Responsibility for States' Actions
Normative issues at the intersection of collective agency and state responsibility

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Is the state a collective agent? Are citizens responsible for what their states do? If not citizens, then who, if anyone, is responsible for what the state does? Many different sub-disciplines of philosophy are relevant for answering these questions. We need to know what 'the state' is, who or what it's composed of, and what relation the parts stand in to the whole. Once we know what it is, we need to know whether that thing is an agent, in particular a moral agent capable of taking moral responsibility for its actions. We have to know what it takes for it to be capable of moral responsibility, e.g. what the functional equivalents in groups (or in that kind of group in particular) are of knowledge, intention, foreseeability, recklessness, and so on. And once we've established that it is an agent, and is responsible for what it does, we have to explain whether and in what way this implicates members, i.e., whether state responsibility distributes to the (compositional) members of states, whoever they may be ('citizens' is one possibility, but there are many). Answers to these questions come from metaphysics, social ontology, action theory, epistemology, political theory, and ethics. In what follows, we'll give an outline of some different ways of answering these questions.

§1. Is the state a collective agent?

There are two main strategies for answering this question. We think of these as (i) 'apply your preferred account' and (ii) 'assess against relevant desiderata'. Both strategies are just as their names suggest. On the first, you determine which is the most defensible account of collective agency or collective action. There are many options (Gilbert 1987, Bratman 2009; Pettit & Schweikard 2006; List & Pettit 2011; Kutz 2007; Shapiro 2011; and others). Then you figure out whether, on that account, the state would be vindicated as a collective agent (or an entity capable of collective action), or not. In a couple of cases this work has already been done: Margaret Gilbert has done it for her account of collective agents, and Avia Pasternak has done it for Christopher Kutz's account of collective action (Gilbert 1993; Pasternak 2013). On the second, you decide the desiderata that you think matter for collective agency or collective action. These desiderata may not amount to individually necessary or jointly sufficient conditions for collective action or collective agency, since you might simply choose the few conditions that are common to the leading accounts of these phenomena. Then you look at whether, measured against those desiderata, the state would be vindicated as a collective agent (or entity capable of collective action), or not. On both of these strategies, if you want to vindicate the state as a moral agent, your starting point (that is, your preferred account, or your desiderata) will have to include something about the collective’s having the ability to respond to moral reasons.

Of course, there is a choice to be made about the level of generality of the question: are we asking about states in general, or a particular type of state, or a particular token state? There are nearly two hundred token states (e.g. Australia, New Zealand), there are a few different types of state (e.g. representative democracy, direct democracy, monarchy, dictatorship), and there's a complicated further question about how the apparent political structure matches up to the political reality (e.g. the UK claims to be a liberal democracy but operates more like a plutocracy; the USA claims the same but currently operates more like a demagoguery—see discussion in Stanley 2015). Both strategies could be taken to answer the question of whether a particular token state, like New Zealand, is a collective agent; whether a particular kind of state, like a liberal democracy, is a collective agent; or at the most general level, whether anything that is a state is a collective agent.

1 In the literature, collective agency and collective action are distinct: a group can engage in collective (joint, shared) action without being a collective agent (Pettit and Schweikard 2006). So, you might think accounts of collective agency (e.g., Gilbert, List and Pettit) – but not accounts of collective action (e.g., Bratman, Kutz, Shapiro) – are relevant for our purposes. But collective action is relevant: if the constituents of a state engage in collective action – even without amounting to a collective agent – then this will (1) illuminate our understanding of the state’s ability to act and (2) have implications for constituents’ responsibility for the state’s acts (accounts collective action are extended to states, with implications for responsibility, by Stilz 2009; Pasternak 2013).
There's also a prior metaphysical question to be answered. To ask whether the state is a collective agent, we have to have a clear conception of what the state is (and not just which type/token of state we're interested in). Is it something 'over and above' the people who make it up? (Runciman 2003). Is it people-plus-material-infrastructure? (Epstein 2015). Is it the citizenry taken together? (Rousseau 1792). Is it some subset of the citizenry, such as the elite, or the wealthy, or the powerful, or the well-connected? Is it all those with causal influence over what the government (or perhaps legislature) ends up doing, no matter whether they're located in the geographical territory over which the government (legislature) has control? Is it just the government? The whole legislature? Is it just the government's leader alone? And so on. Clearly, different such conceptions of the state will lead to different answers to the target questions. (For example, if the state is just the government's leader, then the state will be an agent just in case individual human being is an agent; which is to say, it will be an agent.)

We will give an example of the first kind of strategy using the account of collective agency given by Philip Pettit and David Schweikard (2006). This will show how different conceptions of the state entail different answers to our target question, even holding fixed one's account of collective agency. Pettit and Schweikard argue that the following three conditions are necessary for group agency:

1. joint action in establishing common goals (and establishing a procedure for identifying further goals later)
2. joint action to establish judgements to rationally guide action in pursuit of goals (and a procedure to develop further such judgements as needed)
3. joint action to establish who shall act in pursuit of the group's goals' (Pettit & Schweikard 2006, p. 33).

If a group is to be a moral agent, then presumably one of the 'goals' will have to be (something like) 'doing what morality demands.' Notice that each condition requires joint action, which means we also need to look at the conditions they give for that:

1. they each intend that they enact the performance;
2. they each intend to do their bit in this performance;
3. they each believe that others intend to do their bit; and
4. they each intend to do their bit because of believing this' (Pettit & Schweikard 2006, p. 23).

Put together, these two sets of conditions give a very strong account of collective agency (where 'strong' means that it's difficult for groups to meet the conditions). Whichever individuals are supposed to count as members of the group, they each must have certain intentions and beliefs about what the group will do, and how their own actions relate to this. Let's take 'electing a government' in a liberal democracy as an example, and the citizens taken together as the relevant conception of 'the state'. Suppose Jane Citizen intends that she and her fellow citizens elect a government. She intends to go to the polling booths and cast a vote, which she sees as her part in their electing a government. She believes others are also intending to go to the polling booths and cast votes, and she intends to vote because she believes this (if she thought no one would vote, she'd probably just stay home). If all the other (enfranchised) citizens have the same kinds of intentions and beliefs as Jane, then we have a good case for joint action on Pettit & Schweikard's account. So far, so good.2

The next step is to see whether those citizens involved in this joint action of 'electing a government' meet the conditions for group agency. Is their joint action performed in service of establishing common goals, procedures for identifying further goals later, establishing judgements to

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2 You might think 'electing a government' isn't an action the state does, but something the citizens do to the state. We agree: 'waging a war' or 'signing a treaty' are clearer examples of states' action. We choose the election example because it is the most plausible case for a joint action that all citizens intend. (Anything related to a specific policy or ideology would fail to achieve unanimity.) So this is the most promising action for applying the Pettit and Schweikard account to the state conceptualised as 'the citizens taken together.'
rationally guide action in pursuit of those goals, and establishing a delegation of roles to those who should act in pursuit of the group's goals? There's room for argument here. For example, we might argue that it is not, because what electing a government does is precisely \textit{contract out} of all of these tasks to a small sub-committee, namely the office-holders. The voters themselves aren't doing any of those things just by voting. Rather, they're giving a broad mandate to elected office-holders to decide on all these things for the next \( x \) number of years. Or, we might argue that it is, because delegating these tasks to a sub-committee is precisely \textit{one way} of doing all of those things and because office-holders remain answerable to the citizens at large via party membership, petitions, protests, and the prospect of re-election. Perhaps politicians' sensitivity to public suggests that they are tethered to the rest of the citizenry, such that the citizens together are achieving the ends Pettit and Schweikard list. This same kind of debate is possible for all the accounts of collective agency that have been offered, in combination with whichever conception of the state one has, and whichever (type of or token) state one is interested in asking about.

So much for the first strategy. What about the second? This is the 'assess against relevant desiderata' approach. Some candidate desiderata include group-level control, group-level unity, member influence, and member voluntariness. These desiderata are common to many different accounts of collective action and collective agency. Once you have chosen some desiderata, you then need to apply them to your favoured conception of the state. One popular conception of the democratic state is the citizens taken together (call this the 'polity'). Taking these desiderata and this conception, then, to know whether the state (here conceptualised as the polity) is a collective agent, one needs to ask four questions. Is there an explanatory link between the polity's decisions and the state's actions? (If so, there's group-level control.) Do all members of the polity have core goals and/or beliefs in common, where these match the core goals/beliefs of the state? (If so, there's group-level unity.) Does a given individual member of the polity have influence, licensed by the state's decision-making procedure, over what the state does? (If so, there's individual-level influence.) And does each individual member of the polity volunteer for her role in the state? (That's individual-level voluntariness.)

Suppose you're convinced that the answer to these four questions is 'yes'. Then, referring back to the questions we opened this paper with, the state is a collective agent, citizens are responsible (together) for what their states do, and the third question is redundant. However, suppose you're convinced that the state fails to meet the relevant desiderata if we conceptualise the state as 'the citizens taken together'. Perhaps you think we should go for a narrower conception of the democratic state as something like the executive, judiciary, and legislature together with the public service (Lawford-Smith, \textit{manuscript}). In this case, the state is a collective agent (assuming it meets your desiderata), but the state doesn't include all citizens, so (non-office-holding) citizens are not responsible for what their states do (at least, not at first blush: see §II). Only those implicated directly as members of that narrower group are. But it is of course open to someone interested in this topic to take the second (i.e., desiderata-based) approach by arguing for a different set of desiderata, which might in turn lead them to different conclusions when it comes to our target question.

\section*{§II. Are citizens responsible for what their states do?}

Let's suppose the state, however we conceptualise it, is a collective agent that can do things. Even if ordinary citizens are not part of this agent, they may nonetheless be responsible for what their state does. How should we approach this issue?

A crucial distinction in figuring out whether citizens in particular are responsible for what their states do is that between \textit{responsibility}, \textit{culpability}, and \textit{obligation}. We take responsibility to encompass both culpability and obligation. Culpability comes from being the author of a \textit{wrongful} action, and \textit{not being excused} for undertaking it. (It's this latter clause that sets authorship apart from culpability, because one cannot be culpable when one is excused, and one can be excused for authoring an outcome.) Culpability is one means (amongst many) of acquiring an obligation, that is, a responsibility to bring about some good or remedy a wrongful outcome. You can have an obligation for remediying a bad outcome even if you are not culpable for it (for example, if you are the only one

\footnote{These desiderata, applied to this conception of the state, is exactly the approach we take in (Collins and Lawford-Smith ms.).}
able to remedy it); and you can have culpability for a bad outcome without having an obligation to remedy it (for example, if you are unable to remedy it).

So to say that citizens are culpable for their state's wrongful actions is to say that citizens (together) author the state's wrongful action, and are not excused from authoring it. Different accounts of culpability will say different things about what provides an excuse, but some examples are: not knowing the action will have bad effects; not being unreasonably ignorant of the fact that the action would have bad effects (where this means that a reasonable person would have known that the action would have bad effects); not intending the action's bad effects; and not acting recklessly in performing the action. To be able to say whether citizens are culpable, we need an account of authorship, and an account of the excusing conditions. The 'citizenry' is a large, heterogeneous group.

If the account of authorship is causation alone, then the citizenry can author the state's actions. If it is something more, such as intentional causation, or controlled causation, then it's an open question whether citizens author the state's actions. Similarly, we need to appeal to accounts of collective knowledge, collective belief, collective intention, and so on (e.g. Gilbert 1987, 2008; Bratman 1993; Pacherie 2013) to figure out whether the 'citizenry' is capable of having these things, and therefore whether it is plausible to attribute culpable actions to it.

Again, we can give an example by running through a particular account (and again, conclusions will differ depending on the account used). Gilbert's (2008) account is particularly useful, because while her primary focus is collective intention, she says explicitly that she means for it to work for collective belief, acceptance, decision, and so on (Gilbert 2008, 502). She makes collective intention (although she uses the term 'shared intention') dependent on joint commitment: 'members of some population P share an intention to do A if and only if they are jointly committed to intend as a body to do A' (Gilbert 1987, 501, emphasis original). Joint commitments are open expressions of willingness to commit, made by all members in common knowledge of all other members. When each member is so committed, and each knows that each is so committed (and each know that each knows, and... etc.), then there is joint commitment (ibid, 502). Open expressions of willingness need not be verbal; they can also be habitual (they can become evident over time through particular repeated behaviour (ibid, 504)). On Gilbert's account, the group can intend (etc.) differently from what any member intends (etc.). For example, a manager might be party to a joint commitment to intend to pursue profit-above-all else as a body, yet she might not intend to pursue profit-above-all else in her private life. For Gilbert, shared intentions entail obligations, and it takes a consensus to change shared intentions or release members from obligations (ibid, pp. 493-496).

Does this account vindicate the possibility of the citizenry intending the state's wrongful actions, or knowing that the actions are wrongful, or deciding to cause the state's wrongful action, and so on? Gilbert thinks that it does (1993). This rests on habitual signals of joint commitment. Because citizens perform certain political actions on a regular basis, they signal joint commitment to one another in conditions of common knowledge. We all come to expect that we'll pay taxes, vote, obey the law, and exist in a stable, democratic political association with one another. For Gilbert, this generates group authorship, group culpability, and obligations for individual citizens. However, according to Gilbert, these are not necessarily moral obligations and the culpability at issue is not necessarily culpability of individual citizens (as opposed to the group). Her conclusion can be resisted in a number of ways. First, we might deny that habitual behaviour is sufficient to joint commitment. You might go on a number of dates with someone, and yet be surprised when they claim to be your girlfriend, because there hasn't been an explicit conversation about it. If the joint commitments must be verbal, it is likely that the citizenry will fail to come out as jointly committed, simply because an insufficient number of people have made explicit verbal statements about their willingness to be committed in political association with other citizens. Or, we might deny that the account of collective intention (etc.) 'scales up' from small groups to one as large as the citizenry of a state. In small groups, we can track one another's behaviour, so common knowledge is possible. In large groups, we can't; so it isn't.

In light of this, there might be a large 'culpability gap' between what citizens are culpable for and what states culpably do. Such gaps arise whenever the individual agents’ culpable contributions to a wrong are disproportionately less than the wrong caused. Various solutions to culpability gaps have been proposed, each of which would have different implications for the overall distribution of
responsibility in the case of state’s harms (see e.g. Smith 2009; Braham and van Hees 2012; Collins forthcoming). For example, citizens may be culpable for being complicit in the state’s wrongs, despite not contributing (much) to those wrongs (Beerbohm 2012; Pasternak 2013). Or perhaps some citizens are complicit, while others are not (e.g., Bazargan (2013) argues that soldiers, in particular, are culpable for their state’s unjust wars via complicity).

Still, even if the citizens aren’t culpable for what their state does, they might yet be responsible for it in the obligation sense. Citizen obligation is compatible with the culpability of a much narrower group, and particularly plausible in the case that there’s a culpability gap (and therefore a ‘moral remainder’ that needs addressing by someone). There are many different ways to get citizens’ moral obligations to remedy a bad outcome caused by their state’s actions. The simplest is through mere capacity (Singer 1972): if the citizenry has the capacity to remedy harms done by their state, then it may be that they ought to do so (Collins 2016). In addition to mere capacity, citizens might have obligations via authorisation: if their state is authorised to act on their behalf, then they must obey its (minimally just) commands; if those commands include legislation requiring citizens to remedy the state’s wrongs, then the citizens must remedy those wrongs (Parrish 2009; Stilz 2011). In addition, citizens may be obliged to bear the costs of their state’s duties because of the associative obligations of each citizen to all other citizens (Pasternak 2011); because they are the primary beneficiaries of the state’s actions (Gosseries 2004); or, again, because each is complicit in what the state does (or otherwise performs actions that enable, or sustain, its wrongful harm) (Pasternak 2013).

§III. If not citizens, then who is culpable for what the state does?
In §I we gave a (non-exhaustive) list of examples of what the state might be: something over-and-above its members; people-plus-material-infrastructure; the citizenry taken together; some subset of the citizenry, such as the elite, or the wealthy, or the powerful, or the well-connected; all those with causal influence over what the government does; the elected government; the elected political leader alone. Which of these might be culpable for what the state does, if not the citizenry? Here we assume that culpability entails authorship, so the question is: which individuals might constitute the state and thereby be culpable for what it does? Again, there are two main ways to approach this question.

The first is by looking to relevant disciplines and sub-disciplines for theoretical accounts of the state, and for those who stand in the right kind of relationship to the state to be culpable for or obligated by what it does, and then looking at whether they in fact meet the relevant conditions for culpability or obligation. This would be to make the same set of moves as discussed in §II, but for a different conception of the state. For example, there’s an account in International Relations which understands states in terms of ‘Principals’, namely, their singular leaders (McGillivray & Smith 2000; Bueno de Mesquita 2002). In a dictatorship this would be the dictator (e.g. Bashar al-Assad in Syria), in a monarchy this would be the monarch (e.g. Hassanal Bolkiah in Brunei (there the sultan)), in a democracy this would be the Prime Minister (President, Chancellor, etc., e.g. Angela Merkel in Germany). Imagine that we thought this was the right model, and so the state is identical with the Prime Minister (as in, whoever happens to occupy that role at a given time). In Australia, that is Malcolm Turnbull. Is Malcolm Turnbull the author of the actions he undertakes on behalf of Australia and in his role as Prime Minister? When Malcolm Turnbull performs these actions, does he act intentionally, and with knowledge of what he is doing and the possible and likely effects his actions will have? If they are likely to cause harm, does he intend this harm? Are there no further exculpatory features of his actions? The answer to all of these questions is rather likely to be ‘yes’.

The second is to simply argue for a particular conception from scratch. For example, we find intriguing the idea of understanding the state narrowly as the government (or perhaps office-holders more generally), and attributing responsibility for what the state does according to causal influence on government (office-holders). This gives a revisionary understanding of both authorship and responsibility, because influence transcends the traditional geographical boundaries of the state (and implicates e.g. foreign governments, international media, multinational corporations, and so on). In fact, such a conception may not yield discrete states at all, but rather messy and overlapping boundaries. Perhaps Rupert Murdoch is a major member of many states on such a conception. Filling out the details of this conception would require a plausible theory of causation and an understanding
of the implications of such heavy revision to our ordinary ideas about authorship and responsibility for what states do.

A final word on culpability. In what we've said so far, we've assumed that authorship is a necessary condition for culpability for states’ actions, and that authorship and non-excusedness together are sufficient conditions for culpability for states' actions. But some authors have denied the necessity of authorship for culpability (where ‘authorship’ is here understood as a certain sort of causation of the harm by the agent). For example, Carolina Sartorio has argued for the possibility of culpability without causation (Sartorio 2004). And some authors have argued for the possibility of obligation in large unstructured groups incapable of collective control, intention, belief, decision, etc. If such obligations exist, but are not discharged, then that would imply culpability of a group that cannot author actions (Wringe 2014; Björnsson 2014; Schwenkenbecher 2013; Pinkert 2016). We think those authors are wrong, because we think collective control, intention, belief, decision, etc, are necessary preconditions for obligation, and so a necessary condition of culpability for failing to discharge obligations (Collins 2013, 234-5, 238-41; Lawford-Smith 2016, 231-33). But if they were right, then that would be yet a further way to argue for culpability for states' actions.

§V Conclusion

Responsibility for states’ actions is a complicated topic, in which many different areas of philosophy intersect – both with each other, and with related fields like international relations and political science. Particularly on the latter connection, one promising area for future research would be to apply the various possibilities we’ve mapped here to actual states. This would involve investigating the complex particularities of, say, Egypt, with a view to working out whether that state is an agent, whether its citizens have culpability and obligation for its actions, and if not, who does.

On the more purely philosophical issues, some areas are more developed or more settled than others. For example, there are many well-developed accounts of collective agency and collective action. But not all of these have been applied to the state. Fewer still have been applied to non-democratic states, in which it looks very likely that ordinary citizens will not be included in the relevant collective agent or collective action. Other areas have seen much discussion, but little consensus. For example, there is still no consensus over whether ordinary citizens bear culpability for their connection to their state’s wrongs. Other areas have more consensus: there are many accounts of how citizens acquire obligations to remedy their states’ wrongs, so it is fairly settled that citizens have some such obligations. But few authors have considered whether smaller groups (e.g., the leader, the elected government, or the civil service) have additional obligations for remedying a state’s wrongs and, if so, why. By laying out the various options, we hope to have provided a roadmap for addressing these issues more thoroughly.

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