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REVIEW

Of Christian List and Philip Pettit, “Group Agency. The Possibility, Design and Status of Group Agents” (Oxford University Press 2011)

LEVIATHANS WELCOME!

By VESSELIN PASKALEV*

The introduction of group agents

The book under review offers a brave new theory of group agents: it maintains that some groups of individuals have one capacity which is usually attributed only to individual human beings, namely being an agent. This is a bold claim with potential repercussions in all social sciences (and which may be particularly disturbing for lawyers). To be adequate to that, the authors have developed a fully fledged account of group agents, and discuss what an agent is, why we need the concept of group agent, how to recognise one when we see it and how the group agent is different from participating members. The book builds upon the earlier work of both authors who have been exploring different aspects of collective decision-making separately or in collaboration for more than decade. On the background of these bits now they have developed a whole new theory which is fascinating. Unlike most of the earlier work of List, where his use of formal methods in philosophy makes them fascinating yet extremely difficult to grasp by the uninitiated, in this book the authors have gone a long way to make it sweat and readable: they even say “not-p” instead of “ $\neg p$ ” for instance and in many cases go straight to the bottom line told in plain words while referring to standalone articles for elaborate formalisations and proofs.

The authors’ analytical claim is that in real life there are some groups which have the capacity of behaving as agents and that is why we need the concept of group agents, which allows us to better understand social realities. With a surprising twist of Occam’s razor, they argue that postulating the existence of this new entity makes description of social world less, not more complex.¹ Beyond the analytical, they also claim that the existence or even the possibility of group agents warrants assigning certain responsibilities to them.

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¹ It is the explanatory power of the concept of agency is what warrants its introduction: “Any dog owner will be able to testify that the best way to make sense of what a dog does involves ascribing representations and motivations to it” (p. 23). Here and below all page indications refer to the book under review unless otherwise indicated.

This bold account does not come out of the blue – there already is some thriving literature on shared intentions² and plural subjects.³ Margaret Gilbert in particular has advocated since long that plural subjects exist, however her argument is based on ordinary language philosophy: analysing what do we mean by saying “Let’s go” etc. List and Pettit also start with the observation that people often speak about what the Government, Greenpeace or the Church ‘intend,’ but have identified something much deeper than this: *because of the pattern* of arriving to some attitudes which count as attitudes of a whole group *they are bound to be distinct* from and independent of the attitudes of the individual group members. Demonstrating that there are group attitudes which are not function of the attitudes of the human members *in abstract*, i.e. regardless of specific context is significant, because for all their aptness all of the conclusions Gilbert draws from her many examples seem quite arbitrary to me – it may be the case that by expressing readiness to walk together we construct a plural subject distinct from the walking individuals but very well may be that we do not. How can we be certain that recognising a group agency is the only description that makes sense?

Authors’ argument for the autonomy of group attitudes originates from a paradox that Kornhauser and Sager identified in the context of jury trial⁴ and Pettit found to apply to any case of collective choice made on the basis of certain reasons.⁵ Here the paradox seems to arise from the very structure of rationality (understood as a process of arriving from certain premises to certain conclusions). It is easy to notice that for any decision that a group of people has to take together, the aggregation of the individual decisions will often yield different result from the conclusion that would entail from aggregation of the individual beliefs the decision is supposedly premised on. Let us take an example of a family of three which has to decide whether to buy a car and the decision is premised on whether they need a car and whether they can afford the car. It is more often than not that the result will be different if they vote on each of the premises separately and then act upon the conclusion entailed from the result if they vote on the conclusion whether to buy directly. The great breakthrough of List and Pettit is to notice that this trivial observation has huge repercussions which in my view should affect thoroughly social sciences because it allows this family (if it decides by voting on the premises) to form autonomous attitudes, i.e. attitudes which are and not a function of the attitudes of its members. Thus the family becomes an agent of its own right even though it consists of nothing other than the individual human members. What distinguishes group agents from mere collections of people is the pattern of decision-making.

It is not only by such voting on the premises that groups may form autonomous attitudes the other procedures authors mention are prioritisation of propositions⁶ and sequential voting, straw vote, specialisation of members (distributed premise-wise based

² Michael Bratman, *Faces of intention: selected essays on intention and agency* (Cambridge University Press 1999).

³ Margaret Gilbert, *A Theory of Political Obligation. Membership, Commitment, and the Bonds of Society* (Oxford University Press 2006).

⁴ LA Kornhauser and LG Sager, ‘Unpacking the Court’ (1986) 96 Yale Law Journal 82.

⁵ Philip Pettit and Wlodek Rabinowicz, ‘Deliberative Democracy and the Discursive Dilemma’ 35 *Nous* (Supplement: Philosophical Issues, 11, Social, Political, and Legal Philosophy) 268.

⁶ This is a way to collectivise reason by “prioritizing some propositions over others and letting the group attitudes on the first set of propositions determine its attitudes on the second” (p. 56).

rule⁷), etc. In all these cases the group processes from certain representational to intentional attitudes (i.e. reasons for actions) and reaches more rational outcomes at group level (i.e. *collectivise reason*) while making them unexplainable at individual level.⁸ The argument of the authors is that many actual groups do form attitudes by such procedures and therefore have agential capacity. I strongly support this result, yet I think they should have developed more the empirical basis for it and would wish to see analysis of examples of group who do behave as agents in that sense.

The existence of group agents with minds of their own may seem absurd for some or scary to others, depending on their scientific and political positions. Indeed, by postulating the existence of group agents, the authors find themselves in not very pleasant company and they haste to distinguish themselves from Hobbes and Hegel. In contrast to the latter, List and Pettit emphasise that for a group agent to exist there is no need for “psychologically mysterious social forces.”⁹ Nor there is any need for a common purpose and mentality, common culture or sense of solidarity for a group agent to exist or function as modern nationalists may have it.¹⁰ The suggested account is fully consistent with the methodological individualism that dominates contemporary social sciences and group agents must exist because they “relate to their members in such a complex manner that talk of them is not readily reducible to talk about the members.”¹¹ Now this raises the question whether the group agents are something in the world or something in the eye of the beholder. Authors seem to believe the latter is the case: “The autonomy we ascribe to group agents under our approach is epistemological rather than ontological.”¹² Keen on preserving the methodological individualism intact, they emphasise that the explanatory power warrants the introduction of the concept of group agents and often speak about the agency itself as something that we *ascribe* to systems. Yet on the other hand “the lack of an easy translation of group-level attitudes into individual-level ones requires us to recognise the existence of group agents in making an inventory of the social world.”¹³ Leviathans welcome.

The book under review has too many important contributions for a book review to even mention all, that is why here I shall limit myself only to discussion of the methodological and the political significance of the recognition of group agents mentioning briefly few concerns that I have with the account of group agency.

⁷ “Here different group members are assigned to different premises and form attitudes only on these premises; they each ‘specialise’ on their assigned premises” (p 57).

⁸ On the other hand “a majoritarian organisational structure does not generally ensure group agency since it may generate inconsistent group attitudes on logically interconnected propositions” (p 61).

⁹ p 3.

¹⁰ For example the former German foreign minister Joschka Fisher famously called for “forging a common destiny” of the EU. Fortunately, on List and Pettit’s account this is not necessary for the EU to be an agent of its own right.

¹¹ p 5. Also “the difficulty of predicting from an individualistic base what a group agent does provides a justification for making sense of the group agent in terms that abstract from the way members perform” (p 78).

¹² p 76.

¹³ p 5.

Some repercussions from the leviathans coming

The methodological significance of the suggested account is huge first because it finally aligns the social theory with the common sense which has always recognised the existence of corporate agents as a matter of course. But academics also feel the need for group agents and recently Philippe Schmitter passionately argued that micro-foundations of political science should be reset because the main actors in politics are not individuals but the permanent organisations.¹⁴ He also emphasised that the preferences and actions of individuals are often determined by the collectivities they are members of rather than vice versa as the orthodoxy goes.¹⁵ In the light of this, the account under review appears not radical but perhaps too cautious in not recognising influence of the group agent's attitudes back to those of the members. I will revisit this issue soon.

Even more acute is the need for group agents in law. Legal theory has long struggled with the need to attribute responsibilities to corporations and so far this was achieved by a fiction – corporations are fictions established by law, and by virtue of that fiction we can consider certain assets as belonging to the corporations rather than individual members. Yet this becomes less than adequate when the issue of responsibility arises because legal responsibility is usually dependent on certain attitudes which so far were considered to be reducible to the attitudes of certain individuals. By showing that group attitudes are not a function of individual attitudes List and Pettit pave the way for robust corporate responsibility.

List and Pettit start the discussion on responsibility of the group agents with three conditions which they claim to be necessary and sufficient for an agent to be responsible for a choice and show that some group agents can meet them and therefore they “may display a guilty mind.”¹⁶ I have my doubts against the tradition which allows to the philosopher to postulate something to be necessary and sufficient condition¹⁷ and I would prefer them to abstract the conditions for responsibility from actual legal rules, but because of the appreciation I have for their subsequent argument I should not have been fussy about that. So their conditions are (a) normative significance of the choice the agent makes, (b) her capacity to evaluate and judge the options available (c) and the control that she has over the choice. The authors argue that these conditions are stricter than the conditions for agency itself and only some agents can meet them. More precisely, the second condition is met if the group agent has not only the capacity to make *any* judgements but morally significant ones, i.e. its internal decision-making patterns must be able to take into account morally significant premises as well: “it would seem to be a serious design fault, at least from the perspective of society as a

¹⁴ Philippe C Schmitter, ‘Micro-foundations for the Science(s) of Politics’ [Blackwell Publishing Ltd] 33 *Scandinavian Political Studies* 316.

¹⁵ The individual agent “is typically acting within a multilayered and polycentric ‘nested’ set of institutions capable of making binding collective decisions – some public and some private. I have been led to conclude that agent preferences are not fixed, but contingent on which policies are proposed and by whom, and probably will change during the course of political exchange between the various layers and centers of power.” *Ibid*, 320.

¹⁶ p 157.

¹⁷ The authors casual reference to the Christian catechisms does not make the claim any more convincing either.

whole, to allow any group agents to avoid making judgements of this kind.”¹⁸ The third condition raises different kind of problem – some actions seem to be in some sense controlled by both the group agent which gives instructions to the individual members to act and by the individual who remains an agent and therefore is responsible in his own right. Legal theory has long struggled with the question whether the control of the individual preempts that of the group or vice versa. A strict abidance to the methodological individualism would place the ultimate responsibility on the individual but there are compelling reasons to absolve him from that when he is forced to do so. The case in point is not only of the citizens of a fascist state forced to collaborate in certain atrocities; the ability of the group agents to direct actions is felt also in much more common cases when the action required is only a little beyond what the moral individual member called to implement it would endorse. Everyone sometimes does things required by his company, his family or his nation, which only slightly deviate from his principles even without being *forced* to because the deviation is small and because another member will do it anyway. Thus, given List and Pettit’s observation that the attitudes of group agents are autonomous from the attitudes of its members,¹⁹ it seems grotesque to place the responsibility only on the unlucky member who happens to be in the position to commit the blameworthy action while absolving the group agent from directing him. The authors develop a conceptual argument to justify this intuition. They note that a group agent controls the performance of the blameworthy action if it has the capacity to assign *some* individual member to perform it and it does so by maintaining procedures for the formation and *enactment* of its attitudes.²⁰ Thus, “the group agent is fit to be held responsible for ensuring that one or more of its members perform in the relevant manner [while] the enacting members of the group are not absolved of their own responsibility” for enacting group directions.²¹ This multi-level responsibility is as fascinating as it is difficult to swallow for a lawyer.

They admit that not all group agents satisfy these conditions, nevertheless sometimes it makes sense to responsabilize them because of this capacity to direct members. This means that when a group has some, but not full agential capacity it may make sense to treat it *as if* it has full capacity so that the individual members are incentivised to redesign it to improve its capacity.²² This argument I find brilliant. The commonsensical justification of such sweeping normative claim comes from the danger of allowing companies, as able to direct actual behaviour as they are, to avoid responsibility.²³ The authors try to squares a very important circle – as the conditions for a group to be responsible are stricter than the conditions for the group to be agent some group agents possess capacity to form independent attitudes and direct their individual members to act upon them while still they have no capacity to bear responsibility. Half-baked agents can exist and can be dangerous because they form

¹⁸ p 159.

¹⁹ In some cases of premisewise voting there group may reach a decision which *all* individual members oppose.

²⁰ See p 163.

²¹ p 163. Note that members are responsible only for *enacting* group attitudes but not for participation of their formation as those attitudes are independent.

²² “to develop routines for keeping their government ... in check”, p 169.

²³ Authors’ give an example of a disastrous ship-wreck due to organisational sloppiness where not a single individual could be held responsible, but it is a bit puzzling why they should look for examples in the 80s as if contemporary cases of disastrous corporate irresponsibility were lacking.

attitudes that direct individuals to act in certain ways but too conveniently do not have capacity to make *moral* judgements. The authors answer to this problem is the suggested “developmental rationale” by analogy with parents treating the adolescent as a mature person in order to lead her to maturity. This normative claim may appear as difficult to implement in practice as radical as it is in theory. Yet in certain sense responsabilization of companies already happens in practice, so again the normative claim is neither radical nor utopian; it strikingly adequate normative justification of some practices known as new forms of governance and especially with the government-ordered self-regulation. Governments routinely ask various industry groups to get organised and voluntarily regulate their practices in the shadow of potential governmental intervention. And of course, the international human rights or environmental regimes are ways to responsabilise the governments themselves. So let the Leviathans be responsible!

Of chickens and eggs

The developmental rationale should have made obvious certain circularity that I felt throughout the book and I still wonder if it is vicious or virtuous. Behind the explicitly normative claim that agents should be responsabilized the authors seems to have a broader normative claim – to make the groups (at least some of them) more agential. From the very beginning of the book they argue that

If a group agent is to display the rationality that agency requires, its attitudes cannot be a majoritarian or other equally simple function of its members. The group agent is to establish and evolve a mind that is not just a majoritarian or similar reflection of its members’ minds; in effect it has to develop a mind of its own.²⁴

This appears as descriptive statement yet one is left to wonder *why* a group is to display rationality and *why* is it to evolve a mind of its own? In the context of responsibility just discussed this makes a lot of sense, but responsibility is only one of the chapters in the book and by no means leitmotif of it. It makes sense within Pettit’s republican concept of freedom as freedom from arbitrary interference in one’s affairs, but this is hardly ever mentioned in the book under review either. The authors start the book by showing that groups can reason (i.e. can have agential capacity) and then they explore the question how to make them reason. There is appearance of circularity between the positive and the normative claim and it is not obvious why groups *should* collectivise reason at all. A more empirically elaborated point of departure²⁵ probably would help me out of the circle but even in this case one may wonder if we should fight rather than foster group agency.

²⁴ p 8.

²⁵ As noted above it would be helpful if the authors analyse an actual group to show that it is an agent and that there are concrete advantages (for whom) from being one.

Coping with the Leviathan

The explanatory value of the concept of group agency in my view is absolutely undisputable, yet the question for the normative consequences of their recognition remains open. It is also important one, as individual members are generally expected to act upon the *autonomous* directives of the relevant group agents and as was discussed above, the latter are capable of making them act. List and Pettit have argued persuasively that with regard to one particular issue – that of ascribing responsibilities for them – group agency should be developed rather than feared. In this final section I will discuss two other issues arising from the recognition of group agents – (a) that of the border between the spheres of control of group agents and of their members and (b) that of the control of individual members over the group agent acting in *its* sphere of control. Apparently both issues are well discussed in the political philosophy and constitutional law but the group agency account casts them in new light.

The authors discuss the first of these issues under the heading of ‘control desideratum.’²⁶ By this they do not mean control of the agent over what the group agent does but respect of the rights and freedoms of their members, or the borders of their individual “spheres of control.”²⁷ They seek to satisfy the control desideratum by giving the individual member certain set of propositions on the agenda of the group agent over which he alone has full control.²⁸ In plain language this means granting him a set of inviolable human rights. I find this the least satisfying part of the book.

The first problem with this is that the idea of protected sphere of individual control has been with us since at least 1789. It has always been applauded as principle but it has too often failed to provide guidance in practice, especially with the growing complexity of Western societies – try to think about demarcations of protected spheres in the Danish cartoons case for instance. The principle is so underdetermined that it provides no practical guidance for any non-trivial controversies.

List and Pettit adopt it conceptually only to show that (under certain minimal condition) there is no way to satisfy in the same time the requirement for group rationality and the control desideratum.²⁹ Then they offer various ways to relax the stated conditions and avoid the impossibility which seem plausible and conclude that “there are strategies available for ensuring that a paradigmatically powerful group agent such as the state respects its members’ rights and freedoms and that members retain certain spheres of control.”³⁰ This is fine but the strategies they offer – suitable organisational culture and structure within the group agent, non-arbitrariness and accountability of its actions are actually solutions to the second problem (control over the group agent in its sphere); the promised sphere of control of the individual alone vanishes. I appreciate that there is little to do given the impossibility result they have reached, but once again it is not obvious to me if the personal sphere cannot be

²⁶ They discuss three desiderata for good organisational design. The first two are the epistemic desideratum (chapter 4) and incentive-compatibility desideratum (chapter 5) which are by far more interesting than the control desideratum (chapter 6), but for reasons of space will not be addressed in this review.

²⁷ p 129.

²⁸ p 136.

²⁹ The formal statement of the impossibility result is that “there exists no aggregation function satisfying robust group rationality, proposition-wise unanimity preservation, and the control desideratum.”

³⁰ p 149-150.

meaningfully demarcated, why that of the group agent should prevail. The answer may be obvious when the group agent is a state, but on their account many other, potentially more dangerous group agents come out of the dark.

The second problem that the autonomous group agents raise is that even in the sphere that is indisputably within their control (think of national defence) it is generally expected that the group agent should be responsive to the will of its members. This problem is not new, but the group agency account makes it particularly acute: as the existence of group agents is premised on its capacity to form attitudes (beliefs and desires) which are not function of the attitudes of their members, any actual group agent will have to cope with persistent contradiction between its autonomous attitudes and the individual will of most of its members. Indeed, Pettit himself had identified this problem earlier:

Let a group individualise reason, and it will ensure responsiveness to individuals in its collective view on each issue but it will run the risk that the views will be irrational. Let a group collectivise reason, and it will ensure the rationality of the collective views maintained but run the risk of adopting a view on one or another issue that is unresponsive to the views of individuals on that issue.³¹

There he had argued for collectivisation of public reason at the expense of responsiveness to majority will for the sake of non-arbitrariness of political authority, yet he acknowledged that a difficult dilemma exists. The book under review notes that “a well-functioning group agent must therefore cope with the basic fact that individuals are themselves rational agents”³² but does not discuss the dilemma any more. However, this unavoidable contradiction between the autonomous will of the group agent and the individual wills – let us call it rationality gap – is deeply disturbing. It is even more so with regard to the problems with the demarcation of spheres of control discussed above. Once again, isn’t it better to prevent emergence of group agents rather than develop them?

One possible answer is that group agents are already here anyway, and the suggested account only takes due notice of them, but this leaves the authors’ normative claims in the cold. The other way out is to seek to avoid collective reasoning and abandon the non-arbitrariness arguments. This is the response of classic liberal individualism. The third answer is to seek ways to ‘convert’ individual beliefs in line with what is already established as group agent beliefs. This will happen for example when an expert advisor determines certain premises, group agents endorse them and act upon them while individual members trust the expert and suspend their own prior beliefs on the issue. It will also happen when members share sufficient sense of common identity or solidarity so that they internalise the group decision to such an extent to abandon the beliefs that had lead them to the opposite conclusion earlier.³³ Finally, possible answer can be deliberation in the public sphere which forms a common opinion on all relevant premises on both individual and group level. The latter two suggestions may appear utopian or at best realisable only to certain degree, but the point I would like to make by them is that for a plausible account of group agents *perhaps* we should consider two-

³¹ Pettit and Rabinowicz (n 5) 277.

³² p 104.

³³ A good albeit rare case in point was Britons’ overall opposition to the Iraq war which within a week changed to overall support once the decision of *their* government became final (i.e. the war started).

way relationship: allowing for influence not only from the individual attitudes towards the group agent's attitudes³⁴ but also from the attitudes established in group back to those of the members (as per Schmitter's quote above). If such relationship is recognised and taken into account, the group agents may appear less, not more monstrous.

³⁴ List and Pettit describe the relationship between the two as one of supervenience of the group attitudes on the individual ones, which goes only one way.