

## Corporate Agency: The Lesson of the Discursive Dilemma

Philip Pettit

There are different types of combined agency, as there are different theories that seek to make sense of any individual type. This paper begins with a distinction between aggregate agency, shared agency, and corporate agency. Treating aggregate agency as a residual category, not a genuinely interesting form of collective action, it draws attention to a recognized way of explaining shared agency that can claim to make the phenomenon intelligible without reducing its fascination: 'to improve intelligibility', in Donald Davidson's (1984: 183) phrase, 'while retaining the excitement'. And then it explores the question of whether that desideratum can be satisfied in the case of corporate agency. The thesis is that this is possible and that the discursive dilemma represents an important step in understanding why.

### 1. THREE VARIETIES OF COMBINED AGENCY

It is useful to distinguish between three levels at which the agency of individuals may combine (Pettit and Schweikard 2006). At a first level the combination involves a single effect of many actions on the part of many individuals; at a second, a single action performed by many individuals; and at a third, a single agent constituted by those many individuals. When there is just a single effect of many actions, there is aggregate agency. When there is a single action performed by many individuals, then there is shared or joint agency. And when there is a single agent, there is corporate agency.

At the first level many individuals combine to bring about a single effect but do not perform a single action or constitute a single agent. Here a standard example is the way in which the buyers and sellers in a competitive market can bring about the effect of pushing the prices of goods and services towards the competitive level: the lowest level, roughly, at which it remains in the interest of sellers to continue in business. The participants in the market bring about a generally welcome result by means of a not necessarily visible hand.

In this first case the different individuals each pursue their own goals—say, the goal on the part of each of buying low and selling high—in a doubly robust way, and their doing so occasions the single effect, whether or not they foresee this. They each register the best means of pursuing their goal, more or less regardless of differences in the circumstances they confront, and they act so as to realize their goal, more or less regardless of what the means identified involves. In other words, they register the best means to adopt, robustly over various differences in the circumstances they face, and they act in implementation of the means they identify as best, robustly over differences in what it requires. Or at least they do this when things go normally or well, with no independently plausible obstacles getting in the way of how they function on those fronts.

At the second level there is a single goal that many individuals pursue—presumably, because they can only realize it together—not just a single effect that they bring about. An example might be the case where the sunbathers on a beach pursue the goal of saving a child who is in difficulty in the water. Those individuals share that goal as a matter of common awareness, or something approaching common awareness: they each target it, they each believe that they each target it, they each believe that they each believe this, and so on in the usual hierarchy (Lewis 1969).<sup>1</sup> And sharing that goal in this way, they pursue it together, acting to a common purpose according to a common plan.

More specifically, they pursue it together in the doubly robust fashion characteristic of agency. They register the best means by which they can pursue it as a body, robustly over certain differences in the circumstances they face, presumably sharing that perception as a matter of more or less common awareness. In the actual circumstances, where there is a rip tide, they take the best means to require a chain into the water but in circumstances where the main danger comes from rocks they might have taken it to require a circle of adult swimmers. And they act in implementation of the means or plan they identify as best, robustly over certain differences in what it requires. Or at least they do this under conditions where no independently plausible obstacles get in the way of their processing or performance.

At the third level distinguished, there is a single group agent, not just a group of individuals in joint pursuit of a single goal.<sup>2</sup> As an example, consider the voluntary association that seeks to advance a variety of environmental goals, the political party that pursues government, or the corporation that seeks to maximize the returns to its shareholders. Here as at the second level there may be a single goal—this is salient in the case of the power-seeking party or the profit-seeking corporation—but the goal is so abstract that it breaks down into a variety of different sub-goals. And what characterizes the group is that it is designed so that for the goals or sub-goals in the domain of its concern, which presumably are a matter of common awareness, the members—or at least those relevant in any instance—are disposed to pursue them robustly.

The goal of each individual in the first case, as well as the goal of the collectivity in the second, is taken as given, so that all that is required is the selection and implementation of means. In this case the collectivity has to identify the goal, if any, to be furthered in one or another context and so the members have to pursue their goals in a triply robust fashion. First, they must have a way of registering the relevant goal or set of goals to address in any context, robustly over differences in what if anything that context requires. In any context, second, they must have a way of registering the best means by which to pursue the relevant goal, robustly over circumstantial differences that bear on its pursuit. And, third,

they must have a way of acting so as to realize the means identified as best, robustly over certain differences in what it requires. Or at least this is so in the absence of plausible obstacles to their performance on any of these fronts.

## 2. MAKING SHARED AGENCY INTELLIGIBLE AND EXCITING

We may assume that there is no problem about how individual agency is possible, including the individual agency involved in aggregate action. But, given this assumption, it is natural to ask whether we can make shared and corporate agency intelligible, and do so without diminishing the excitement that attaches intuitively to each. The idea of shared agency is exciting insofar as it suggests that it is a mistake to focus, as we generally do within our folk psychology, on individual-level competence. The idea of corporate agency is exciting insofar as it suggests that the agents in the social world are not restricted, as they may seem to be within our folk ways of thinking, to individual people.

One way of making shared agency intelligible would be to follow H.P. Grice's (1975) creature-constructive methodology, as Michael Bratman (2014: 151) ~~explicitly~~ does. This explicitly claims to show that shared agency could in principle have emerged on the basis of an individually intelligible, intentional kind of interaction among the parties. And it implicitly assumes, I would say, that once we see this we can envisage other, psychologically more plausible, processes that might have the same effect.

By Bratman's account, shared agency could emerge from an interaction in which the parties recognize, as a matter of common awareness, a shared goal, a shared plan for realizing the goal, the sub-plans they can individually follow in order to implement that plan, the need for coordinating their sub-plans, and so on. This is not the place to rule on the differences between Bratman and his competitors in this area (Miller 2001; Ludwig 2007; Tuomela 2007; Searle 2010; Ludwig 2014; Gilbert 2015), but it is surely clear that if his sort of story shows how intentionally controlled interactions could have given rise to shared agency, then it will make sense of it in terms of individual psychology, thereby demystifying the phenomenon. It will demystify it, at any rate, insofar as it is plausible to assume that the effect of such intentional planning can be mimicked by other sub-intentional processes and that shared agency need not depend on the very sophisticated planning that Bratman's model invokes.

Bratman contrasts his conservative approach, as he describes it, with approaches like those of Searle and Gilbert that introduce elements not countenanced independently in our folk psychology of individual agents. 'In Searle's view . . . what is needed is a new attitude of "we-intention." In Gilbert's view . . . what is needed is a new relation of "joint commitment" between the participants, a relation that necessitates distinctive mutual obligations' (Bratman 2014: 9; see also 155). His attempt, as formulated above, is to show how there is nothing inherently mysterious, from the point of view of individual folk psychology, in the phenomenon of shared agency.<sup>3</sup>

Would Bratman's account of shared agency preserve the excitement that the phenomenon is likely to elicit, while claiming to make it intelligible in this way? As suggested, the excitement derives from the idea that shared agency is easily overlooked in our standard focus on individuals and, contrary to what that perspective suggests, that it plays a central role in our psychology. Michael Tomasello (2009, 2014, 2016) bears witness to the central

role of shared agency in arguing that it is distinctive of our species, not of primates in general, and that it comes on stream in early development. Human toddlers achieve a level of joint attention and shared agency before they can even speak, according to Tomasello, and so presumably before they can interact in the intentional manner envisaged in Bratman's model.

Bratman's account preserves the excitement of shared agency insofar as it allows us to recognize the central role of shared agency in human life. The intentional, sophisticated interactions he postulates may not be very common. But once we see that shared agency could arise on that basis, there is no problem in assuming that it can be brought about by sub-intentional adjustments—presumably the adjustments displayed by Tomasello's toddlers—that parallel the intentional interactions he describes.

Sub-intentional adjustments of the kind required are not confined, of course, to toddlers. Think of how we act as partners in a tango, when each of us may be able to conceptualize what we do only as part of what we do together. We may be as unaware of the individual responses that the tango requires of us as I am unaware of how my right and left hands have to move in order to tie my shoelaces. Tying my laces is a basic action I perform, intentionally pursuing it without intentionally pursuing anything more basic: say, moving my right hand this way, my left hand that (Hornsby 1980). And tangoing may be a basic action that you and I perform together, each of us intentionally pursuing that joint activity without intentionally pursuing anything more individualistic and basic. Bratman can allow us to marvel at the role of shared agency in our tangoing psychology, despite the fact that his intentional model does not strictly apply there. His claim is that there is nothing individualistically mysterious about the fact that we can align ourselves with one another in this spontaneously social manner, not that we always do so in the manner he describes.

On this account, what Bratman claims to do is comparable with Donald Davidson's (1984) claim to make sense of how finite subjects like you and me can grasp an indefinite range of meaningful sentences. Davidson claims to do this by showing that we could develop unlimited semantic competence on the basis of learning the finite axioms, basic and recursive, of a Tarskian truth-theory. But he does not suggest, of course, that we have semantic competence on the basis of actually mastering such axioms; he assumes, I take it, that that mastery can derive from sub-intentional processes that play a parallel role. What he offers, essentially, is a creature-constructive account of semantic competence. In the same way Bratman can claim to make sense of how individually intelligible subjects like you and me can practice shared agency, without suggesting that we do so on the basis of operating according to his model. And so, operating with a creature-constructive methodology, he can claim to make shared agency suitably intelligible without diminishing the excitement of the idea.

### 3. HOBBS'S THEORY OF CORPORATE AGENCY

Is it possible to make corporate agency intelligible and exciting in terms of individual-level psychology and indeed the psychology of shared agency? I believe that it is, but in order to mount that argument, we must begin with the classic view of corporate agency elaborated in the seventeenth century by Thomas Hobbes (Pettit 2008; Skinner 2010).

Hobbes certainly thought that it was possible to make corporate agency intelligible in individualistic terms, thereby vindicating its reality; in doing this he wrung some changes on existing themes in the legal theory of group agency, which derived from the Middle Ages. But while corporate agency is real by this account, it relates to individual agency as a fiction relates to the real thing; the account makes the phenomenon intelligible in a way that reduces the excitement attaching to the idea.<sup>4</sup>

Hobbes (1994: Ch. 16) begins from the observation that we individual human beings not only act, as other animals do, on the basis of the goals we embrace and the representations we form; we also avow corresponding attitudes of belief or desire or promise to act on corresponding intentions. We are distinctively personal agents, in other words: we represent or “personate” ourselves to others, authorizing them to rely on us to live up to our words. Hobbes argues that any group of individuals can mimic personal agency of this kind, relying on resources of individual psychology and shared agency. The members can authorize one individual to speak for them, for example; they can invite others to rely on them as a group to live up to the words of that “representer”; and they can plan and prove to be faithful to those words.

Hobbes (1994: Ch. 16) thinks that in such a case the members of the group “own” everything that the spokesperson does in their name, whether unconditionally— “without stint” —as in the case of a political sovereign; or conditionally, as in the case of a private organization such as a company. The individual provides a voice that the individuals authorize as a source of avowals and promises, living up to it in the 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 attitude requires; let it promise an action, say within the context of a contract, and they will act collectively in a way that ensures performance.

On this picture, the existence of a corporate agent becomes intelligible in individual-level terms. It comes about as a result of individually intelligible arrangements that members make among themselves in establishing a common spokesperson and in binding themselves to his or her authority. We can easily see how they would be able, under those arrangements, to satisfy the three robustness requirements mentioned earlier. Recognizing a range of goals on the basis of the spokesperson’s general brief, they would be able to rely on specific dictates to identify the goal that is relevant for them in any context; to select the means that is best suited for pursuing it; and to implement whatever means is selected. They would exist as a corporate agent by virtue of co-opting the voice of the spokesperson and giving it the role in relationship to themselves as a whole that the voice of an individual plays in relationship to that natural person.

But this is only to make intelligible the unusual sort of corporate agent that operates via a single spokesperson. In order to be able to make corporate agency more generally intelligible, Hobbes has to show that the device of the authorized voice is still available in the standard case where there is no single individual designated as spokesperson.

In response to this challenge, Hobbes argues that not only can an individual provide the voice that the members of a group co-opt and authorize in forming a corporate agent, so can a committee provide such a voice, whether that be a committee of a few or a committee of the whole. A committee can serve this function, on his view, insofar as majority

voting is capable of generating a suitably unambiguous voice, at least when provision is made to cover ties.<sup>5</sup> ‘And if the representative consist of many men’, he says, ‘the voice of the greater number must be considered as the voice of them all’. By following the voice of the majority the committee can serve, as an individual spokesperson might serve, to rule on what goal among recognized candidates to prioritize in any context; on what means to adopt in pursuit of that goal; and on how to implement the plan or means selected.

Hobbes does not suggest that actual corporate agents, in particular commonwealths, form in this way. But he holds that how they actually form need not be a mystery, so long as we can see the formation as a process that mimics the explicit contractual mode that he describes. Thus he maintains that even if a commonwealth is formed by conquest or acquisition rather than by contract or institution, essentially the same sort of body is established, so that the ‘rights and consequences’, as he calls them, ‘are the same in both’ (Hobbes 1994: Ch. 20).

Before raising questions about the success of Hobbes’s way of making corporate agency intelligible, it is worth noticing that it does so in a way that consciously diminishes the excitement that might have attached to the idea. Corporate agency is likely to be exciting, as suggested earlier, insofar as it means that incorporated groups can count, in the same way as individual human beings, as bona fide agents. And Hobbes’s account, by his own admission, does not do this. He holds that unlike their natural counterparts, corporate agents borrow a voice and a mind from elsewhere—from a spokesperson or a spokes-majority—and exist as agents only by virtue of this “feigned or artificial” device.

Assuming ‘the consent of every one’, Hobbes agrees that ‘a multitude of men are made one person when they are by one man, or one person, represented’ or when they are represented in that way by a committee. 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 or majority is a parasitic 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 or the committee that gives it a voice and a mind. In comparison with individuals, it constitutes a pretend agent.

This means, by Hobbes’s light, that while corporate agents certainly exist, they do not exist in the same way as individual agents. Describing them as agents or persons underlines the undoubted fact that the members of any such body are committed to acting like a single agent, living up to the words uttered in their name.<sup>6</sup> But, unlike natural persons, corporate agents materialize only insofar as members coopt the pre-existing voice of an individual or the algorithmic voice of a majority. They treat that voice as if it were their own, seeking to manifest the mind that it expresses. But the voice is not actually their own: it is only theirs “by fiction.”

#### 4. THE DISCURSIVE DILEMMA

Ingenious though it is, Hobbes’s theory of corporate agency fails, as we must now see, to make the phenomenon intelligible. Still the failure carries an important lesson. There is an obvious way to revise it, as we shall see later, and that revised version has the extra bonus of retaining the excitement attaching to the idea of corporate agency.



The Hobbesian theory fails in the case of the group represented by a majoritarian committee. And that is a serious flaw, as the dictatorially led group is a marginal, even a degenerate case of corporate agency; it exemplifies the empowerment of the individual dictator, we might say, rather than the incorporation of those represented into group agency. The problem with the non-dictatorial group is that the voice provided by majority voting—we can assume that there are no problems with tied votes—is not recruitable in the service of the group in the way in which the voice of an individual spokesperson might be recruitable to that purpose. It is just not fitted to serve in the directive role required for corporate agency.

In order for a voice to serve that directive role, it must not avow inconsistent beliefs or intentions or promise inconsistent actions. At the very least, the members of the group must generally be able to adjust the voice they follow in response to evidence of such failures; they must not be locked into inconsistency by the way it is generated. If the voice they follow did flout consistency in that manner, then it would lead them as a group into behavioral stalemates, pointing in different directions at once. And it would ensure that others could not give the group the credence or trust they might give a personated agent: 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 it is liable to lock members into precisely this sort of inconsistency. That is the core lesson of the discursive dilemma (Pettit 2001a, 2001b; List 2006).<sup>7</sup>

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 such as 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 inconsistent 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 following matrix in Table 19.1 displays the problem.

The dilemma that the members of the majoritarian group face, then, is this: be responsive to majority opinion, thereby making it impossible to act as a corporate agent; or make it possible to act rationally as a corporate agent—say, by endorsing  $p$ ,  $q$ , and  $p \& q$ —thereby rejecting one or another majority opinion. The group can be individually responsive to the votes of its members. Or it can be collectively rational: that is, sensitive to the demands of collective rationality. But it cannot be both.

**Table 19.1** The Problem with the Majoritarian Voice

	Question 1: $p$ ?	Question 2: $q$ ?	Question 3: $p \& q$ ?
Person A	$p$	Not $q$	Not $p \& q$
Person B	$p$	$q$	$p \& q$
Person C	Not $p$	$q$	Not $p \& q$
The majority	$p$	$q$	Not $p \& q$

## 5. MAKING CORPORATE AGENCY INTELLIGIBLE AND EXCITING

How might a group of individuals constitute a corporate agent, authorizing a voice they can follow, without resorting to majority voting and, of course, without endorsing a single spokesperson? For all the discursive dilemma shows, we might think that they could rely on some non-majoritarian voting or aggregation procedure, ensuring both the individual responsiveness it would support and their collective rationality. But it turns out that the dilemma illustrates a wider difficulty, 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 is that there is no possibility of generating a consistent group voice on a set of connected propositions such as “ $p$ ,” “ $q$ ” and “ $p \leftrightarrow q$ ” by any procedure involving these two steps: first, aggregating the individual votes on each proposition in a bottom-up way, majoritarian or not; and, second, letting the group view of that proposition be fixed by the result of the aggregation. More broadly, there is no way of squaring individual responsiveness, majoritarian or otherwise, with collective consistency or rationality.

But this is not to say, of course, that there is no way whatsoever for a group of individuals to find a directive voice that would enable them, rallying behind it, to constitute a reliable corporate agent. The individuals A, B and C might identify a voice recruitable to this effect by following, for example, a simple, straw-vote procedure, relying on the usual resources of individual psychology and shared agency (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  $p \leftrightarrow q$ , or indeed any consistent set of answers: say, not- $p$ ,  $q$ , and not- $p \leftrightarrow q$ ; or  $p$ , not- $q$ , and not- $p \leftrightarrow q$ ; or not- $p$ , not- $q$ , and not- $p \leftrightarrow q$ . The benefit is that they would thereby generate a consistent voice behind which they could rally as a corporate agent. But the cost, of course, is that they would have to be prepared to adopt a collective view on some issue—say, on whether  $p \leftrightarrow q$ —that is not responsive in a majoritarian way to the views of the members on that issue.

Why does the straw-vote procedure promise to work? In a word, because it allows the members of the group to get top-down feedback on the corporate voice that their individual votes generate in a bottom-up way—this, by contrast with purely bottom-up procedures such as majority voting—and to amend the output of those votes in order to ensure the consistency of the voice they follow. But this means that the straw-vote story not only shows how a corporate agent might emerge; it also indicates quite different ways in which incorporation might materialize. This is because there are any number of procedures that can allow for top-down feedback as well as bottom-up generation and construct thereby a consistent, recruitable voice for members of a group to authorize.



The procedures that allow top-down feedback may operate on the outputs, not of voting by members of the group as a whole, majoritarian or otherwise, but on the outputs of different committees of members on different issues, or indeed on outputs that require the support of independent committees in order to be considered. And of course the top-down adjustment itself may be conducted in different ways: by the membership as a whole, or by a particular committee, or by different committees in different areas. The possibilities are legion and include the sort of mixed constitution—“mixarchy,” as he called it—that Hobbes himself was anxious, for anti-republican reasons, to resist in the case of the state (Pettit 2008). As exemplified in the United States, for example, this would require laws to be supported by two houses of Congress as well as the President and would allow the Supreme Court to strike any law down on grounds of being inconsistent with constitutional and other commitments; in that way, it would seek to ensure the consistency of the law—the voice of the community—as a whole.

These observations direct us to an approach that does better than Hobbes in making corporate agency intelligible, in particular the sort of corporate agency that avoids a single dictator. It shows how a corporate agent could emerge on a purely individualistic, intentional basis under a straw-vote procedure. And it directs us at the same time to other ways in which groups might incorporate, structuring their decisions around a set of procedures designed also to generate a coherent, recruitable voice for members to follow (French 1984). But the approach also does better than Hobbes in a second respect. It makes corporate agency intelligible in a way that retains the excitement attaching to the idea that there are bona fide agents in social life apart from individuals.

The corporate agents that Hobbes envisages are all parasitic in the following sense: the members satisfy the conditions of group agency *because* they co-opt an existing, agential voice as the voice behind which to rally; this voice may be provided by an individual dictator or by a majoritarian algorithm. But the direction of dependence is reversed in the case of a group that operates with any procedure involving top-down feedback and adjustment. What holds here is rather this: that the members construct a suitable agential voice *because* they seek to satisfy the conditions of group agency.

This reversal of direction means that the mind of the corporate agent is not expressed in a voice that is borrowed from elsewhere—from a pre-existing individual or algorithm—in a way that would mark a contrast with individual agents. On the contrary it is expressed in a voice that the members have to construct as they go along, establishing their identity as a functioning agent with which others can do business. And in constructing that voice, and forming that mind, the members will often have to put aside their own individual attitudes, recognizing that corporate coherence may require them to support positions that they individually reject.

The corporate agent they create will not channel an independently determinable mind, then, whether it be that of a dictator or majority or whatever. In response to the problems they face, members will have to construct a mind that has an identity of its own. This mind will characterize the group, and only the group; it will be a corporate mind that is distinct from the individual minds of the members (Pettit 2003).

In this respect, the corporate agent is going to be of a kind with individual agents; it will be an agent by right, not just by courtesy. Every corporate agent will have an artificial entity, of course, and will lack many of the features that distinguish natural persons. But qua agent it will be the real thing, and not merely an agent of the pretend or fictional kind envisaged by Hobbes.

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## NOTES

1. They cannot actively register the appropriate lesson at each level, which would require an infinite hierarchy. But what may be the case is that for any level, they are disposed to accept the appropriate lesson, should the question arise as to whether it holds there.
2. Shared agency involves a single agent in the sense of a single causal source of the action but there is not a single agent in the sense in which agency requires unity and interconnection in a web of attitudes. (See Bratman 2014: 126). Unity and interconnection emerge only with corporate agency, as we shall see.

3. Bratman (2014: 194) also suggests that his approach is more conservative than Tuomela's (2007), who introduces "we-mode mental states."
4. Thus Hobbes's fictionalism contrasts with an eliminativist theory of the sort maintained by John Austin (1869: 364) when he holds that we speak of corporate agents 'only by figment, and for the sake of brevity of discussion'. Such eliminativism continues to survive in many economic treatments of the topic. For a fuller discussion see Pettit (2014).
5. He acknowledges that a committee that is even in number will not generally work well, being 'oftentimes mute and incapable of action', and that special measures are required to cover that sort of case.
6. Margaret Gilbert (2015) takes the view that since even joint action requires a commitment on the part of members not to let others down, the members constitute a plural subject. In that respect her view parallels that attributed here to Hobbes.
7. The discursive dilemma is a generalized version of the doctrinal paradox in legal theory; see Kornhauser and Sager (1993, 2004).

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