

# Collective Responsibility, National Peoples, and the International Order

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Can we properly assign responsibility to national peoples for the injustices and losses they impose on others? This is an important question for legal and political philosophy in general and the global justice debate in particular. And yet not many theorists are inclined to take the agency perspective seriously when it comes to nations. In the last section of *Responsibility Incorporated*, however, Pettit does. After spending most of his paper making a case for corporate responsibility he also develops – though in a sketchy manner – an argument for the ascription of group-level responsibility to national peoples. Nations, “looser collections of individuals”<sup>1</sup> according to Pettit, “can and should be held responsible in a similar way” as incorporated groups.

But does it really make sense to attribute responsibility to “national peoples, as distinct from governments” – to groups that can only act *through* their governments? Can corporate responsibility be extended to collective responsibility? This is the first question we want to raise. For the purpose of our argument we simply accept that corporate responsibility exists and that Pettit’s conditions for fitness to be held responsible are more or less valid.

Our interest in Pettit’s notion of collective responsibility, however, is not limited to what is strictly mentioned in the last section of *Responsibility Incorporated*. In the second half of our paper we link this analysis to his recent work on global justice and democracy. Although never *explicitly* mentioned, corporate and collective responsibility form an integral part of his “neorepublican perspective on international normative theory”. The main building blocks of Pettit’s ideal of the international order are effective and representative national states – states that have “the capacity to provide for basic services to their population” and are “fit to speak for their people”.<sup>2</sup> Like other influential political theorists who emphasize the importance of national responsibility (e.g. Rawls, Miller or Kymlicka), Pettit is skeptical of the cosmopolitan ideals of justice and democracy. Our main question in the second half of this paper is whether he is right to be reticent about cosmopolitanism and whether he should not instead opt for a more centralized international regime. Given the limits of available space and the complexity and subtlety of Pettit’s arguments our main aim is quite limited. Instead of systematically questioning the different assumptions of Pettit’s international normative theory or offering an alternative, we merely wanted to raise some general questions. These questions are rela-

1 Philip Pettit, “Responsibility Incorporated”, in this issue. All further citations of this article are included directly in the main body of the text.

2 Philip Pettit, “A Republican Law of Peoples”, *European Journal of Political Theory*, available at: <[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1313208](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1313208)> (forthcoming): 1-2.

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ted to three interconnected topics: collective responsibility, international legitimacy, and global justice.

## 1 Collective Responsibility

What does Pettit mean when he says that the German people might be held responsible for the atrocities of World War II? At least two usages of the term collective responsibility come to mind.<sup>3</sup> When we claim that the German people are responsible for a certain state of affairs, we sometimes only imply that all members are individually responsible. Collective responsibility, then, is a form of *shared* responsibility. At others times, however, collective responsibility is assigned to the group as such. The bearer of responsibility, in other words, is the collective itself. A group or collective “can act to bring about some harm, or indeed some good, without any of its members being fully fit to be held responsible for his or her contribution to that result”. It is this second use of the term that is at the center of Pettit’s paper. Pettit, however, has a specific rationale for ascribing group-level responsibility to nations – a developmental rationale. Developmental regulation will be familiar to those of us who have children. In order to induce in them “the sort of self-awareness and self-regulation” that responsibility requires we treat our children “as if they were fit to be held responsible”. The same line of reasoning applies to national peoples. Although they are only “embryonic group agents” we hold nations responsible as a way to responsabilize them.

But why does Pettit claim that we can ascribe group-level responsibility to nations? Is he capable of justifying the step from corporate to collective responsibility? To answer these questions in a satisfactory way one needs to know at least three things: (a) what nations are; (b) how they differ from corporate agents, and what conditions need to be fulfilled for nations to be held responsible; and finally (c) what kind of responsibility is at stake.

(a) Unfortunately, Pettit doesn’t address the first question. Are nations, as Miller for example claims, peoples with a common identity and a shared public culture – peoples that aspire to be politically self-determining and “whose members recognize special obligations to one another”?<sup>4</sup> One can only guess what Pettit’s answer would be. And yet some kind of reply is due. If there is something about nations “that makes it appropriate to adopt the stance that we would normally reserve for individual and corporate agents (...)”,<sup>5</sup> one would like to know what that is.

(b) Perhaps we don’t need to show what nations precisely are in order to claim that they can be held responsible for their actions or inactions. Maybe we only need to explain what the differences and similarities with corporate agents are, and how

3 Here we follow Gregory F. Mellema, *Collective Responsibility* (Amsterdam: Rodopi, 1997), 3-4.

4 David Miller, *National Responsibility and Global Justice* (Oxford: Oxford University Press, 2007), 126.

5 We use the terms nations and national peoples interchangeably.

they can assume a corporate form. Nations, according to Pettit, cannot properly be called corporate agents because they constitute a “looser collection of individuals” than corporations. Apart from their political institutions, one would hardly claim that nations can act on the basis of shared intentions or have decision-making procedures.

Why, however, would one ascribe responsibility to more loosely structured groups like nations? Why are they described as “potential or embryonic group agents”, whereas school groups are not? To what extent are nations able to satisfy the requirements that need to be met to be held responsible? Only a very general answer can be deduced from Pettit’s paper. Collective responsibility can be ascribed to nations because they are – in principle – able to control the actions and decisions of their group agents (governments). By acting and deciding *through* states, nations could become more or less autonomous agents. This also explains why national peoples can be held collectively responsible for harms done by their governments: “to the extent that their [governments’] claim to authority is not challenged, they have the tacit authorization of the members of the larger groupings”.

But why focus on nations when they are clearly not collective agents in the strict sense of the word and not “truly fit to be held responsible”? Why hold the German people responsible for the atrocities that were committed during the rule of a totalitarian regime? Would it not be more plausible to stick to statist responsibility? After all, states, not nations, “have decision-making procedures, and mechanisms for turning their decisions into behavior in the world. They can decide to declare war or to make peace, to seal borders or to open them, to seize or tax property or to let it be (...)”<sup>6</sup> Should we then conclude that collective responsibility should strictly be limited to states?

Miller distinguishes three reasons why one should not limit responsibility to states.<sup>7</sup> Who, first of all, is responsible for “actions performed by states that no longer exist”? The German case nicely illustrates this point. The end of World War II also implied the destruction of the Nazi state. In cases like these it might make sense to retain some form of national responsibility. Stateless nations that use violent or even terrorist means to pursue political independence are a second reason why responsibility should not be limited to states. A final reason is related to the issue of compensation for historical injustice. Without some form of national responsibility it “becomes difficult to show how individual people can share in the responsibility to compensate those whom the state they belong to has harmed”<sup>8</sup>.

Pettit takes a different route. He doesn’t claim that national peoples are fully fit to be held responsible but that it makes sense to act “as if they were”. His rationale for ascribing collective responsibility to embryonic group agents is primarily developmental:

To refuse to ascribe collective responsibility to the grouping as a whole, on the grounds that the evil done was done entirely by the spokesperson, would be to

6 Jacob T. Levy, “National and Statist Responsibility”, *CRISPP* 11 (2008): 486.

7 Miller, *National Responsibility and Global Justice*, 111-112.

8 *Ibid.*, 12.

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miss the opportunity to put in place an incentive for members of the grouping as a whole to challenge what the spokesperson does, transforming the constitution under which they operate (...).

By holding them responsible for the way in which their states are governed – by attributing something like a “duty” to keep their governments in check – we want to achieve a “regulatory effect”. Nations are urged to develop those “abilities that are relevant to whether they are fit to be held responsible”. Although the practice of developmental regulation doesn’t reflect the conviction that national peoples are fully fit to be held responsible, Pettit does assume that nations could become group agents if they “organize against the condemned behavior” and keep their governments in check.

Pettit’s developmental rationale, then, seems to be related to the editorial dimension of democracy. This dimension, according to him, requires that democratic institutions make it possible to scrutinize government laws and policies and “weed out those that do not answer to common, recognizable interests”.<sup>9</sup> Democratic institutions must be contestatory in character and enable citizens to control policies. So by ascribing collective responsibility to nations we urge them to practice effective editorial control and develop the necessary institutional and constitutional means. More needs to be said, however, by Pettit on this point.

(c) Whether Pettit’s move from corporate to collective responsibility is convincing depends, finally, also on the type of responsibility that is at stake. What kind of responsibility does Pettit have in mind? Both regarding corporate agents and nations he is concerned with *moral* responsibility. The easiest way to explain this kind of responsibility is to distinguish it from causal and outcome responsibility.<sup>10</sup>

When we want to know *why* something occurred – what caused a certain state of affairs – we invoke causal responsibility. Outcome responsibility, by contrast, has a specific normative concern. We want to know “whether a particular agent can be credited or debited with (...) a gain or a loss”.<sup>11</sup> Although genuine agency is presupposed, outcome responsibility does not require intent. I can be held responsible for the damages that I inadvertently brought about and sometimes even for those losses that I tried to avoid by taking precautionary measures. Moral responsibility, finally, presupposes outcome responsibility, but the conditions for moral responsibility are “more demanding”.<sup>12</sup> To be held morally responsible for the choices they make, agents must face “a morally significant choice”, be “in a position to see what [is] at stake”, and be able to control their choice.

Outcome responsibility is, therefore, easier to establish than moral responsibility. Take the case of racism in the “postbellum Southern social system” that Feinberg and Miller discuss. Both argue that all Southern whites – even those who did not actively participate in the violence against Blacks but showed “strong solidarity with

9 Philip Pettit, “Democracy, Electoral and Contestatory”, *Nomos* 42 (2000): 114-115.

10 Here we follow Miller, *National Responsibility and Global Justice*, 81-90.

11 *Ibid.*, 87.

12 *Ibid.*, 89.

the majority”<sup>13</sup> – could be held “collective responsible for keeping blacks in a state of subjugation”.<sup>14</sup> Membership determines responsibility. Now, whereas this kind of reasoning might make sense when outcome responsibility is at stake, the same will not necessarily be true in the case of moral responsibility. Intention, for example, is missing in this case.

Having addressed the three points we started this section with, we can return to our initial question. Has Pettit successfully argued the step from corporate to national responsibility? Without further clarification on Pettit’s part it is difficult to give a satisfying answer. His analysis leaves too many questions open. We will briefly discuss two.

A *first* issue concerns the conditions under which it is sensible to hold nations collectively responsible for the injustices done by their governments. What is striking about Pettit’s paper is that the precise relation between national peoples and their governments is not seen as relevant to the question whether collective responsibility can be attributed to nations. What counts is membership. But why should we hold the German people responsible for the atrocities that were committed under the rule of a totalitarian regime? Should we not expect that issues like coercion or manipulation are relevant in this regard?

Pettit would probably reply that he merely wants to stimulate collectives “to incorporate and organize against the condemned behavior” and doesn’t claim that the German people were fully fit to be held *morally* responsible. One can argue, however, that factors like coercion or manipulation are even relevant for developmental regulation. Let’s go back to the example of parents who hold their growing children responsible for certain actions. Whether or not such a responsabilizing initiative will be effective depends on the age or development stage of the child and the domain of behavior. Whereas it makes sense to hold an adolescent responsible for the behavior of his younger brother and sister, it will not for an infant. It might even be counterproductive to actually do so. If something bad should happen to his siblings, he will be even less inclined to take responsibility for their actions. Or take another example. Holding my three-year-old responsible for wetting his pants might be a good way of potty-training him, but it is senseless to hold him responsible for not being able to properly read or write. Treating our children as if they are fit to be held responsible, therefore, only makes sense within a certain range of age and domain of behavior. This problem becomes even more pressing when responsabilizing initiatives are combined with some kind of punishment. And yet this is precisely what Pettit proposes with regard to national peoples. But is it not counterproductive to try to responsabilize groups that, as a consequence of coercion or others factors, might have little or no room to keep their governments in check?

Let’s take another example to make the same point. We again assume that our rationale for holding nations responsible is developmental. Would it make sense to

13 Joel Feinberg, “Collective Responsibility”, Larry May and Stacey Hoffman (eds.) in: *Collective Responsibility: Five Decades of Debate in Theoretical and Applied Ethics*, (Savage: Rowman & Littlefield Publishers, 1991), 72.

14 Miller, *National Responsibility and Global Justice*, 118.

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attribute responsibility to national peoples for injustices that were caused by prior generations? Can the Dutch or the Portuguese, for example, be held accountable for the trade of African slaves that took place in the seventeenth and eighteenth century? When considering the validity of the idea of *inherited responsibility* we might agree and argue that formerly colonized people or indigenous peoples can rightfully make claims for reparations or redress. But then we need to determine some kind of continuity between our and past generations. When we want to *responsibilize* nations, however, the answer is no. Why? Most importantly, because one can't hold actors responsible for things that lie beyond their control.

Shouldn't some minimal conditions, therefore, obtain for developmental regulation to be effective or even make sense? On the basis of the previous examples one would be inclined to say yes. It simply doesn't suffice to merely claim that national peoples are embryonic group agents. We also need to determine the threshold above which we can actually treat them *as if* they are fit to be held responsible. But if this is the case it is senseless to apply developmental regulation to groups that fall "short of being even an embryonic group agent".

Furthermore, attaching penal sanctions to this type of developmental regulation also raises other questions. If we hold people responsible on the basis of membership, Pettit needs to explain what the criteria are for determining group membership and what individuals need to do to be exculpated from moral blame.<sup>15</sup> Do we, for example, only need to voice our opposition to escape responsibility, or do we need to physically remove ourselves from our group?<sup>16</sup> What does the 'tacit authorization' imply that we quoted above?

A *second* issue concerns the *scope* of collective responsibility. Pettit's initial aim, as we explained, is limited. He merely argues that it makes sense to attribute responsibility to national peoples as an incentive to hold their governments in check. The idea of nations as potential or embryonic group agents, however, also implies that nations can develop into (relatively) autonomous group agents in the more traditional sense of the word: 'As children mature and grow in the abilities that are relevant to whether they are fit to be held responsible, so we might think that the same is true of some collectivities'. But if nations are able to become (relatively) autonomous agents, one wonders how far this kind of responsibility can extend. Is Pettit, for example, willing to hold nations responsible for the "benefits they create for themselves and the harms and losses they inflict on themselves and others"?<sup>17</sup> Can outcome responsibility be part of his view of global justice? Miller, whose theory resembles Pettit's, argues for example that "global inequalities between societies can be justified when they can be shown to result from practices, policies, and decisions for which the members of those societies can be held collectively responsible".<sup>18</sup>

15 See Brook J. Sadler, "Collective Responsibility, Universalizability, and Social Practices", *Journal of Social Philosophy* 38 (2007): 487.

16 Compare Miller, *National Responsibility and Global Justice*, 120-121.

17 *Ibid.*, 81.

18 *Ibid.*, 8.

Unfortunately, Pettit doesn't say a lot about this point. He only summarily deals with the idea of global distributive justice and too quickly rejects it as utopian.<sup>19</sup> With this we come to our second set of questions. Is Pettit right to be so sceptical about cosmopolitan forms of democracy and justice, and claims for a more centralized international order? Let's start with his account of national and international legitimacy, and see whether it rightly leads to a voluntary association of effective and representative national states.

## 2 Legitimacy and Justice in the National Context

Ascribing collective responsibility to nations, as we saw above, gives us the opportunity to convey to the members as a whole that they should "develop routines for keeping their governments (...) in check". But what kind of routines should we aim for? Pettit's analysis of Rawls' ontology of peoples is helpful in this regard. Peoples, according to Rawls, must learn to coordinate and author the actions of their governments. Governments, likewise, can only be legitimate when they are the "representative and effective agent of a people".<sup>20</sup>

Pettit certainly agrees with this analysis. A government can only give voice and presence (both domestically and internationally) to its people when it gives "them the institutional resources – say, of election, contestation and accountability – that will enable them to exercise [effective and equally shared] control (...) over what it says and does".<sup>21</sup> Representation and democratic control are the key words here.

When, however, are citizens able to control their government? Democratic control, according to Pettit, has two distinct dimensions: an authorial and an editorial dimension.<sup>22</sup> The people are actively able to control their government "under electoral arrangements whereby issues are decided by plebiscite or representatives who are chosen to decide them".<sup>23</sup> The people, in other words, should be the author of the powers of government. Although this type of control can be either direct or indirect, Pettit points to the unrealistic character of the first. Within complex and relatively sizeable democratic societies it is simply impossible to expect that government can be exercised by an "assembly of the citizenry as a whole".<sup>24</sup> Democracy must be representative. Governments will be editorially controlled, on the other hand, when the people are able to contest the decisions that have been taken or the laws that have been made.

The representative role of governments, however, is not the only requirement that needs to be fulfilled for states to be more or less 'decently' ordered. Creating electoral arrangements and the means of contestation is a necessary condition, but not a

19 See Pettit, "A Republican Law of Peoples", 22.

20 John Rawls, *The Law of Peoples* (Cambridge: Harvard University Press, 1999), 38.

21 Pettit, "A Republican Law of Peoples", 2.

22 Here we follow Pettit, "Democracy, national and international", *The Monist* 89 (2006): 303-304.

23 *Ibid.*, 304.

24 Philip Pettit, "Legitimate International Institutions: A Neorepublican Perspective", in *The Philosophy of International Law*, ed. John Tasioulas and Samantha Besson (Oxford: Oxford University Press, forthcoming), 7, available at <[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1313211](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1313211)>.

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sufficient one. Governments must also be effectively able to secure non-domination for their citizens. Citizens should have “sufficient resources not to be subject to personal domination by other agents, individual or corporate”.<sup>25</sup> States, in other words, must be reasonably just.

Are these conditions really sufficient to guarantee that a state is under the “effective and equally shared control” of its citizens? There are good reasons to doubt this. The most hard hitting and convincing argument against Pettit’s two dimensional ideal of democratic control is presented by deliberative democrats like Bohman or Habermas. Political agency not only requires that citizens are able to elect their representatives and contest the decision of their government, but also that they are able to initiate public deliberation and set items on the political agenda. Habermas’ two-track model of democracy clearly illustrates this point. Political opinion- and will-formation not only takes place in the constitutionally organized *political system* but also in the political *public sphere*.

It is particularly in the public sphere that citizens should be able to develop and exercise their “capability to initiate deliberation and thus participate in democratic decision-making”.<sup>26</sup> Non-domination in this model is a political good that requires that “juridical institutions are part of a larger system of democratic institutions that express the commitment to political rights through public accountability”.<sup>27</sup>

Even though Pettit seems to be moving in the direction of deliberation in a recent paper,<sup>28</sup> his main focus is still on formal political actors and the possibility of contestation. On the international level this translates into a clear preference for states as the relevant agents, and not individuals, civil society actors or public spheres. The international order is primarily “an arrangement among domestically legitimate states”.<sup>29</sup> Whereas cosmopolitan democrats like Bohman or Held want to know which transformations in the international order are needed to secure the rights of individuals, Pettit starts from “states as they are” and asks how the international order can be “effectively and equally controlled by all states”.<sup>30</sup>

Despite these differences, however, Pettit claims to be sympathetic to Bohman’s approach and doesn’t think their republican conceptions of liberty are inconsistent with each other. But if this is the case one cannot but wonder why Pettit is “loath”<sup>31</sup> to accept a more normative and political interpretation of the ideal of non-domination. What counterarguments can be given? Accepting such an interpretation, moreover, would also affect Pettit’s ideal arrangement of the international order. It would lead to some form of global democracy.

25 *Ibid.*, 4.

26 James Bohman, “The Democratic Minimum: Is Democracy a Means to Global Justice?”, *Ethics & International Affairs* 19 (2005): 102.

27 James Bohman, “Republican Cosmopolitanism”, *The Journal of Political Philosophy* 12 (2004): 345.

28 Pettit, “Legitimate International Institutions”, 7.

29 *Ibid.*, 6.

30 Pettit, “A Republican Law of Peoples”, 5 and 15.

31 *Ibid.*, 30.



### 3 Effectively and Equally Controlled by Whom?

With regard to the international level, however, Pettit only defends a “voluntary association of representative states”<sup>32</sup> and criticizes a global form of democracy in which individuals and not states are the relevant members. Although this association closely resembles Rawls’s “loose confederation of liberal and decent peoples”<sup>33</sup> there are also important differences. These can mainly be traced back to Pettit’s neo-republican ideas. The ideal of non-domination simply demands more from the international order than Rawls’s ideas of human rights and legitimacy. But why argue for a voluntary association and not for global democracy?

Pettit will, of course, agree with cosmopolitan democrats that the traditional “Keynesian-Westphalian frame”<sup>34</sup> is losing much of its appeal in our globalizing era and that the question of democratic legitimacy needs to be re-addressed on the international level. Characteristic of the Westphalian political imaginary are three principles that have strongly influenced the shape of our political landscape in the past.<sup>35</sup> States – the primary building blocks of the Westphalian order – have first of all “fixed territorial boundaries” that determine the limits of political authority and legal jurisdiction. Within these territorial spaces states are the highest political and legal authority. Modern territorial and sovereign states, furthermore, have a claim to internal and external autonomy and are not subject to binding international law. The minimal rules of protection that are created by international law are only binding to the extent that states “consent to being so bound”.<sup>36</sup>

What Pettit will deny, however, is that the decline of the Keynesian-Westphalian frame leads to a new political constellation in which “individuals should be taken as the parties to international legitimacy”.<sup>37</sup> At this point he comes close to the liberal nationalist response to globalization. Although most liberal nationalists agree that international organizations are needed and that these organizations should be held accountable, they claim that there is no necessary reason why these institutions “should be directly accountable to (or accessible to) individual citizens”.<sup>38</sup> But whereas liberal nationalists try to ground their claim in the importance of bounded national communities Pettit is not so clear about his preference for a form of two-step legitimacy – from international organizations to states and from states to the individual members of the different political communities.

Why stick to states and interstate forums to deal with the membership problem – i.e. which actors must have an “effective and equally shared control” over the international order? Pettit defends his choice for states on two grounds. A *first* reason is

32 Pettit, “Legitimate International Institutions”, 1.

33 Rawls, *The Law of Peoples*, 41, 42, 43, 61 and 93.

34 Nancy Fraser, “Reframing justice in a globalizing world”, *New Left Review* 36 (2005): 69.

35 Here we follow Anthony McGrew, “Democracy beyond borders? Globalization and the reconstruction of democratic theory and practice”, in *The transformation of democracy: Globalization and territorial democracy*, ed. Anthony McGrew (Cambridge: Polity Press, 1997), 3-4.

36 *Ibid.*, 3.

37 Pettit, “Legitimate International Institutions”, 15.

38 Will Kymlicka, *Politics in the Vernacular: Nationalism, Multiculturalism, and Citizenship* (Oxford: Oxford University Press, 2001), 324.

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because “there is no such thing as an international discourse, analogous to the discourse in a deliberative democracy, which would identify considerations that all individuals understand, regard as relevant and would want to be empowered”.<sup>39</sup> Whether such a discourse exists, however, is an empirical issue. While it seems unlikely that a fully fledged international discourse will develop in the near future, it is not inconceivable that it will come into being in the long run. There are, moreover, ways to stimulate such an international discourse. Creating transnational deliberative forums is just one example.

A second reason against choosing individuals as the relevant parties is that legitimate states are perfectly capable of policing the international order. As long as people form legitimate domestic states there is no reason why citizens should want to exercise this control in an “individualistic capacity”.<sup>40</sup> The main problem with this – but also with the previous – argument is that Pettit works with a dualism regarding international legitimacy: the relevant agents should either be individuals or states. Many cosmopolitan democrats, however, work with a two-track model of legitimation (individuals *and* states). Held’s proposal for a second chamber of the General Assembly and a citizen’s chamber is a case in point.

There are, moreover, good reasons why such a model is necessary. The membership problem, for example, is not the only problem that arises on the transnational level. A closely related issue is the boundary or inclusion problem. What is the relevant constituency for transboundary issues like migration or climate change? How can we determine the proper scope of democratic communities on the transnational and supranational level? This problem has become relevant because the process of globalization undermines a basic assumption of most traditional theories of democracy – a symmetrical relation between rulers and ruled. If political issues, however, do not always pose themselves along territorial lines, and if we are witnessing the emergence of transnational associations and cross-border communities, it becomes doubtful whether legitimate domestic states are the only parties to international legitimacy.

The boundary problem also illustrates why creating *international* deliberative forums will not be enough to resolve disputes about the scope of democratic communities. Sticking to such bodies only makes sense when they are actually capable of making a clear distinction between national, transnational, and supranational issues. If disputes regarding the scope of democratic communities remain, or if political issues cannot be fixed to one specific level of political decision-making, higher level regulatory bodies are needed. This brings us to the last question we want to address. Why doesn’t Pettit argue for more central regulation on the global level to guarantee a status of non-domination for all individuals and states?

39 Pettit, “Legitimate International Institutions”, 4.

40 *Ibid.*, 15.

#### 4 Do We Need More Central Regulation?

Pettit's republican law of peoples is based on the ideal of a "regime in which effective, representative states avoid domination"<sup>41</sup> – an ideal that lies between non-interference and the cosmopolitan ideal of justice. A central requirement of this voluntary regime is that citizens as a group "should have sufficient resources (...) not to be subject to collective domination by agents such as states, multinational corporations or international organizations".<sup>42</sup>

As a rough sketch of possible international arrangements, this continuum is confusing. One would either expect such a continuum to be organized according to the degree of centralization (with international anarchy on one end and a global state on the other)<sup>43</sup> or according to the scope of duties of justice (with nationalist theories on one end and cosmopolitan theories on the other). Pettit, however, tries to combine both in such a way that one doesn't get a clear picture of his views on distributive justice.

What one does get, however, is a clear sketch of what kind of international order we need to prevent representative states from being dominated. Instead of arguing for some form of world republic or giving the UN a more coercive or state-like structure, Pettit strongly relies on the effectiveness of interstate deliberation forums and the willingness of political actors to cooperate and associate. But why don't we need some form of federal world republic to prevent state-state domination, to solve the security dilemma or the collective action problem that lies behind many of our transboundary problems?<sup>44</sup> One would expect a neo-republican theorist to be more sensitive to the difference between a willingness to guarantee peace and non-domination and the actual securing of it.

Pettit gives three reasons why a federal world republic is undesirable. All three, however, are unconvincing. The *first* argument is the "infeasibility objection". Given our current political constellation and the "diversity and distrust between cultures"<sup>45</sup>, it is highly unlikely that a federal world republic could ever be established. This argument, however, disregards our historical experience: "The history of state formation from the days of city-states to the present era is precisely the history of warring groups with different ideologies and cultures coming together under a larger entity".<sup>46</sup> Who, at the time of William Penn's *Essay towards the Present and Future Peace of Europe* (1693), for example, would have thought that his proposal for a European League would one day turn into reality?

The *second* argument can be called the 'ineffective objection'. International agencies – even when backed by public international law – cannot effectively prevent all forms

41 Pettit, "A Republican Law of Peoples", 4.

42 Pettit, "Legitimate International Institutions", 4.

43 Compare Walzer, *Arguing about War* (New Haven: Yale University Press, 2004), 71-195.

44 Cf. Campbell Craig, "The Resurgent Idea of World Government", *Ethics & International Affairs*, 22 (2008): 133-42. Deudney, for example, uses republican ideals to argue for a world republic. See Daniel H. Deudney, *Bounding Power: Republican Security Theory from the Polis to the Global Village* (Princeton: Princeton University Press, 2006).

45 Pettit, "A Law of Peoples", 14.

46 Craig, "The Resurgent Idea of World Government", 140.

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of state-state domination from occurring.<sup>47</sup> Even if Pettit would be right regarding some forms of domination, this is still not an argument against a federal world republic. Solving collective action problems and the security dilemma is already a huge step forward. Pettit's ineffective objection would have been more persuasive if he had also used a 'consequentialist objection'. Rousseau, for example, claims that creating a world state would "do more harm in a moment than it would guard against for ages".<sup>48</sup>

Pettit's *last* argument is the well-known no-exit objection. A federal world republic would not be a "non-arbitrary source of interference"<sup>49</sup> if it denied states the right to exit. A federal world republic, however, cannot guarantee such a right because it has no outside. A voluntary association of states should therefore be preferred. Although the no-exit objection does raise some serious difficulties, it is not a knock-down argument. This is not only because there are different constitutional and political means available to guard against domination by a federal world republic, but also because the disadvantages that are associated with the absence of a right to exit might outweigh the advantages gained by solving collective action problems and the security dilemma.

## 5 Concluding Remarks

Whether or not Pettit's international normative theory is convincing depends partly on his account of the ideas of corporate and collective responsibility. His analysis of collective responsibility, however, leaves too many questions open and needs to be further developed. But even if we accept that his account is valid, it is not at all clear that he is able to defend an international arrangement that is primarily based on the voluntary relations between effective and representative national states. We have presented three general arguments to the contrary: (1) no real argument is developed why a republican international normative theory shouldn't start with a strong political interpretation of the ideal of non-domination; (2) a two-track model of legitimacy is better capable of dealing with the challenges of globalization than a state-centered one; and (3) stronger arguments are needed to explain why guarding against domination doesn't require more central regulation.

47 Pettit, "A Republican Law of Peoples", 16.

48 Jean Jacques Rousseau, *A lasting peace through the federation of Europe and The state of war* (London: Constable and Company Limited, 1917).

49 Pettit, "Legitimate International Institutions", 6.