

Active citizenship and Kantian republicanism

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1. Introduction¹

Kant's account of citizenship has been the subject of some critical attention in recent literature.² This literature has focused primarily on his criteria for distinguishing active from passive citizens. Active citizens, Kant says, are those members of a state who are entitled to introduce and maintain the laws of that state. Passive citizens are protected by those laws, but they do not contribute to them. Understanding the criteria for active citizenship is an important task given the centrality of the state and its laws in Kant's political philosophy. However, the result of the focus on this aspect of Kant's views is that the nature of active citizenship itself has not been sufficiently discussed. This is unfortunate, since an examination of the rights and duties associated with active citizenship provide us with resources for better understanding Kant's republicanism. In this paper, I contribute to remedying the lack of attention that has been paid to active citizenship on Kant's account. In doing so, I hope to show that Kantian republicanism is compatible with a number of different modes of participation on the part of citizens. This, we may think, is an attractive feature of Kant's political philosophy. It suggests that

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² For representative discussions, see Baynes (1989, 455), Ellis (2006, 551–52), Kersting (1992a, 357; 1992b, 153–54), Kleingeld (1993, 137–38), Mendus (1992, 168–74), Mulholland (1990, 330), Pateman (1988, 171), Pinzani and Madrid (2016), Pogge (2002), Uleman (2004, 596), and Weinrib (2008).

Kantian republicanism is multiply realisable, and so consistent with a number of different forms of state.

Before continuing, let me address a potential concern. It may appear that a characterisation of active citizenship is easy to provide. Kant states in both of his published discussions of citizenship that active citizens are those members of a state who are entitled to vote. We might therefore think that being eligible to vote is the right that one gains as an active citizen. However, the matter is more complicated than it at first appears. This is because Kant was not committed to democratic institutions. While Kantian republican commitments are consistent with democracy, they do not require democracy (or so I will argue). This does not in itself pose a problem for the characterisation of active citizens as members of the state entitled to vote. That entitlement may be conditional on the state being democratic. However, it does raise the question of whether this entitlement exhausts the rights of active citizens. I do not think that it does. There are other ways of contributing to the laws of the state that do not require democracy.³ Moreover, it is an understanding of these different modes of contribution that allow us to see the different ways in which Kant's republicanism can be realised.

My discussion continues as follows. §2 sets out Kant's distinction between active and passive citizens. §3 argues that Kant is not committed to democratic institutions. §4 discusses the entitlements that might be gained by virtue of one's status as an active citizen. §5 presents some textual evidence for the claim that active citizens also possess duties not possessed by passive citizens. §6 concludes.

2. Distinguishing active and passive citizens

It is not my intention to thematise the grounds on which Kant distinguishes active from passive citizens in this paper. However, it is worth setting out Kant's criterion for active citizenship and a possible reason for his selection of that criterion.⁴ This will provide some context for the discussion of the rights and duties of active citizens in §§3-5.

In brief, Kant states that active citizens possess the attribute of 'civil self-sufficiency' (*bürgerlichen Selbstständigkeit*, see MM 6:314).⁵ The members of a state who possess this

³ For the purposes of this paper, I understand democracy to be something like representative democracy, characterised by universal (or near universal) enfranchisement for the purposes of electing representatives.

⁴ I give a full defence of the view I present in this section in a forthcoming paper (see Davies forthcoming).

⁵ References to Kant's works refer to volume and page numbers of the Academy text (*Kants gesammelte Schriften*, Berlin: G. Reimer/W. de Gruyter, 1902). Abbreviations used are the following: MM = *Metaphysics*

attribute are those who do not need to be under the authority of any private person or group of people in order to maintain themselves. Passive citizens need to be under the authority of others to maintain themselves.⁶

This is Kant's view in both 'Theory and Practice' and the Doctrine of Right, the only two published works in which he discusses the distinction between active and passive citizens. In 'Theory and Practice', Kant says that an active citizen is one who "serves no one other than the commonwealth" (TP 8:295, see also Stark 245). In the Doctrine of Right, he says that a member of a state who is civilly self-sufficient owes his "existence and preservation to his own rights and powers as a member of the commonwealth, not to the choice of another among the people" (MM 6:314). A civilly dependent member of the state is one "whose preservation in existence (his being fed and protected) depends not on his management of his own business but on [the direction (*Verfügung*) of another (except that of the state)]"⁷ (ibid.). Each of these passages speaks in favour of understanding the distinction between active and passive citizens in terms of relations of authority. Moreover, understanding the distinction in this way allows us to make sense of some of Kant's puzzling examples.⁸ For instance, a person who is in the service of the state counts as civilly self-sufficient because she is employed by the state, which, according to Kant, does not express the will of any private individual but the general will. Domestic servants, on the other hand, are employed by a family. They require the

of Morals, PP = Toward Perpetual Peace, TP = 'On the common saying: that may be true in theory, but it is of no use in practice' ('Theory and Practice'), CF = *Conflict of the Faculties*, WE = 'An answer to the question: what is enlightenment?', A = Anthropology from a Pragmatic Point of View, NF = Feyerabend lectures on natural right, A/Fried = Friedländer lectures on anthropology, DCF = Drafts for *Conflict of the Faculties*, DTP = Drafts for 'Theory and Practice', C = Correspondence. There are some passages that are not included in the Academy text, but do appear in *Nachforschungen zu Briefen und Handschriften Immanuel Kants* (2014) edited by Werner Stark. References to those texts are cited using 'Stark' and the pagination from that volume; for example, 'Stark 244'. Translations are from the Cambridge Edition of the Works of Immanuel Kant unless otherwise indicated.

⁶ The account that I give here differs from the standard reading of Kant's remarks found in the literature. According to the standard reading, active citizens are those members of the state who are economically independent (see Pinzani and Madrid 2016, Baynes 1989, Ellis 2006, Maliks 2014, Mendus 1992, and Rosen 1993 for some examples of this reading). On my account, this standard reading is too narrow. While economic relations are one of the kinds of relations of authority that Kant is concerned with, they are not the only such relations.

⁷ The square brackets mark modifications of Gregor's translation of the Doctrine of Right.

⁸ Kant's examples have been the subject of some criticism due to the difficulties that arise in making sense of them (see Ellis 2005, 197 and Beiner 2010, 25). I believe that the authority reading is able to deal with these concerns.

permission of 'another among the people' in order to perform the tasks by which they support themselves. Domestic servants also require permission to interfere with the property of those for whom they work; there is no chance for them to exercise their skill without the permission and direction of a private person. The same is true of wig makers (see TP 825n) and travelling blacksmiths (see MM 6:314).

What is the significance of serving another person? Why should civil self-sufficiency (understood in this way) be the characteristic that determines who counts as an active citizen? Kant gives us very little to go on here. However, it is plausible to believe that he thought that those who are under the authority of a private person or group are beholden to that person or group in a way that makes instances of corruption more likely. That is, he may have thought that those who are under the authority of another are more likely to act in a way that advances the private interests of themselves or those on whom they depend when they manage the laws of the state. As we have already seen, Kant claims that active citizens serve no one other than the commonwealth. This suggests the worry that those who are civilly dependent will serve a private interest if given the opportunity to participate in the activities of active citizens. Such acts of corruption would undermine the public status of the law. This is significant for Kant's political philosophy since publicity plays an important role justifying state authority. What is meant to distinguish the actions of state institutions from the actions of individuals in the state of nature is that the former do not advance the interests of particular individuals. To allow those who are likely to advance such interests in their management of the state would undermine the institutions of the that state. Thus, if we understand Kant in this way, he excludes those who are civilly dependent from managing the state and its laws in response to concerns about maintaining a central feature of the state as he understands it.

3. Democracy in the Kantian state

I have now suggested one (to my mind plausible) way of understanding Kant's distinction between active and passive citizens and a reason why he might have drawn this distinction. What remains to be seen is the kinds of entitlements and duties that are gained by virtue of being an active citizen. This is a topic about which there has been very little discussion in Kantian scholarship. One reason for this might be the fact that in both of his published discussions of active citizenship, Kant claims that active citizens are those members of the state who are entitled to vote (see MM 6:314-15 and TP 8:295). In this section, I argue that voting need not be included among the entitlements of active citizens. I do this by considering possible arguments in favour of democracy as a condition of state legitimacy. This strategy is apt because, if democratic institutions were necessary in the Kantian republic, then it would be plausible to hold that all active citizens should be permitted to vote. That is, if all Kantian states were democratic, then we might

plausibly believe that voting would be an entitlement possessed necessarily by active citizens.⁹

If one wants to defend a democratic reading of Kant's political philosophy, it may seem that the following passages is a good place to start:

Any true republic is and can only be a system representing the people, in order to protect its rights in its name, by all the citizens united and acting through their delegates (deputies). (MM 6:341)

In this passage, Kant claims that a true republic must be a system representing the people. Due to the fact that Kant believes that all states must be republican (see PP 8:349), he must also believe that all states must represent the people. The question to ask, then, is whether this representation requires democratic institutions. I do not believe that it does.¹⁰ Kant's claim is simply that a state only needs to be ruled in a republican manner. It seems that this can be done without any form of citizen participation (see PP 8:372). Actual consent given by voting is not necessary. A ruler only needs to pass laws that *could* have been consented to by her subjects. Here are two passages in which Kant discusses this point:

[...] if a public law is so constituted that a whole people *could not possibly* give its consent to it [...], it is unjust; but if it is *only possible* that a people *could* agree to it, it is a duty to consider the law just, even if the people is at present in such a situation or frame of mind that, if consulted about it, it would probably refuse its consent. (TP 8:297, my emphasis)

One must represent all laws in a civil society as given through the consent of all. The *contractus originarius* is an idea of the agreement of all who are subject to the law. One must test whether the law *could have arisen* from the agreement of all, if so then the law is right. (NF 27:1382, my emphasis; see also WE 8:39, DCF 19:610, TP 8:299).

These passages speak against the view that Kant strongly advocated for democratic institutions. Rather than acting on actual consent, a ruler only needs to ask whether the people could have consented to a law. If they could have consented, then the law is just and the citizens are bound to obey.

⁹ This section expands upon my discussion in Davies 2020, §3.

¹⁰ See Hanisch (2016, 72) and Pinzani (2008, 209) for expressions of similar concerns.

Kleingeld (2018b) argues these passages do not represent Kant's mature view.¹¹ While Kant believed democratic participation was not necessary at the time of the 1784 lectures on natural right or the 1793 'Theory and Practice', she claims his mind had changed by the time of the 1797 *Doctrine of Right*. Kleingeld appeals to the MM 6:341 passage quoted above in order to support her view. This is because that passage no longer uses the language that citizens "could have" consented to a law.¹² Since Kant had consistently used this language previously, it is not unreasonable to suspect that a change in language corresponds to a change in belief.

However, the MM 6:341 passage is compatible with the view that the people are represented, but just not by people who they have decided will represent them. Since there are many different ways of selecting representatives, the mere fact that representation is necessary does not (on its own) tell us that democracy is necessary. If we read the passage with this in mind, what Kant says in the *Doctrine of Right* can be rendered consistent with his earlier writings. Moreover, in the 1798 *Conflict of the Faculties*, Kant makes claims similar to those found in the lectures on natural right and 'Theory and Practice'. He says,

The constitution may be republican either in its *political form* or only in its *manner of government*, in having the state ruled through the unity of the sovereign *by analogy with the laws that a nation would provide itself* in accordance with the universal principles of legality. (CF 7:88, the last emphasis is mine)¹³

Here Kant says that the sovereign may rule in a way *analogous* to the way a people would rule itself. The people itself does not need to rule. *Conflict of the Faculties* was published one year after the *Doctrine of Right*. Thus, Kant's later works of political philosophy do not unanimously support the view that he had a change in belief from his earlier writings. It seems that Kant remained committed to the view that the state may be ruled in a way that is compatible with principles of right without seeking the actual agreement of its citizens. This casts considerable doubt on Kleingeld's reading. Kant's work around the same time as the *Doctrine of Right* continues to affirm the position of the lectures on

¹¹ Byrd and Hruschka (2010, 181) also claim that Kant's views changed to support democratic institutions at the time of the *Doctrine of Right*.

¹² Kant's characterisation of the right to freedom of citizens also says that freedom is the attribute of "obeying no other law than that to which he *has given* [*gegeben*] his consent" (MM 6:314, my emphasis). This also lends support to Kleingeld's reading.

¹³ See also CF 7:91, where Kant states that a monarch can treat her citizens according to principles that "are commensurate with the spirit of laws of freedom [...] although they [the citizens] would not be literally canvassed for their consent."

natural right and ‘Theory and Practice’, and there is nothing in the *Doctrine of Right* itself that speaks conclusively against that position. Due to this, it is reasonable to believe that Kant’s position on this matter remained unchanged.

There are other reasons to be sceptical that Kant was committed to actual democratic institutions. For example, in the *Doctrine of Right* he claims the following:

The legislative authority can belong only to the united will of the people. For since all right is to proceed from it, it *cannot* do anyone wrong by its law. Now when someone makes arrangements about *another*, it is always possible for him to do the other wrong; but he can never do wrong in what he decides upon with regard to himself (for *volenti non fit iniuria*). Therefore only the concurring and united will of all, insofar as each decides the same thing for all and all for each, and so only the general united will of the people, can be legislative. (MM 6:313-14; see also TP 8:295)

This might be taken to offer support for the democratic reading. Since one may be wronged by arrangements made by another, each should make arrangements for herself. This, we might think, requires democratic input on the part of the citizens. The worry that arises for arguments making use of this passage is that it presents a very high standard for voting. Kant does not merely claim that each must have a say. He says that each must decide *the same thing* for all and all for each. It is implausible to believe that such a condition could ever be satisfied by democratic institutions, as it would require that each come to the same decision as all others.¹⁴ This again speaks against the belief that Kant was concerned with actual democratic institutions.

Might we argue that while Kant’s texts do not support the necessity of voting, certain of his commitments do? This is the view that Hanisch (2016) takes. He claims that the innate right to freedom¹⁵ can provide the grounds for the necessity of voting. This is because, on his view, the innate right is meant to contain an element that entitles each of us to positively “authorise and shape the state’s coercive institutions” (2016, 86). In order to

¹⁴ On certain readings of Rousseau, according to which the general will is generated by actual voting, this problem also appears. Even drawing on his discussions of the importance of civic education, it is difficult to see how this strong requirement can be fulfilled. One way to avoid this is to view Rousseau’s general will as a standard against which acts of government can be held. I believe that something similar can be said of Kant here. Kant’s claim that the general will is united *a priori* provides further support for this reading (see MM 6:246).

¹⁵ “Freedom (independence from being constrained by another’s choice), insofar as it can coexist with the freedom of every other in accordance with a universal law, is the only original right belonging to every human being by virtue of his humanity” (MM 6:237).

support this view, Hanisch appeals to Byrd and Hurschka's claim that external freedom comprises both "independence from another's constraining choice [and] simultaneous 'dependence on laws' in a juridical state" (Byrd and Hruschka 2010, 87). There are two things to note about this. First, it is not clear that the innate right contains a positive entitlement. Kant merely characterises the innate right as entitling each person to freedom from the necessitating choice of another. This entitlement is purely negative. Byrd and Hruschka also understand the innate right this way, claiming that in order to generate the positive aspect of external freedom we need to go further than the entitlements of the innate right (see 2010, 89). Thus, Hanisch appears to mistakenly identify the innate right to freedom with the positive conditions for external freedom more generally.

Second, the positive aspect of external freedom as understood by Byrd and Hruschka does not entitle each person to participate in choosing representatives. They tell us: "In the positive sense of external freedom, I become free when I move to a juridical state where my rights are secured through public law" (2010, 88). There is no mention of active participation here. The positive aspect of external freedom is understood in terms of one's rights being secure, and democratic representation is not necessary for this.¹⁶ Here is how I believe we should understand the positive and negative aspects of external freedom on Byrd and Hruschka's account. The negative aspect is the entitlement to be free from the necessitating choice of another, as specified by the innate right. The positive aspect is the entitlement to be a member of a state that coercively secures one's rights. The latter aspect is positive only because it requires the institution of the state, and not merely the non-interference of others. What is important for our purposes is that the positive aspect of external freedom can be secured without democratic participation, as we have seen in the numerous passages quoted above.

Hanisch's approach, then, appears to misunderstand the way in which Byrd and Hruschka draw the distinction between positive and negative aspects of external freedom in two ways. He both (i) mistakenly identifies the innate right to freedom with external freedom more generally, and (ii) takes the positive aspect of external freedom to entitle members of a state to democratic participation when all it requires is the institution of a state that secures rights. As we have seen in the passages above, Kant does not believe that democratic participation is a necessary condition for securing rights. While this is not fatal to Hanisch's project, it does mean that he owes us an account of why the positive

¹⁶ Byrd and Hruschka's own defence of the claim that Kant endorsed democracy in the *Doctrine of Right* concerns Kant's changing beliefs about the different forms of state (see 2010, 179–81). Their view closely resembles Kleingeld's, discussed above.

aspect of external freedom should be understood in terms of such participation. In light of the passages presented above, this will be a difficult task.

Let me consider one more argument in favour of the belief that the Kantian state requires democratic institutions. Kant claims that the state of nature is a condition in which different opinions about right are possible (see MM 6:312, DMM 23:278-79, NF 27:1381). More specifically, each person in the state of nature is entitled to be the judge in her own case, and so may disagree with others about the extent of the others' rightful entitlements. Some of this disagreement may be the result of indeterminacies about general principles of right, or the application of those principles to particular cases. Some disagreement may be about the relevant empirical facts. While disagreement about empirical facts cannot be a matter of indeterminacy (there will be a fact of the matter about who claimed this plot of land first, for example), no person is in an epistemically superior position to settle disputes about those facts. Thus, disagreement about empirical facts will also make disagreement about rights possible in the state of nature. The civil condition is meant to uniquely be able to provide a solution to this problem.¹⁷ The legislative branch of the state promulgates a single interpretation of the law publicly, thus making general principles of right determinate. The judiciary settles disputes about the application those principles in specific cases. However, we might worry that this doesn't provide an adequate solution to the problem. This is because public officials suffer from the same lack of insight into general principles, the application of those principles, and empirical facts as private individuals. Thus, it is not clear how public officials are able to resolve disagreements that arise. We may disagree with the decision of a legislator or a judge in the same way that we may disagree with another private individual.¹⁸

Active citizenship, understood in terms of democratic participation, may appear to provide a recognisably Kantian solution to this problem. In particular, we might think that the problem of disagreement can be addressed by the fact that active members of the state 'give the law to themselves'. On this view, the reason that the state is able to coercively enforce a publicly promulgated interpretation of the law is that the citizens of that state are the authors of that law. They are thus only subject to self-imposed obligations. Not only does this appear to offer a solution to the problem of disagreement, it does so in a way that develops, in the political realm, a popular understanding of Kant's

¹⁷ This problem is often called the problem of indeterminacy. However, since disagreement over empirical facts is both intractable and not a result of normative indeterminacies (i.e., indeterminacies arising from the application of principles of right to particular cases), it seems preferable to call it the problem of disagreement. For discussion of this problem see Ripstein (2009), Mulholland (1990), Stilz (2011), Williams (1983), and Pallikkathayil (2010).

¹⁸ For related discussion, see Sinclair (2018) and Kolodny (n.d.).

views of ethical obligation in the *Groundwork*. This is the view that the moral law lays an obligation on us because it is a law that we have legislated for ourselves.¹⁹ The political equivalent of this view is thus that external laws can only be rightfully coercively enforced if we are the authors of those laws. Participatory institutions might then be seen as a necessary feature of the Kantian state, since it is only through such institutions that members of a state can become authors of the laws of that state.

The central problem with this view is the following. Not all of the ways in which active citizens participate in maintaining and contributing to the laws of a state entail that they are the author of all of the laws of that state or that they agree with the application of those laws to particular cases. If an active citizen serves on a jury, for example, it is not true that she can thereby be said to be the author of *all* of the coercively enforced laws of a state (or even that she has consented to those laws). As a result of this, disagreement with respect to those laws for which an individual citizen cannot be said to be the author could still arise. This is so even when we include voting as a means of participation. Consider a case in which active citizens vote for representatives who then run the state. In such a state, do those active citizens whose representatives were not chosen count as co-authors of the laws? It would seem not, unless we are supposing that members of a state have agreed to majority rule (and that all the actions taken by representatives really do count as actions taken by the voters themselves). However, whether to take the majority decision is itself a matter about which there can be significant disagreement; disagreement that voting (unless unanimous) cannot resolve.

This does not mean that enforcing the laws of a state coercively would not be justified with respect to *any* of the members of that state. If members of a state could be considered to be the authors of some of the laws of that state, then those members would be rightfully subject to coercive enforcement of *those* laws. However, this does not tell us why the laws of a state in general can be coercively enforced when members of that state are active in lawgiving in some form. Disagreement is still possible in a state in which citizens contribute to the laws. For this reason, we cannot argue for the necessity of participatory

¹⁹ For two prominent examples of this interpretation of Kant's view of ethical obligation, see Rawls (1971, 225) and Korsgaard (1996, 112). Kleingeld (2018a, 2018b) has argued that it is misleading to speak simply of 'giving the law to ourselves' in the context of Kant's ethical philosophy. Kantian ethics, at least at the time of the *Groundwork*, is primarily concerned with giving *universal law*. Of course, in giving a universal law, one is also giving the law to oneself. However, this difference in terminology also signals a significant difference in the emphasis of the view. Kant, according to Kleingeld, is not as much concerned with the possibility of self-imposed obligation, as much as the possibility of universal obligation. I do not need to take a position on whether this is an accurate characterisation of Kant's ethics. However, I do believe that it adequately characterises his political philosophy. Kant is not concerned with self-imposed political obligations, so much as obligations based on *a priori* principles of right.

institutions on the grounds that such institutions are necessary as a solution to the problem of disagreement.

Thus, there are good reasons to think that Kant was not committed to democratic institutions. A state only needs to be governed in a republican manner (i.e., preserve the distinction between executive and legislative branches of the state and represent the people), and this does not require any actual input from citizens.²⁰ This may seem to raise a problem. As Meckstroth notes, “if Kant were really concerned only with hypothetical or modal consent (imputed from formal universality), then his distinction between ‘active’ and ‘passive’ citizens would be meaningless, since every citizen would be ‘passive’ in just the sense that he describes” (2015, 128). If the difference between active and passive citizens is that the former are permitted to participate in lawgiving but the latter are not, then the fact that the state need not have democratic institutions appears to allow for the possibility that all citizens will be passive. I am not sure that Meckstroth’s worry is well founded.²¹ One reason for this is that the difference between active and passive citizens may simply be conditional. Active citizens may be those members of a state who are permitted to vote if and when that state is a democracy. This preserves the distinction between active and passive citizens, without requiring that all states be democratic. Another, more significant, reason is that the worry about a lack of democratic institutions threatening the distinction between active and passive citizens only arises if we believe that the entitlement to vote exhausts the entitlements of active citizenship, but it does not (or so I will argue below). Active citizens may also participate in lawgiving in other ways, such as by serving on juries, going to court, and holding public positions. None of these contributions requires democratic institutions. Thus, non-democratic constitutions do not threaten the distinction between active and passive citizens.

4. Active citizenship beyond the vote

Kant claims that active citizens are true members of the commonwealth (rather than simply parts of it) who act “from [their] own choice in community with others” (MM 6:314). He also says that active citizens have the “right to manage the state itself [...], the right to organise it or to cooperate for introducing certain laws” (MM 6:315). Passive

²⁰ We might think that this gets Kant into trouble, since it would appear that he now owes an account of what it means to govern a state in a republican manner. While this is true, I do not believe that it puts him in a worse position than contemporary theorists such as Rawls (1971) or Scanlon (1998), who rely on devices such as the veil of ignorance, or appeals to reasonable rejectability. The vast literature dedicated to determining the obligations that a Rawlsian or contractualist position commit us to speak in favour of the belief that Kant is, at least, not alone in not having fully specified the content of his views.

²¹ I am grateful to Thomas Sinclair and Jens Timmermann for discussion on this topic.

citizens, to the contrary, are free and equal associates of the state who may not contribute to the management of the state.²² On the basis of these general remarks, it is unclear why active citizenship should be limited to voting (though, as already mentioned, this is the only entitlement that Kant mentions explicitly). This is because there are numerous activities necessary for the management of a state and its laws in addition to voting in elections. Note that this is true *even when* the constitution of the state is democratic. For each of the additional activities that are necessary for managing the state, Kant must be committed to the view that only active citizens may hold the relevant positions associated with those activities. The reason for excluding those who merely count as passive citizens is either that the relevant person is not capable of contributing to the laws of the state (as in the case of children) or is likely to do so in a way that is inconsistent with the public nature of the law (as in the case of adults who are civilly dependent).

Let us consider a few examples of this kind of participation in the management of the state. These examples will not exhaust the kinds of entitlements that may be possessed solely by active citizens. However, they will allow for a sense of the variety of such entitlements.

REPRESENTATION BY SORTITION AND CITIZENS' ASSEMBLIES. Democracy is not the only way of choosing representatives. This leaves open the possibility of other forms of representation that do not require the vote of active citizens. Sortition and the use of citizens' assemblies are good examples of this. In each case, members of the state (or organisation) are chosen by lot to serve as representatives of their peers. In a state in which the ruler is chosen by sortition, only those members of the state who count as active citizens would be candidates for selection. The same would be true of citizens' assemblies gathered in order to address a particular problem.

SERVING ON A JURY AND REPRESENTING ONESELF IN COURT. An example similar to that of representation by sortition and citizens' assemblies, but also considerably more familiar, is that of serving on a jury. Kant is explicit about the fact that those serving on juries are to be members of the people and not the legislative or executive authority. He says: "A people judges itself through those of its fellow citizens whom it designates as its representatives for this by a free choice and, indeed, designates especially for each act. [...] only the *people* can give a judgement upon one of its members, although only indirectly, by means of representatives (the jury) whom it has delegated" (MM 6:317). Only the people are able to make a judgement concerning one of their own without thereby wronging them (ibid).

²² See Kleingeld (1993) for a critical discussion of Kant's claim that passive citizens (especially women) are in fact free and equal members of the state.

While Kant does not mention this explicitly, it makes sense to read him as limiting this kind of participation to *active* citizens. While jurors do not introduce new laws, they do make decisions about the application of existing laws. For this reason, membership on a jury is a public position, and so is not suitable for those who are under the authority of others. Thus, only those who are civilly self-sufficient (active citizens) may be called for jury service. Passive citizens are also not permitted to represent themselves in court. In his discussion of the attributes of citizens, Kant claims that being civilly self-sufficient is what gives a person their civil personality, which consists in not having to be represented by another where rights are concerned (see MM 6:314). This indicates that passive citizens must be represented by others in matters of right. Kant makes this explicit in the case of women in the *Anthropology*: “But just as it does not belong to women to go to war, so women cannot personally defend their rights and pursue civil affairs for themselves, but only by means of a representative” (A 7:209). Women are passive citizens on Kant’s account because they must always be under the authority of a man (*ibid.*). Since passive citizens cannot represent themselves in civil matters, Kant is committed to the view that women may not represent themselves in court. It may be worth mentioning in this context that despite the fact that passive citizens cannot represent themselves, they are entitled to representation and equal protection under the law. They are still free and equal members of the state. However, only active citizens can go to court in their own name.

HOLDING PUBLIC POSITIONS. In addition to serving on a jury, other public positions in the Kantian state will only be open to active citizens. This, importantly, includes positions associated with the civil service. As positions that serve to promote the aims of the executive, they play an important role in the maintenance of the state and its laws. Here, we should not just think of prominent public positions, such as those held by ministers, but also those who work under them as restricted to active citizens.

Each of these examples demonstrates that the entitlements of active citizenship need not be exhausted by voting for representatives. While Kant does not thematise these other forms of participation in his writings, he does explicitly mention serving on juries and representing oneself in civil matters. Not only this, but the running of a state (and the public positions required for this) necessitates a role for active citizens that could not be played by passive citizens on Kant’s account. Indeed, the examples above illustrate forms of participation related to each of the three branches of a republican state: the legislature, judiciary, and executive. The result of this is not only that the entitlements of active citizens extend far beyond merely voting, but that they must extend in this way. Even in

states whose constitution is not democratic, we can meaningfully distinguish between active and passive citizens because active citizens are the only members of the state permitted to contribute to its institutions. This means that, even in states that are democratic, there are entitlements that distinguish between active and passive citizens that go beyond mere voting.

In addition to helping us understand the distinction between active and passive citizens, this also tells us something about Kantian republicanism. In particular, the variety of ways in which members of a state may participate in maintaining and shaping the laws of that state speak to the fact that Kantian republicanism is multiply realisable. One of the strengths of Kant's view, which becomes apparent when thinking about his account of citizenship, is that it is consistent with a wide range of constitutions and modes of participation. While the Kantian republic need not be democratic, as we have seen, this does not mean that it can be a state in which citizens do not play an active role. Active citizens have the entitlement to perform certain actions for themselves, such as going to court in their own name, and the option of other forms of participation. The result of this is that republics in Kant's sense may take on a number of different forms, each corresponding to the different ways in which active citizens may participate.

5. The duties of active citizens

So far I have primarily argued that active citizenship should not solely be understood in terms of the entitlement to vote. There are other entitlements that active citizens possess and passive citizens do not. In this section, I want to suggest that Kant may have believed that active citizens also have *duties* that passive citizens do not. Such a suggestion must remain speculative given the fact that Kant did not discuss such duties in his published work. However, there are textual grounds for ascribing this claim to Kant, and the existence of duties belonging to active citizens allows for a greater appeal of the account of citizenship as a whole.

A first indication that Kant believes that citizens possess duties appears in the Doctrine of Right. He says,

By the well-being of the state is understood, instead, that condition in which its constitution conforms most fully to principles of right; it is that condition which reason, *by a categorical imperative*, makes it obligatory for us to strive after. (MM 6:318)

In this passage, Kant claims that reason makes it obligatory for us to bring the constitution of a state into conformity with principles of right. While he does not mention active citizens explicitly here, it is reasonable to believe that he has them in mind. This is because, as I've argued above, it is only active citizens who are permitted to make the

necessary changes. Passive citizens may not contribute to the maintenance of the state. For this reason, only active citizens are bound by the categorical imperative to improve the state.²³

According to the Friedländer transcriptions of Kant's anthropology lectures (1775-76), Kant claims: "Insofar as it depends on age, maturity is the civilian majority, when people are in the position to provide not only for their own civic affairs, but also for those of the common good" (A/Fried 25:543). This passage appears to suggest that the civil self-sufficiency discussed above in §2 is insufficient for active citizenship. This is because active citizens do not only provide for themselves, but also for the common good. Kant repeats this sentiment almost 20 years later in the 1793 drafts for 'Theory and Practice'. He writes:

A citizen is a human being in society who has his own rightful independence [*rechtliche Selbständigkeit*], i.e. can be considered as himself a member of the universal public legislative authority. Consequently every servant [*Gesinde*] is a human being who, like a parasitic plant, is rooted only on another citizen [...]. The possessors of land are the genuine state subjects because they depend on the land for *vitam sustinendo* [sustenance of life]. To the extent, however, that they farm only as much as they need to live they are not citizens of the state. *For they could not contribute to the commonwealth.* Only possessors of great amounts of land who have many servants, who themselves as servants cannot be citizens, could be citizens, and yet they are citizens only to the extent that their surplus is purchased by others who, as free citizens, do not depend on the land. [...] those whose existence depends on the will of another, thus those who do not enjoy a free existence, have no vote. (DTP 23:137-38; my emphasis)

There is a lot going on in this passage, and I am not going to address it all. We can see, however, that elements of the account found in 'Theory and Practice' and the Doctrine of Right can also be found here. For example, Kant tells us that domestic servants cannot be citizens, an exclusion also found in his other accounts.²⁴ Since Kant says that those whose

²³ Given the difficulties associated with understanding the relationship between *the* categorical imperative, categorical imperatives, and Kant's political philosophy (for an excellent discussion, see Willaschek 2002), we might worry that this passage is too vague to be helpful. I am sympathetic to this concern. However, what is important for my purposes here is simply that Kant believed that there are some duties that active citizens possess that passive citizens do not. This passage supports this claim (though not conclusively) without requiring a worked-out view of how Kant thinks of categorical imperatives in the Doctrine of Right. Thanks to Tom Bailey for pointing this passage out to me.

²⁴ Kant's use of '*Gesinde*' in the passage above indicates that he is referring to domestic servants and not civil servants (see MM 6:283 and MM 6:360 for other instances of this).

existence depends on the will of another have no vote, we might also think this passage is consistent with the authority reading of civil independence.

What is important for my purposes here is the fact that Kant makes a significant addition to the accounts found in his published works. In particular, he tells us that those who do not produce more than they need are not citizens because they could not contribute to the commonwealth. Moreover, only those who contribute to the commonwealth are entitled to vote. Since the entitlement to vote is only held by active citizens, Kant's comments here suggest that active citizens must contribute to the state. This introduces a duty possessed by active citizens that is not possessed by passive citizens.

There is a ready objection here. The passages in which Kant mentions contribution to the state are found in transcriptions of his lectures and an unpublished draft. Given this fact, we might think that contribution to the state is not a necessary condition for active citizenship on Kant's mature view. As already mentioned, my suggestion that the status of active citizenship also includes duties must remain speculative. However, I believe that there are three additional reasons for ascribing this view to Kant. These reasons do not speak conclusively in favour of this position, but they do provide some additional support for it.

The first reason to think that Kant was concerned with contribution to the state is simply that citizenship in Prussia at the time was a special status that had to be earned. Citizens had both rights and duties in addition to those possessed by other members of the state. In order to acquire this status some contribution to one's society was necessary.²⁵ This contribution frequently took the form of a payment in addition to the taxes one already paid. However, one could also marry into citizenship, or become a citizen through membership in a guild (the latter of which was also often accompanied by a membership fee).²⁶ Given that these were common practices, Kant may not have felt the need to explicitly refer to them in his published works.

The second reason is that two of Kant's contemporaries, Karl Heinrich Heydenreich and Johann Heinrich Abicht, took Kant's position to be that some material contribution to the state is necessary for active citizenship. However, while both of them endorsed the view that some contribution is necessary, they criticised Kant on the grounds that restricting this to material contribution was too narrow. Heydenreich specifically mentions that

²⁵ I say 'society', rather than 'state' above since payment was made to the government of one's town rather than the state itself.

²⁶ On this see Walker (1971) and Maliks (2014).

those who serve in the military should be considered to have satisfied the condition that one contribute to the state.²⁷

The third reason is the following. Emmanuel Joseph Sieyès's discussion of active and passive citizenship explicitly draws the distinction between active and passive citizens in terms of contribution to the state. Sieyès was one of the central intellectual figures of the French Revolution. He exerted considerable influence on the politics of France at that time and was involved in writing a new French constitution. To my knowledge, Kant never refers to Sieyès directly in his published writing, lectures, or notes. And, even if some references do exist, they do not figure prominently in Kant's work. However, Sieyès's interest in, and admiration for, Kant's writings were mentioned to Kant in some letters in 1796 (see C 12:64 and C 12:141). Moreover, Karl Thèremen, a Prussian diplomat in Paris and part of Sieyès's circle, mentions Kant's respect for both Sieyès, and some of his short essays, in a letter to his brother that same year (C 12:59).²⁸ We thus have evidence that Kant was aware of Sieyès's ideas, and some of his work. To a certain extent this is unsurprising given Kant's well-known interest in the French Revolution. It is important for us here because Sieyès has a discussion of active and passive citizenship that was published four years prior to 'Theory and Practice'.²⁹ Moreover, the views of the two authors are significantly similar. In one of his discussions of citizenship, Sieyès writes:

All the inhabitants of a country should enjoy the rights of the *passive* citizen: all have a right to the protection of their person, of their propriety, of their liberty, etc., but not all have the right to take an *active* part in the formation of public powers; not all are active citizens. Women, at least in the current state of things, children, foreigners, those also who contribute nothing to the maintenance of the public establishment, should not actively influence the public weal [...]. All can enjoy the advantages of society; but only those who contribute to the public establishment, are like true stockholders in the great social enterprise. Only they are true active citizens, the true members of the association. (Sieyès 1789b, 36–37, cited in Sewell 1994, 176–77)

The similarity between Kant and Sieyès in this passage is striking. Sieyès claims that we should draw a distinction between active and passive citizenship, and that passive

²⁷ See Heydenreich (1794, 117) and Abicht (1795, 140), both cited in Maliks (2014, 99).

²⁸ Thèremen was keen that Kant and Sieyès should take up a correspondence, but this never happened. It was Thèremen who wrote to Kant about Sieyès's respect for Kant's work.

²⁹ On the relation between Kant and Sieyès, see Shell (2016) and Maliks (2014). Shell claims that, "Kant's categories of "active" and "passive" citizen are lifted almost verbatim from the French Constitution of 1791, following the recommendations of Abbe Sieyes" (2016, 11).

citizens have a right to the protection of their person and their property. As we have seen, Kant believes that passive citizens possess the rights of freedom and equality, which protect their innate and acquired rights. Sieyès also excludes women and children from the status of active citizenship, since they do not contribute anything to the commonwealth.³⁰ Only those who make a contribution count as active citizens on his view. Given that Kant was aware of and respected Sieyès's work, we might believe that this speaks in favour of thinking that Kant was also concerned with contribution to the state and not just relations of authority in his discussion of active citizenship. The similarity between Kant and Sieyès of course does not speak conclusively in favour of this view. Kant may have been influenced by Sieyès without endorsing all of the latter's views. However, given the other evidence of this view presented above, I believe that the similarity between the views at least speaks in favour of thinking that Kant was concerned with the contribution to the state.

Thus, I believe that there are three reasons that speak in favour of the view that Kant's account of active citizenship requires that one make a contribution to the state, in addition to the fact that he endorses this requirement in the drafts for 'Theory and Practice'. The first is that this practice was common at the time Kant was writing. The second is that some of Kant's contemporaries took him to be endorsing this view. The third is that Kant's work seems to have been influenced by that of Sieyès, and Sieyès explicitly understands the distinction between active and passive citizenship in terms of the contribution that a member of a state makes to that state.

6. Conclusion

I have argued here that active citizenship, for Kant, comprises both rights and duties. Active citizens are those members of the state who are entitled to manage the state and its laws. While most literature discussing active citizenship in Kant's political philosophy only mentions the right to vote, I have argued that the entitlements of active citizens are much broader than this. Indeed, for each activity necessary for the management of the state, only active citizens will be eligible for the position associated with that activity. Moreover, while voting for representatives is one way in which active citizens might contribute to the state and its laws, it is not a necessary feature of Kantian republics. There are many different ways in which active citizens may contribute. I have also suggested that there may be duties that active citizens alone possess. Like the rights of active citizens, it is plausible to suggest that the duties will depend on the constitution of the

³⁰ Sieyès, unlike Kant, appeared to have some reservations about the exclusion of women (see Sieyès 1789a, 19–20, quoted in Sewell 1994, 148).

state. The variety of rights and duties of active citizens is significant, since it speaks to the multiple realizability of Kantian republicanism. Kant's republican commitments do not fix the way in which citizens contribute to the state.

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