics proposed by Stilz in some elementary sense, they do so in a way that is not sufficient for us to hold them blame-responsible. These two arguments, then, will both aim to undermine the idea that states are the kind of moral entities that can be blame-responsible. Before being able to discuss my counterarguments to Stilz, I will have to provide a more in depth explanation of how collectives can be moral agents. Unfortunately, Stilz does not explain this in depth herself.

Instead, she claims that Pettit offers a robust account on collective responsibility in 'Groups with Minds of Their Own'.<sup>35</sup> As such, I will focus on Pettit's account.

### Collectives and Moral Agency

Pettit focusses on the requirement of independent intentionality when arguing that collectives can be persons. Despite the focus on intention, which is just one of Stilz' four characteristics, Pettit's and Stilz' view can clearly be connected. Pettit claims that "*A system will count as an intentional subject only if it preserves intentional attitudes over time and forms, unforms, and acts on those attitudes (...) in a rationally permissible manner*".<sup>36</sup> Pettit, like Stilz, builds in a requirement of rationality and reasoning. Both, of course, do not claim that collectives reason as individual agents do. Instead it is the members of the collective which can reason for the collective as role-occupants, and it is their rationality that informs the attitudes and acts of the collective. Nonetheless, they believe collectives are independent agents in some normatively relevant sense.

How are collectives intentional agents? For Pettit, they are such in a purely functional sense. The focus on functionality here is quite crucial. Obviously, the way collectives form and display their intentions is quite different from the way humans do so. As such Pettit seems dissuaded from attempting to form an analogy between humans forming intentions and collectives forming intentions. From this perspective, then, we could also ascribe intentionality to a robot which randomly decides whether it will walk left or right whenever it is about to hit a wall. Its functional systems might be very different from those of humans, just like the systems of establishing intentionality in collectives are, but they have intentions nonetheless.

Importantly, however, there are two crucial differences between the robot and collectives insofar as collectives are agents. Firstly, collectives are made up of multiple *other* moral agents which are required for it to function. Secondly, collectives form intentions rationally. The robot in the example merely formed intentions, but there was no rational process in play because it's intentions were randomized. As indicated, it is the

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<sup>35</sup> See: Stilz, "Collective Responsibility and the State," 192.

<sup>36</sup> Pettit, "Groups with Minds of Their Own," 180.

members of the collective which (perhaps through deliberation as Stiliz would have it) enable the collective to be rational. But how can the collective agent form intentions distinctively from the intentions of the members if these members reason, deliberate and act for the collective? Pettit holds that collectives can be 'psychologically autonomous.'<sup>37</sup> That is to say, (certain) collectives can function in such a way that they can establish intentions and attitudes on the basis of the intentions and attitude of their members, but at the same time in a fully distinct way.

To argue for his position, Pettit introduces the *discursive dilemma*. The dilemma is as follows. Imagine that the members of a small three-person democratic community are discussing whether or not to collectively use some of their funds to build a wall to stop wolves from stealing their cattle and attacking their residents. Let us suppose that there are two crucial factors in deciding whether or not they should increase safety measures. Firstly, they ask themselves whether the wolves are indeed a serious danger. Secondly, they ask whether or not building the wall is an effective measure to counteract that danger. Imagine furthermore that only if an individual holds that (a) the wolves are a serious danger, and (b) the wall is an effective measure, that they vote in favour of building the wall. If, then, the three members would vote, the results could be as follows:

	Do we need protection against the wolves?	Will the wall protect against wolves?	Build the wall?
Person A	Yes	No	No
Person B:	No	Yes	No
Person C:	Yes	Yes	Yes
Collective decision:	Yes	Yes	?

Remember, the three citizens use majority vote to decide whether or not they will build the wall. In this situation, says Pettit, one could take two approaches to decide whether the collective builds the wall. Either a 'conclusion-centered approach' or a 'premise-centered approach'. In the conclusion-centered approach, the members simply

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<sup>37</sup> Ibid., 167.

count the votes for the concluding question of whether or not to build the wall. Here, they conclude that they will not build the wall because A & B vote against it, and only C is in favour of the wall. On the premise-centered approach, the members will ignore whether or not each individual person wants to build the wall. Instead, they tally the votes for whether or not the wolves are dangerous, and whether or not the wall would be an effective measure. Here, there is a majority for 'the wolves are dangerous' and a majority for 'the wall is effective'. Using the premise-centered approach, then, would imply that the community should build the wall even if there is no individual majority to do so.<sup>38</sup>

The dilemma, here, is whether or not the citizens should take a premise-centered approach or a conclusion-centered approach. Or in Pettit's words: "*The hard choice that a group in this dilemma faces is whether to let the views of the collectivity on any issue be fully responsive to the individual views of members, thereby running the risk of collective inconsistency; or whether to ensure that the views of the group are collectively rational, even where that means compromising responsiveness to the views of individual members on one or another issue.*"<sup>39</sup> Pettit think this is in fact a dilemma between either individual responsiveness or collective rationality. The conclusion-centered approach is fully responsive to the beliefs of the individual members. At the same time, it is irrational from the perspective of the collective because if we tally the votes for each premise, then it would be rational to build the wall. It is collectivisation of reason which can make the collective a distinctive intentional agent because it enables the collectives to have intentions and beliefs which are distinctive from the intentions and beliefs of the members.<sup>40</sup> Notably, Pettit believes that individuals have very good reason to collectivise reason in favour of individual responsiveness because he thinks that groups that do not collectivise reason will have trouble to be taken seriously by outsiders because such groups would have trouble with maintaining consistency.<sup>41</sup> Consider the example of building a wall. Here, we can see that majority vote indicates that protection against wolves is needed. Furthermore, we can see that majority vote indicates that a building a wall would be an effective measure. If, however, our collective remains individually

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<sup>38</sup> Ibid., 170-172.

<sup>39</sup> Ibid., 174.

<sup>40</sup> Of course, the process of collectivisation is much more complex in reality. Pettit rightly discusses at length how this choice between the two approaches would often get established diachronically. But these details need not concern us at this point.

<sup>41</sup> Ibid., 175- 178.



responsive, and decides not to build a wall because the majority believes it is not necessary, the inconsistency occurs. The collective both believes that we need protection against wolves and that a wall would provide this protection, and that it should not build a wall. This inconsistency does not occur if reason gets collectivized by way of a conclusion-based approach. The members have decided that a protection is needed, and that a wall provides protection. And therefore collective reason indicates that the wall should be build, regardless of whether or not individual members individually support the decision.<sup>42</sup>

### Criticizing the view that Collectives Are Moral Agents

We can see how Pettit's argument serves to clarify Stilz' claims in regards to collective moral agents. It gives us a way to interpret her claims that states can have their own independent intentions and reasoning while being in control of their own actions. But while Pettit offers a robust argument for the collective as agent view, I believe there are some criticisms to be made to Stilz even in the light of Pettit's framework. Here, I will discuss three problems.

To start, one can argue that there is a difference between *being* an intentional agent, and *functioning* as an intentional agent. Such attempts would quickly be refuted and rightly so. As Pettit points out, there is little reason to believe that biological matter like that of human beings has some non-physical qualities such as 'mental matter' which makes it distinct from other functional systems.<sup>43</sup> In this sense, human desire and intention might be more complex than functional collective desire and intention, but they are both intentions nonetheless. An argument such as this one, then, seems to fall short if one is to criticize Pettit or Stilz.

Yet I think a second option to criticize Stilz remains. As I have indicated at the start of this chapter, I think it possible to argue that intentionality is not sufficient for moral *personhood*. Here, the claim would be that there is a distinctive difference between intentional agency and personhood, and that this difference can tell us why persons can be blame-responsible, but 'mere' intentional agents cannot.

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<sup>42</sup> Ibid., 177-178.

<sup>43</sup> Ibid., 182.

Furthermore, there is a third method of criticizing Stilz. We might grant that there is no fundamental difference between *functional agents* and *human agents* because humans are simply functional systems too. But at the same time, I believe it possible to argue that the method in which the functional system produces intentions is relevant for whether or not we can hold that a systems intentions are distinctive from the intentions of others. In other words, I think that the way that collectives form intentions are not as distinctive from the intentions of their members as Stilz (interpreted in terms of Pettit's argument) would have them to be, even if reason is collectivised. Here, the argument will be that collectives are, unlike human intentional agents, *constitutively coerced*. This, I will argue, undermines any attempt to claim that collectives have the same status of moral personhood as ordinary human beings. This is especially salient in regards to Stilz' claim that moral personhood requires the (fourth) quality of being uncoerced.

A fourth problem will be discussed in a later chapter. There, I will argue that Pettit's framework cannot successfully applied to democratic states. Before I can argue this some things have to be said about democratic states which I cannot discuss in this chapter. As such I will postpone this discussion for now.

### *Moral Personhood*

The (second) argument that there is a crucial difference between agency and personhood, is made by Sosa in 'What is it Like to Be a Group'. This argument is not intended to show that groups cannot have any form of normative status at all. From Sosa's perspective, normative judgements about actions of collectives (or at least members thereof) can still be made. He does, however, argue that states do not have the normative status of moral personhood which humans have. As such, the normative status of groups would be distinctive of that of humans. The reason for this comes down to the idea that collectives, while capable of being functional intentional agents of some sort, lack the personhood that is required to hold them responsible in the way we hold human persons responsible. This means that Sosa's argument, if successful, can tell us why groups lack the normative status to hold them blame-responsible in the way that Stilz does

Central in this position is the claim that human persons have a special moral status because they have what Sosa calls a ‘unified locus of consciousness’.<sup>44</sup> Here, two things stand out. Firstly, the fact that collectives do not seem to have a consciousness. Secondly, while the members of collectives do have such a consciousness, this does not mitigate the collective’s lack of having it. In this sense consciousness differs from the capacity of reasoning and deliberation which collectives owe to their members according to Pettit and Stilz. This is the case because as Sosa indicates, even two centres of consciousness is one too many if we are to assign the normative status ordinary humans have to other entities such as collectives. As such, we can see that the ‘unified locus’ part of consciousness is crucial for Sosa. Now, I will discuss these views in more details. First, I will explain them in more depth. Secondly, I will explain how these views result in Sosa’s claim that groups have a different normative status than individuals.

When Sosa argues that groups do not have a consciousness, the argument comes down to the idea that there is a difference between having certain attitudes and intentions *functionally*, and having them *phenomenologically*. Here, Sosa points to the idea that when we say that a thermostat ‘knows’ it is 75 degrees Fahrenheit, we might accept that there is some functional similarity between a person knowing that it is 75 degrees and the thermostat knowing that it is. Nonetheless we resist arguing that the thermostat is consciously aware of this in the way that humans are.<sup>45</sup>

One might perhaps claim that this is true for a thermostat, but that collectives are different because their members do have a consciousness, and as such collectives have consciousness derived from that of their role-occupants. But even then we see a stark difference between human agents and collective agents. We do not hold that collectives have some kind of ‘super mind, floating over individual minds’. As such, no analogy between ordinary human persons and collective persons would hold even if they do functionally show capacities such as intentionality. Instead, a collective is more akin to a person with dissociative identity disorder. Or in more ordinary terms, multiple personality disorder. As an example, Sosa offers the story of Shirley Ardell Mason, a psychiatric patient with sixteen distinct personalities and identities. Like with collectives, we might be drawn to treat her as a single person or entity. But such intuitions would be problematic because there is no single way to experience how it is to ‘be’ Shirley Ardell

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<sup>44</sup> Sosa, “What Is It Like to Be a Group?”, 216-220.

<sup>45</sup> *Ibid.*, 219.

Mason. Her consciousness is disintegrated into multiple personalities. Here, one or more of Mason's personalities are analogues to the individual's part in a collective. But like collectives do not have a 'super mind', Mason does not have a consciousness or personality that overlaps all other personalities.<sup>46</sup> This example can show us why even two consciousness's in one agent is one too many for us to hold that such an agent has the same normative status as ordinary human agents.

Why is this the case? An example might clarify. Imagine first that an ordinary person steals something. Furthermore, let us imagine that corporal punishment is justified. In this case, it would not seem inappropriate to punish a part of that person. For instance, one might cut off a hand or a foot even if it is not that specific hand or foot that committed the crime. In groups and in cases of multiple personality disorder, however, things seem different. Imagine that it is one of Mason's personalities who stole something. It is quite clearly that we would approach such an individual differently in regards to their normative status and blameworthiness. That is not to say that Mason has no normative status at all. But if she were to commit a wrongdoing, we might be apprehensive with punishing or assigning responsibility in the way we would do so in regards to ordinary human beings. If one accepts that Mason indeed has multiple distinct personalities, then there would seem to be something unfair in punishing a personality which isn't responsible for the wrongdoing. Cutting off Mason's hand would also be a punishment for the personalities which weren't involved in the crime. Groups, here, seem analogous. If, for instance, the manufacturing department of a collective commits a wrongdoing, it would seem wrong to punish the accountancy department.<sup>47</sup>

One might argue against Sosa that there is a crucial difference between Manson and collectives which undermines the analogy. Pettit's argument is an attempt to show that collectives can be rationally consistent intentional agents. Individuals with multiple personality disorder, however, differ in this sense because the problem of assigning moral responsibility to these individuals arises because they are rationally inconsistent intentional agents. That is to say, the problem with assigning moral responsibility to such individuals arises precisely because their beliefs, behaviour and intentions are inconsistent as a result of their having multiple personalities. Here, one might argue that Sosa's argument does not hold because Pettit shows that collectives *are* consistent in this

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<sup>46</sup> Ibid., 213-220.

<sup>47</sup> Ibid., 215-217.

regard. But I think such a counter argument does not undermine Sosa's view. Instead, I believe we can best interpret Sosa's argument by focussing not on consistency of intentionality, but on the implication of agents lacking a form of singular personhood for the making of moral judgements and punishment on the basis thereof. What the argument shows is that if we attempt to hold Mason or collectives responsible for wrongdoings, we have to confront certain objections which we do not confront in the holding responsible of ordinary moral persons. These objections surface because there is no unified locus of consciousness which we can ascribe (blame-)responsibility to. This holds for both consistent and inconsistent intentional agents which are made up of multiple moral persons. The problem, then, is that *without* a super-mind floating over the respective minds of a collective's members or of Mason's multiple personalities, the aforementioned problems surface. Because these problems surface there is a clear distinction between ordinary moral persons and collective intentional agents as a result of the collective intentional agent not having a 'super-mind'. Here, Sosa's point is that *if* one attempts to assign the same normative status to collectives as to ordinary moral persons, then a super-mind is required to mitigate the problems that arise in regards to punishment of collectives because collectives, like Mason and all her personalities, are made up of moral persons with minds (and normative statuses) of their own. And there is little reason to believe that collectives possess such a super-mind.

We can see, then, that Sosa argues that even if collectives have functional intentionality of the kind Pettit claims they have, there still seems a reason to argue that collectives are not analogous to individuals in regards to normative status because the two are distinctive in regards to the capacity to consciousness. And as such, thinks Sosa, collectives merely derive their normative status from their members.<sup>48</sup> Here, I believe this view is in line with the collective as joint venture view. While we may make normative judgements about collectives, the fact that these judgements are derived from the normative status of the collective excludes the possibility to hold the collective blame-responsible as we would with an ordinary individual. Here, to say that 'Collective *X* is blameworthy for *Y*' is actually a statement that is derived from a normative judgement we make about a group of individuals that we can attribute membership of the collective *X* to.

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<sup>48</sup> Ibid., 217, 220-225.

Such a view, of course, would be problematic for Stiliz' argument. If Sosa is correct, then states cannot be held blame-responsible because the four qualifiers for moral agency seem insufficient to hold that entities are moral persons. While collectives might then be agents in the sense that they have intentionality, they lack the personhood required for blame-responsibility.

### *Collectives and intentions*

There is another problem for Stiliz' position. The problem is that the functional collective agent in Pettit's argument depends on other intentional agents being role-occupants for its functioning. The type of intentionality which is relevant to ascribe the normative status of moral agency requires a level of independence of reason and intention in relation to other intentional agents that collectives do not have. I am arguing, then, that collectives might have some elementary form of intentionality, but one that derives from the intentionality of members which are actual intentional agents. This argument, if correct, undermines Stiliz' position on two fronts. Firstly, it would deny the collectivisation of reason argument. This is the case because, as I will argue, the lack of independence of the 'collective intentional agent' implies that its reason is not distinctive from that of its members. Secondly and as a result thereof, I believe it would also deny that collectives are agents, or at least agents in the sense that is required for them to be blame-responsible for wrongdoings.

Let us focus, then, on the claim that collectives can have intentions which are distinct from the intentions of its members. An example of a situation where this is the case would be the case of a community building a wall to protect themselves against wolves. Here, the collective intention seems different from the intention of all its members. And if the collective is to be taken seriously, says Pettit, it would have to collectivise reason and build a wall regardless the beliefs of individual members. Or, in Pettit's words:

- “5. The group will not be an effective or credible promoter of its assumed purpose if it tolerates inconsistency or incoherence in its judgments across time; not all the actions shaped by those discordant judgments can advance, or be represented as advancing, one and the same purpose.*
- 6. Every such group will need to be an effective promoter of its assumed purpose and will need to be able to present itself as an effective promoter*

*of that purpose; it will lose any hold on members, or any respect among outsiders, if cannot do this.*

*7. And so every purposive group is bound to try to collectivize reason, achieving and acting on collective judgments that pass reason-related tests like consistency.”<sup>49</sup>*

But why is this a choice between collectivization of reason and individual responsiveness? Granted that groups of persons sometimes have good reasons to aim for collective consistency, this does not justify that collectives are functional moral agents. Like Sosa argues against the idea of a ‘super mind’ floating over individual minds, I would argue that there is no ‘super reasoning’ floating over individual reasoning. While Pettit makes no such claims in regards to collective reasoning, I think that there is good reason to hold that moral agency *would* require this.

Even if the collective decision to build a wall against wolves is inconsistent with the intention of all members that do not want to build the wall individually, the collective’s judgment and intention to build the wall regardless of this is still derived from the intentions and desires of the members. The intentions of members of a collective always remain constitutive of the intentions of the collective because the collective’s intention is still derived from the individual members’ intentions to be part of a collective which has a measure of consistency that enables it to be an ‘effective promoter of its assumed purpose’. In other words, the intentions of a collective such as a state still derives from the intention of its members to be part of a group of individuals who attempt to establish freedom, equality and independence. While individuals may at first glance disagree about whether or not building a wall around their state to protect themselves against wolves protects their freedom and independence, they intent it nonetheless insofar as they intent to be part of a collective which is an effective promoter of its purpose (to establish freedom, equality and independence). This, I believe, undermines any claim by Stiliz that a collective’s intentions and reason are independent of that of its members.

In a way, then, I am arguing that that collectivization of reason does not necessarily imply reduction of responsiveness to individuals. Insofar as it does, it only does so at in a superficial way. As such, the dichotomy between collectivization of reason and individual

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<sup>49</sup> Pettit, “Groups with Minds of Their Own,” 177.

responsiveness seems insufficient to support Stilz' views because 'collectivization of reason' does not imply fully independent agency in terms of Stilz' four qualities of (1) independent intentionality, (2) capability of grasping moral reason, (3) control over one's own actions, (4) acting voluntarily or uncoerced.

And since the intentionality of collectives is still derived of that of individual members, I believe that there is good reason to say that collectives and individuals are not moral agents in the same way. While Pettit might very well grant this claim, I believe Stilz cannot. Pettit merely seems to argue that *some* normative status can be derived from the intentionality of collective agents. Stilz' view, however, takes this a step further and attempts to ascribe a form of normative status in terms of the four qualities. Pettit's argument does not seem to support such a claim.

Indeed, I would hold that this argument implies we should make a distinction between ordinary intentional agent and collective intentional agents in regards to their respective normative statuses. This is the case because the intentions of collectives are contingent on the intentions of its members, I believe one might argue that collectives, insofar as they are agents of some kind, would be coerced at a *constitutive* level. Individual members are constitutive of the collective agent, and the collective's intentionality is dependent on the intentionality of its members even if reason is collectivized. For this reason, I believe that it is problematic for Stilz to hold that collectives and states possess the same normative status as human beings because collectives are not actually as independent as Stilz would have it. Therefore I think collectives are not agents in the sense that Stilz' argument requires them to be. We would not hold that entities which are unable to act uncoerced have the independence required for a normative status precisely because they lack the control over one's actions to be responsible for one's own actions. As such, assignment of blame-responsibility to collectives seems problematic insofar as she holds that responsibility requires that an agent has some measure of independence and is uncoerced. Given that being coerced is not conditional for collectives but constitutive, this is necessarily so.

As an example, imagine an individual that lacks the capacity to form his own intentions. Instead, whenever someone commands him to take a certain action, he takes that action. Here, we would hardly say that this individual is an intentional agent in the sense that it can be said that it is an agent capable of being blameworthy. That is to say that I think that once we take away the claim that collectivization of reason makes collective intention distinctive, collectives are much like this individual in the sense that



their intentions are fully dependent on other intentional agents. Of course, there are two crucial differences. Firstly, the collective usually derives its intentions from multiple 'commands' in the sense that its decisions are a result of a procedure in which many individuals have some influence. And secondly, the process these commands undergo in collectives before they become collective intentions is highly complex, especially if the members of the collectives wish for their collective to be an efficient promoter of its purpose. These difference, however, do not seem to undermine the analogy. Instead, they only seem to point out a difference in complexity of the process to establish intentions between collectives and the individual in the example. We would not hold that an individual whose intentions are dependent of others' in this way is an independent and uncoerced intentional agent in terms of Stilz' four qualities. Likewise, I do not believe we should hold that collectives are independent and uncoerced intentional agents in terms of Stilz' four qualities.

#### *Concluding Remarks*

The two arguments I have made seem to indicate that collectives cannot be moral persons in terms of Stilz' four qualities. In the next chapter, I will attempt to analyze what this means for a theory of responsibility. As shall become clear, my goal is not to completely steer away from Stilz' framework. Instead, I will attempt to modify the framework she provides to deal with the criticism I have offered here. furthermore, I will offer yet another argument against Stilz' position at a later point.

#### **Chapter 4: Responsibility in Democracies**

I have argued that collectives cannot be moral agents in the way that Stilz holds them to be. In this chapter I will analyze what view is justified in regards to collective moral responsibility for collective wrongdoings. Two questions are central in this analysis. Firstly, the question who is to be held blame-responsible for collective wrongdoing. Secondly, the question who is to be held task-responsible for collective wrongdoing. In regards to both questions, I will attempt to provide an answer to Stilz' responsibility shortfall problem. I hope to offer an alternative framework of responsibility which is able to give a satisfactory answer to this problem. Importantly, my discussion will focus on

states specifically and ignore other forms of collectives. Note that the argument I am about to make provides another reason why holding that states are moral agents is problematic. This argument, however, should not be interpreted as an argument against the view that collectives can be moral persons in general.

I will argue that one can hold members task-responsible for the wrongdoings of their state despite the state not being a moral person. This argument is, like Stilz', based on a Kantian framework of political authority. Like Stilz, I will focus on democratic authorization as justification for redistribution of task-responsibilities. To do this, however, I will first need to analyze what states are if not moral persons, and whether or not what they are is compatible with some form of the democratic authorization principle. In regards to this topic, I am all too aware that the democratic authorization principle might seem somewhat extreme. One might be put off by Stilz' statement that "*If a state credibly interprets my basic rights exist, then I necessarily authorize it since I require its system of law to secure me against others' interference.*"<sup>50</sup> The argument I will make, will be based on a similar statement. For this reason, I will analyze what form an authorized democracy would take. That is to say, I will analyze which form of democracy would be legitimate in the face of the natural rights of freedom, equality and independence. Here, my argument will be that such an analysis can show us why a claim about *necessary* authorization is more nuanced than it might seem. Importantly, however, I believe that the argument I will discuss here also has some consequences for whether or not citizens can be held blame-responsible for the wrongdoings of their state.

### Responsibility in Joint Ventures

In this section, I will attempt to apply the democratic authorization principle to my argument that states are not moral persons. Doing this will require of me that I do three things. Firstly, analyze what states are if not moral persons. Secondly, analyze whether or not the democratic authorization principle can still be applied to whatever the state then is. As we shall see, my argument may have some implications for the responsibility shortfall problem. Thirdly, then, I will argue that the framework I provide is normatively desirable from the perspective of one that believes responsibility shortfalls to be undesirable.

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<sup>50</sup> Stilz, "Collective Responsibility and The State," 200.

The first two points can be analyzed in concert. Throughout this paper, I have questioned which special relations justify redistribution of task-responsibility amongst individuals and/or agents. Notably, there seem to be at least three kinds of special relationships apart from the relationship between the state as a moral person and its citizens which two seem justified reasons for such redistribution. To start, one can consent to taking on such task-responsibilities. This is irrelevant within a Kantian framework. Furthermore, individuals can perhaps share an identity. The sharing of identity can imply a shared heritage, ethnicity or whatever quality is deemed a valuable indicator of a form of identity which can be shared with others. Some more nationalist theories focus on this form of shared relationships in regards to states.<sup>51</sup> From the Kantian perspective, however, such a form of shared relations does not seem to apply since one need not share identity to form a risk for each other's rights. Instead, Kantian states are characterized by the third possibility, namely a shared goal. This is the goal of interpreting and/or maintaining of the values of independence, equality, and freedom. Whether or not individuals share an identity is irrelevant for whether or not they have a duty to collectively associate. This duty merely depends on whether or not individuals form a risk for each other's freedom, equality and independence. It is this quality which justifies a special relationship between a state and its citizens on the basis of which responsibilities can be redistributed.

Given that states are characterized by shared goals we can best interpret them as joint ventures in which the shared goal is the interpreting and/or securing of the rights of independence, equality, freedom.<sup>52</sup> Redistribution of task-responsibilities of the state can be justified because citizens of a state are in a special relationship as they are each part of the same joint venture. A better formulation of this might be that citizens' can be assigned task-responsibility as a result of state-wrongdoing (in which the state is interpreted as a joint venture) because they are implicated in its wrongdoings as such. This view is still based on Stilz' democratic authorization principle because I still hold that the special relationship between a state and its citizen is based on the Kantian duty to submit oneself

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<sup>51</sup> Miller, for instance, argues that a nation is a "Community (1) constituted by shared belief and mutual commitment, (2) extended in *history*, (3) active in character, (4) connected to a particular territory, and (5) marked off from other communities by its distinct public *culture*." In: Miller, *On Nationality*, 27.

<sup>52</sup> Note that this statement also limits what a state can justifiably do in the name of its citizens. As the purpose of a state is the maintaining of independence, equality and freedom amongst citizens, it's mandate only justifies act which are in accordance with that shared goal.

to one's political authority if it is a democratic state that secures independence, equality and freedom. Only instead redistributing blame as a consequence of a collective being blame-responsible, my argument would imply that compatriots are task-responsible for the wrongdoings of other members of the state if these members were acting as representatives or role-occupants of the state because they share the special relationship of being part of the same joint venture. Like Stilz, then, I am arguing that democratic authorization eliminates the need for an associative act, and thereby implicates individuals in the wrongdoings that result from the (well-structured) joint venture of the state.

### *Joint Ventures and Responsibility Shortfalls*

What does this view imply for the responsibility-shortfall problem? Clearly, emergent effects can still occur in joint ventures as they can do in any form of group action. Since I deny the claim that states are moral persons, there seems to emerge a difficulty in regards to the responsibility shortfall problem. Recall the problem of the emergent effect. In the example I have used, an innocent citizen is shot by a police officer as a result of two cases of negligence. Insofar as individuals can only be held responsible for what they have control over, the blame-responsibilities for the cases of negligence do not seem to justify responsibility for the actual result of a civilian being shot because this the result of an emergent effect. Stilz deals with this by assigning full responsibility to the state. For my account, however, this does not seem possible.

Why, exactly, does the responsibility problem occur according to Stilz? I think it is the result of the belief that task-responsibility and blame-responsibility supervene on each other. That is to say, the belief that task-responsibility is not just (re)distributed as a result of blame-responsibility, but is also entirely proportionate to the blame responsibility. We can see that Stilz believes this because the problem only takes hold because she holds that the police officer can, at best, be held responsible for being trigger happy while the P.A. can at best be held responsible for passing on the wrong information. Here, Stilz seems to imply that any task-responsibility these agents have is proportionate to these wrongs, and not proportionate to the innocent civilian being shot as a result of the emergent effect of these wrongdoings.

How could one respond to this? To start, we might simply argue that Stilz' intuition about emergent effects is wrong by claiming that there is nothing unjust about

responsibility shortfalls. Indeed, one might claim that doing so is normatively more attractive because to hold otherwise would imply that individuals are task-responsible for wrongdoings outside of their control. In any case, as Sosa points out, this seems to be a general quality of ethical theories which are what he calls 'person-based'.<sup>53</sup> Since we are focused on individuals as moral persons we shift away our focus from judging acts on the basis of consequences in favor of focusing on those circumstances which are under the control of the moral person. This would seem to imply that the responsibility shortfall is a problem the view I propose would have to contend with.

But another response is possible. One can argue that blame-responsibility and task-responsibility do not supervene in the way that Stilz seems to think they do. That is to say, why shouldn't one hold that task-responsibility and blame-responsibility are related in some sense all the while not necessarily supervening on each other. Blame-responsibilities might prompt task-responsibilities, but that does not imply in any way that they supervene on each other. Instead, one might claim, task-responsibility ought to be proportionate to the wrongdoing which occurs. Indeed, even when we cannot hold the policeman or the P.A. blame-responsible for the death of the citizen, we can still hold that the citizen is wronged because we can see that he or she is wronged as the result of a specific joint venture. The wrongdoing is the result from actions by agents which act as role occupants of the joint venture of 'the police'. Why, then, not argue that the blame-responsibility of the role occupants prompts the task-responsibility for the reparations, but that these task-responsibilities are proportionate to the wrongdoing in terms of the damages and not to the wrongdoing in terms of the blame? There is still a clear relationship between the joint venture and the wrongdoing and the results of the wrongdoing, even if it not a relationship of blame-responsibility between a collective agent and a victim because the joint venture is not an agent. The fact that we cannot assign moral agency and therefore blame-responsibility to joint ventures does not mean that we cannot uncover special relations between individuals who jointly act toward a shared goal and any (wrongful) consequences of such joint action. And it is this recognition, in concert with recognition that the wrongdoing is the result of blame-responsibility of members as representatives of a joint venture which justifies assignment of full task-responsibility for not just the blame-responsibility but the wrongdoing in terms of the damages in general. The point of reparations is setting rights damages which have occurred, after all. I am arguing, then, that responsibilities to make reparations are

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<sup>53</sup> Sosa, "What Is It Like to Be a Group," 212-213.

prompted by blame-responsibilities for wrongdoings but supervene on the damages resulting from wrongdoing. Task-responsibilities are proportionate to damages resulting from blameworthy action, but not necessarily proportionate to what one is to blame for as moral agent.

One might argue that this view is undesirable because it does not assign blame-responsibility for the full scope of the wrongdoing that has been committed whenever an emergent effect occurs. As such, one might claim that I am not taking the victim seriously by arguing that no one is to blame for the actual event of him being shot. This is actually one of the reasons why Stilz believes responsibility shortfalls are normatively undesirable.<sup>54</sup> But I would argue that it is desirable to differentiate between situations in which we assign blame-responsibility for the full effects of actions and situations in which we do not. Consider again the example of the policeman shooting the innocent citizen. Imagine that there is one difference now. The policeman is aware that the P.A. has made a mistake, but shoots the citizen during the house search anyway. Now, we would clearly hold the policeman blame-responsible for not just shooting too quickly, but for actually shooting an innocent citizen. I would argue that the view I am proposing is better suited to differentiate between *this* hypothetical and the former hypothetical because in this second hypothetical there *is* a clear target for full blame-responsibility for the death of the citizen. By disconnecting task-responsibility from blame-responsibility, the view I am proposing is able to differentiate between these two situations by pointing out the differences in regards to what agents are responsible for is dependent on the wrongdoing they have personally committed, all the while ensuring that victims are taken seriously from the perspective of being compensated for the wrongdoing.

#### Specifying the Democratic Authorization Principle

Who is blame-responsible for wrongdoings committed by joint ventures of the state? This question is relevant in the sense that it can help us establish how members of a state relate to wrongdoings of the joint venture. Since states are complex and working towards the shared goal of states necessitates many actions which might seem independent, one can hardly be aware of all of these processes. A military action such as the U.S.'s when bombing Iraq, for instance, might be considered an action aimed at establishing the

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<sup>54</sup> Stilz, "Collective Responsibility and the State," 193-194.

shared goal. But many members will probably be unaware of the details of said actions, or might even strictly oppose that such actions.

I will take up this issue by analyzing what democratic authorization entails. To do so, I will focus on two articles by Pasternak. In these articles, she attempts to establish under which circumstances members of collectives can be held responsible for their collectives. In both these cases, the focus is on democratic states, and informed by the intuition (I) that “*there should be limits on the extent to which we can legitimately hold individuals responsible for situations that are beyond their control.*”<sup>55</sup>

Pasternak’s account provides us with some tools to make the democratic authorization principle more acceptable because it severely limits which kinds of states are *necessarily* authorized. Interesting about this is that Pasternak actually uses her arguments to argue against Stiliz’ position by claiming that the democratic authorization principle is problematic because it disregards any need for a receptive attitude of its members to justify task-responsibilities.<sup>56</sup> Pasternak, then, might be interpreted as a claiming that redistribution of task-responsibilities requires an associative act in the form of a ‘receptive attitude’. What this attitude entails is of no concern for now. Pasternak’s argument seems to be that there is no other way of authorizing a collective than by way of such associative acts. I think, however, that this argument misunderstands the Kantian framework of political authority, and that her argument is therefore misses its mark.

To explain my position I will do the following. Firstly, I will discuss why Pasternak’s argument against Stiliz is problematic. Secondly, I will provide an overview of Pasternak’s insights in regards to democracies and collective responsibility. Thirdly, I will use these insights to improve the democratic authorization principle. Furthermore, I will argue that the insights of Pasternak are incompatible with Pettit’s account of collectivization of reason, and that this gives us yet another reason to hold that states shouldn’t be moral person (even if collectives could be). That is to say, Pasternak’s insights can clarify why collective intentions which are fully distinctive from the intentions of the collective’s members is problematic from the perspective of democratic authorization.

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<sup>55</sup> Pasternak, “Limiting State’s Corporate Responsibility,” 367.

<sup>56</sup> Ibid., 365-367.

*Pasternak contra Stilz*

Stilz' democratic authorization argument is summarized by the aforementioned statement that "If a state credibly interprets my basic rights exist, then I necessarily authorize it since I require its system of law to secure me against others' interference."<sup>57</sup> Since these basic rights concern freedom, independence and equality, Stilz thinks that this requires democratic governance because it ensures that (1) the political procedures do not privilege certain classes of people over others, which would clearly undermine equality, and (2) because democratic rights can fulfill an important function when there is controversy or disagreements amongst citizens.<sup>58</sup> Stilz does not discuss in her article What configuration of democratic principles does this.<sup>59</sup>

Pasternak criticizes this view on two accounts. Firstly, she argues that authorization of state authority (and resulting redistribution of task-responsibility thereof) should involve a receptive attitude of the authorizing person. Democratic authorization cannot guarantee this because authorization does not require a receptive attitude. Secondly, Pasternak argues that Stilz' Kantian view gives very minimal control over individuals and their responsibilities. Pasternak's intuition (I) that one can only be responsible for what is within one's control, then, implies that Stilz' view is unintuitive.

These criticisms miss their mark. The first criticism misconstrues the Kantian argument. The general point of such arguments is to justify political authority regardless of receptive attitudes of members. From the Kantian perspective, one has a duty to partake in a legitimate authority not just to protect one's own rights to freedom, independence and equality. One also has such a duty to protect these rights with regards to others. As such, the argument is that if a state interprets and protects these rights of individuals, and these individuals might form coercive relations if it were not for such a

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<sup>57</sup> Stilz, "Collective Responsibility and the State," 200.

<sup>58</sup> Ibid., 203.

<sup>59</sup> And neither does her discussion about democracy in '*Liberal Loyalty*'. In this book, she merely argues that some form of Rousseauian general will is required if one is to have a genuine political obligation to their state because a form of governance based on such a general will secures authority all the while ensures that some members of the state are not dominated by others since this would undermine independence and equality. See: Stilz, *Liberal loyalty*, 47-48.



state then both individuals have a duty to partake in it. Pasternak's argument does not why this is wrong. While it might be true that a receptive attitude is preferable, a Kantian would seemingly be able to answer Pasternak's criticism by claiming that the reality of natural rights simply implies that authorization is not conditional on attitudes.

Pasternak's second criticism is uncharitable. Given that Stilz does not discuss the relation between citizen (as principal) and government (as agent), which is the primary focus of Pasternak's *'The Collective Responsibility of Democratic Publics'*, there seems to be enough room in the democratic authorization argument to accommodate Pasternak's worries. This is the case because the claim that a legitimate authority is *necessarily* authorized is not as extreme as it might seem. On the contrary, it might be interpreted as a very minimal claim if we hold that the constraints for legitimacy are sufficiently strict. We can argue that if the authority of a state is to be legitimate, there has to be a very specific relationship between principal and agent. And it is this relationship that can explain that within the Kantian argument, citizens have to have an amount of control over their responsibilities for them to be independent and free agents. The task-responsibilities which they derive from their states ought to be proportional in relation to that. I will further develop this view in the rest of this chapter.

### *Pasternak's Framework of Democratic Representation*

Here I will discuss the argument Pasternak makes in regards to the relationship between the principal and the agent in democracies. I will not yet apply the argument to the Kantian framework and the topic of responsibility. Instead, the focus will be on different forms of representative democracy. The focus on such representative forms of democracy is, I believe, sensible from the perspective of contemporary large-scale democracies. Apart from any normative objections one might have to more direct forms of democracy, the sheer size of contemporary states seems to imply that a relationship of representation is most applicable. Furthermore, the complexities of the political landscape also seem to demand such an approach. The question, then, is how the principal should relate to the agent in a way that affirms the complexities of politics all the while adhering to the democratic principles as to secure freedom, independence and equality.

Pasternak offers three possible views on the principal-agent relationship. Firstly, the 'representation as authorization' view. Secondly, the representation as 'acting in

citizen interests' view. Thirdly, the 'substantial representation' view. Here, I will discuss all three of them and explain Pasternak's argument as to why only the third form is legitimate from the perspective of freedom, equality and independence.

In regards to the authorization view, the idea is that in representative democracies the 'government is collectively authorized by its people when the conditions of legitimate authorization are in place.' note that the use of the term authorization has nothing to do with Stilz' democratic authorization principle since Pasternak might hold that authorization requires a receptive attitude. In a democracy of this kind the citizen has very little presence because the government's authorization is not conditional on demands such as that it acts in the interests of citizens.<sup>60</sup>

The second view on representation strengthens the first view by attempting to increase citizen presence. On this view, the authorized principal ought to act in the interests of the citizens. Here, the amount of influence the citizens have on government policy depends on whether the principal or agent identifies the interests of the citizens. Two options seem relevant. Firstly, the mandate view in which the citizens identify their interests. As Pasternak indicates, however, such an approach is perhaps unsuitable because modern politics and governance are too complex and specialized to allow such power in the hands of citizens as they might often be unexperienced and uneducated in the complexities of governance. Secondly, the independence view. Here, it is the government which identifies the interests of citizens. This view downplays the autonomy citizens should have.<sup>61</sup> While the mandate view might be unsuited, taking away all form of influence of citizens hardly seems a proportional response. A proper form of democratic representation, it seems, would maximize autonomy so far as is reasonable.

The substantial representation view offered by Pasternak is based on an earlier distinction by Pitkin. This view affirms the value of citizen independence and the citizen's role is establishing their own interests, all the while considering the complexities of modern politics. Here, "*the substance of the activity of representing seems to consist in promoting the interests of the represented, in a context where the latter is conceived as capable of action and judgment, but in such a way that he does not object to what is done in*

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<sup>60</sup> Pasternak, "The Collective Responsibility of Democratic Publics," 112-113.

<sup>61</sup> Ibid., 113.

*his name.*<sup>62</sup> As such, the substantial representation view on the one hand affirms that citizens can judge what their interests are for themselves all the while conceding that governments are sometimes more capable of perceiving what courses of actions and what policies are in the interests of citizens.<sup>63</sup>

Why prefer the substantial representation view of the authorization view? Or, in other words, why is it important that we maximize the role that citizens play in establishing their interests? Independence requires that the citizen is consulted in the lawmaking process.<sup>64</sup> Enabling the citizens to establish their own interest in as far as possible, and the government securing these interests insofar as realistically and politically possible helps us secure the value of independence.

Before concluding this discussion and commencing with the next question of this chapter one more claim needs to be addressed. Specifically, my claim that Pasternak's account undermines Pettit's argument for collective moral agency. Importantly, Pasternak (like Stilz) argues for a form of collective responsibility in which the citizen can be held task responsible for the blame-responsibility of the collective agent. Note, however, that the governance form of substantial representation excludes the possibility of claiming that the state is a collective moral agent in the way that Stilz believes it should be. Independent collective intention seems inconsistent with citizens being able to establish their own interests. In the very least, it is incompatible with the collective intention being distinct from the citizens' intentions because distinctiveness would imply that the collective agent would not act in accordance with citizen interests. If it is true that citizen interests should inform the lawmaking process, then the government should have some measure of individual responsiveness. This implies that states should not be independent intentional agents in the measure that Stilz' theory requires even if there is nothing that stops collectives from being intentional agents in the way that Pettit argues they can be.

### *Substantial Representation and Responsibility*

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<sup>62</sup> Pitkin, *The Concept of Representation*, 21.

<sup>63</sup> Pasternak, "The Collective Responsibility of Democratic Publics," 113-115.

<sup>64</sup> Stilz, "Collective Responsibility and the State," 202-204.

What does the framework of substantial representation tell us about blame-responsibilities of citizen for their state? Pasternak offers a valuable answer on this question by focusing on the aforementioned intuition (I) which states that “*there should be limits on the extent to which we can legitimately hold individuals responsible for situations that are beyond their control.*”<sup>65</sup> This principle prompts Pasternak to argue that we can ask five questions in regards to states to establish responsibility of members:

- (1) How much control does a public have over (ongoing) political decision-making?
- (2) Is this relationship ‘suitable’?
- (3) Does a significant enough portion of the public authorize the government?
- (4) By authorizing the government, to what extent does the public intend that a bad policy (e.g. a policy which leads to wrongdoing) would be implemented?
- (5) To what extent could the public have prevented the policy but failed to do so?

With regards to (1), Pasternak argues that the more control a democratic principal has the more blame-responsibility it has for the policies of their state. I would argue that the special relationship amongst individuals within a state paired with control over the political decision-making would indeed imply some minimal form of blame-responsibility for said decision-making. with regards to (2), Pasternak means to imply whether or not the relationship between principal and agent is effective for reducing the risk of implementing unjust policy. With regards to (3), Pasternak means to imply a certain level of receptiveness. A Kantian account, then, would drop this question when establishing such a framework because receptiveness to the authority is not considered relevant. Instead, one should ask in this regard whether or not the state is authorized in relation to all its members in the sense that it secures the rights of all its members equally. In regards to (4), the question is whether or not the public has intended the bad policy. This quality seems to indicate that even if there is a lack of public control, intending a certain policy can be considered a form of consent to a policy which might reasonably imply responsibility. In regards to (5), the question is not just whether or not a public *wants* a policy but whether or not they undertook sufficient action to stop a policy from being implemented by their state if they believed the policy to be (morally) bad.<sup>66</sup>

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<sup>65</sup> Pasternak, “Limiting State’s Corporate Responsibility,” 367.

<sup>66</sup> Pasternak, “The Collective Responsibility of Democratic Publics,” 121-123

What is interesting about this framework is that it seems highly compatible with the Kantian perspective on political authority and Stilz' democratic authorization principle. That is to say, we can analyze citizen responsibility in the following way. If it is correct that substantive representation is required for legitimate authority and we think that one should be in control over what one is held responsible for, then analyzing the amount of control citizens have according to the questions of this framework might offer us sufficient ground to establish the way in which citizens should sometimes be held blame-responsible for the wrongdoing of their state. Given that substantial-representation implies at least some level of citizen control in terms of (1) to (5), citizens seem to play some part in the policy-making processes of their state or are at least given the opportunity to do so, and are therefore also blame-responsible (even if only minimally) for the part they have played in that process if the policy results in wrongdoing. This blame-responsibility is, of course, dependent on the interests and intentions of individual citizens. That is to say, blame-responsibility of citizens for wrongdoing of their state is only implied if a citizen indeed had a control in the coming-to-be of a policy. If one actively opposes a policy, one might argue that such an individual is not blame-responsible for eventual wrongdoings resulting from the policy. Although task-responsibilities would still remain because receptive attitudes are irrelevant from the Kantian perspective in regards to the special relationship which justifies redistribution of task-responsibilities to members of the joint venture. Here, the term *actively* is fundamental. If a citizen has control over policy-making processes of the state they have a special relationship with, then that implies that this citizen can be blamed if it does not use this control to oppose a policy they deem morally problematic.

The last remaining question is whether or not all five questions about citizen control have to be answered affirmatively to indicate a citizens' control. I do not think that this is the case for the (democratic) Kantian framework. Given that the democratic conditions of freedom, equality and independence have been met, any measure of control seems to imply some form of blame-responsibility. The five questions are merely the questions we might ask if we are attempting to ascertain whether or not a citizen had some control over a policy in the first place. How much control one has would depend on the answer we give to one or more questions.

### *Citizen Responsibilities*

My analysis enables us to conclude the following. One can interpret the state as a joint venture which has the shared aim of interpreting and securing the natural rights of freedom, independence and equality. This is sufficient to argue that citizens are task-responsible for the wrongdoings of the state because the democratic authorization principle can tell us why one should subject oneself to the state by partaking in its joint venture. This subjection indicates a special relationship which justifies the redistribution of task-responsibilities. While such a view might prompt one to believe that responsibility shortfalls cannot be dealt with, I have argued that one should not assume that task-responsibilities and blame-responsibilities supervene on each other. Instead, task-responsibilities are prompted by blame-responsibilities but are distinctive in that they supervene on the damages resulting from wrongdoing.

Furthermore, my argument shows that citizens of a legitimate state are often at least to some degree blame-responsible for the wrongdoings of their state. I have not claimed that this influences the degree of task-responsibilities citizen have as a result of this, although I do not rule out this possibility. On top of this, I have argued that the idea that legitimate states are of the substantial representative kind make the demand of necessary authorization more reasonable. This is not only the case because such democracies might implicate citizen in the blame-responsibility of their wrongdoing, but also because substantial representative democracies are severely limited in what they can do without permitting citizens some control in the process of making policies which might result in wrongdoing.

### Historical Wrongdoing & Collective Responsibility

Before concluding my paper, two more points need to be addressed. Firstly, the topic of historical wrongdoing. Secondly, what the view I have proposed implies for holding collectives responsible.

When introducing Stilz' account, I have argued that one can use it to argue that states remain blame-responsible for historical wrongdoing such as slave trade so long as the state remains the same moral agent. This argument could possibly be used to justify reparations by contemporary states if these haven't already been made. As such, it might be justified to extract resources of current members of states to make such reparations. Whether or not such an argument can be made in relation to the framework I propose is more difficult to establish. I have argued that individuals in a state are in a special

relationship because they are committed to the same joint venture. If members commit wrongdoings while acting as role-occupants, even members that are not directly involved can be held liable. What is not as clear-cut is what the identity over time of a joint venture is, since it does not refer to a moral person with a distinct identity. As such, it is also not as clear-cut what the relationship is between members of different generations of a state, especially if these generations are further apart. Such a relation is especially crucial when justifying task-responsibilities because the framework I proposed connects blame-responsibility to one's own actions or control over the procedures of their state. As such, it would seem that an evident (and relevant) relation would have to be uncovered to assign task-responsibilities to current members for historical wrongdoing.

Here, I am not sure whether or not it is sufficient to say that the current members of a joint venture might in some sense be related to historical members because they are perhaps part of the same joint venture, only at different points in time. Firstly, there is no clear indication that a contemporary joint venture has an identity independent of its members. Secondly, I believe that even if there were such a clear identity, it is not clear to me whether or not the members of such a joint venture share a relationship if they have not actually cooperated in any form. Indeed, if the point of a Kantian state is the interpretation and securing of certain rights, then it is not clear how this implies that current and historical members are related to each other. This is the case because members of a state whom have live at different moments in time form no risk for each other's' natural rights, and the Kantian framework postulates that forming a state is only a duty as a result of possible conflicting rights. That is not to say that I want to categorically deny the possibility of current individuals making reparations for historical harms. My point is merely that one cannot argue this successfully by approaching it from the perspective of collective responsibility for state wrongdoing. There might be other independent arguments for such a view.

In regards to the second point, one thing should be noted about holding collectives responsible. In light of Stilz' article, one might claim that 'the US' is responsible for wrongdoings during that Iraq bombing, and that 'the US' is justified in redistributing its task-responsibilities to its members. What my argument shows is that such statements are technically incorrect because such statements imply that collectives are the type of agents about which we can make normative judgements such as assigning blame. Instead, my argument implies that we can only hold specific individuals responsible for a wrongdoing such as the Iraq bombing. Here, to say that 'the US is responsible for the Iraq bombings' would be a figure of speech, so to say, for saying that

there is a joint venture called 'The US' to which some amount of individuals are committed (by way of democratic authorization), and that members of the joint venture are either task- and/or blame-responsible for the wrongdoings committed here dependent on the role they have played in the occurring of the wrongdoing or the making of the policies which enabled said wrongdoing. Collectives, then, cannot commit wrongdoings or be held responsible for wrongdoings in the strict sense.

### **Conclusion**

In this paper, I have taken a Kantian approach to collective responsibility. I have differentiated between two kinds of collectives. Firstly, collective agents. Secondly, collectives as joint ventures. On the basis of this distinction I have argued that the first kind is problematic when discussing state responsibility because Pettit's argument does



not justify that states are moral persons in the way that Stilz argues they are. Instead, I have argued that Sosa seems correct in arguing that even if collectives can have intentions, collectives are still not moral agents in the sense that Stilz believes them to be because they lack consciousness. Furthermore, I have argued that it might even be the case that collectives cannot have normatively relevant intentions because their intentions are always derived from the intentions of their members. This is the case because even if the collective's intentions *seem* distinctive from the members' intentions, they are not because it is always the members which intent collectivization of reason. Lastly, I have argued that even if it were possible to hold that some collectives are moral agents, it would be undesirable to take this view with regards to democratic states. I have used this argument to further argue that Stilz is wrong in holding that we can assign blame-responsibility to collectives because blame-responsibility is the kind of responsibility we assign to moral agents. On the basis of this I have attempted to take an alternative approach to collective moral responsibility. Here, I have argued that it is better to interpret collectives (or at least states) as being joint ventures. From this perspective collectives such as states are not actually moral agents but groups of individuals which stand in a special relation with each other because they are part of a joint venture with a shared goal. Here, to use a term such as 'the state' is to point toward a certain joint venture in which the members share a specific goal. This alternative view is capable of dealing with Stilz' claim that responsibility shortfalls are normatively undesirable. Here, I have suggested a weaker connection between task-responsibilities and blame-responsibilities in which blame-responsibilities prompt task-responsibilities but do not necessarily supervene on them. From the perspective my view, it is actually quite irrelevant whether or not states can be collective moral persons. In the very least in regards to the question of whether or not members of a state<sup>67</sup> can be held task-responsible for wrongdoings of the collective. Indeed, I hope that my argument points out that when legitimate states commit wrongdoings, we can hold the members of the state blame- and task-responsible for said wrongdoings without introduction of a concept such as collective moral persons.

Notably, some things remain to be analyzed for a full account. The framework I have offered is based on a very general view of substantial representation. As such, further analysis is required to establish what exact relationship of control between

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<sup>67</sup> Or, better formulated, members of a joint venture committed to securing freedom, equality and independence.

principal and agent is actually implied by this view. That is to say, what actually is the proper amount of control for citizens to have over the interpreting of their interests and what amount of control both principal and agent ought to have in the making of policies which aim at securing those interests. Furthermore, while my account implies some form of blame-responsibility of citizen for their state's policies in legitimate states, my framework does not establish how much blame-responsibility citizens have. Given my focus on task-responsibilities in this paper, such a detailed framework in regards to blame-responsibility was unnecessary for the current topic of my paper. Nonetheless, further analysis seems valuable for two reasons. Firstly, it might perhaps indicate that some citizens can be held more task-responsible for certain policies than others, for instance when they have more control over the policy-making process or did not explicitly disagree with a certain policy. While my framework implies that blame-responsibility and task-responsibility do not supervene, it does not rule out the possibility that task-responsibilities for blameworthy and non-blameworthy members differ. Secondly, it seems important that we hold agents blame-responsible only for their own wrongdoings. This simply requires a framework accurate enough to establish responsibilities for wrongdoing in some detail.

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