



## Book Review

**Holly Lawford-Smith:** *Not in Their Name: Are Citizens Culpable for Their States' Actions?* Oxford: Oxford University Press, 2019, pp. viii + 185.

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In April 2018 American media published reports describing the US government's harsh treatment of migrant families at the US-Mexico border including the separation of children from their parents. Many people in the US and around the world deplored this policy. But against whom should their anger and outrage be directed?

In this elegant book Holly Lawford-Smith develops two answers to this important and timely question. First, she argues that in such cases condemning reactive attitudes may be directed at the state employees, all of whom share culpability for their state's wrongdoings. Second, she argues that the ordinary citizens of the democratic state are not blameworthy, or culpable, for their state's wrongful policies.

The claim that many ordinary citizens are not blameworthy for their state's wrongdoings is probably in line with common intuitions. Many people think that citizens who voted against the government in office and/or protest against its policies wash their hands of its wrongdoings. But Lawford-Smith's defends a more radical thesis. She argues that almost all the citizens of the democratic state are not culpable for their state's policies, but not because they oppose these policies but because they are not members of their state in the relevant sense. In her words: "when the democratic state acts, it does not act in the citizens' name, at least not if that means that the citizenry is any part of what acts. Citizens are rarely, if ever, implicated in their state's actions" (4–5).

To show this, Lawford-Smith starts with a question which has not often been probed by political theorists in a systematic way: what is the state? Here Lawford-Smith offers a highly lucid review of various state models, and ends up contrasting two leading candidates. The first, favored by Lawford-Smith, is the "citizen-exclusive" model. On this model the state consists of the formal apparatus of government (typically the executive, judiciary, and legislative branches) and the people it employs. For example, the Australian state consists of roughly 300,000 employees and elected officials (76). This citizen-exclusive model stands in contrast with a second model – the "citizen-inclusive" state – which so far has been predominant in political theory. On this model "the population as a whole" is taken to be part of the state, and the state acts in its name (12).

After contrasting these two models, Lawford-Smith proceeds to challenge the viability of the citizen-inclusive model of the state. The starting point of her critique is the observation that states are corporate moral agents, to which we can ascribe beliefs, moral understandings, desires and the capacity to choose how to act. This feature is essential to our common understanding of the state, and is also a constitutive element of our international relations system (16). However, Lawford-Smith suggests, citizen-inclusive models cannot support it. To show this she offers another useful typology of the various accounts of collective agency in the burgeoning literature on collective action. *Strong* accounts of collective (moral) agency (such as the one advocated by Christian List and Phillip Pettit) require that the group has the capacity “to make decisions or form beliefs that depart from the majority (or all) of the members” and that its decision-making process enables it to maintain rationality (7). However, she argues, a citizen-inclusive model which gives citizens a genuine and regular role in the state’s decision-making process (e.g. through referenda) cannot meet either conditions: it will be unable to depart from majoritarian decisions and/or its decisions will not be rational over time (38–9).

Moderate moral group agency is developed by theorists like Michael Bratman and Margaret Gilbert. It suggests that group members’ shared intentions or joint commitments generate coordinated and cooperative action in light of which we can identify group-level beliefs, desires and actions. But Lawford-Smith is skeptical that this model can apply to the typical citizen of the typical democratic state. Such citizens might be jointly committed to some vaguely defined goals such as “maintaining the rule of law” or “democratic governance” (55). But they are not jointly committed to advance specific state policies (such as the separation of families at the US-Mexico border). As Lawford-Smith explains the problem – “the stronger we try to make the content of what voters have jointly accepted, or are jointly committed to, the less plausible it will be that the citizen-inclusive state has that set of intentions or beliefs formed by the process of joint acceptance or joint commitment” (53).

At most, Lawford-Smith suggests, a citizen-inclusive model can have a weak collective agency of the type espoused by Christopher Kutz or Scott Shapiro. Here group members are loosely tied to each other, e.g. by intending to play a role towards the successful execution of their state’s collective ends. Lawford-Smith is open to the idea that many if not most citizens of the typical democratic state indeed see “certain of their actions, on multiple occasions, as participation in a common collective end, where that is plausibly (one of) the collective end(s) of the state” (60). But the problem here, she suggests, is that the weak collective agency that is generated from the loosely coordinated actions of millions of individuals cannot meet the conditions of *moral* agency: a group that displays

weak collective agency cannot, for example, have meaningful control over its choice between options based on moral judgements (65). Thus, Lawford-Smith concludes, the only viable citizen-inclusive state model requires that we give up the very idea of the state as a corporate moral agent – a price most of us would not be willing to pay. For that reason, tells us Lawford-Smith, we should opt for the “citizen-exclusive model”.

Lawford-Smith offers a serious challenge to citizen-inclusive models. However, their advocate could offer a response: As we saw above, Lawford-Smith’s critique relies on the assumption that in a corporate agent *all* the group members are tied to the group’s intentional stance in a pretty thick sense (strong or moderate). But why should this be the case? On an alternative view the state (like most sophisticated group agents) is constituted of a core and a periphery. At the core we find members who take part in the decision-making process in a way that allows for group-level autonomy and rationality. The periphery is made of citizens who relate to the state by virtue of their loosely-defined participatory intentions. These people are members of the state, in the sense that they are under a legal (and moral) requirement to abide by its laws and to contribute to its maintenance. As Lawford-Smith suggests, these individuals cannot form part of the state’s locus of intentional action. But, as will argue below, one may wonder if “membership” in the state really boils down to being part of the state apparatus in this specific sense.

In the second half of the book Lawford-Smith turn to develop her positive argument. First, she argues that the state in the citizen-exclusive model meets the demands of strong corporate moral agency (81–95). Next, she argues that all those who are employed by the state, including marginal employees who play a fairly minor and subordinate role, share culpability for their state’s actions. Here it is important to note that culpability attaches to each government employee by virtue of and as a member of the state: a government employee might personally disagree with her state’s policies but she remains part of the apparatus that implements these policies and it therefore makes sense to direct anger, outrage and frustration at her (150). That said, Lawford-Smith suggests that the distribution of culpability within the state must be proportionate: it should track employees’ role within the organization and their ability to influence its actions (158). For example, a low-level employee of the US Postal Service is clearly less culpable for the US’s border policy than the head of the US Border Patrol.

At this point one might wonder in what sense a Post Office clerk is in fact part of the state’s “locus of intentional action” (32), given her highly marginal role in it. Lawford-Smith’s reply is that the clerk might not be “programmer” of the state’s intentions, but she remains an “implementer” by virtue of doing her job (78). Arguably this answer puts pressure on Lawford-Smith’s earlier claim that

citizens are not members of their state. Is it not the case that individual citizens play a role in their state that is not that far from the role played by the post-office clerk? By obeying its laws, paying their taxes and taking part in the public sphere citizens are contributing to the maintenance of their democratic state and in that sense are “implementers” of its policies.

Lawford-Smith rejects this parallel by pointing out that state employees join the state service voluntarily. Citizens, on the other hand, typically have no choice but to take part in their state and we should therefore be wary of drawing normative implications from their compliance with its demands (85). However, I am not persuaded that the ability to opt out of participation in the state is the most useful litmus test in this context. After all, as Lawford-Smith herself points out, many citizens identify with their state even though they cannot leave it (18–19). For example, many Americans see themselves as members of the state, and feel a particularly acute sense of outrage, shame, and even guilt when confronted with the immigration policies of their current administration. Perhaps Lawford-Smith’s analysis should lead us to conclude that such feelings are by and large misguided. But on another view, they serve as an affirmation of these citizens’ special relation to their state, regardless of whether they have a viable option to leave it. On this latter view the fact that an ordinary citizen both participate in and identify with her state is sufficient to render her a member of her state in a morally relevant way.

Whether or not the reader agrees with Lawford-Smith’s ultimate conclusion, they will benefit from engagement with her original and thought-provoking analysis. Without doubt it will become a reference point for many future discussions on agency and collective responsibility in the state.