

**Laura Valentini**

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# On the Distinctive Procedural Wrong of Colonialism\*

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## Introduction

Colonialism is associated with many all-too-familiar wrongs: oppression, exploitation, murder, racism, and dehumanization, among others. On one view, the wrong of colonialism is exhausted by the “sum” of these familiar wrongs—wrongs that are not necessarily tied to colonialism, and that may also occur in non-colonial settings. Lea Ypi has recently argued for a different view, according to which there is more to the wrong of colonialism. For Ypi, the colonial takeover and subjugation of political collectives are wrong *as such*, over and above the familiar wrongs contingently associated with such takeovers.<sup>1</sup> Specifically, Ypi argues that colonialism always instantiates a *distinctive kind of procedural wrong*, one that rests on the unequal structure of the political decision procedures characterizing colonial settings, rather than on their outcomes.<sup>2</sup>

Ypi’s view is elegant, parsimonious and intuitively appealing. But upon scrutiny, it turns out to be unsustainable. Seeing why this is so is instructive, and

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<sup>1</sup> Lea Ypi, “What’s Wrong with Colonialism,” *Philosophy & Public Affairs* 41 (2013): 158–91, p. 161.

<sup>2</sup> *Ibid.*, p. 163.

sheds light on the nature of the wrong of colonialism. My argument proceeds as follows. In Section I, I present Ypi’s account of the distinctive procedural wrong of colonialism, and note that it is susceptible to two interpretations: an “aggregate” and a “corporate” one. In Sections II and III, I explain why neither interpretation is convincing. The aggregate interpretation over-reaches: it leads us to condemn as wrongful a range of practices that are instead justified. The corporate interpretation problematically presupposes that collective entities are fundamental units of moral concern, contrary to normative individualism. The difficulties with Ypi’s view prompt me to suggest, in Section IV, that *either* there is no distinctive procedural wrong attached to the unilateral takeover of political collectives *or*, if there is, this wrong was unlikely to be instantiated in many real-world cases of colonization. I thus conclude that, although colonialism was wrong for countless reasons, there is no *distinctive procedural wrong of colonialism*.

### **I. Ypi’s account of the wrong of colonialism**

What is colonialism? Ypi understands it as a “practice that involves *collective political agents*,” whereby some such agents (the colonizers) subjugate others (the colonized) and exercise “political and economic control” over them.<sup>3</sup> For Ypi, colonialism so understood is always wrong—indeed, she asks her readers to grant as much.<sup>4</sup> However, her diagnosis of the wrong of colonialism seeks to eschew appeal to violations of territorial rights, violations of national or cultural self-determination, and the brutality and violence that often go hand-in-hand with colonization.<sup>5</sup> To be sure,

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<sup>3</sup> Ibid., p. 162, added emphasis. Ypi notes that while political collectives are typically territorially organized, this territorial dimension is not relevant to the analysis of the wrong of colonialism.

<sup>4</sup> Ibid., p. 158.

<sup>5</sup> Ibid., pp. 159–163.

she readily concedes that forcibly relocating people, “[b]urning native settlements, torturing innocents, slaughtering children, enslaving entire populations, [and] exploiting the soil and natural resources available to them” are morally deplorable practices contingently associated with colonialism.<sup>6</sup> In other words, she acknowledges that colonial government involved the perpetration of serious substantive injustice. But for Ypi, there is something wrong with colonialism *as such*, over and above its likely dire consequences for colonized populations.<sup>7</sup>

As she puts it, “[c]olonialism is a *distinctive* wrong.”<sup>8</sup> Yet it is “a distinctive wrong within a larger family of wrongs, the wrong exhibited by associations that deny their members *equality and reciprocity in decision making*.”<sup>9</sup> In the colonial case specifically, this denial of equality and reciprocity is crystallized in the unilateral subjection of the colonized collective to the will of the colonizing one. In Ypi’s view, it is the procedural unilateralism of colonialism that explains its inherently wrongful nature. And since this unilateralism is constitutive of colonialism, for Ypi, colonialism is *non-contingently procedurally wrong*, and *distinctively so*.

The procedural unilateralism of colonialism, Ypi further argues, may be instantiated in two loci: in the formation of a new, colonial political association, and in the internal structure of that association.<sup>10</sup> Each such instantiation of unilateralism, she suggests, is sufficient to make a political relation procedurally wrongful in the way colonialism is. To see Ypi’s point, consider the following two scenarios, which illustrate, respectively, the wrong of colonial acquisition of political control and the

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<sup>6</sup> Ibid., p. 162.

<sup>7</sup> Ibid., p. 161.

<sup>8</sup> Ibid., p. 163 added emphasis.

<sup>9</sup> Ibid., p. 163 added emphasis, see also pp. 178–80.

<sup>10</sup> Ibid., p. 178.

wrong of colonial structure of political control.

Imagine that Sweden unilaterally—but peacefully—takes over Canada, and starts to govern Canada reasonably justly.<sup>11</sup> From the perspective of individual rights, the people of Canada cannot complain: their civil liberties are protected, they can all easily access social services, and everyone continues to have equal entitlements to participate in decision-making within the newly established political association. Yet the Swedish takeover of Canada appears morally problematic in at least one respect. Why? Because it involves the subjection of the will of some to that of others. By hypothesis, the takeover is not negotiated with the Canadian people or their representatives, and does not enjoy their consent. It thus exhibits the distinctive procedural wrong of “colonial acquisition” of political control.

Second, consider a slave who has voluntarily consented to being under the power of his master, and who is made no worse off by virtue of having done so (i.e., the master is fully benevolent and protective of the slave). In this case, the formation of the master-slave relationship involves no procedural unilateralism, and its consequences are not detrimental to the slave. Yet many will still find the *structure* of this master-slave relationship objectionable. The slave is subject to the will of the master, who has control over him; he is not an equal decision-maker; decisions lie, ultimately, with the master. The wrong inherent in the structure of colonial relationships is, for Ypi, a version of the structural wrong of slavery, albeit one that distinctively involves political collectives as opposed to individuals. Those who find the master-slave relationship I have described objectionable will thus feel the force of

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<sup>11</sup> Cf. David A. Reidy, “Reciprocity and Reasonable Disagreement: From Liberal to Democratic Legitimacy,” *Philosophical Studies* 132 (2007): 243–91, p. 246. See also the discussion of hypothetical unilateral annexations in Andrew Altman and Christopher Heath Wellman, *A Liberal Theory of International Justice* (New York: Oxford University Press, 2009), p. 14, and Anna Stilz, “Nations, States, and Territory,” *Ethics* 121 (2011): 572–601, sec. V.

Ypi's account.

Ypi's account is parsimonious and benefits from much intuitive appeal. In fact, it may seem so obviously correct that an uncharitably disposed reader might even find it trivial. "Of course," that reader might say, "the wrong of subjecting a political collective lies in the inequalities of power and status involved in that subjection." But the appearance that this is obviously correct is misleading. Much of it rests on an ambiguity in the notion of "political collective" that Ypi appeals to. Specifically, the notion of a collective may be spelt out in either aggregate or corporate terms.<sup>12</sup> In the former case, a collective is just a set of individuals. In the latter case, a collective is an agent in its own right.

For instance, consider a paradigmatic political collective, such as a state—call it "state X." From an aggregate perspective, the expression "state X" is shorthand for "the group of individuals who are members of X."<sup>13</sup> By contrast, from a corporate perspective, "state X" is an agent in its own right—a collective agent—with its own beliefs, desires, and will.<sup>14</sup> This is the perspective we implicitly adopt when we claim that states "sign treaties," "declare wars," "send foreign aid," and so forth.

Depending on what is meant by a "political collective," the (alleged)

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<sup>12</sup> For a discussion of this distinction, see, e.g., Christian List, "Three Kinds of Collective Attitudes," *Erkenntnis* 79 (2014): 1601–22; Christian List and Philip Pettit, *Group Agency: The Possibility, Design, and Status of Corporate Agents* (Oxford: Oxford University Press, 2011); Philip Pettit, "Groups with Minds of Their Own," in *Socializing Metaphysics: The Nature of Social Reality*, ed. Frederick Schmitt (Lanham: Rowman & Littlefield, 2004), pp. 167–94.

<sup>13</sup> Cf. Arthur Isak Applbaum, "Forcing a People to Be Free," *Philosophy & Public Affairs* 35 (2007): 359–400, p. 376.

<sup>14</sup> See List and Pettit, *Group Agency*. For related literature, see, e.g., Raimo Tuomela, *Social Ontology: Collective Intentionality and Group Agents* (New York: Oxford University Press, 2013); Michael Bratman, *Faces of Intention: Selected Essays on Intention and Agency* (Cambridge: Cambridge University Press, 1999); Margaret Gilbert, *On Social Facts* (Princeton, N.J.: Princeton University Press, 1989).

distinctive procedural wrong of colonialism will consist in either the subjection of individual members of colonized collectives to alien powers or the subjection of the collective itself. In her discussion, Ypi slides between aggregate and corporate understandings of a political collective.<sup>15</sup> But once her account is disambiguated, it becomes apparent that no version of it—whether aggregate or corporate—is convincing.

## II. The aggregate interpretation

On the first interpretation of Ypi’s account, colonialism is distinctively procedurally wrong insofar as it involves the subjection of the wills of *individual members* of colonized groups to colonizers’ control. This occurs whenever terms of political association (i.e., laws) are imposed upon them without their voluntary consent. In Ypi’s words, for an “associative offer”—namely, an offer to create a new political union, characterized by particular terms of association—“to be considered effectively equal and reciprocal, the [voluntary] consent of those on the receiving end is required.”<sup>16</sup> When such voluntary consent is absent—as in the earlier scenario involving Sweden and Canada—a political association exhibits the procedural wrong typical of colonialism.

On this interpretation, the wrong is explained by the following principle:

*It is wrong to acquire/exercise control over individual members of a political*

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<sup>15</sup> For the former, see, e.g., the following passage: “the wrong of colonialism consists in the establishment of a form of association that fails to offer equal and reciprocal terms of interaction to all *its members*.” Ypi, “What’s Wrong with Colonialism,” p. 178, added emphasis. For the latter, see, e.g.: “colonialism is a practice that involves collective political agents, not individuals,” and another passage quoted later in the paper. *Ibid.*, pp. 162, 176.

<sup>16</sup> *Ibid.*, p. 179.

*collective without their voluntary consent.*

This principle is substantively implausible: it implies too much. To see this, consider the following scenario. A wrongful attacker, **A**, is harming an innocent victim, **B**. A policeman, **C**, arrives at the scene and issues the following coercive command directed at **A**: “Stop harming **B**, otherwise I shall arrest you!” **A** has *not* consented to the form of control that **C**—or the government on whose behalf **C** is acting—exercises over him, and yet **C**’s actions are far from wrongful. Coercion in the service of protecting others’ rights is surely morally permissible. So interpreted, then, the non-contingent procedural account of the wrong of colonialism classifies as wrongful some instances of control that are not wrongful at all.

It might be objected that this example misfires, since Ypi is not interested in the permissibility of *one-off* unilateral coercion, but rather in the wrongness of *imposing ongoing terms of association* without subjects’ consent.<sup>17</sup> It is not clear, though, why this should make a difference. Consider this revised version of the above scenario.

Suppose we know that wrongful attacker **A** would consent only to terms of association that gave him full license to do whatever he wishes—drive at whichever speed he wants, appropriate whatever resources he wants, injure whomever he wants, and so forth. Unfortunately for **A**—and fortunately for everyone else—the terms of association of his polity are fair and give him no such license. Every time **A** breaches the speed limit, steals others’ property or tries to attack innocent individuals, police intervenes to enforce laws to which **A** has not consented. Here too, it would seem

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<sup>17</sup> I am grateful to an anonymous reader for raising this objection.

incorrect to criticize the police's intervention as wrongful *because A* has not consented to the terms of association imposed on him.<sup>18</sup>

What is more, even if one conceded—implausibly, in my view—that lack of consent makes the imposition of ongoing terms of association wrongful, this claim could *not* be used as an explanation of what is *distinctively* procedurally wrong with colonialism. If the lack of individual voluntary consent is what does the explanatory work, then what is wrong with, say, the Spanish colonization of the Americas or the Dutch colonization of South Africa is equally wrong with the present government of Spain, and the present government of the Netherlands (as well as the governments of Iceland, Sweden, Norway, and so forth). Why? Because most citizens of these countries have not voluntarily consented—whether explicitly or tacitly—to the control that their governments exercise over them.<sup>19</sup> They may passively accept such control, but consent is a rare occurrence—for instance, in cases where individuals

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<sup>18</sup> Locke-inspired consent theorists such as A. John Simmons hold that state coercion without subjects' consent is rightful only in a narrow set of cases, namely when: (i) the state enforces pre-political natural duties (e.g., duties not to kill or physically injure innocent others) and (ii) "accepting membership in a state is the only way we can fulfill one of our other moral obligations or duties." A. John Simmons, "Justification and Legitimacy," *Ethics* 109 (1999): 739–771, p. 769. These theorists proceed to point out that condition (ii) is virtually never satisfied, and thus conclude that states' enforcement of *ongoing terms of association*—which go beyond mere natural duties—without subjects' consent is wrongful. *Ibid.*, pp. 768–770. Independently of its merits, this line of response is not available to Ypi. Endorsing a broadly Kantian—as opposed to Lockean—perspective, she maintains that there exists an "obligation to enter into a political association offering equal and reciprocal terms of interaction," precisely because this is necessary for individuals to do justice to each other. See Ypi, "What's Wrong with Colonialism," pp. 175, 177. In other words, unlike consent theorists, Ypi holds that condition (ii) is typically satisfied; and yet she insists that consent on the part of subjects is necessary for the imposition of ongoing terms of association to be non-wrongful. See Ypi, "What's Wrong with Colonialism," p. 179. This suggests that, despite the Kantian pedigree of her view, Ypi might subscribe to a form of voluntarism more extreme than that endorsed by Lockean consent theorists.

<sup>19</sup> A. John Simmons, "Tacit Consent and Political Obligation," *Philosophy and Public Affairs* 5 (1976): 274–91, esp. p. 290.

voluntarily take up a new citizenship.

Ypi is not unaware of these difficulties. Her response to them attempts to establish morally significant differences between the forms of control exercised by “regular” domestic governments and those practiced by colonial ones. The relevant passage is worth quoting at length.

In the colonial case, colonizers impose their will over the colonized, and the rules of association endorsed by the latter reflect the power of the former. In most cases of domestic subjection to political authority, we think of all citizens as *equal in their subjection to the laws*, but also *equal in their capacity to change the content of such laws*. [...] Of course, [...] many domestic political associations have been wrongfully imposed on some groups of citizens by other more powerful groups. When that is the case, and *if the asymmetry in the creation of norms continues to affect the lives of subsequent generations of historically wronged groups*, we can condemn that association as wrongful for the same reasons we condemn colonialism as wrongful. If, with the passage of time, the position of the historically wronged group changes such that the subsequent substantive principles of political association genuinely *track its will* and the *effects* of path dependence disappear, we can say that injustice has been superseded.

I have argued that for an associative offer to be considered effectively equal and reciprocal, the [voluntary] *consent* of those on the receiving end is required....<sup>20</sup>

The passage offers a number of criteria—distinct from voluntary consent—determining when control does not exhibit the procedural wrong of colonialism. (Consent is mentioned again only in the final sentence.) These are:

1. The members’ equal subjection to the law, and equal capacity to change it.

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<sup>20</sup> Ypi, “What’s Wrong with Colonialism,” p. 180, emphases added. See also Ypi’s reference to democracy and representation (p. 176).

2. The laws' lack of negative impact on "the lives of subsequent generations of historically wronged groups."
3. The laws' "tracking the will" of historically wronged groups.

Given Ypi's appeal to so many different considerations—and her lack of explicit discussion of how they relate to each other—it is difficult to pinpoint precisely what, in her view, explains the distinctive procedural wrong of colonialism. As it turns out, however, we need not choose between criteria (1), (2) and (3). As I illustrate in what follows, like the lack of voluntary consent, none of them offers a satisfactory account of the procedural wrong of colonialism.

Regarding (1), the condition of equal subjection to the law is consistent with the content of the law being highly discriminatory in ways that violate Ypi's ideal of equality and reciprocity in decision-making.<sup>21</sup> Think of a society in which women lack the right to vote. There, every citizen is equally *subjected* to the law, yet the law *treats* male and female citizens very differently. Analogously, think of a law that explicitly gives colonizers the right to exploit the colonized. Here, colonizers and colonized are *subjected* to the same law, they are just *treated* very differently by it. Appeal to the condition of equal subjection, therefore, problematically under-ascribes colonial wrongdoing.

Reliance on "equal capacity to change the law," by contrast, leads to an over-ascription of colonial wrongdoing, since there seems to be no real-world political community—even among well-functioning democratic ones—in which citizens have this capacity to an equal degree. For example, the U.S. President's capacity to change

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<sup>21</sup> Ibid., p. 163.

the law is much greater than that of any ordinary U.S. citizen.<sup>22</sup> If an equal capacity to change the law is needed for a political relationship to be not procedurally wrongful *in the way* colonialism is, then all existing, well-ordered democratic states count as wrongfully colonial—which again appears implausible.<sup>23</sup>

Ypi’s first criterion might be interpreted differently, however. Perhaps, what she is alluding to is citizens’ *formal equality under the law*—including their equal formal right to participate in political decision-making. The trouble with this interpretation is that the lack of formal equality under the law is ill-suited to explain the distinctive procedural wrong of colonialism. Recall the earlier example involving a hypothetical Swedish takeover of Canada: this resulted precisely in a political union guaranteeing formal equality under the law to all its members (in fact, more than that). Yet, on Ypi’s own account, it represented an instantiation of the distinctive

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<sup>22</sup> Lea Ypi has pointed out to me that every citizen (typically with some further qualification) can compete for presidential election. This response only pushes the “differential capacity” concern one step back. From a substantive point of view, not everyone has the same capacity to compete for presidential election (e.g., think of people who lack charisma, or opportunities for education).

<sup>23</sup> An anonymous reader has suggested that, perhaps, Ypi only has in mind what Ronald Dworkin calls “horizontal equality,” namely *ordinary citizens’* equal capacity to change the law by, for instance, voting in elections and campaigning for particular policy reforms. Horizontal equality, in turn, is compatible with state officials—like the President—having greater power to change the law than ordinary citizens do. I doubt that this interpretation of Ypi’s remarks can respond to my concerns for two reasons. First, horizontal equality is compatible with unequal political relationships that Ypi would consider morally impermissible. As Dworkin himself notes, “[i]n totalitarian dictatorships private citizens have equal political power: none.” See Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge, MA: Harvard University Press, 2000), p. 191. Second, virtually all democratic states fail to exhibit genuine horizontal equality: ordinary citizens’ capacity to influence political outcomes varies depending on, for instance, their financial resources, charisma, and likeability.

procedural wrong of colonialism.<sup>24</sup> To be sure, colonial governments were wrongful, among other things, because they failed to give their members equal legal status. But the distinctive procedural wrong of colonialism, as Ypi understands it, cannot be satisfactorily explained solely by a lack of formal legal equality among individuals.

Regarding (2), “lack of negative impact” has a substantive as opposed to procedural flavour, and is thus in tension with Ypi’s official, purely proceduralist account of the wrong of colonialism. I thus set this criterion aside as inconsistent with the predominant spirit of her view.

Turning to (3), this focuses on control *tracking the will* of relevant agents, as opposed to enjoying their voluntary consent. Importantly, tracking an agent’s will differs from enjoying their voluntary consent; consent is only one way in which a person’s will can be tracked. For example, a benevolent master may excel at tracking the will of his slave, guessing what he intends to do, and allowing him to act accordingly. Yet, even in this case, we might find the master-slave relationship objectionable because the slave is ultimately dependent on the will of the master—indeed, recall the earlier example of the wrong of colonial *structure* of political control, involving a benign master-slave relation.<sup>25</sup> “Tracking the will” is thus a less stringent criterion than voluntary consent, and it is not obvious whether Ypi would genuinely want to endorse it, given her characterization of the wrong of colonialism.<sup>26</sup>

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<sup>24</sup> In fact, for Ypi, the unilateral takeover would have been procedurally wrong even if, instead of a reasonably just state like Canada, Sweden had annexed an unjust one. See Ypi, “What’s Wrong with Colonialism,” p. 185.

<sup>25</sup> See Philip Pettit, *Republicanism. A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997), p. 22.

<sup>26</sup> In light of this ambiguity in Ypi’s account, in what follows, I refer to the “tracking of subjects’ wills” as her criterion for the acquisition of political control to count as non-unilateral, and point to voluntary consent as the most effective form of “will-tracking.”

What is more, there is no government, at least in our pluralistic world, whose laws and policies always track the will of *every single member*. It is sufficient to consider existing well-constituted democracies, where majorities routinely outvote minorities. If tracking *individuals'* wills is necessary for avoiding “colonial wrongdoing,” then all existing well-ordered democratic states exhibit the distinctive procedural wrong of colonialism, because their decisions do not enjoy the people’s unanimous support—a conclusion that again implausibly over-reaches.

To be sure, people’s disagreement about laws and policies may be regrettable; and the world would perhaps be a happier place in the absence of such disagreement. Furthermore—where feasible—it may be good, perhaps even obligatory, to draw political boundaries such that the terms of each political association are as consonant as possible with members’ preferences.<sup>27</sup> Consider the referendum on Scottish independence, which took place in September 2014. It could be said that, had the U.K. government not allowed the Scottish to decide whether to become an independent political community—in light of their shared culture and political preferences—a particular kind of wrong would have occurred; perhaps, even a distinctively “colonial” wrong.

This may well be true, but it is not what I dispute. What I take issue with is the idea that tracking the will of *every single* subject is necessary for a government to avoid “colonial” wrongdoing. This condition fails to be met in the U.K. today, despite the referendum. And it would have failed to be met even if the referendum had resulted in Scottish independence—contrary to what actually happened. The laws of an independent Scotland would predictably not have tracked the will of all Scottish people; equally, the laws of the “rest of the U.K.” would not have tracked the will of

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<sup>27</sup> I thank an anonymous reader for suggesting this point.

all remaining subjects. The suggestion that, *for this reason*, Scotland, the “rest of the U.K.,” and any democratic society—even the best run one—would exhibit the procedural wrong typical of colonial domination is hard to take seriously.

It might be objected that, contrary to what the previous paragraphs assume, in order to track its members’ wills, a polity’s laws need not align with everyone’s personal judgements or preferences. Instead, political control tracks subjects’ wills to the extent that subjects *endorse* their political membership, and value the *process* of making decisions together—even if the outcomes of those decisions are sometimes at odds with their wishes and convictions.<sup>28</sup>

This alternative interpretation of “will-tracking” also leads to an over-ascription of wrongdoing. Consider a group of Swedish anarchists who do not endorse their membership in the collective Sweden. On the proposed account of “will-tracking,” the presence of this anarchist group would *suffice* for Sweden to exhibit the procedural wrong of colonialism. More generally, the presence of politically apathetic and disaffected citizens in any state—no matter how well-ordered—would be enough to trigger concerns about wrongdoing: in fact, about *the same kind of* wrongdoing that characterizes colonial settings. I find this implausible.<sup>29</sup>

Again, it may be regrettable that some political communities exercise control over individuals who, despite having reason to value their membership (say because

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<sup>28</sup> I am grateful to an anonymous reader for suggesting this point. A sophisticated version of this view has been recently defended in Anna Stilz, “The Value of Self-Determination,” *Oxford Studies in Political Philosophy*, forthcoming; Anna Stilz, “Decolonization and Self-Determination,” *Social Philosophy and Policy*, forthcoming.

<sup>29</sup> Stilz’s own account avoids this implication by appeal to a natural duty to participate in a (minimally) just state. Stilz, “Decolonization and Self-Determination,” p. 18 (**page proofs**). Ypi, by contrast, holds that even if there is an obligation to participate in a fair (i.e., “equal and reciprocal”) political association, the imposition of its fair terms on those who do not endorse them is wrongful. Ypi, “What’s Wrong with Colonialism,” p. 179.

their polity is just), do not. Yet this does not appear sufficient to render that exercise of control wrongful in general—recall the “police” example—let alone procedurally wrongful *in the way* colonialism is.

On inspection, though, this is probably not a conclusion Ypi is committed to. Towards the end of the above-quoted passage, she explicitly refers to the “will of a group,” as opposed to that of individual members. If tracking the “will of the subjected group”—voluntary consent being the best, but not the only, way to do so—is what makes political control non-unilateral, we need to turn to the corporate interpretation of Ypi’s account.

### **III. The corporate interpretation**

On this interpretation, a group is to be understood as a collective agent, with beliefs, desires, and a will of its own. What explains the distinctive wrong of colonialism is a failure, on the part of colonisers, to track the collective’s will—e.g., by not acquiring *its* voluntary consent. But what kinds of collective political agents possess moral standing such that a failure to track their wills amounts to wrongdoing? Ypi does not give much guidance in this respect. She “assumes that we know what makes [a] collective a political collective, and that indigenous societies or tribal groups do count as political collectives.”<sup>30</sup>

Since she does not set out explicit criteria that political collectives must meet in order to acquire moral standing, the most straightforward corporate interpretation of her account relies on the following principle:

*It is wrong to acquire/exercise control over a political collective without*

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<sup>30</sup> Ypi, “What’s Wrong with Colonialism,” p. 162.

*tracking its will (e.g., without its voluntary consent).*

This principle is inconsistent with individual human beings' status as equal and ultimate units of moral concern. From a normative individualist perspective, the moral standing of a collective is explained by, and therefore conditional on, the collective's serving the legitimate interests of individuals. In turn, individual interests are legitimate only if they are consistent with reasonable demands of justice—namely with the principles that determine the distribution of “the benefits and burdens of social cooperation,” and establish the rights and duties of fellow members of society.<sup>31</sup> To illustrate, I might have a subjective interest in stealing others' justly acquired possessions, and in preventing them from supporting political parties other than my preferred one, yet this interest is illegitimate, since it is at odds with others' rights to property and political participation.

Once the moral standing of collectives is explained in normative individualist terms, the above-stated principle turns out to be implausible. For example, it commits us to the view that the exercise of control over a tyrannical—and therefore paradigmatically unjust—state requires *that state's* voluntary consent in order not to be procedurally wrongful. But this cannot possibly be consistent with normative individualism. We can easily imagine a tyrannical state strongly opposing the unilateral acquisition of control by another state, yet its subjects favoring it, since it would be likely to improve their living conditions.<sup>32</sup> In such a case, from a normative

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<sup>31</sup> This is famously Rawls's characterization of the function of principles of justice. John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1999), p. 4.

<sup>32</sup> One could object that a “tyrannical state” does not count as a political collective. This would be equal to adopting a normativized conception of collective agency, for which there is little theoretical warrant. For example, the dictatorial state of North Korea can be plausibly described as a collective agent, despite its morally repugnant policies. In other words, we should retain a distinction between

individualist perspective, there would appear to be nothing procedurally wrong with the takeover—certainly not *because* of its being contrary to the will of the tyrannical state, or because of its undermining of a political association that its corrupt officials endorse.<sup>33</sup> Those officials clearly do not have a *legitimate* interest in the continued existence of the state. Explaining the procedural wrongness of taking over a tyrannical collective thus requires attributing standing to the collective *independently* of how this serves the legitimate interests of individuals, contrary to normative individualism.

In response, it might be suggested that a collective political agent has moral standing only as long as it upholds *equality and reciprocity* among its members: the political ideal central to Ypi’s discussion. On this account, the procedural wrong of colonialism is explained by the following principle:

*It is wrong to acquire/exercise control over a political collective without tracking its will (e.g., without its voluntary consent), if and only if the collective in question is “equal and reciprocal.”*

But in virtue of what does a collective count as “equal and reciprocal”? One possibility, consistent with our discussion in the previous section, is to invoke the consent—or the tracking of the will—of all members. This option predictably runs into difficulties. Since no realistic political collective tracks *every* member’s will, it implies that no political collective has moral standing, and therefore *no* unilateral acquisition/exercise of control over any such collective—say, of Sweden over Canada

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“collective agents” simpliciter and “morally good collective agents.” Cf. Applbaum’s definition of a “normative people,” in Applbaum, “Forcing a People to Be Free,” pp. 380, 389.

<sup>33</sup> If the takeover involved violence and rights violations we would, of course, have other reasons for condemning it.

in the earlier example—is procedurally wrong. This conclusion arguably under-  
ascribes wrongdoing, and at any rate is starkly at odds with Ypi’s claim that  
colonialism is always (i.e., non-contingently) procedurally wrong.

Alternatively, we might think that the condition of “equality and reciprocity”  
is satisfied whenever a collective is appropriately attentive to the legitimate  
interests—not just the *wills*—of its members (and outsiders).<sup>34</sup> On this view, a  
political collective has moral standing as long as it is “reasonably just” towards  
individuals, procedurally as well as substantively. For present purposes, I do not  
commit to any particular view about reasonable justice; readers may just “plug in”  
their preferred account. Depending on how narrow or capacious the category of  
reasonable justice is, we will obtain different verdicts about the wrongness of  
unilateral takeovers.<sup>35</sup> Relative to each criterion of reasonable justice, societies that  
meet it are *on a par* from a justice point of view. For instance, *if*, on our notion of  
reasonable justice, Canada qualifies as reasonably just, this version of a corporate  
account allows us to condemn Sweden’s imaginary takeover as procedurally  
wrongful.

While in-principle capable of capturing the distinctive colonial wrongness of a  
hypothetical Swedish takeover of Canada, this modified version of Ypi’s view also

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<sup>34</sup> Cf. Jeremy Waldron, “Theoretical Foundations of Liberalism,” *The Philosophical Quarterly* 37  
(1987): 127–50, p. 144.

<sup>35</sup> To illustrate, again using Rawls’s theory of justice as a reference point, on a somewhat narrow  
understanding of “reasonable justice,” only societies that realize “justice as fairness” qualify as  
reasonably just. On a more capacious understanding, respect for basic liberties and equality of  
opportunity suffice for a society to qualify as reasonably just. Cf. Rawls’s idea of a “family” of  
reasonable liberal conceptions of justice, see John Rawls, *The Law of Peoples: With “The Idea of  
Public Reason Revisited”* (Cambridge, MA: Harvard University Press, 1999).

allows for the possibility that “if a certain agent ... denies equal and reciprocal voice to the claims of its members, it [can unilaterally, yet rightfully, be incorporated] into another one that respects the reciprocity criteria of political association.”<sup>36</sup> In other words, it allows for circumstances under which colonialism is *not* distinctively procedurally wrong.

In line with her claim that colonialism is *always* distinctively procedurally wrong, Ypi rejects this conclusion—and the corporate interpretation of her account leading to it—insisting that the unilateral takeover of a deeply unjust political collective on the part of a reasonably just one is also procedurally wrong (at least *pro tanto*). To reach this verdict, however, she switches back to an aggregate interpretation of the notion of a collective. In her words, “[i]f *members* of a group are denied representation within the [original, unjust] group, it is not clear that they should be unilaterally forced into another [more just] association, one whose terms are also initially imposed on them.”<sup>37</sup> This brings us back to the difficulties considered in the previous section, which I do not restate here.

#### **IV. Concluding remarks**

Ypi’s claim that colonialism always instantiates a distinctive procedural wrong is intuitively appealing, but the foregoing discussion has put its tenability into question. In fact, the difficulties with Ypi’s view are serious enough to cast doubt on the very existence of a distinctive procedural wrong of colonialism. Given those difficulties, we have good reason to believe that no such wrong exists. This conclusion may be reached via two different lines of argument, each stemming from a specific

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<sup>36</sup> Ypi, “What’s Wrong with Colonialism,” p. 185.

<sup>37</sup> *Ibid.*, p. 185, emphasis added.

interpretation of what a commitment to normative individualism entails. In view of space constraints, I can only sketch each of them briefly, without offering a positive defence. The general conclusion that there exists no distinctive procedural wrong of colonialism, however, stands independently of which of the two lines of argument we take.

Recall that, for normative individualists, the moral standing of collective agents is explained by, and conditional on, the impact that these agents have on the legitimate interests of individuals. Furthermore, since individuals' interests are legitimate only if they are consistent with reasonable justice, from a normative individualist standpoint, a "justice-enhancing takeover" cannot be wrongful. That said, normative individualists may differ on whether a "justice-neutral" takeover—i.e., one where the resulting political community is as reasonably just as in the status quo ante—can be wrongful.

For some, namely those who see the moral standing of collectives as *solely dependent on* their conduciveness to reasonably just relations among individuals, it cannot. On this view, there are no resources to affirm the wrong involved in a peaceful and justice-neutral takeover of, say, Canada by Sweden. For how could the lack of consent on the part of the collective Canada be wrongful if (i) the standing of the collective Canada is reducible to its conduciveness to reasonably just relations among members and (ii) the Swedish government, by hypothesis, also establishes reasonably just relations among its newly acquired subjects?

To be sure, we may still intuitively feel that such a takeover would be wrongful. But this feeling can be easily explained. Since real-world takeovers are likely to be predatory and violent, adopting a blanket "no takeover" norm is the

better policy overall.<sup>38</sup> And since our intuition is trained to respond to real-world cases, it delivers a false positive in unrealistic scenarios such as the one depicting a peaceful Swedish takeover of Canada.

Once this becomes apparent, we are left with no reason to think that the takeover of a *collective* without *its* consent is ever wrong per se. What matters morally is the subjugation of individual human beings, their being denied equal status under the law, independently of the identity of the collective who makes and enforces the law. We should then conclude that what is wrong with colonialism, from a procedural perspective, is *the same as* what is wrong with regular domestic governments that fail to realize “relational” or “democratic” equality among their members.<sup>39</sup> Colonialism is thus procedurally wrong, but not distinctively so.

Though coherent, this first option will leave some readers dissatisfied. They will still feel uneasy about the moral pedigree of a hypothetical Swedish takeover of Canada—and this not merely because, were it to occur in the real world, it would be accompanied by much suffering and rights violations. The wrongness of the envisaged takeover seems to persist even if we take its philosophically “sanitized” description at face value.

This leads me to the second line of argument, which holds that collective agents may serve individuals’ legitimate interests in ways that go *beyond* the establishment of reasonably just relations among them. How exactly collectives might do this depends on our specific conception of individuals’ legitimate interests. Multiple possibilities are available. Here I sketch the two I find most promising.

On one conception, recently defended by Anna Stilz, individuals have an

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<sup>38</sup> I thank Cécile Fabre for suggesting this point.

<sup>39</sup> Elizabeth Anderson, “What Is the Point of Equality?,” *Ethics* 109 (1999): 287–337.

interest in enjoying “maker freedom,” namely in seeing the institutions under which they live as their own creation, and affirming their participation in them.<sup>40</sup> When this condition is met, individuals are not mere subjects to political power, but participants in a shared cooperative enterprise. When this condition is *not* met, individuals experience a destructive sense of alienation from their political institutions and broader social context. Provided the fulfillment of the interest in “maker freedom” is consistent with the establishment of reasonably just relations among the individuals involved, it is legitimate.<sup>41</sup> On this view, unilaterally taking over a reasonably just political collective populated by individuals who affirm their political membership would thus be wrongful, insofar as it would set back their legitimate interest in “maker freedom.”

A different view could instead appeal to individuals’ interest in not being de facto disrespected. An action counts as “de facto disrespectful” when it falls under the purview of the notion of disrespect, as this is understood in the context in which the action is performed. Typically, actions that breach the *positive norms* characterizing a given context—i.e., actions that breach the permissions and prohibitions collectively accepted in that context<sup>42</sup>—are de facto disrespectful in that context. For example, in Japan, there is a positive norm according to which “one ought not to tip, especially by

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<sup>40</sup> Stilz, “The Value of Self-Determination.”

<sup>41</sup> Stilz doesn’t use the language of “legitimate interests,” but she is explicit that, if affirmation of one’s membership in a political community is at odds with the satisfaction of (minimal) demands of justice, the latter should take priority. What Stilz calls “minimal justice” includes the protection of rights to subsistence, security, freedom of conscience, speech, association, and political opinion, but not of a right to full democratic participation. Her criterion, then, offers a somewhat permissive interpretation of what I call “reasonable justice.” See Stilz, “Decolonization and Self-Determination,” p. 22 (**page proofs**).

<sup>42</sup> See, e.g., Nicholas Southwood and Lina Eriksson, “Norms and Conventions,” *Philosophical Explorations* 14 (2011): 195–217; Geoffrey Brennan, Lina Eriksson, Robert E. Goodin, and Nicholas Southwood, *Explaining Norms* (Oxford: Oxford University Press, 2013).

directly handing cash.” Breaching this norm, as tourist guides routinely point out, is de facto disrespectful. Similarly, in the U.K., there is a positive norm that mandates queuing, and skipping the queue in breach of this norm is de facto disrespectful. Or else, in Oxbridge colleges there typically exists a positive norm according to which “one ought to abide by the decisions of Governing Body,” and failing to abide by those decisions is de facto disrespectful. Provided the positive norms in question are consistent with reasonable justice, the corresponding interest in not being de facto disrespected they induce is legitimate. This is why it is wrong (at least *pro tanto*) to tip in Japan, to skip the queue in the U.K., and to ignore the decisions of Governing Body in an Oxbridge college.<sup>43</sup>

Interestingly, the will of a political collective is itself constituted by a set of positive norms: those establishing the procedures—often enshrined in a constitution—through which political decisions are taken. Since the acquisition of control over a reasonably just political collective without its consent breaches the positive norms that make up the collective’s will, on this view, it sets back the legitimate interest of its members in not being de facto disrespected, and is wrongful for that reason.

Crucially, on both the maker-freedom-based and respect-based versions of this second line of argument, the procedural wrong of unilateral takeovers is *contingent* on the target collectives’ meeting standards of reasonable justice. For, as we have seen, only once those standards are met, do individual members have a *legitimate* interest in

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<sup>43</sup> For a defence of the view that breaching justice-consistent positive norms is wrong because de facto disrespectful, see Laura Valentini, “When in Rome, Do as the Romans Do,” (manuscript). See also Andrei Marmor, *Social Conventions: From Language to Law* (Princeton and Oxford: Princeton University Press, 2009), chap. 6; Sarah Buss, “Appearing Respectful: The Moral Significance of Manners,” *Ethics* 109 (1999): 795–826.

the collective's will being honoured.<sup>44</sup> This also means that while this second line of argument allows us to account for the wrongness of a hypothetical Swedish annexation of Canada (on the assumption that Canada is reasonably just), it cannot be used in support of the idea that there exists a procedural wrong *distinctive of colonialism*.

Many colonized peoples probably did not meet standards of reasonable justice on any plausible normative individualist account of what reasonable justice demands.<sup>45</sup> This, I should emphasize, is neither to depict colonized communities as “uncivilized,” nor to imply that their subjugators were somehow “morally superior.” The point I am making is modest, and hopefully uncontroversial: namely that, in all likelihood, many colonized communities were not reasonably just (at least not according to a normative individualist outlook on justice)—a claim that is equally true for their colonizers.

In light of this, while offering a promising starting point for developing an account of the procedural wrong of “unilateral control over political collectives” *in general*, this second line of argument—in both the “maker-freedom” and “respect” versions—does not give us a characterization of the procedural wrong *distinctive of colonialism in particular*. Despite being deeply wrong for countless reasons—including racism, violence, exploitation, murder, forced relocation, violations of relational equality between individuals and so forth—many real-world instances of colonization probably did not display the distinctive wrong in question.

In conclusion, then, I remain sympathetic to the suggestion that the unilateral

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<sup>44</sup> Stilz, in particular, regards the affirmation of one's political membership as “authentic” only on condition that this occurs against a minimally just background. See Stilz, “Decolonization and Self-Determination,” pp. 17, 22–23 (**page proofs**).

<sup>45</sup> This is likely to be the case, to a significant extent, even when the “reasonable justice” condition is interpreted in Stilz's somewhat minimalist terms (see note 41).

takeover of political collectives may—under appropriate circumstances—exhibit a distinctive procedural wrong. But I am sceptical about the existence of a distinctive procedural wrong *of colonialism*. Crucially, even if such a wrong does not exist, this does not preclude us from condemning colonialism for all the other well-known reasons.