

BOOK SYMPOSIUM

Comments on Responsible Citizens, Irresponsible States

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1. *When are citizens intentional participants in the state?*

What is it that makes us as citizens liable for the actions – including the wrongdoings – of our state? Answering this question is part of the larger debate on the nature of complicity and collective action. When are we connected to joint endeavours and collective outcomes in a way that makes us (on some level) responsible for them?

Of particular interest within this debate is the normative relationship of citizens to their state. For instance, when states pay reparations for past crimes the costs are – one way or another – borne by their citizens. In *Responsible Citizens, Irresponsible States* (OUP 2021), Avia Pasternak examines with admirable clarity and circumspection if states are justified in imposing the cost of their past wrongdoings on all of their citizens, including those who played no obvious part in those crimes.

The issues are far from trivial since the costs reparations impose on citizens (or, more generally, on residents) are usually not. In the worst case, it would appear, the state compensates one damaged party by causing damage to another and in the attempt to correct a past wrong commits a new one. Pasternak ultimately defends the view that not all citizens are equally liable to bear such costs but only those who are *intentional citizens*, that is, those who participate in the state with the intention to further its goals. Her thesis is bold, relying as it does on the idea that it ultimately comes down to citizens' internal attitudes and whether or not they are legitimate bearers of such responsibilities.

It is this aspect of Pasternak's account that really distinguishes hers from other attempts to conceptualize the normative relationship between the state and its citizens (Lawford-Smith 2019; Collins and Lawford-Smith 2016). Her notion of intentional citizenship enables Pasternak to lend plausibility to an otherwise highly counter-intuitive claim: that we can be responsible for government action that we are actively opposed to. Undeniably, this is one of the strengths of her account – it will be the focus of section 2.

Nonetheless, an 'internalist' (if you will) reading of citizens' responsibility comes with its own challenges, some of which are addressed in the book while others arguably deserve more detailed attention: For instance, what are the epistemic conditions of intentional citizenship? Just how aware do

citizens have to be of their government's actions in order to be 'responsible' for them? Are those exempt who form bad beliefs about what the state really does (i.e. beliefs that are contrary to available first-order evidence), such as the beliefs held by 'pizzagate' (Fisher et al. 2016)¹ conspiracists? In other words, if we allow for those who are deeply alienated from their state to fall outside the scope of intentional citizenship – as Pasternak argues – how do we handle those whose sense of alienation is based on grossly distorted views and beliefs? Finally, there is a worry that Pasternak's account allows for a loophole in that it lets thugs and others off the hook who systematically exploit the rule of law and do not genuinely (intend to) participate in sociality. These concerns are explored in detail in Section 3.

Let me start with a brief summary of Pasternak's position:

1.1 *What is intentional citizenship?*

The concept of *intentional citizenship* is at the core of Pasternak's theory and the one on which her argument hinges: depending on *how* one participates in one's own state, and – crucially – depending on one's mental state, one's resources can be legitimately drawn upon to compensate for the state's wrongs, or not. She writes that:

My core suggestion is that, typically, citizenship is not merely an ascriptive property. Rather, citizenship involves various volitional acts. Citizens act in their state, and their duty to share in their state's remedial responsibilities flows from their participation in it. (2021:8)

Intentional citizenship is based on citizens' *participatory intentions* and can indirectly be measured via citizens' affective attachment to the state. A citizen's participatory intention determines whether or not they share in their state's forward-looking responsibility to compensate the victims of harms caused by the state. According to Pasternak, this is because intentional citizenship based on participatory intention marks citizens as *inclusive authors* of the actions of the state, as (usually peripheral) participants in the collective actions that the state performs.

Pasternak's conceptual framework is based on Christopher Kutz's groundbreaking study on complicity and its moral (as well as legal) implications, *Complicity: Ethics and Law for a Collective Age* (2000). She agrees with Kutz that doing one's part means doing 'the task I ought to perform if we are to be successful in realizing a shared goal'. (Kutz 2000: 81). This intentional stance is referred to as a 'participatory intention'. Participatory intentions are a minimalist version of collective intentions, much less demanding than related concepts (e.g. Bratman's 'interlocking intentions'), setting the threshold for participation fairly low. Agents count as acting together when they,

1 Fisher, M., Cox, J. W. and Hermann, P. 2016. Pizzagate: From rumor, to hashtag, to gunfire in D.C. *Washington Post*, 6 December 2016.

at the minimum, each intend to do their part in promoting the collective act (Kutz 2000).

Adapting Kutz's account for her purposes, Pasternak argues that '[t]he most straightforward link between citizenship as membership and responsibility for the state's wrongdoing takes citizenship to be a form of collective action'. She writes 'that a very wide range of state policies are attributable to their citizens' (Pasternak 2021: 46) via their participatory intentions – intentions to further the state's goals through their participation in socio-political activities. In participating and in seeing themselves as 'contributing to the realization of a collective end or a shared goal' (49), citizens become the 'inclusive authors' or *co-authors* of the collective end, that is, of the state's actions (in other words: they can sensibly say about the state's actions: 'we did this').

Pasternak also follows Kutz in not considering difference-making to be necessary for being a participant in (or an inclusive author of) the group act. About Kutz's account, Pasternak writes that 'what does the work here is not the actual causal link but the teleological link between the individual and the collective act, a link that is grounded in one's intention to do one's part in bringing about the collective outcome' (2021: 52). Pasternak believes Kutz to be 'motivated by the observation that people often intentionally do their part in furthering some common goal, and we commonly describe them as participating in that goal, even though they do not share and are even deeply alienated from the goal' (53).

In Pasternak's view, because 'citizens are acting together in their state, or participating in their state' they 'can be expected to accept a nonproportional share of the burden of their state's responsibilities' (46). It is on the basis of that participation that they can legitimately be required to contribute to the state's efforts to compensate the victims of its wrongdoing, 'regardless of their personal level of blame' (9). While she does not reject the idea that a state's remedial responsibilities could be distributed proportionately among its citizens, that is, relative to their causal role in the wrongdoing, Pasternak dismisses such an approach as mostly unfeasible – hard to implement or too costly (44). Instead, 'as members of their state, citizens ought to accept a share of their state's remedial obligations even if they are not to blame for their state's policies' (45).

There are, of course, a number of challenges when adopting an account such as Kutz's for the context of citizens' responsibility vis-à-vis their states. Kutz did not specifically write about the relationship between the state and citizens. The examples given in Pasternak's book in support of the basic account of participatory intentions are mostly focused on groupings and collective actions that are significantly less complex than the state and its actions. There is the pacifist scientist working in a lab that is funded by the Ministry of Defense, which marks her as an inclusive author of the state's military actions. There is a protesting student group, an example from Holly

Lawford-Smith (2019). And the bomber pilots that flattened Dresden in WWII. Pasternak is aware of the disanalogies between the cases and therefore spends time in the third chapter of her book arguing how the above conditions can be met for citizens as ‘members’ of the ‘group’ that is the state. Pasternak concludes that most citizens of democratic states share the responsibility for their states’ wrongdoings. Therefore, our taxes can be used for paying reparations for historical injustices.

1.2 Responsibility for collective action one disagrees with?

As mentioned before, to have participatory intentions does not require ‘that participants endorse the collective end, or be committed to its realization’ (Pasternak 2021: 53). Intending to do one’s part in a collective act without endorsing the outcome of that act is possible where ‘the agent in question performs her role with the knowledge that doing so will contribute to the collective end (or at least potentially contribute to it)’ (Pasternak 2021). Importantly, continuous awareness of one’s role in contributing to the state is not required for intentional participation (99).

The bullet Pasternak will have to bite is that we share responsibility for our state’s actions even when we do everything in our power as citizens to prevent such actions. If we conduct those actions that Pasternak thinks constitute our contribution to the ‘general maintenance of the corporate agency’ of our state such as obeying the laws, voting, or performing mandatory military service then we can protest against our government’s decision to go to war as much as we like, we are still liable to pay for its failures. We may engage in civil disobedience, and exhaust the complete repertoire of legal means of political resistance; in fact, we may never have voted for our government in the first place or we may not have voted at all: none of that will get us off the hook for sharing in the responsibility of the state to compensate for the harm it has caused.

To illustrate her claim take the example of Spain in 2003. According to polls, more than 90% of Spaniards rejected their government’s decision at the time to join the USA and the UK in waging war against Iraq² and protested vehemently against their government’s decision. On Pasternak’s analysis, it would nonetheless be permissible to charge these people for compensation for a war nearly all of them rejected, on top of the cost of the war itself, which they also had to bear. They are responsible – albeit not in the sense of being blameworthy – for their state’s actions ‘as long as they recognize that these acts’, such as voting and obeying the law, ‘contribute (or potentially contribute) to the general maintenance of the corporate agency of their state and to the execution of its subsidiary plans, as defined by the state’ (71–72). That is, if people had voted in the previous election, even if they had voted for the opposition party, and if they generally obeyed the law, they were intentional

2 See https://elpais.com/elpais/2003/02/24/actualidad/1046078217_850215.html (accessed 13 April 2022).

participants in their state's actions no matter how much they opposed them and tried to stop them.

According to Pasternak's first condition, 'intending to contribute to the group's goals ... is sufficient to render one a participant in the group agent's actions and liable to its actions' (74–75). Importantly, in relation to the state, 'the group's goals' do not mean the state's actual political agenda. Instead, it means something like 'the state's functioning like a state', which includes the governing political party setting its own agenda and goals. If you are a law-abiding citizen who votes in elections then on this account, it seems, you are always liable to your government's actions no matter who you vote for and no matter if you have ever voted for an actual government party as long as you voted with the right kind of intention – that of contributing to the state's functioning like a state.

Pasternak suggests that 'citizens are the inclusive authors even of policies they object to or are unaware of' (69). She argues that a wide range of specific policies fall under the broad 'collective project' citizens participate in:

the fact that the state has the authority to set its own goals, and to revise them, is common knowledge among its citizenry. Indeed, notice that the claim that states execute policies its citizens may deeply disagree with is integral to the very idea of political authority. (81)

In other words, profound disagreement with the actions of one's government is not in and of itself enough for someone to fall outside the group of genuinely intentional participants in the state. Pasternak goes as far as claiming that a 'protesting citizen sees herself as contributing to the maintenance of the state as an authoritative agent who may execute policies that she might disagree with' (81). In my mind, it is one of the great strengths of Pasternak's position that she provides an explanation for why we cannot easily opt out of sharing the responsibility of our state – even if it will strike us as unjust in many circumstances.

Still, the plausibility of her claim does in no small part depend on what it would take for someone to *not* count as a genuinely intentional participant in the state they are a citizen of. In other words, under what circumstances is someone *not* an intentional citizen? This is what I will discuss in the remainder of my commentary.

1.3 *When are citizens not intentional participants?*

In order to answer that question we need to look more closely at Pasternak's two conditions for intentional citizenship. Let me begin with Pasternak's first condition. It requires that 'members are *intentional participants in their group*' in one of these ways: (i) 'they intend to do their part toward the realization of a collective outcome' or (ii) 'at the least they recognize the instrumental role they play toward the realization of that outcome'.

Pasternak specifies that ‘as long as [citizens] intend to support their state itself, they are participating in the policies its decision-making process generates’ (9). Does this entail that citizens must have conscious beliefs that what they are doing when they are, for example, abiding by the law, is in fact a form of participation on the state? This would appear to be overly demanding. After all, we are not always self-aware in this way when we act. Think of people who are eager to conform to social and political conventions mostly for fear of being socially ostracized, that is, to avoid the discomfort that usually comes with being caught out for social and legal transgressions. These people may be exemplary, law-abiding citizens, keenly avoiding any clashes with law enforcement. Yet, they may hold no particular views about the state and not be politically motivated when, say, they are paying taxes or abstaining from shoplifting. In other words, they may not consciously recognize that they are playing an instrumental role towards the realization of the state’s goals or any collective outcome for that matter. It does not strike me as implausible that there are people like that.³

So are those who live their political lives mostly on auto-pilot,⁴ so to speak, intentional citizens in the state? It would seem to be in Pasternak’s interest to include these people in her account of intentional citizenship. But remember that Kutz, on whom Pasternak relies, writes that: ‘participatory intentions involve a *reflective or deliberative self-awareness* of the instrumental relation of one’s part to the group act that is its end’ (Kutz 2000: 84) and Pasternak appears to agree with his view (2021: 99). It seems to imply participatory intentions *do* involve conscious beliefs about that instrumental relation. However, many of the above-described actions of law-abiding behaviour are habitual and do not come accompanied by (nor do they require) conscious reflection. Pasternak recognizes that and grants that ‘continuous awareness’ and ‘active consciousness’ are not needed for intentional participation (99). Yet, these statements seem to be at odds with Kutz’s requirement for reflective self-awareness. My first point of contention, then, really is one of confusion: did Pasternak mean to follow Kutz or not? If so, then it would have been good to have an explanation how ‘reflective self-awareness’ (Kutz) does not require ‘active consciousness’ (Pasternak) – something that at first glance seems implausible. Alternatively, if they are not the same, then the reader is left wondering what level of self-awareness or ‘active consciousness’ constitutes the threshold for intentional participation?

Secondly, I wonder how important it is for Pasternak’s account that law-abiding people perceive and intend their actions as political (aimed at

3 At least with regard to obeying the law this seems quite plausible, but not when it comes to issues that require proactive engagement such as voting. After all, contributing to a collective outcome is the very point of voting.

4 Take that to mean someone who does not vote, is not required to do military or community service and who has no or hardly any active engagement with the state or politics but is generally law abiding.

the state) rather than as social (aimed at following and upholding social conventions and moral norms). Naturally, people will often have more than one intention when performing actions (or omissions). But it is plausible to think that some people's law-abidance is intended to further social goals rather than the goals of the state. This will be particularly pertinent with regard to criminal law given that it codifies moral norms, to a large extent. Further, the collective good may not feature at all in citizens' intentions but their law-abidance may be entirely self-regarding or prudential – it may be *only* about avoiding legal punishment or social ostracizing. In either of these cases, I am not sure if Pasternak's first condition for intentional participation is met.

A third point of contention is that the account may have some undesirable implications where fundamentally non-cooperative members of society are concerned. *Unlikely* candidates for intentional participation in the state appear to be those who secretly but deliberately and systematically disobey the law such as professional criminals and profoundly corrupt political or business leaders. They are using the cover and protection that a political community affords as a space within which to conduct their fundamentally non-social⁵ activities. But they have no real intention to contribute to the state nor do they recognize their specific activities as playing an instrumental role toward the realization of social outcomes. To the extent that they are outwardly law abiding, they only do so to create a cover for their activities that are completely undermining the rule of law and social cooperation. It would seem odd to think of them as intentional participants in the state since they exploit the state and the rule of law for their own benefit, free riding on others' cooperative behaviour.

So are your thugs, your psychopaths, professional criminals, Mafiosi and corrupt elites not intentional citizens on Pasternak's account? While that would not be implausible in and of itself the implications for sharing responsibility for harm are difficult to swallow. There is an undeniable irony in letting people who free ride on the state and the rule of law off the hook when it comes to burden-sharing. Pasternak has two options here: she can bite this bullet and agree that this is one of the unfortunate implications of her account. Or she may disagree and insist that even such non-social elements are intentional participants in the state. But even if she does the latter, she would not get around to accepting that the free-riding thugs' participatory intentions fail to be *genuine*. This is the second criterion for justifying sharing responsibility for a state's wrongdoings among citizens, which I will come to in a moment. In other words, it seems that either way she will have to bite the bullet of absolving these people of responsibility. It would be undesirable for an account of citizens' responsibilities to let free riders on social cooperation off the hook to the same extent as those who are alienated from their state against their will.

5 Non-social here means not directed at or even compatible with cooperative social activity.

But perhaps the most serious challenge for Pasternak's account relates to the epistemic dimension of intentional citizenship. How does ignorance⁶ affect our status as intentional citizens? In her fourth chapter, where Pasternak puts her theory to the empirical test, she provides the reader with further details on the possible scenarios under which citizens are *not* intentional participants in the state:

inclusive authorship is undermined when the state resorts to deep secrets, misinformation, and deception. When the state uses these methods, its citizens will not even be aware of the gap between what it says it does and what it actually does, and their capacity to assess its actions and their participation in them will be seriously hampered. (121)

In other words, we are not the inclusive authors of collective activity where we are being deliberately misled about the nature of that activity. This makes sense because being misled and deceived regarding the true outcomes of the activity would interfere with our ability (i) to form intentions 'to do our part toward the realization of a collective outcome' and (ii) to recognize our instrumental role 'toward the realization of that outcome'. But is this congruous with Pasternak's view that citizens are the inclusive authors even of policies they are unaware of? Pasternak's position on that latter issue suggests that inclusive authorship is not undermined by the fact that citizens are ignorant of the state's activities as such. After all, the same epistemic restriction on inclusive authorship does not apply when the activities that citizens are ignorant of fall under the broad 'collective project' of the state.

But why exactly is it that one type of ignorance undermines your inclusive authorship and the other one does not? Pasternak recognizes the problem and provides a solution by distinguishing between 'deep' and 'shallow' state secrets. Naturally, in any political there exists an element of secrecy and, potentially, deception; there are 'official' stories and versions of events. Intelligence operations, for example, are only possible with a certain level of secrecy. Secret government programmes exist *both* in deceptive regimes and properly democratic, transparent states. However, 'deep' secrets are those where the state engages in activities that citizens would no longer consider part of the collective project or part of a project they could in principle agree to. Activities relating to 'deep' secrets are 'outside the brief', to use Pasternak's own words. But what if the state manipulates its citizens for a good cause, if it is in their best interest? Presumably, such deception would fall into the category of a 'shallow' secret.

Pasternak's analysis on state secrecy and its relationship to intentional citizenship strikes me as convincing, overall, but I will nonetheless apply some

6 Ignorance here means lack of true belief. A person *S* is ignorant of a proposition *p* if *S* does not hold a true belief that *p*. I am following Rik Peels in that 'One can only be ignorant of truth, so it seems. It does not make sense to say that someone is ignorant of *p* if *p* is false'. (2010: 60).

pressure to it. One might wonder in this context whether it is plausible to think that a state would so profoundly mislead its citizens about its activities that people are genuinely unaware of the true nature of the state and its actions? The reason why this question is worth asking is that deeply manipulative states that try to control their citizens through oppression and lack open public discourse and freedom of speech will never *completely* mislead their citizens about the true nature of their political system and objectives. Quite the opposite – state terror works by creating a plausible threat amongst citizens that they could be the next victim (Primoratz 2004; Schwenkenbecher 2012). Complete secrecy could not work as a tool for political oppression. The Soviet Gulag system was not openly talked about in the Stalin era but the fact *that* the Gulag system existed was known to Soviet citizens. *Some* knowledge is essential for state terror to be effective.

This leads to a larger question: How complete must a group members' ignorance be regarding the true nature of the 'collective project' they are participating in to undermine inclusive authorship? I can see how in a case like Stanley Milgram's (1963) (in)famous psychological experiments the deception upon which they were based would undermine the very idea of intentional participation, because participants believed themselves to be partaking in a very different type of collective action than the one they were actually part of (see Schmid 2021). While being told that they were partaking in a study concerning the impact of negative reinforcement on learning, the goal of the study was actually to examine participants' obedience to an authority figure. Secretive, manipulative regimes, I would venture to say, will rarely if ever be able to deceive to the point where citizens are genuinely unaware of there being a gap between what the state says it does and what it actually does. Having said that, intentional participation in such states will often not be genuine, so it will not meet Pasternak's second condition – more on that later.

My more serious point of contention regarding the relationship between intentional citizenship and ignorance relates to epistemic standards of due care in forming our beliefs. Let us briefly focus on a particular type of ignorance, namely that arising from citizens adopting so-called 'bad beliefs' regarding the goals and activities of the state. 'Bad beliefs' here means beliefs that are contrary to first-order evidence⁷ that is available to the person holding those beliefs (Levy 2021). Are citizens intentional participants in the state when they *falsely believe* there to be a significant gap between what the state says it does and what the state actually does? Especially since the COVID-19 pandemic, in several Western democracies, we have been witnessing what feels like an unprecedented level of misinformation on states' handling of the pandemic and the efficacy of epidemiological measures. There appear to be vocal minorities of people who firmly believe that the disease was variously being invented or deliberately introduced or its severity grossly and deliber-

7 'Bad' beliefs may correspond to higher-order evidence (Levy 2021).

ately exaggerated in order to manipulate and control the population or to enrich business and political elites. Many of these people genuinely believe that our Western democracies are turning authoritarian. Do these people fall into the category of intentional participants? After all, they are mistaken about the true nature of the collective activity they are contributing to, albeit in a different way to those who are being manipulated by the state. It seems to me that Pasternak might have to concede that these people are not intentional participants since their erroneous beliefs will severely hinder their capacity to assess the states' actions and their participation in them. Or at least she will have to grant that their participatory intentions are not genuine, which is the second condition for intentional citizenship, which I will return to now. In either case, the implications are somewhat counter-intuitive: ill-informed people with 'bad' beliefs are off the hook when it comes to taking on remedial responsibility for the state's wrongdoings.

The second criterion for intentional citizenship requires that members' '*participation in the group is genuine*' (66). So the other way in which intentional citizenship can fail is where despite being intentional participants in the state citizens' participatory intentions are not *genuine*. Such intentions are genuine if 'citizens are not forced against their will to take part in their state. Instead, they are motivated to act in it by their own reasons' (10). Pasternak explains: 'Citizens who see the state as an alien force in their lives, and who would have left it, if only they could, are not genuine participants in their state' (9). However, 'A person can be an intentional member of a group even if she cannot de facto leave it, as long as she is and views it as forced on her against her will' (96).

Pasternak, then, presents us with at least three conditions under which participatory intentions fail to be genuine:

- (i) if citizens are forced to take part in the state.

This seems to be the case where citizens can effectively not leave their state, as, for example, in North Korea and in the no-longer-existing German Democratic Republic.

- (ii) if citizens are being deceived and manipulated.

Pasternak specifies that she refers to instances where these intentions 'have been shaped in light of extreme forms of brainwashing, coercion, and manipulation' (118). However, Pasternak believes these to be present only in highly authoritarian states.

- (iii) where citizens feel a deep sense of alienation from the state.

In Chapter 4, where she elaborates on this condition, she mostly refers to minority and oppressed groups – those who have reason to feel profoundly disconnected from the state are unlikely to have genuine participatory intentions.

My critique of that third criterion echoes my earlier critique of the conditions for intentional participation. An account of intentional citizenship based on subjective attitudes such as affective attachment to the state cannot distin-

guish between attitudes that are based on plausible or reasonable beliefs and those that are not. While the reasons why citizens feel detached from their state will often be genuine and reflect objective disadvantage or measurable levels of marginalization this is not *necessarily* so. Detachment based on perceived marginalization need not track *actual* marginalization. This means that people who feel alienated from the state based on implausible assumptions of the state's collective activities and goals are – on Pasternak's account – legitimately exempted from sharing in the state's responsibilities.

Let me use the example of domestic terrorists: they often act out of a deep sense of alienation from the state in which they live. Yet, we find that they do not necessarily come from groups that are objectively marginalized. The mostly middle-class members of the German Red Army Faction are a case in point here (Aust 2009). The question is not so much how likely it is that deeply felt alienation is based on plausible (possibly objectively measurable) criteria, but rather that an account of intentional citizenship based on subjective attitudes contains a certain level of arbitrariness. As pointed out before, criminals, thugs and unreasonable people (people with bad beliefs) seem to be the ones that fall outside the scope of intentional participation that is genuine (in addition to genuinely oppressed and alienated groups). It seems undesirable that those who implausibly feel alienated (whatever that means exactly) should be off the hook when it comes to taking on responsibility for the state's actions. Perhaps what is needed is a requirement that those who express detachment and alienation are applying adequate standards of epistemic due care in their assessment of their relationship with the state?

To sum up my commentary, I hope it has become clear that Pasternak's book is an extremely stimulating read, tackling as it does a series of challenging issues that have so far not received enough attention in political philosophy. It does raise many questions and – as any book advancing a novel thesis – leaves some unanswered but this should not distract from the fact that in many ways it is an exemplary academic piece – Pasternak presents her argument with care, competence, and great clarity. I have focused on points of contention here but it is important to emphasize that I thoroughly enjoyed reading this book and warmly recommend it to those wanting to learn more about the complex relationship between citizens and their state.

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