Group Agents are not Expressive, Pragmatic or Theoretical Fictions

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1. The issue of agential status

By a group agent I mean a group whose members combine to act within group roles in such a way that the group as a whole simulates or mimics an individual agent. We can ascribe goals or purposes to the group, we can ascribe representations of the environment that bear on how those purposes can be realized, and we can see the behaviors of suitable members as actions attributable to the group: as attempts by the group to satisfy its purposes in a way that makes sense according to its representations.

A group that mimics an individual agent must perform more or less reliably on two fronts. It must be evidentially reliable in the sense that its representations are generally sensitive to the requirements of evidence. And it must be executively reliable in the sense that its actions generally satisfy its purposes according to those representations. If the states that guide the group's actions were generally insensitive to evidence, they could not count as representations. If they guided the behaviors ascribed to the group in a way that did not tend to promote the satisfaction of goals, then those behaviors could not count as actions. And under either condition, the group would not count as an agent. It would not replicate what we naturally to take to hold with any individual agent or indeed any more or less complex animal.

Common sense suggests that there are many group agents of the kind envisaged. Voluntary associations, commercial corporations, ecclesiastical bodies, political parties, and well-functioning states all count as group agents in the intended sense. They each have goals or purposes to which members commit themselves or in which they at least acquiesce. They form more or less reliable representations about the relative importance of these goals, the opportunities and means available for realizing them, and indeed the case for revising or updating

them in various ways. And they each more or less reliably act on the basis of those representations in order to further their goals.

These observations are not just contingent observations in empirical sociology. If entities of the kind envisaged did not generally measure up to the requirements for reliable agency, then they would not be entities in which it was worth the while of individual agents to invest their energies: they would not secure the goals that members presumably endorse. And if they not generally measure up to the requirements for reliable agency, then equally they would not be entities with which it was sensible for individuals to do business, accepting their commitments and contracts. The very fact that we individual human beings spend much of our life invested in group agents and interacting with group agents is testament to our confidence in their agential, presumably well-tested and proven competence.

Despite this presumptive case for the reality of group agents, there is a long tradition of denying any groups the status of agents, or at least of agents proper. Pope Innocent IV is often said to have been the first to recognize the agential status of groups when he described a group as capable of being a *persona* or person (Canning 1980; Duff 1938; Eschmann 1946; Kantorowicz 1997). But in doing so he left posterity with the issue of how seriously to take this. He described the *persona* as *ficta,* where this 'fabricated'. Like the translation, '*ficta*' could mean that the corporate body was fictional, and so not a person at all, or artificial, and so a person but not a natural person.[1] Innocent wanted to mark the distinction between persons or agents with souls, who could be excommunicated and sent to hell, and the sort of person that he took the University of Paris to be, which could not be subjected sensibly to any such sanctions. But of course a corporate person would not have a soul, whether it was taken to be a real but artificial, or a fictional and so unreal, person.

In this paper I cannot review the complex history of debate over the status, real or fictional, of group agents. But I do want to address a number of salient objections that might be made from a broadly debunking perspective to ascribing a real agential status to groups, building in the exercise on joint work with Christian

List (2011).[2] I discuss three charges over the following three sections. And then in a shorter, fifth section I explain that rejecting these charges is consistent with admitting that in a further, harmless sense some groups agents do put a juridical sort of fiction in play.

All of the challenges to be considered cast group agents, in one way or another, as fictional or pretend agents: this, by contrast with the real agents that individual human beings constitute. The first holds that group agents are expressive fictions whose invocation serves communicative efficiency; the second that they are pragmatic fictions that give us a convenient way of articulating the significance of certain collective actions; and the third that they are theoretical fictions that help us to construct simple, predictively useful accounts of people's aggregate behavior. In arguing that group agents are not expressive fictions I defend the view that ascriptions of purposes and representations to a group agent are true or false assertions — they are not just figurative ways of speaking — and indeed there is every reason to think that they are often true. And in arguing that they are neither pragmatic nor methodological fictions, I maintain that the conditions that make such ascriptions true do not come cheap; they impose substantive constraints on how the social world is organized.

2. Group agents are not expressive fictions

The most radically debunking line on corporate agency holds that to take groups as real agents is to be misled by a *façon de parler*, giving literal significance to figurative speech. This line is nicely caught in the remark by John Austin (1869, 364), the nineteenth century jurist, that collectivities can be cast as subjects or agents 'only by figment, and for the sake of brevity of discussion'. Anthony Quinton (1975, 17) sums up the view in the following passage: 'We do, of course, speak freely of the mental properties and acts of a group in the way we do of individual people. Groups are said to have beliefs, emotions, and attitudes and to take decisions and make promises. But these ways of speaking are plainly metaphorical. To ascribe mental predicates to a group is always an indirect way of ascribing such predicates

to its members… To say that the industrial working class is determined to resist anti-trade union laws is to say that all or most industrial workers are so minded'.

It is clearly true that we do sometimes ascribe agential states and performances to groups in a manifestly figurative sense, as when we say that the bond market has made a harsh judgment on the government's fiscal policy or that the electorate has decided to divide political power between two parties. There is no basis for thinking that the market or the electorate has the organization to perform as an agent, forming purposes and representations of the kind presupposed in such remarks, and acting for the fulfillment of those purposes according to those representations. And so in these cases it is true, as Quinton puts it, that ascribing mental properties to the group is just to speak metaphorically, communicating a message only about how individuals in the group think and act.

But why should we think that a similar line should be taken in the case of groups of the kind that we are envisaging here: organized associations, corporations, churches, parties and indeed states? After all no one enters a contract with a market or indeed an electorate — not at least in any literal sense — whereas we do all do business with these sorts of organizations, dealing with them as we might deal with another individual person. The fact that electorates and markets are not agents — the fact that we only speak of them figuratively as if they were agents — should not be taken to mean that other groups must also fail to have an agential status.

A line often taken in support of this debunking view is that the material out of which group agents have to be constructed — individuals organized in relation to one another — is just not suitable for realizing mental and agential properties. Thus Manuel Velasquez (1983; 2003) complains that for an action to be intentional, the agent must have a sort of mental and even material unity lacking in any corporation or, presumably, any group of individuals. He argues in particular that impersonal procedures of decision-making, however complex, cannot enable groups to realize mental states across their membership — not at any rate 'in any literal sense' (2003, 546). David Roennegard (2013) supports the same line, adding that impersonal

procedures have no capacity to realize the ideal of autonomy — in one version, the ideal of acting on desires you want yourself to act on (Frankfurt 1971) — that is closely associated with agency in the human case.

The complaint in these cases is that if there is to be a literal mind and agent present, then there has to be the right stuff around to realize agential properties like intentionality and autonomy. This complaint would makes sense under a Cartesian or Scholastic assumption that proper agency — say, the agency exemplified by human beings — presupposes a non-material soul. But contemporary critics don't ground their critique of corporate or group agency on a rejection of materialism about the mind. So what exactly is supposed to be the problem?

The answer may be that, without claiming that agency requires a non-material substrate, critics of this kind suppose that at least it requires a biological base: something vital or living. It requires the rapid, biochemical processing that makes us evidentially sensitive to how things are and that primes us executively to respond in ways that realize our ends. It requires the complex, subpersonal, neuronal connectivity that cues us spontaneously to our environment and naturally triggers suitable interactions. John Searle (1997) holds that phenomenal consciousness needs to be realized in biological material — it cannot appear, he thinks, in a robot — and the suggestion here may be that what is true of consciousness according to Searle may also be true of agency.

The suggestion is hardly persuasive. If a biological system counts as an agent it does so in virtue of meeting the constraints of agency, as we outlined them in the first section. It is biologically organized so that we can represent it, at least under presumptively normal conditions, as holding plausible purposes, forming reliable representations and acting reliably so as to advance those purposes according to those representations. But if a biological or vital organism can be functionally organized so as to meet the constraints of agency, why can't an artificial entity be organized in that way as well? Why not a suitably engineered robot, for example? And why not a suitably organized group of individuals?

Many thinkers within economic and business school circles suggest that there is no need to make any anti-materialist or pro-vitalist assumptions in order to argue against the possibility of group agency. They seem to think that that the mere fact that any would-be group agent is constituted by a framework of relations among its members — 'a nexus of contracts', in the favored phrase — is enough on its own to establish that it cannot be an agent in any literal sense. On this approach, as one commentator puts it (Grantham 1998, 579), it is taken as obvious that a corporation or group agent is just 'a collective noun for the web of contracts that link the various participants'.

This suggestion has no merit. It is true that the existence of contractual arrangements between individuals does not ensure in itself that the group they constitute is an agent; otherwise every market, for example, would be an agent. But that does not mean that that no sorts of contractual arrangements are capable of making a group into an agent. And we have seen reason already to hold that some arrangements have this capacity. If our earlier line of argument is sound, then contractual or quasi-contractual arrangements among members will give rise to a group agent if they are designed to ensure that overall the group meets the constraints of agency.

These considerations should be sufficient to counter radically debunking theories that, despite examples of groups that are representable as agents, deny that they are agents in any literal sense. But there is a further more positive observation that is worth developing in countering such views. This is that not only are the groups exemplified by associations, corporations, churches, and the like representable as holding certain purposes, forming certain representations and acting for those purposes according to those representations. They also actively represent themselves as having such purposes and representations and as performing corresponding actions.

Every agential group authorizes a coordinated network of representatives — or, at the limit, a single dictatorial representative — to speak for the group in different domains. Those representatives speak for what the group wishes and

intends, for example; for what it maintains and denies; and for what it did, does and will do. And they do not speak in vain, since other members of the group tend to live up to what the self-representing words of the spokespersons require of them when they act in group-relevant roles. The words uttered may sometimes prove to be inconsistent, as the words of any individual may prove to be inconsistent, but in speaking for the group its representatives must be responsive to any evidence of inconsistency or the like and must be disposed to adjust the self-representation of the group so as to satisfy such constraints.

The fact that they are self-representing agents means that group agents are more like human individuals than they are like mute animals. What they say directs us to agential hypotheses about their purposes and representations and enables us to test them against those hypotheses in determining whether they are agents. And unsurprisingly, they do generally bear out the hypotheses, proving to be true to their word. This is unsurprising because in any group that wishes to get things done, and to establish itself as a reliable partner with which to do business, the members have to police themselves so that they each conform to what is required of them if the self-representation of the group is to prove adequate and accurate. They have to ensure, as we might put it, that the group they constitute is a conversable agent. It is an evidentially sensible center of self-represented attitudes, being prepared to respond to evidence of failures like inconsistency. And it is an executively reliable system that enacts whatever that the self-represented attitudes require. Why would anyone join or trust a group whose members did not jointly control, or individually conform to, the words of the officials who speak for it on different fronts, whether in enunciating policy or doctrine, in espousing goals, or in proposing contracts?[3]

This motive for conformity means that the self-representation of any group is bound to have a commissive character. When those who are authorized to speak in the name of a group announces the group's intention to do something, then the general assumption is that this announcement, being sufficient to trigger the required conformity, at least in a well-functioning organization, makes it the case that the group intends to do that. The spokespersons speak for the group with the

authority to dictate what the group intends; they do not just venture a view how the members are likely to behave. In that sense they commit the group to the intention. This commissive aspect of their declaration shows up in the fact that if the group fails to act as announced, the spokespersons cannot excuse the failure by claiming in the voice of a reporter that they must have misread the evidence — as if there were independent evidence as to what the group intended — and gotten the group mind wrong.

In this example we may say that spokespersons avowed the group's intention to act in a certain way rather than merely reporting the intention. And in a suitable variation on the case, the spokespersons might have promised that the group would act in that way rather than merely avowing an intention to do so. In this case the spokespersons would commit the group, not just to the intention, but also to the action itself. They would adopt a position that makes it impossible for them to excuse a failure of the group to act in the promised manner way either by invoking a misreading of evidence or, as they can do with the avowal, by invoking a change of mind or heart.

We saw earlier that in introducing the idea of a group agent, Pope Innocent IV described the sort of body in question, not just as an agent, but as a person. I think that persons in this usage — a usage preserved in the way we speak of legal persons — can be identified with self-representing as distinct from merely representable agents. Unlike mute animals, they are agents who speak for themselves and implicitly commit to acting as their words require. In what follows, however, I shall generally avoid talk of persons in favor of continuing to speak of agents.

The negative and positive considerations rehearsed in this section provide a firm basis for thinking that the sorts of groups envisaged in our examples are agents in quite a literal sense, being organized to meet the associated constraints. There are certain groups like markets and electorates to which agency is sometimes ascribed in a figurative sense and we may well describe these qua agents as expressive fictions; this is just to hold that it would be an error to think that there really were

such agents. But groups that are representable as agents, and that even self-represent successfully as agents, are in a very different category and deserve to be cast as agents in quite a literal sense of the term.

Even if these group agents are admitted as literal agents, however, there are at least two other lines on which someone might argue for denying them a proper agential status. One line would reduce group agents to pragmatic fictions that help articulate the significance of certain forms of collective action; the other would reduce them to theoretical fictions that facilitate our explanations of aggregate human behavior. I consider and argue against these lines of argument in the two sections following.

3. Group agents are not pragmatic fictions

The view that group agents are self-representing agents, not just systems that are representable as agents, goes back a long way in the history of social thought. Thus in 1354, Albericus de Rosciate could say that a collegial agent, although it is constituted out of many members, is one by virtue of representation: *collegium, licet constituatur ex pluribus, est tamen unum per representationem* (Eschmann 1946, 33 fn 145).

The theme dominates the work of legal theorists of the time like Bartolus of Sasseferrato and his pupil, Baldus de Ubaldis, who took group agents as artificial, but certainly not as fictional entites. They make much of the way a suitably represented group, in particular the represented people of a city, could figure as a corporate agent or person (Canning 1983; Woolf 1913). Thus, arguing that the *populus liber*, the free people of a city republic, is a corporate person, Baldus explains that this is because the council — the representative, rotating council — represents the mind of that people: *concilium representat mentem populi* (Canning 1987, 198).

This view of group agents as self-representing bodies of people was taken up and developed with characteristic originality by Thomas Hobbes, particularly in Chapter 16 of his *Leviathan.* But the way in which he developed the view enabled

him to hold that the group agents that people take themselves to construct are not real agents like those individuals themselves but, in his words, agents only 'by fiction'. It may be pragmatically useful for people to represent themselves as forming group agents — it may articulate the significance of their doing so — but the agents they form are do not have a voice or mind of their own; they are wholly parasitic entities. This view has proved to be very influential, especially in thinking about the state (Skinner 2010), and it is important to see where it goes wrong.

Hobbes begins from the observation that every individual human being speaks for himself or herself in the sense of authorizing others to expect them to live up to their self-representing words: their avowals of belief or intention, for example, or their promises of action. This is what it is to be a natural person, he says: to represent or 'personate' oneself to others. He then argues that in the same way every group agent uses a spokesperson to speak for itself, with its members authorizing others to expect them to live up to the words of that 'representer' or representative. In such a case the representer personates the members to those others, serving in an official role — a role 'feigned or artificial' — rather than in a natural one.

Hobbes's (1994, Ch 15) image of the group agent is clearest in the case where there is a single spokesperson. In this case the members of the group 'own' everything that the 'representer' does, whether owning it 'without stint' — as in the case of the absolute monarch that a population might authorize — or within certain limitations, for example in commercial organizations, 'when they limit him in what and how far he shall represent them'. The idea in each case is that the individual provides a voice that the individuals can authorize as a source of avowals and promises, living up to it in the limited or unlimited domain where 'they gave him commission to act'. By hitching themselves to that pre-existing voice — and that pre-existing mind — they make themselves into a single agent, collectively acting in accord with that voice in the way in which a natural person acts in accord with his or her own voice. Let that voice avow a belief or intention and the members will act collectively in the way that that belief or intention requires; let it promise an action,

say within the context of a contract, and they will act collectively in a way that ensures the performance of that action.

On this picture, the group agent does not have a voice or mind of its own but coopts and channels the voice of its representer. It comes into existence by virtue of the fiction or pretense that that representer's voice expresses their mind as a group. Thus Hobbes takes the group agent that individuals constitute by recruiting an individual spokesperson to be an agent or person only 'by fiction'. He is prepared to say that 'a multitude of men are made one person when they are by one man, or one person, represented', at least when this is done 'with the consent of every one of that multitude in particular'. But 'it is the unity of the representer', he insists, 'not the unity of the represented, that maketh the person one…and unity cannot otherwise be understood in multitude'. He wants to emphasize that the group agent that exists on the basis of representation by an individual is a parasitic, pretend entity. It may count as a unified agent or person —a 'personatee', if not a 'personator' (Pettit 2008) — but it does so only parasitically on the unity of the individual who gives it a voice and a mind.

This means by Hobbes's lights that while individually represented group agents certainly exist, they do not exist in the same way as individual agents. There is a point in describing them as agents or persons, since this underlines the fact that members are committed to acting so as to live up to the words spoken in their name. But they materialize only via the device or fiction whereby members coopt the voice of a pre-existing, proper agent as the voice that commits them and expresses the group mind. As if to emphasize how insignificant the category of group agent or person is, Hobbes goes to great lengths to emphasize that more or less anything can assume the parasitic or secondary status of a personatee. Thus he says: 'There are few things that are incapable of being represented by fiction. Inanimate things, as a church, a hospital, a bridge, may be personated by a rector, master, or overseer'. 'Likewise', he adds, 'children, fools, and madmen that have no use of reason may be personated by guardians, or curators'. In these cases, it is true, the entities represented or personated cannot authorize the representation, as the members of

groups authorize their representation. But still the only plausible reason why Hobbes mentions these analogues to the individual representation that gives life to group agents is to underline the parasitic and pretend character of the status those agents thereby enjoy.

Hobbes was particularly focused on the case of the group that is personated or represented by an individual since his preferred commonwealth was one where the absolute monarch plays the role of speaking for his or her people, where all members consent without stint to this representation. But the group agent that is represented by a single dictator, particularly the group that is represented by the unstinted dictator, is not the sort of entity we normally have in mind in thinking about group agents. Indeed it is so marginal and unusual that we are not required to see it as a group agent, even of a fictional kind. We might describe it, not as a group agent that operates via an authorized individual, but as an individual agent whose reach and power is extended and amplified by the members of the authorizing group.

In order for Hobbes to be able to hold that group agents in general are parasitic and pretend agents, not agents in any independent sense, he has to be able to extend his theory to the case where the group is not represented or personated by a single individual. And he attempts to do that by arguing that not only may an individual provide the voice that the members of a group can authorize, so may a committee, whether that be a committee of the few or a committee of the whole. He maintains that a committee can provide the sort of pre-existing, independent voice that a group agent can recruit insofar as majority voting prevails. 'And if the representative consist of many men, the voice of the greater number must be considered as the voice of them all'.[4]

The plausibility of Hobbes's theory of group agency turns, not on how well it works with the degenerate case of the dictatorially led group, but on whether it works in the case of groups with many representers. The theory works in the degenerate case because the voice of the individual representer is already the voice of an agent and members can coopt it for their purposes, treating it as expressive of

their mind as a group. This group operates as an agent in that case because the voice its members authorize is already a suitable, agential voice; the members borrow that voice, as it were, and put it to a special use. The question with the non-dictatorial group, then, is whether the voice provided by majority voting — we can assume that there are no problems with tied votes — is a voice that members can recruit on the basis of a similar fiction or device, giving it an authorized role in their collective behavior.

Hobbes assumes that the majoritarian voice is recruitable in the service of group representation and agency but he is demonstrably wrong on that point. In order for a voice to be recruitable as a voice for the members of a group agent to authorize, it has to satisfy some basic rational constraints such as the demand for consistency. A voice that avowed inconsistent beliefs or intentions or that promised inconsistent actions could not be a voice that any agent could follow. It would lead the agent into behavioral stalemates, pointing in two directions at once. And it would ensure that others could not give the agent any credence or trust: after all, it is impossible to do business with an entity that fails to display a sense of what consistency requires. The problem with the majoritarian voice that Hobbes takes to be capable of guiding a group is that no matter how consistent the members of the group, their majoritarian voice is liable to endorse quite inconsistent propositions.

The discursive dilemma illustrates this problem with majoritarian voting (List 2006; Pettit 2001).[5] Suppose that a group of just three people, A, B and C, wish to operate as a group, committing themselves to act on the basis of majority voting. Imagine that the group confronts three logically connected issues at a particular time or over a particular period: say, issues like whether p, whether q, and whether p&q; or whether p, whether if p, q, and whether q. In any case of this kind perfectly consistent individuals may vote in such a pattern that the group gets to be committed to an irrational set of judgments or representations. Thus, to take the first case, A and B might vote for ‘p’, with C against; B and C might vote for ‘q’, with A against; and so A and B would vote against ‘p&q’, with only B supporting it. This would leave the group with an inconsistent set of judgments to endorse and follow:

p, q, and not-p&q. The members would face a dilemma: be responsive to majority opinion, thereby making it impossible to act as a group agent; or make it possible to act as a group — say, by endorsing p, q, and p&q — thereby rejecting one or another majority opinion.

If this small group is to act as a group agent, then it has to modify majority voting, as for example in following a straw-vote procedure (List and Pettit 2011). This would prescribe these steps for members of the group:

- take a majority vote on each issue as it comes up;
- check whether there is an inconsistency with any existing view;
- if there is not, endorse the vote; and
- if there is, isolate the minimal inconsistent set and
- decide as a group on which proposition to reject.

Following this procedure in our example, the group might come to endorse p, q, and p&q, or depending on how the debate went, any consistent set of answers: say, not-p, q, and not-p&q; or p, not-q, and not-p&q; or not-p, not-q, and not-p&q.

Suppose that we amend Hobbes and take the straw-vote procedure to be an improved strategy for determining the voice that a group agent should follow. Would the amendment continue to support the parasitic view of group agents that he maintains? No, it would not. Parasitism applies in the case of the individually represented group, as we saw, insofar as the following holds: the members satisfy the conditions of group agency *because* they coopts an existing, agential voice as their collective voice. But the direction of dependence is reversed in the case of a group that operates with the straw-vote procedure. What holds here is rather this: the members construct a suitable agential voice *because* they seek to satisfy the conditions of group agency.[6]

In the original case there is a pre-existing voice that the group can follow and the members parasitize that voice in order to provide them with guidance as a group. In our case there is no pre-existing voice to recruit and by following the straw-vote procedure they make up for this deficit by constructing a novel, agential voice. Were a group able to follow a majoritarian procedure, then it could be said to

borrow a voice, as in the case of the individually represented agent. When a group follows the straw-vote procedure, however, with members debating about how most reliably or most easily to reach consistency, then it gives itself a voice and a mind of its own. It comes to exist as a group agent without members resorting to the fiction that the voice of a pre-existing agent or algorithm expresses their mind as a group.

The discursive dilemma directs us to the impossibility of a group agent's identifying and recruiting an independent, majoritarian voice to authorize. But it is now well known that the dilemma illustrates a wider impossibility, registered in the surge of impossibility theorems that have recently appeared in the domain of judgment-aggregation (List and Pettit 2002; List and Polak 2010). What these theorems combine to suggest, broadly, is that there is no possibility of generating a consistent group voice on a set of connected propositions by aggregating the individual votes on each proposition in a mechanical way, majoritarian or otherwise, and fixing the group view of that proposition by the result of the aggregation.

The straw-vote procedure shows how the individuals who want to rescue a consistent voice from bottom-up, majoritarian inputs have to monitor where those inputs lead at the aggregate level and have to be prepared to make top-down interventions by setting aside one or another majority opinion. Parallel, top-down interventions are bound to be necessary in order to guard a group against the inconsistencies that, according to the impossibility theorems, any bottom-up voting procedure — or anything that plays the role of such a procedure — is liable to generate.[7] Whether those interventions are made via the combined operation of all members, as in the straw-vote procedure, or by the operation of a specific subgroup or subgroups that are assigned that task, they count as means whereby the members construct a group voice rather than pretending that their voice is independently dictated by an algorithmic procedure like majority voting.

When the members construct a group agent in this fashion, what they construct is an artificial entity that contrasts saliently with natural persons like you

and me. But this artificial entity is a self-representing agent that is distinct from each of the individuals that make it up and, in particular, from any majoritarian or non-majoritarian entity that their individual dispositions might be taken to define. There is no voice that expresses the mind of this group apart from the voice that the members shape and sustain. And there is no mind that they enact other than the mind that they take this voice to express. Let agents be characterized as evidentially reliable and executively reliable centers of attitude and action, and it should be clear that any inventory of the agents in the world has to include these artificial group agents as well as natural agents like you and me. The picture is very different from that which Hobbes's fictionalism would support.

We saw in the second section that not only are certain groups representable as agents who reliably enact purposes according to reliable representations; they are also self-representing agents who put forward representations of themselves to which they give a commissive role. That picture denies that group agents are expressive fictions but it is consistent with the view that they serve as pragmatic fictions or conveniences that help people articulate the point or significance of certain forms of collective action. But we have seen in this section that non-dictatorial groups of the kind that most plausible group agents exemplify cannot be cast as fictions of this kind. They do not come into existence on the basis of the fiction or pretense on the part of members that that an independent voice can be treated as expressive of their common mind as a group. They come into existence on the basis of an exercise in which members construct the voice that they follow and thereby give themselves a mind of their own.

4. Group agents are not theoretical fictions

The line of argument pursued in the last two sections may still leave some people skeptical about the status of group agents. They may agree that there really, literally are group agents. And, putting aside the degenerate case of the dictatorially

guided group, they may admit that individuals have to construct the voice and the mind of any group agent they serve. But they may still insist that since the group thinks and acts only insofar as its members think and act on its behalf, the best account of people's behavior is bound to be wholly individualistic. Why, then, do we often prefer to couch our accounts at the aggregate, group level? Fictionalists of this kind claim that we do so only for theoretical convenience: it gives us a way of tracking behavior at the aggregate level without getting bogged down in complex individualistic detail. The suggestion is that while it may be convenient to speak about what a corporation or church or party seeks or holds or does, still that is just a simplification; it is a testament, not to the reality of group agency, but to our limited capacity to comprehend intricate detail.

On the account envisaged, then, group agents are theoretical fictions that facilitate our description of the world but that are dispensable in any full-scale, fine-grain theory. They are like the fictions we invoke in accounting for how physical objects act under gravitational forces when we treat those objects as each possessed of something that we describe as a center of gravity. At bottom, so the message goes, it is only individuals who seek or hold things and only individuals who get anything done; it is only individuals who are agents in a proper, ineliminable sense of the word.

Stated in these terms, the complaint about group agents in relation to individual members is reminiscent, ironically, of a complaint that is often made about individuals in relation to their constituent cells, molecules and atoms. According to that complaint, the widespread naturalistic view that we human agents do not have any non-material soul or mind implies that we are just organizations of biological, chemical and microphysical constituents and nothing else besides. We may represent ourselves and others as agents with distinctive purposes and representations but this is just for reasons of theoretical convenience. The view from below — the view from the perspective of our component parts — suggests that this is merely appearance; it is how things seem when they are charted at a coarse rather than a fine level of grain.

The best way of dealing with this third challenge to the reality of group agents is to show the considerations that offer reasons for treating individual human beings as agents proper have parallels that argue in a parallel way for treating group agents in the same manner. I shall focus on three arguments in particular. They suggest that it is not just theoretical convenience that we would lose, were we to ignore group agents and describe things individualistically; we would also be likely to overlook some important features of the world we occupy. How seriously we should take the referents of our terms depends by many accounts on how important a role they play in the organization of the world (Wright 1992). The lesson of these arguments is that group agents play a central role in the evolution of the social world and that we downgrade their status at serious epistemic peril.

The three arguments for why we should grant the agency of the naturalistic systems that we constitute invoke considerations, respectively, of invariance, selection and interaction. To begin with the first of these, the invariance consideration is that if you are a normal human being operating in normal conditions, you will not only display a purposive-representational pattern in your actions, allowing us to characterize you in an agential manner; you will have to display that pattern more or less invariantly over an open set of changes in the context where you act and in your naturalistic — say, your neuronal — character at any moment.

This invariance derives from the evidential and executive reliability that, as we saw, is embedded in the very model of what it is to be an agent. In any context it is possible for a representational state to be realized, now in this neuronal pattern, now in yet another; this will happen for example as your visual representation of an object — say, an object you want to pick up — changes with a change of position and perspective. We would not treat you as an agent if you did not maintain your representations over such internal changes: that is, if you were not evidentially reliable. But in any context it is equally possible for background to vary in certain ways, consistently with your relevant representations and purposes remaining the

same: the object to be picked up is still there, though now in different surroundings. And again we would not regard you as an agent if you did not continue to act as those attitudes require across a range of such external variations: that is, if you were not executively reliable.

It is because of the failure of such internal and external invariance that we have no temptation to treat a heating-cooling system, for example, as an agent. The system may keep the temperature of a building within a certain range, being triggered by external cues. But it does so in a way that is tailored to very specific inputs from the external environment and in a way that is mediated always by more or less the same internal adjustment. The system may actually behave like an agent but it does not do so with the internal and external robustness that we expect in an agent proper. The internal and external invariance of the agential pattern you display marks a divide with such a simple system. It means that the agential explanation of your behavior gives us information that no straightforward explanation at the biological, chemical or microphysical levels could provide.[8]

The upshot of these considerations is that when explain your attitudes by the evidence to hand, or your actions by the attitudes you hold, then we register information that would not have been readily available had we stuck at the neuronal level, identifying the precise neuronal cues originating in your eyes, and the precise neuronal configurations leading to your action. We implicitly recognize that neuronal factors can vary consistently with the evidence-to-attitude and attitude-to-action patterns recorded in agential explanations. Those explanations identify evidential factors that program for the production of suitable representations, as we may say, and to attitudinal factors that program for the production of appropriate actions (Jackson, Pettit and Smith 2004, Pt 1). While the attitudes are realized by naturalistic states — neuronal configurations, for example — they are such that no matter how they are realized, they tend to appear in suitable evidential contexts and to lead to suitable executive adjustments.[9]

The invariance consideration argues that it is not just a theoretical convenience to cast individual human beings as agents rather than seeing them as

biological, chemical or microphysical systems. To fail to see them as agents would be to miss out on important programming patterns, at least given the extreme unlikelihood of being able to detect those patterns in purely naturalistic terms. This sort of consideration, so we must now see, argues equally that there are reasons more important than theoretical convenience for regarding group agents, not just as collections of individual agents, but also as agents in their own right.

We have seen that a group can perform as an agent only on the basis of constructive adjustments illustrated by recourse to the straw-vote procedure, and not on the basis of some bottom-up, mechanical process like majority voting. And that means that the price of conformity to agential pattern — the price, for example, of ensuring collective consistency — is a willingness on the part of members to modify their inputs in any of an open variety of ways in order to maintain that pattern: in our example, they may modify inputs so as to support a group judgment that p, that q and that p&q; or a judgment that not-p, q and not-p&q; and so on.

The upshot of this observation is that as the purposive-representational patterns in the behavior of individuals are invariant over certain internal and external changes, so the same is true with group agents. The patterns available when we look at what a group has endorsed as judgments or espoused as goals — the pattern that shows up in the different attitudinal and behavioral responses we would expect it to display under various scenarios — is not going to be available at the individual level alone (List and Pettit 2011, Ch 3). The group attitudes will program for the production of suitable responses in various contexts. And the patterns they involve will be more or less invariant over internal changes in how the members of the group think and over various external changes in the environment where the group acts. The patterns will be elusive at the individual level as the patterns in the behavior of individuals are elusive at the neuronal.

Thus the invariance of purposive-representational pattern argues at the group level, as it argues at the individual, for taking agency seriously and not regarding the postulation of agency as just a theoretical convenience. But there is a

second, selection argument that bolsters the invariance consideration at the individual level and it turns out that this too has a parallel at the level of groups.

Consider the degree of invariance that we human beings display as a result of being evidentially and executively reliable, satisfying purposive-representational patterns. Is it just an accident that we generally satisfy such patterns? Surely not. It is plausible that the feature has been selected for in the evolution of the species, and perhaps in the training to which we submit our children as we attune them to adult expectations. After all, it is a feature that generally enhances the prospects of the individual and, indirectly, the individual's genes. This means that there is an independent reason for why the agential attitudes of human individuals generally figure in program explanations, being suitably linked with evidence and action. A constraint that was operative in the selection of our ancestors, and that may continue to be operative in how we raise our young, ensures that our species will generally include only individuals who conform to such patterns.

The invariance argument for the agency of certain groups is bolstered in a similar way by a kind of selection argument. In order for a group to be effective in producing the results sought by members, and in order for it to be effective in enticing other agents to rely on its avowals and promises, the group has to pass constraints of consistency and the like. It has to prove to be conversable, as I put it earlier. It is with a view to being conversable that members of the group are required to monitor the attitudes that they are generating from the bottom up, say by reliance on majority voting, and to make top-down interventions in order to ensure consistency and the like. Shaped by evolutionary pressure, the cells that control our internal states and external behavior are destined to support the patterns that make us into individual agents who display high-level, rationally programmed attitudes and actions. And shaped by the pressure to construct a group that is conversable as an agent, members have no choice but to support similar patterns, maintaining the profile of the group as a rational center of attitude and action.

Why is it significant, as I have been suggesting, that the high-level programming of attitudes and actions in both individual and group agents is required by independent factors like the selection constraints mentioned? That the patterns displayed in each case are more or less bound to obtain in the presence of the constraint underlines the fact that if we could and did focus on how things transpire at the lower level — if we immersed ourselves in such messy detail — we would be liable to fail to understand what is really going on. We would not only be likely to miss the presence of the high-level patterns, as the invariance consideration suggests. We would also be likely to miss the very reason why such high-level patterns can be expected to obtain. Casting individuals and groups as agents, then, is not just a theoretical convenience; for all practical purposes, it is a precondition for recognizing the character and the source of the high-level patterns to which agents conform.

The invariance and selection assumptions support the idea that in making sense of individual and group agents, it is appropriate to adopt what Daniel Dennett (1987) has long described as the intentional stance.[10] This is quite simply the stance in which we view a system under the assumption that there are purposive-representational patterns to be discovered, though perhaps only in certain plausibly normal contexts and under certain plausible limitations. Our two arguments in this section can be summed up, then, in the claim that the intentional stance is justified not just by its utility in allowing us to avoid being swamped by too much detail but also by the way in which it gives us an insight into real-world patterns. But once we put things that way, it is possible to identify yet a third consideration that argues against the idea that individual and group agents are just theoretical fictions.

When we adopt the intentional stance vis-à-vis a self-representing subject, we not only assume that the individual or group in question is representable as an agent on the basis of its behavior; we also assume that the self-representations are reliable. The stance we adopt, then, is a special sort of intentional stance that is conversational or dialogical in character. The conversational stance allows each to take the words of the other at face value and to use them, tested against behavior, to

identify the other's attitudinal and behavioral profile. In that way it differs from the intentional stance that we take towards mute animals, when we rely entirely on behavioral evidence to make agential sense of what they do.

But not only do we take account of one another's words as well as behavior in adopting the conversational stance. We each understand — typically as a matter of shared awareness — that in order to organize our relations with the other in a congenial pattern, we have to be sure to use words in representation of ourselves that will attract a desired interpretation and response. We operate under conversational conventions — say, the conventions establishing what is an assertion or commitment or request — to make ourselves interpretable by the other and of course to interpret the other in turn.

Consider a case where one of us avows a belief or makes a promise to the other. We utter those words, knowing that under prevailing conventions they will be given a certain significance by the other, knowing that the other knows that we know this, and so on in the usual hierarchy of common awareness (Lewis 1969). If the other believes what we say, then they will respond in the manner we sought, accepting our words at face value and adjusting their attitudes and actions accordingly. What happens will be akin to what happens when we play chess with one another, using the rules of the game, and the shared understanding of aim and strategy, in order to shape our interactions with one another. In each case there will be an important form of mutual influence, capable of determining how each of us responds to the other and what we consequently achieve together. And that form of influence will presuppose our each being able to adopt the conversational stance and our each being able to use conversational practice to our personal or mutual advantage.

In adopting the intentional stance with a mute animal, our observation and interpretation may be wholly unobtrusive. In particular, it may have no impact on the springs of the animal's behavior. But when we adopt the conversational stance with one another, and use it in the way described, we thereby enable ourselves to intrude on one another's minds and to interact in a powerfully effective way. Apart

from being a way of looking at the process whereby another is led to action, as in the animal case, the conversational stance serves as a means whereby we intervene in that process and shape it to our own ends. The conversational stance is not only interpretively indispensable, then, as the invariance and selection arguments demonstrate; it is also indispensable to the standard interventions that we make in one another's mental and behavioral life. Without adopting that stance, we could not make commitments to one another, we could not bargain with one another, we could not tease or amuse one another, we could not even play a game of chess.

What holds in this respect of individuals holds also of group agents. The relations they establish with one another and the relations they establish with us are characteristically mediated by words and assume a dialogical or conversational form. Those relations emerge and evolve via offer and response, bargaining and negotiation, avowal and commitment. We not only need the conversational stance just to get a good interpretive and predictive grasp of how group agents are likely to have; we also need it for purposes of interacting with them, as they need it for purposes of interacting with us and with one another. Given that corporate agents are spoken for via authorized channels, and that the words to which they can be held are not generated in a simple, bottom-up manner, we have no option in interacting with them but to take those words at face value and to try to hold them to those words. Or at least we have no option but to do this when, as in the individual case, we have no reason to think we are being deceived or duped.

The lesson of this observation for both individual and group agency is quite radical. The intentional or conversational stance not only enables us to identify and understand patterns that would escape a naturalistic stance in the one case, an individualistic stance in the other. In the case of self-representing agents, it is also responsible for generating the very patterns that appear in the interaction between them. This means that the perspective is of the greatest importance in understanding agency at the two levels and that casting relevant individuals and groups as agents is decidedly more than a theoretical convenience.

Insofar as groups count as agents, then, they conform to high-level patterns that are elusive at the individualistic level; intelligible on the basic of a selection constraint imposed from without on the individualistic level; and, being recognized by the parties involved, essential in generating the forms of interaction that those agents practice. Thus it is not just because of the convenience of avoiding messy, individualistic detail that we should recognize certain groups as agents. Adopting the intentional stance on such groups is more or less essential for detecting and explaining the high-level patterns they display and for understanding how their interactions materialize.

5. Group agents may put juridical fictions in play

We saw in the first section that group agents are agents in a perfectly literal sense, being organized so as to be representable — and to be able to represent themselves — as systems for the executively reliable pursuit of purposes according to evidentially reliable representations. We saw in the second section that the organization that makes this group agency possible does not involve members in the pretense that an existing agent or algorithm can provide them with a voice as a group; the members of the group must organize themselves, in one form or another, so as to construct a voice of their own. And finally, we saw in the third section that the group agents that emerge under such forms of organization are key to identifying and understanding various non-individualistic patterns and should figure in any serious mapping of the social world.

I have described these observations as combining to undermine the idea that group agents are fictions. That they are literal agents means that they are not expressive fictions; that they construct a voice and a mind of their own means that they are not pragmatic fictions; and that they are key to identifying important social regularities means that they are not theoretical fictions. It is hard to say which, if any of these senses of fiction Innocent IV had in mind when he described the University of Paris as a *persona ficta*. And it is equally hard to tell which, if any of these senses figured in more recent legal debates about the fictional or real status of group agents, in particular corporations (Dewey 1926; Horwitz 1987; Orts 2013;

Runciman 1997). But the point of this essay has not been to review these historical debates so much as to examine and critique three philosophically salient ways in which corporate bodies might be cast as less that real agents.

In drawing the paper to a conclusion, however, there is one observation worth making that may explain what at least some thinkers have in mind when they say that a group agent is a fiction. The observation bears particularly on the commercial corporation, as it began to be organized in the seventeenth century, but it may have wider application too.

For all that our assumptions up to this point require, the corporation or company or firm is a group agent on a par with other group agents. It involves a group of individuals who endorse certain collective purposes or modes of forming collective purposes; agree about how they should form judgments as to the relative importance of those purposes, the opportunities for pursuing them, the best means of furthering that pursuit, and so on; and arrange for one or more of their members to perform or commission the activities required by those purposes according to those representations. But that characterization fails to distinguish between different forms of commercial entity, in particular between a partnership and a joint-stock company.

The distinction between these two sorts of entity crystallized in the seventeenth century as companies of merchants, to use a term from Thomas Hobbes (1998, 5.10), began to organize themselves under the joint-stock principle (Tomasic, Bottomley and McQueen 2002, Ch 1). Under this principle, the merchants created a common fund to which they each contributed in a certain measure and they divided up profits, in the form of dividends, according to the size of each merchant's share. The principle gave the control of the company to a committee or board that oversaw the use of the common fund and acted as spokesperson for the group. And, reducing ownership to the ownership of shares, it gave investors rights to a share of profits proportional to the number of shares owned and, usually, to a proportional, participatory role in appointing and overseeing the actions of the board.

While the joint-stock principle already led in eighteenth-century Britain to the formation of companies as we would recognize them today — this is clear from Adam Smith's (1976, 771) characterization of joint stock companies — it was only in the wake of nineteenth-century legislation that it had a full and wide impact. With this development the company was distinguished in most jurisdictions from the commercial partnership — or at least the more common form of partnership (Orts 2013, ch 4) — by three features: asset lock-in, entity shielding and limited liability (Ciepley 2013). Asset lock-in meant that shareholders could not withdraw their funds from the common enterprise, thereby putting it in jeopardy, though they could trade their shares in an open market. Entity shielding meant that the company could not be pursued for payment of the individual debts of shareholders. And limited liability mean that shareholders could not be pursued for payment of company debts out of their private funds.

Once a company takes this form, it becomes natural to think of those involved in its operation — shareholders, board-members and employees — as each having a different relationship to a common juridical entity, which we may describe as the legal corporation. This is the entity in which investors hold shares, the entity for which board-members are entitled to speak, and the entity that hires employees, executive and non-executive. It has to be something distinct from each of those subgroups, given the nature of the relationship it has to each. And equally it has to be something distinct from the overall group of individuals — the group agent — that compromises those subgroups. Unlike the overall group agent, it is not an entity of which we can readily say that those individuals are equally members, even members with different roles to play and different rewards to win.

This juridified notion of a corporation is a fiction in a sense that is distinct from the senses charted in the body of this paper. The different members of the commercial group-agent each use that fiction in conceptualizing their relationship with other members. Shareholders cast their role as owning shares in the corporation; board-members as acting in the interest of the corporation; and employees as carrying out the duties that the corporation hires them to fulfill. But

the corporation envisaged here does nothing that isn't fully accounted for by what the group agent as a whole does. It exists only in the minds of members and in the minds of those outside the group who adopt corresponding conceptual conventions. These will include those who deal with the group in regulatory, contractual or judicial contexts, thinking of themselves as regulating the corporation, making contracts with the corporation and suing or being sued by the corporation.

To recognize that the legal corporation is a juridical fiction in this sense is not to withdraw from the realist view of group agents defended in this paper. It is merely to register that in forming the group-agent that we describe as the joint-stock company, those involved as members naturally conceptualize their part in this group-agent as if there were a distinct entity, called the corporation, to which they each bear a different relationship. They organize their thinking about the group-agent around this fiction — and lead others to take a similar path — without necessarily investing that fiction with any seriously representational role. To return to an earlier parallel, they invoke the corporation in their collective commercial exchanges in the same fictional fashion that we invoke an object's center of gravity in anticipating the effects of gravitational forces on that body.

As the differentiation of relationships within the joint-stock company grounds the use of the juridical fiction of the corporation in the thinking of members, it may be that something similar happens in our thinking as members of other group agents. Perhaps the notion of the state that we invoke in our political relationships, or the notion of the church that we introduce in our religious community, is a juridical fiction of broadly the same kind (Luhmann 1990). Without investigating those questions here, it should be clear that a realism about group agents of the kind defended in this paper leaves open that possibility. Although group agents are not expressive, pragmatic or theoretical fictions, they may still invite individuals, both inside and outside the group, to use a juridical fiction in conceptualizing their relationships with that body.

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[1] Innocent was no doubt responsible for the later popularity of the phrase 'persona ficta', though he can only be held to have suggested the idea, as when he uses the verb 'fingere' to say that when a group (*collegium*) acts as a group agent (*universitas)* it is constituted/cast as a single person': *cum collegium in causa universitatis fingatur una persona.* See Eschmann 1946, p 34, who raises a question about whether '*fingatur*' should be written '*fungatur*', which would support the translation: '…performs as a single person'.

[2] The main novelties in this paper are in the critique of the Hobbesian line on group agency in section 3, and in the discussion of the judicial fiction of a corporation in section 5. While organized in a somewhat different fashion from the book, the other material in the paper relies heavily on arguments put forward there.

[3] For an exploration of how far a group agent's concern with consistency, and rationality in general, can be derived from its concern to respond to reasons see (Buchak and Pettit 2014).

[4] He thinks that a committee that is even in number will not generally work well, being 'oftentimes mute and incapable of action', and presumably prefers to have an odd-numbered committee. But he does admit that even an even-numbered committee may be fine in some cases, as when the issue is whether to condemn someone, for example; in this case a tied vote would argue for absolution: 'when a

cause is heard, not to condemn is to resolve'.

[5] The discursive dilemma is a generalized version of the doctrinal paradox in legal theory; see (Kornhauser and Sager 1993; Kornhauser and Sager 2004).

[6] Socrates famously asks in the *Euthyphro* whether the gods love the holy because it is holy — a reading under which holiness is an objective property tracked by the gods — or whether it is holy because the gods love it: a reading under which holiness is a property constituted, not tracked, by the gods. The issue here is parallel and my argument amounts to an argument for an objective view of group agency. It is because a group has the agency property that members construct an agential voice, not the other way around.

[7] Each of the theorems presupposes, of course, that a number of more or less plausible constraints or conditions are fulfilled. But together they suggest that no matter how we interpret the requirement that a group judgment on any proposition be responsive to the member judgments on that proposition, still that requirement is liable to clash with the requirement that the group be collectively consistent and, more generally, rational.

[8] This observation is consistent with allowing that were we able to consider all the naturalistic configurations possible, and did we know all the naturalistic laws applying in those conditions, we could deduce the fulfillment of conditions sufficient to ensure that the purposive-representational patterns obtain. For more on this assumption see (Chalmers 2012; Chalmers and Jackson 2001; Jackson 1998).

[9] For those who prefer that idea, the attitudes constitute a difference-maker for the action in a way in which the neuronal realizers do not. See (List and Menzies 2009). For a comparison between this model and the program model endorsed in the text see (Pettit 2015).

[10] For an explicit use of Dennett's intentional stance in arguing for the reality of group agency, see (Tollefsen 2002).