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Groups as Moral Agents

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GROUPS AS MORAL AGENTS

by

Michael David Smith

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of the Requirements for the Degree of
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VITA

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CHAPTER ONE

GROUPS AS RULE CONSTITUTED ENTITIES

We commonly talk of corporations, fraternal organizations, government agencies and other groups of persons as if they are themselves single, unified agents, distinct from the persons who comprise them. We speak, for example, of the goals of the American Civil Liberties Union, of decisions by the IBM Corporation, and of actions taken by HEW. Such ways of talking seem puzzling on close scrutiny, for we appear to be treating the group as if it is itself a person of sorts and not merely an aggregate of human persons who are all acting in roles. In short, our choice of language in talking about groups of persons makes it appear that the group is itself an agent with its own goals, capable of making decisions and acting. It is my intention to show here the conceptual underpinnings of this sort of talk as well as to show that it has implications for morality. More precisely, my intention is to show how it is that a group of persons can be a single moral agent, responsible for its own actions.

In arguing for the moral agency of groups I will do a number of things. Firstly, I shall examine more carefully the distinction between an aggregate of persons and the group as a single entity. An exam-

ination of the kinds of rules that we use in constituting and understanding our world will enable us to see this distinction better. That much will be accomplished in the present chapter. In Chapter Two I will examine a challenge to the intelligibility of the distinction between the aggregate and the group as a single entity. In subsequent chapters I shall argue that groups are able to make decisions, have goals, and have moral obligations and rights that are attributable to the group itself and not necessarily to all the persons in the group. I shall then explore in more detail the logical relations between the group and the persons in the group, especially as these relate to the moral agency of the group and that of persons in it. In an appendix, I will explore the significance of the moral agency of groups in the context of two specific moral issues, the demand for black reparation and strict liability in tort.

* * * * *

Groups can be of various kinds. Groups are sometimes simply aggregates of persons. In such cases, the propositions that we use to describe the actions of groups can be replaced by sets of propositions about the actions of individual persons in the group. Such a replacement can be regarded as successful when the new set of propositions about persons can function in all contexts in exactly the same way as the proposition it replaces functioned. When such a group action can be adequately described (i.e. with nothing left out) as the actions of persons in the group, I shall refer to that group action as a "reducible" group action. And I shall refer to the sentences describing such

reducible group actions as "translatable" to sentences about action by persons. The unwieldiness or verbosity of such translations is not at issue here; instead, I am concerned only about the possibility of translation. Whenever a group action is reducible to the action of the members of the group, the sentence describing that group action will be translatable. We can express this nature and interrelation of reducibility and translatability as follows:

Where "A did Y" designates a group action (where A is a group of persons and Y is an action), that action Y is reducible if there are persons in A (a, b, c, ...) such that "A did Y" can be translated to some finite set of sentences:¹

"a did G;"
 "b did H;"
 "c did I;" etc.

There are some group actions that are reducible; or, to put it another way, there are some group-action sentences that are translatable. Consider, for example, the following sentence:

The entire Jones family refused their flu shots.

The act of refusing is in this case reducible to the acts of refusing by individual members of the Jones family if it involves no act by the family as a unity but is instead the aggregate of the following acts by members of the family:

Mr. Jones refused his flu shot.
 Mrs. Jones refused her flu shot.
 Susy Jones refused her flu shot.

¹The notion of a "person in a group" is one that will receive a technical definition once we have completed the examination of rules in the present chapter. (See p. 18). For now, it must suffice to state that a person in a group is, for our purposes here, any person who can perform some act that, by itself or as part of some set of acts, counts as an act by that group. This, the reader should note, differs sharply from ordinary usage.

Billy Jones refused his flu shot, etc.²

Translations, though, are not always as simple as this one. In order to see this, consider now the following group-action sentence:

The entire community built the barn.

To parallel exactly the first example, this sentence would have to be translatable into some set of sentences about acts by persons such as the following:

Jones built the barn;
Brown built the barn;
Smith built the barn; etc.

Such a translation is, at best, opaque and perhaps incorrect. For it leaves us wondering how the barn can be built by all at once with each counting as the sole builder. There is, however, another possible translation:

Jones laid the foundation;
Brown put in the joists;
Smith shingled the roof; etc.³

This new translation makes it obvious that each person performed some different and distinguishable act or set of acts, the cumulative result

²The adequacy of such a translation seems apparent, at least for contemporary North American society. But one can conceive of a society in which families (or clans, tribes, etc.) are so precisely structured that a person in authority (e.g. a patriarch) can make decisions or take actions that count as decisions or actions by the family and not as his personal decision or action.

The possibility of one thing "counting as" something else presupposes a substructure of various sorts of rules. The nature of these rules will be explored in the present chapter.

³Again, the adequacy of the translation depends on the actual situation. If the community in question is so highly organized that it has a decision-procedure of its own, has assets that belong to no single person in the group decides to spend these assets on building materials and relegates specific barn-building tasks to Jones, Brown, Smith, etc., then the action would not be reducible to those of individual persons.

of which is a completed barn.⁴

Thus, there are at least these two kinds of reducible group actions: those that involve individuals each performing the same action individually and those that involve persons performing different actions with some cumulative result. There might be other forms of reducible group action as well, but my main concern in this work is whether there are any group-actions that are not reducible to aggregates of acts by persons and that must be attributed to the group itself. This irreducibility can be expressed thus:

Where "A did Y" designates a group action (where A is a group of persons and Y is an action), that action Y is irreducible if and only if "A did Y" cannot be translated to some finite set of sentences:

"a did G;"
 "b did H;"
 "c did I;" etc.,
 where a, b, c, ..., are persons in A.

For the present, I offer one example of what I take to be an irreducible group action. Consider the following proposition:

The Standard Novelty Company promised delivery of the widgets by the end of the year.

In order to be reducible, this act (of promising) by the company would have to be merely the sum of acts by persons in the group that we call the "company". Certainly, persons must perform acts in order for the company to promise: the company salesman might have to sign a contract typed by a company secretary and perhaps notarized by a company attorney; a higher level executive might have to authorize the

⁴Some other examples of this sort of reducible group action might be expressed in the following propositions:

The Italians encouraged the Renaissance.
 The freshmen filled the classroom.

contract, in accordance with prices decided upon by several other officials, etc. Nevertheless, we do seem to recognize a difference between promises made by any or all of these individuals and a promise attributed to the company itself. Though the company's promise may involve acts by persons in all the above named roles, it does not follow that the promise is reducible to those acts. In fact, we do ordinarily distinguish between propositions of the following two sorts:

I, Jones, who am employed by the Standard Novelty Company, personally promise delivery of the widgets.

The Standard Novelty Company, through me, Jones, its authorized representative, promises delivery of the widgets.

That there is a difference between the two propositions can be established through a form of Open Question Argument -- by showing that the truth of the first proposition leaves the truth of the other proposition still indeterminate.⁵ In the one case, Jones is personally promising. In the other, he does not give his personal promise but performs certain acts, that, because of his role in the company, count as the company's promise. We do ordinarily distinguish between a person's actions and actions taken by some other agent with him as its representative. This is evident when we consider that it is the company that takes on the obligation to deliver the widgets when Jones acts as its representative in making a promise of delivery. The difference between Jones's personal promise and the company's promise made through Jones is made evident also by the possibility of the widget purchaser

⁵This is formally similar to the Open Question argument proposed by G. E. Moore in Principia Ethica, Chapter I, B, Section 13. I explain it in more detail on pp. 23-24.

saying something like the following, and making sense in doing so:

Jones, I know that your company has promised delivery of the widgets. But can I have your personal promise that they will be delivered?

This would be a sensible statement only if we can distinguish between the company's promise and Jones's promise. It seems therefore, that a company is able to perform some act(s) that cannot be reduced to the acts of persons in the company.

It might be objected that the legal device of corporate personality is what makes the distinction between the company and Jones an intelligible one and that the distinction is therefore only a legal fiction. In response, we should note that legally constituted persons are often treated as individuals even in contexts independent of the law.⁶ Granted, legal recognition may serve as a catalyst for societal recognition of a group as a single entity, but this is a causal relation and says nothing about reducibility. Legal considerations, in fact, provide a clue to the analysis of the capability of groups to perform actions distinct from those of persons in the group. There is a similarity between the way legal agents are constituted under the law

⁶See especially Maitland's inconclusive but thought-provoking essay, "Moral Personality and Legal Personality" in Maitland: Selected Essays (Freeport, New York: Books for Libraries Press, 1968). Maitland draws on a theory of legal personality that could be described in the words of W. Friedmann:

The life of an association does not depend upon state recognition. The legal statute which bestows legal personality merely has declaratory significance, in so far as it declares the general conditions of juristic personality to be applicable to a particular association. But it does not create the association, either socially or legally (Legal Theory, New York: Columbia University Press, 1967, pp. 236-237.)

Friedmann cites such thinkers as Gierke, Savigny, and Ehrlichman as supporters of this view.

and the way in which agents are constituted in a wider social framework. The similarity rests in the fact that they are both constituted by a system of rules.

So far we have seen that some of what appear to be group-actions are in fact reducible to aggregates of actions by persons. But we have seen also that other group actions do not appear to be reducible. The second section of the present chapter will provide a further explanation of how the existence of a system of rules enables us to draw this distinction between reducible and irreducible group action. This same analysis of rules enables us to see in later chapters how it is that groups can have goals, make decisions, and have a number of other characteristics that distinguish agents from other beings.

* * *

Although my intention in this section is to discuss those features of groups that enable us to say that they can act in an irreducible way, I shall begin here with a discussion of rule-constituted activities in general. This general discussion will provide us with an understanding of the various types of rules that will eventually be shown to be relevant to my analysis. I will then pursue more narrowly the analysis of groups as rule-constituted realities.

Rule-constituted activities are of various sorts. Important features of such activities are discussed by John Rawls in his well known essay "Two Concepts of Rules." Rawls calls such activities "practices" and defines them as

...any form of activity specified by a system of rules which defines offices, roles, moves, penalties, defenses, and so on, and which

gives the activity its structure.⁷

As examples he cites games, rituals, trials, and parliaments. Although only the last of these is a group of persons, the rules that constitute all of these will be examined here.

In general the rules of an activity can be put into two different categories. Some rules dictate what acts ought to be performed by an agent involved in the practice. Rules of this sort are norms of conduct. Other rules express what counts as an act, event, or entity with some significance within the practice.⁸ Rules of this second sort are constitutive rules.⁹ I shall explain each type of rule more fully, although my ultimate concern is with rules of the second sort.

Norms of conduct, rules that order or prescribe specific action in a given situation, are often expressed in the imperative form:

- (1) Do not cross the out-of-bounds marker.
- (2) Trump when you cannot follow suit.
- (3) Ask the chairman for recognition in order to address the group.
- (4) Do not attempt to cover your losses in a bear market.

They may also be given in any number of prescriptive forms:

- (1) You ought to keep your promises.
- (2) A good physician keeps patients' records confidential.
- (3) It is right to compensate the victims of your negligence.¹⁰

⁷John Rawls, "Two Concepts of Rules," Philosophical Review, LXIV (1955), p. 3.

⁸For the sake of precision, it should be noted that it is only the formulation of a rule that "expresses" something.

⁹The term "constitutive rule" is introduced by John Searle in Speech Acts (Cambridge: The University Press, 1970), pp. 33-41. Searle deals with the difference between norms of conduct and constitutive rules, but he has named the former "regulative rules."

¹⁰The various grammatical forms in which norms of conduct may be expressed does not concern us here, but we should be aware that grammatical form is not always a reliable criterion for their recognition.

Besides serving to recommend or order a course of action, norms of conduct serve also to justify that action.¹¹ This justification is of an immediate nature; to justify playing a trump card I need only show the rule that says that one may or must play trump under conditions that presently obtain. There may be requests for further justification, but such requests involve no longer simple justifying my act but now justifying the rules by which I justify my act. Justifying my act by appealing to a rule is possible only because that practice to which the rule belongs is a practice that I have accepted.

To someone unfamiliar with some rule-constituted activity, the set of norms of conduct by themselves do not suffice to enable him to participate in that activity. In activities involving the norms of conduct cited above as (1), (2), and (3) the neophyte might need answers to some of the following questions:

What is an out-of-bounds marker? What counts as crossing it? How do I determine which cards are trump? How do I go about playing trump?

If I wish to speak at a meeting, should I raise my hand, send the chairperson a letter, or talk to him before the meeting? How am I recognized?

Anyone who has learned a new game, ever wondered whom to tip and how much, that is, anyone who wishes to engage in a practice with which he is unfamiliar, has asked such questions. These questions are not simply about what to do but about certain things that must be understood before the norms of conduct can be understood. Such questions are answered by appeal to a rule, though the rule is of a sort different

¹¹On this characteristic of rules see David Ozar, "Social Rules and Patterns of Behavior," Philosophy Research Archives III (1977) p.1188 as well as Chapter Four of H.L.A. Hart, The Concept of Law (Oxford: The Clarendon Press, 1961).

from norms of conduct. Rules that specify what a chairperson is, what counts as asking for the floor, etc. are constitutive rules. The difference between constitutive rules and norms of conduct may be expressed by the following example: a norm of conduct might state that one ought to trump in a situation of a given sort. Constitutive rules, on the other hand, would state what counts as a trump card, what counts as playing trump and so forth. Thus a constitutive rule is about what is the case within some practice, while a norm of conduct is about what one ought to do in that practice.

Searle explains the general structure of constitutive rules in this way:

X counts as Y in context C.¹²

This general formulation covers all those cases in which some thing, activity, or phenomenon takes on a special significance within a practice. It covers the case in which the small paper with one red spot on it is the ace of trump, the case in which the person who holds the gavel is the chairman of the meeting, and the case in which a certain motion of the arm counts as seconding the proposal. It also shows how a simple movement X of the arm can count as a reality Y of another sort (directing an orchestra, voting aye, asking for the floor, waving goodbye, submitting a bid, giving a blessing, saluting a superior officer, etc.), depending on the nature of the constitutive rules of the practice within which the arm movement occurs.

Should there be some question as to how a simple arm movement

¹²Speech-Acts, p. 35. Alvin Goldman has proposed a similar explanation applied specifically to agency. See A Theory of Human Action (Princeton: Princeton University Press, 1970) pp. 25-26.

can really be something else, one can explain the practice and justify his claim by citing the relevant constitutive rule:

In our culture, when a person takes leave of another, he signifies his intentions and his emotions by raising his arm slightly and moving it laterally. This counts as a farewell.

From the viewpoint of one who is involved in the activity, the constitutive rules of the activity need no further justification; to be involved in the practice itself is to accept the rules of it.¹³

I shall be particularly concerned here with rules having to do with agency. When I examine them more closely we will see how it is that groups are said to act. There are two kinds of constitutive rules having to do with performances that I shall focus on here. There are rules that express what shall count as a performance of a given sort and rules that express what shall count as the ability to perform a given sort of act. The former I shall call rules of act-specification. The following are examples:

- (1) Pounding the gavel counts as calling the meeting to order.
- (2) Offering a diamond ring to one's girlfriend counts as proposing marriage, and accepting the ring counts as accepting the proposal.
- (3) Crossing one's heart counts as swearing to the truth of what one says.

Besides rules of act-specification there are rules of competence. A rule of competence is a constitutive rule that determines when an agent shall be counted as capable of performing some act specified by a rule of act-specification. In legal systems such rules of competence are often explicitly stated. There they specify what type

¹³One could, of course, still demand justification of the activity itself. This would be more likely to happen where the activity in question was one such as the punishment of criminals.

of agent under what set of circumstances will be counted as capable of performing some legally significant act. For example, Hart notes that

...behind the power to make wills or contracts are rules relating to capacity or minimum personal qualification (such as being adult or sane) which those exercising the power must possess.¹⁴

Legal systems and organized sports and games provide common examples of codified, publicly accessible rules of competence. In football, for example, only certain players are counted as capable to receive a forward pass. All others are incapable, regardless of what acts they perform. Thus, an ineligible receiver does not receive a pass, even if he should manage to gain control of the ball before it touches the ground. On such an occasion the quarterback's pass is counted as incomplete because, according to the rules of the game, the player who caught the ball was not competent to receive a pass. His act is a nullity in much the same way as, under the law, contracts and wills attempted by those who are not competent for such acts have no status and consequently are without legal effect.

Although rules of competence are most obvious where there is a written list of rules and detailed procedures for deciding when an act is performed, they exist even where they are unexpressed, provided that there is a rule of act-specification. Where there exists a rule of act-specification, there will always be a rule of competence, because the rule of competence is logically prior. This rule may some-

¹⁴The Concept of Law, p. 28. The examples in this citation (wills and contracts) are not an exhaustive list. Questions of jurisdiction, legislative power, power-of-attorney, legal guardianship all presume some (set of) constitutive rule(s) specifying what type of agent in what type of context shall be capable of performing the act in question.

times be so broad that any agent in context C shall be capable of Y-ing.¹⁵ At other times it may limit the capacity for Y-ing to a few agents with some very special characteristics. In either case, the performance of an act entails the agent's capability of performing it, but not vice-versa. And within a rule constituted practice both the ability to act and the performance of the act are themselves rule-constituted.

The competence to perform some act must be distinguished from the performance of that act, for one may have a competence without acting on it. One cannot, however, do what he is not competent to do. Jones's capacity for Y-ing (where Y is any act constituted by a rule of act-specification) must be distinguished from any actual performance of Y by Jones. Any performance of an act presumes a competence to perform that act. Thus, in the case where a performance is constituted by some rule of act-specification, we may legitimately expect some rule establishing competence to exist, though it might not be formally expressed.¹⁶

¹⁵Context C could conceivably be something as wide as the general context of the activity itself. For example, only players of chess games have the capacity to win chess games. There is always at least such a minimal rule of competence. But sometimes it takes more than participation in some activity to become competent to perform some of the actions associated with that activity. Most football players can at least sometimes catch a ball thrown to them, but not all players in all circumstances, have the capacity to receive a forward pass.

¹⁶Ozár discusses the issue of when a rule can correctly be said to exist in his "Social Rules and Patterns of Behavior." He agrees with Hart (The Concept of Law, p. 55) that a rule exists for some population where that population accepts and uses the rule. However, there often remains (as Ozár notes) an ambiguity in determining when some way of acting is to be considered a pattern of acceptance and use of the rule on the part of the population. Thus, the difficulty in determining

So far this discussion of constitutive rules has been limited to those that have to do with the agency of a single human person in rule-constituted situations. We have seen how a person can perform an act of one sort that counts as an act of another sort by that same person, provided that the rules of the relevant practice so specify and provided that the rules of the practice make him competent to perform the act of the second sort. But rules of act-specification and rules of competence can also serve to establish what shall count as an act by a group as well as to establish the capacity or competence of the group to perform that act. I shall examine this in more detail presently. But the reader is forewarned that the ability of a group to do something does not itself establish either that such doings are irreducible or that they are a genuine exercise of agency by the group itself. Later in the present chapter I shall examine in more detail the issue of irreducibility.¹⁷ In order to argue that a group is an agent, we will need to see whether a group can have the various characteristics that agents have, such as the ability to have goals, to make decisions, and so forth. Chapters Three, Four and Five will be

when a rule exists is not a function of the peculiar nature of rules, but is instead part of the broader problem of the nature of a pattern of behavior, and especially of determining when a given pattern exists.

For present purposes, the population in which such a pattern of behavior must exist must at least be larger than the group of persons whose acts count as a performance by the group. For, we are concerned not only with how persons in a group see themselves, but also with how other persons outside the group (including those, who, for example, have a contractual relation with the group) see the group. Thus, we are concerned chiefly with those cases where there is a pattern of acceptance in the general population. How widespread this acceptance must be is certainly important, but I do not discuss it here.

¹⁷ See pp. 21-22.

devoted to such an examination. In the meantime, I shall employ the term "performance" to refer to those activities that, if irreducible, would be exercises of agency by a group provided that the group possesses the essential agential characteristics.¹⁸

Rules of act-specification and rules of competence are important in the analysis of how something can be a performance by a group. In this respect, of course, it would not be sufficient merely to show that constitutive rules can establish that one thing that a group does can count as something else that that same group does. This would surely beg the fundamental question. What we are most interested in finding out is how it is that groups are said to act in the first place.

In our everyday lives we do often (and correctly) count something that one being does as something that another does. Consider, for example, the note written by Mrs. Belvedere's social secretary:

Mrs. Belvedere accepts with pleasure your invitation to dinner on the 30th at 7:00 p.m.

This counts, at least in certain social circles, as Mrs. Belvedere's responding to and accepting the invitation, though it is accomplished in virtue of her social secretary's act and not through any act observably performed by Mrs. Belvedere herself. This is so because, in Mrs. Belvedere's social circle, there exists a constitutive rule establishing what shall count as responding to and accepting an invitation. In this case the rule of act-specification does not establish that one act by

¹⁸As I use the term "performance" it is not intended to have the same technical meaning as that given to the notion of a "performance" by J. L. Austin in How to Do Things with Words.

Mrs. Belvedere shall count as another act by her (as the halfback's catching the ball counts as his receiving a pass), but that an act by a person who bears a specified relation to her (i.e., an act by her social secretary) shall count as an act by her. This is because, in general, a performance by one being a can count as a performance by some other being b where there exists a rule of act-specification to that effect.

This can provide some further clarification of the example of Jones, who is an authorized representative of the Standard Novelty Company.¹⁹ We saw that Jones can perform some acts that count as a promise of delivery by the Standard Novelty Company but not necessarily as Jones's personal promise of delivery. We can see now that it is the practice (or set of practices) of having company representatives that explains this, and that rules of act-specification define this practice: Jones's act counts as a promise by his company because there exists a constitutive rule to the effect that acts by persons in Jones's position count as performances of a certain sort by their company and because the group itself satisfies the conditions of capacity expressed in the rules of competence.

We have now seen what kind of concepts would justify a claim that some group: A performed act Y. Besides the issue of whether this is a genuine exercise of agency by the group (an issue to which I shall return in later chapters) there are several other issues that will be dealt with in the present chapter. Firstly, I will analyze more carefully the relation established between a group and persons in that group

¹⁹See above, pp. 6-7.

when some act(s) X by persons count(s) as a performance by the group. Our findings here will become especially important in Chapter Five, where, having already argued that the agency of groups is moral agency, I shall discuss the moral responsibility of persons for acts by groups. We shall see presently that the relation of the acts of persons to performances by their groups in the situation where the former counts as the latter, is actually a threefold relation. We shall see here that there is a logical character to the relation, an existential dependence, and a sort of quasi-identity that makes the group's performance both identifiable with and yet distinct from the acts by persons that count as the group's performance. In examining the distinctness of the acts by persons from the group's performance, we shall have to return to the Open Question argument alluded to earlier in the present chapter, and I shall here explain it more fully.²⁰

Whenever a group performs, it is necessarily true that persons in the group act. I wish now to explain this claim, a claim that I shall henceforth phrase as "The group performs in virtue of acts by persons." The phrase "in virtue of" is intended here to express the multi-faceted relationship of performances by groups to acts by persons in those groups. I shall use the phrase "persons in a/the group" to refer to those persons whose acts count as or are part of the set of acts that count as some performance by the group itself.²¹ These two pieces

²⁰ See above, p.6.

²¹ As I use the terms here "persons in groups" are different from "persons having roles in groups." It is at least conceivable that a person could have a role in some group without any of his acts counting as a performance by the group itself. Admittedly, this goes against

of terminology are defined stipulatively here.

First under consideration shall be the claim that there is a logical relation between acts by persons and performances by groups. Because the groups under consideration in the present work are groups of persons, when such groups perform they do so only by the agency of persons in them. The very things that are counted as performances of the group, under constitutive rules of the sort discussed earlier, are themselves actions by persons. This is found to be true through analysis of what it is for a group to perform. We may find sometimes that a performance of one sort by a group counts, in some context as a performance of another sort Y by that same group. For example, a given university's invitation to a scholar to present the commencement address may, in certain contexts, count as the university's offering of an honorary degree to that scholar. In such cases, it might appear that we have found a counter-instance to the claim that there is a logical, necessary relation between performance by a group and actions by persons in the group, for we find no mention of persons in the explanation of what counts as the group's offer of an honorary degree. However, if we pursue the matter further, we must ask also what counts as the university's invitation to present a commencement address. The question may be pushed back several more levels, but ultimately we will arrive at acts by persons counting as something that will ultimately count as a performance by the university itself. Again, the explanation of this is that, ultimately, such groups are, as a matter of logical necessity, composed of persons,

popular usage.

In addition to the logical relation, there is also an existential relation between a performance by a group and acts by persons that count as that performance. The phrase "in virtue of" is meant to convey this as well. A group performs only through the force of activity of persons; their activity counts, in the rule-constituted context, as a performance by the group. Thus, lacking the activity of persons, a group is inactive. The relation of the group to the persons in it is not primarily that of one being alongside other agents who happen to have roles in it. Although there are many groups that can do things to persons in them, the primary relationship is that expressed by the type of constitutive rule we have been examining.²² A group performs through or in virtue of acts by persons.

But notice that the relationship between performances by groups and acts by persons in groups is not itself a cause-effect relationship. The "in virtue of" relationship is one that exists where there is a constitutive rule that "X-ing counts as Y-ing." Such a constitutive rule does not express a causal relation. Instead, it states that, presuming the rule's acceptance and the appropriate context, X is considered identical with Y. President Carter's inaction on the bill is not the cause of his pocket veto of the bill; his omission is itself the act of vetoing. Similarly, the acts by members of the AAUP are not the cause of the AAUP's censure Y; given the appropriate constitutive rule,

²²A special case would be that of a member of a club censured or honored by the club. Even this case, though, would involve an act by the club performed in virtue of acts by members of the club. The peculiarity of this case is due to the two-fold position of the person being honored or censured: he can be both one of the agents whose acts count as acts by the club as well as the object of some act by the club.

they are the AAUP's censure. This indicates that instead of establishing a causal relation, the constitutive rule whereby X counts as Y establishes a sort of identity between X and Y. It is, however, an identity of a rather weak sort, for it holds only when and where the appropriate constitutive rule exists. This identity is a rule-constituted identity; X and Y are identical only where the applicable constitutive rule exists and the conditions stated in the rule satisfied.

It is conceivable, where the existence of the rule is not given, that a Carter inaction on some bill would not be a veto, and similarly so for the AAUP censure, mutatis mutandis. Where the rule does exist, though, there is a way in which X and Y are identical, and this identity obtains wherever an institution acts in virtue of acts by persons in the institution. There is therefore also a sense in which some performance Y by a group and the acts X that count as that performance are not identical. It is conceivable that the appropriate constitutive rule not exist and thus that X not be identical with Y.

The non-identity of X with Y can be supported in a second way: Y is not reducible to (or identical with) X because the practical significance of Y differs from that of X. By the "practical significance" of Y, I mean that set of expectations, rights, obligations, etc. that become reasonable or justified only on the existence of Y. Within some rule-constituted activity, the existence of Y legitimizes various expectations, justifies various claims, etc. that would not be justified or legitimized solely by the existence of X.

Let us consider an example. Suppose I come into a room filled with persons who are raising their arms. This may be simply a room full

of people raising their arms; but, where the appropriate constitutive rule exists, I may have walked in on the adjournment of the legislature. If there exists a constitutive rule to this effect, then a whole set of expectations, claims, and future courses of action become reasonable:

- (1) If I am a reporter, I may now feel free to approach Senator Bladderhorn to get his assessment of the recently completed legislative session.
- (2) If I am a lobbyist, I may rush to the phone to report to my boss that the widget-depletion allowance is intact for another year.
- (3) If I am Senator Bladderhorn, I may heave a sigh of relief at the finish of a rather gruelling session and approach the lobbyist for the money promised me.
- (4) If I am a stock speculator, armed with the knowledge that the widget tax benefits are intact, I may rush to buy 100 shares of common stock in the Standard Novelty Company, a major producer of widgets.

Such expectations, acts, claims, etc. can receive a justification only if what went on was the adjournment of the legislature. If the event had been simply the raising of 100 arms, all the above would be quite silly and inappropriate. This in itself is sufficient reason for claiming that Y is not identical with X.

The example of the legislative adjournment in the above paragraph serves well to illustrate the peculiar relation between X and Y, where the former counts as the latter. However, that particular example does not illustrate well the importance of this "identity that is not an identity" for the problem of group performances. In fact the proposition that Y is not identical to X is what is needed to generate the Open Question Argument alluded to earlier in this chapter.

The reader will recall that the Open Question argument as proposed there was intended to justify the claim that a performance by a

group is not reducible to some acts by persons in the group even when the latter count as the former. If the existence or occurrence of acts X by persons does not itself establish the existence of performance Y by the group, then we can say that given the existence of X, the existence of Y remains an open question.²³ If given the existence of X, the existence of Y remains an open question, it follows that Y is not reducible to X. For if Y is actually X and nothing but X, the existence of X will be sufficient to establish the existence of Y.

Now, the example of the legislature showed that there is a difference between a large number of hands raised in a room and the adjournment of the legislature. This was, in the end, to establish that the practical significance of Y differed from that of X, which was to show that the existence of a room full of raised hands left the question of whether the legislature had adjourned an open question. It was only with the additional consideration of the appropriate constitutive rule

²³Goldman offers a similar objection to the identity thesis in A Theory of Human Action, when he claims that two identical acts must have all the same properties (pp. 2-6). My argument here cites an example where X and Y do not have all the same properties.

A more modest claim, that Y is explicable in terms of X, encounters difficulties similar to those in the identity thesis. According to Quine in Word and Object (Cambridge: M.I.T. Press, 1960) explicability is elimination of the troublesome features of an expression by replacement with less troublesome forms of expression (p. 260). But this procedure demands that we first decide what needs to be replaced, and this decision is "dictated by our interests and purposes" (p. 259). Thus certain irreducible differences between X and Y could be dismissed as uninteresting. But the claims and expectations in the examples I describe above cannot be dismissed, because they are precisely the ones that the agents in the example consider important to their interests and purposes. And these claims and expectations cannot be explained without reference to the relevant constitutive rules.

On the problem of reducibility the reader might wish to consult J.O. Urmson, Philosophical Analyses (London: Oxford Univ. Press, 1967), especially Chapter Ten.

that we could determine that an adjournment had actually occurred.

Similarly, Jones's promise of delivery differs from that of his company even though Jones's promise could, given the appropriate rules, count as the company's promise. Given that Jones has uttered a promise, it is still an open question whether his company has promised. For the practical significance of the company's promise differs from that of Jones's promise. Where the company promises delivery, the promisee has the right to expect delivery, even if Jones is no longer employed by the company. This might not be true if we had only Jones's promise. Thus, the promise of delivery by the company is not reducible to Jones's promise, because the two differ in practical significance. The connection between the two that I have called "counting as" exists only where the appropriate constitutive rule exists.

In summary, although X can count as Y it does not follow that X and Y have the same practical significance. It remains an open question because X and Y may differ in their practical significance and thus the latter is not reducible to the former. By showing simply that Jones has promised we have not shown that his company has promised delivery. We must, therefore, regard as a mistake the attempt to reduce all group performances Y to the acts X by persons in virtue of which they exist.

* * *

In Chapter One I have examined our practice of regarding groups as single entities in the performance of actions. The key to the analysis rests in the rules that constitute such practices. Rules of competence enable some groups (but not all) to engage in performances of

certain sorts. Such constitutive rules establish a relation between acts by persons and group performances, so that the former count as the latter. This relation, we have seen, has three important features. Firstly, it is a logical truth that when a group performs, persons in that group act. Secondly, a group performs in fact only through or by the force (or power) of the activity of persons, so that a group without persons acting is an inactive group. Thirdly, there is a sort of identity of the performance of a group with the acts by persons in virtue of which it performs. But this identity is not absolute, so that the performance by the group is not reducible to the acts by persons in virtue of which it performs.

This analysis accords with the fact that we do, in ordinary parlance, distinguish between a group and the persons in the group and do attribute performances to the group that we would not attribute to those persons. The analysis is still incomplete, though, for we speak sometimes of groups as having goals, making decisions and having moral obligations and rights of their own. Subsequent chapters are devoted to the completion of that analysis. But before we look at these matters, a more basic challenge to my analysis needs to be examined, one which claims that groups cannot, for logical reasons, be looked on as agents. I shall call this view "ontological individualism" and examine it in Chapter Two.

CHAPTER TWO

SOME OBJECTIONS: THE INDIVIDUALIST ONTOLOGY

In Chapter One I argued for the irreducibility of at least some sorts of performances by groups, where those groups are constituted according to certain kinds of rules. Eventually, I shall argue that the same sorts of rules establish for groups certain other irreducible characteristics that lead ultimately to the conclusion that a group of persons can be a single moral agent. Thus, it is important to my thesis that the constitutive rules of which I speak actually establish some irreducible objectively existing activities and characteristics. For that reason the present chapter is an examination of major objections to my claim that such rules can establish such things as group performances that are not reducible to the actions of persons in groups. First, I shall discuss a general rejection of the reality of rule-constituted performances. After that I shall examine a more carefully developed ontology (the individualist ontology), one that systematically rejects the notion of an irreducible group performance. Both the general rejection and the individualist ontology will be shown to be inadequate.

Even while acknowledging the existence of a constitutive rule that X counts as Y, it might still be tempting to state that, when you get right down to basics, "Y is really nothing more than X."¹ Thus,

¹For example, F.A. Hayek claims in The Counter-Revolution of

one might wish to claim that the chess player is "not really castling his king" but is instead "really moving a piece of carved wood with his arm." Or, to use an example more suited to the present discussion, one might claim that the AAUP's censure is really nothing but the unfavorable attitude toward and desire for sanctions against some school by a number of persons prominent in the AAUP. The criticism, put very generally, is that there is something "less real" about a group constituted according to rules and the performances of that group than about the persons in that group and their actions.²

We have already seen evidence against this criticism: rule-constituted performances are different from the actions that count as those performances. In developing the Open Question Argument of Chapter One, we noticed that a whole range of expectations, claims, actions, etc. become justified only when we acknowledge the objective status or reality of the rule constituted performance. Unless one is willing to admit that there is no real difference between a roomful of raised hands

Science (Glencoe: The Free Press, 1952) that institutions are "abstractions" (pp. 69-70). Similarly, A.M. MacIver claims that institutions are "generalizations". See especially his "Levels of Explanation in History" in Readings in the Philosophy of the Social Sciences, edited by May Brodbeck (New York: Macmillan and Company, 1970). These two claims have in common that they reduce groups as such to an objective component (an aggregate of individual persons) and a subjective component (some subjective operation of the mind by which we, for our own purposes, unify them). By reducing the principle of unity to some subjective operation, both conclude that what is really existent is the aggregate of individuals.

²One possible foundation for such a criticism would be the reduction of rules to mere patterns of behavior. A thorough discussion of that very important criticism would take us far afield. For a brief discussion see Chapter Three, p.

and a vote to adjourn the legislature, it seems that he is compelled to acknowledge that there is a real difference between rule-constituted performances and the actions by individuals that count as those performances.

It may be that the criticism under examination draws upon our ability to conceive of a world in which some specified constitutive rules do not exist. Because we can conceive of a world without a game of chess, we can conceive of a world in which Boris would not be really castling his king but would instead be moving that piece of carved wood to the black square. That is, however, beside the point; for, what matters is whether the world that we presently live in is a world in which such rules exist.³ In fact, there is such a game as chess. It is therefore incorrect to state that, when Boris moves that piece of carved wood, he is not really castling his king.

Rule-constituted entities such as groups of persons and their performances are no less real than chess games, provided that we live in a world in which the appropriate constitutive rules exist. There

³We do often use a special vocabulary to distinguish a being or event that exists only because of some constitutive rule from a similar being or event that is not rule-constituted. Witness the various names in board games and sporting events given to pieces of equipment and actions. Similarly, in legal contexts we distinguish an event of legal significance from a similar one that has no standing within the law: we distinguish contracting, for example, from merely stating that one will do something. Moralists also employ special terms to distinguish those events having significance within moral contexts: we often distinguish between intercourse and fornication, acquiring a thing and stealing goods, having and owning, etc. Such special vocabulary often serves as an implicit reference to an underlying system of rules.

can be such a world, and it seems to be the case that such a world exists now: the AAUP censures colleges and universities; the Teamsters Union endorses candidates; my bank lends money; RCA guarantees its picture tubes for two years, and so on.

If our ontology and epistemology cannot account for these rule-constituted beings and events in the world, then our epistemology and ontology rather than our world must be changed. We cannot revise reality in order to render adequate our theories about reality; nor can we revise and alter what we know in order to suit the limits of some theory about what we can know. We have seen, both in the case of the adjournment of the legislature and in the case of a chess game, that a socially constituted entity or event is in fact different from the realities in virtue of which it exists, but that it is nevertheless real.

It may be that the objector, in rejecting the reality of groups in favor of the reality of persons who comprise groups, is not so concerned with the rule-structure as he is with the origin of groups. Let us now consider one facet of a typical claim about reducibility:

Every complex social situation, institution, or event is the result of a particular configuration of individuals, their dispositions, situations, beliefs, and physical resources and environment.⁴

The statement was made by J.W.N. Watkins in a discussion of the methodology of the social sciences. Watkins states further that this is evidence for his own belief that groups and their performances are

⁴J.W.N. Watkins, "Methodological Individualism and Social Tendencies," in Readings in the Philosophy of the Social Sciences, ed. by Brodbeck, pp. 270-271. The emphasis is mine.

See also a similar statement by MacIver: "History is nothing but the resultant of all the acts of millions of individuals...." ("Levels of Explanation in History," p. 306). Again the emphasis is mine.

reducible to persons and their behavior.⁵ To be precise, Watkins does not claim that the status of groups as results "entails" reducibility but holds instead that it nevertheless "supports" it. He does not make clear in what this support consists. We shall see that, in fact, this is not evidence for his position and may well involve a genetic fallacy.

If all Watkins means to say here is that groups are groups of individuals and that, when groups act, persons are acting, then he is not really marshalling evidence for his reducibility claim. We have seen already that such a proposition is consistent with the view that groups are not reducible to the persons in them.

If what Watkins is alluding to is a cause-effect relationship between the behavior of persons and the existence and activity of groups, then it certainly does not serve as evidence for the reducibility claim. One may hold to the view that groups are created by persons without thereby being committed to the view that groups are reducible to the persons who create them. For the former is a claim about how groups come into existence and not directly about what groups are. Questions of how groups come into existence or of what causes them to act as they do are distinct from the question of what a group is. The failure to respect this distinction would involve a genetic fallacy, if one were to infer directly from a proposition about the origin of a group a proposition about its nature.⁶ The ambiguity of Watkins's use of the term

⁵J.W.N. Watkins, "Ideal Types and Historical Explanation" in Readings in the Philosophy of Science, ed. by H. Feigl and M. Brodbeck (New York: Appleton, Century, and Crofts, 1953), pp. 729-730.

⁶Leon Goldstein discusses this logical mistake in "The Inadequacy of the Principle of Methodological Individualism," Journal of Philosophy, LIII (1956).

"support" saves him from the accusation that he commits such a fallacy, but it also leaves one uncertain about what he means to say.

The statement by Watkins quoted above may in fact be the basis for some sound methodological advice to the social scientist. He may wish merely to be saying that the social scientist ought always to trace groups to their causes. This might be sound advice, but it is advice about methodology and is not itself a statement about the ontology of groups. In fact such methodological advice is completely consistent with the proposition that groups are not reducible to the persons in them. From the kinds of causes that Watkins lists (individuals, their beliefs, dispositions, etc.) there could conceivably emerge a new sort of reality that is not reducible to or totally describable with the terms that can be used to describe its causes.⁷ In developing the Open Question Argument, I showed that this is so. What the description of the aggregate of persons lacks is the rule component, which is what establishes a difference in the practical significance of the group performance. A group may emerge through the planning, desires, beliefs, etc. of a number of persons. But, having emerged, it is what it is, regardless of the manner of its origin or of the motives of its

⁷ This is the doctrine of descriptive emergence, which is the view that there are properties not definable in terms of their causes. It must be distinguished from explanatory emergence, the view that the laws by which the behavior of social entities can be predicted are unlike the laws of the behavior of persons. On descriptive emergence see M. Brodbeck's "Methodological Individualisms: Definition and Reduction" in Readings in the Philosophy of the Social Sciences, especially p. 284 as well as Alfred Kuhn, The Logic of Social Systems (San Francisco: Jossey-Bass, 1974), especially Chapter One. On explanatory emergence, see Richard Rudner, Philosophy of Social Science (Englewood Cliffs: Prentice-Hall, Inc., 1966), p. 71.

creators. It seems, then, that these two objections, that groups are less real than the persons who comprise them and that groups are reducible to persons because they result from the behavior of persons, do not stand up on close examination. But perhaps there is some more forceful objection. To see whether there is, let us examine a more carefully developed individualist ontology, one espoused by Watkins as well as others.

Much of the resistance to the claim that there are irreducible group performances is grounded in a wish to preserve what is regarded as a fundamental ontological insight into the primacy of persons over entities made up of persons. Decision-making, having goals, acting voluntarily, etc. are all characteristics that seem to belong, if not uniquely, at least paradigmatically to individual human persons and might appear attributable to groups only as a convenient collective way of speaking. One doctrine regarding the methodology of the social sciences, known as methodological individualism, has been built on this ontological insight. We need here to be concerned primarily with the ontology that is used to back up the methodological position, and my remarks concerning methodology should be considered significant only as they bear on the ontology.

The relevant features of the ontology under discussion, i.e. the individualist ontology, can be expressed in the following three principles: every agent is an individual; an agent must be able to perform some act that is not simply the aggregate of acts by its parts or members; and no agent can be composed of other agents. I shall give an overview of the ontology that employs these three principles and then

examine each of the principles in a bit more detail. Then I shall argue that the first two principles, properly understood, do nothing to establish the proposition that groups and their performances are reducible to the persons in them and their actions. I shall argue that the third principle is incorrect.

The methodological doctrine of the individualist is that all concepts applied to groups can and should be explained by means of concepts applied to persons and their behavior. On this view, then, the most adequate and basic sociological explanation is a psychological one.⁸ Thus, when a scientist offers an explanation of some group and its behavior, his explanation ought to be given by means of concepts applicable to persons individually. His failure to do so would be considered an incomplete job of scientific explanation, due to either the ignorance of the scientist himself or the impracticality and unwieldiness of a detailed explanation, but not due to any logical barrier preventing such a reduction.⁹

The methodological individualist position is (importantly) a methodological claim. The question that it proposes to answer is: how ought the social scientist to proceed in his examinations? Insofar as this is a strictly methodological issue, it is of little concern to us

⁸An extended analysis of the claim that sociology is reducible to psychology can be found in Laird Addis, The Logic of Society (Minneapolis: University of Minnesota Press, 1975). See especially Chapter Five. Mancur Olson maintains a similar thesis about the reducibility of economics in The Logic of Collective Action (Cambridge: Harvard University Press, 1965).

⁹Methodological individualism can be set in distinction to theories that hold that at least some concepts applied to groups are sui generis. One group of such alternative theories is called "holism."

here. Instead, we must turn our attention to the ontology that has sometimes been proffered in justification of the individualist methodology.¹⁰ Unfortunately, the ontology does not receive a systematic treatment by any of its best known proponents, Hayek, MacIver, and Watkins. Therefore I shall have to do some interpolating in order to set out the basic principles of this individualist ontology and to explain how they figure in claims about the impossibility of group performances.

The ontology behind the methodology claims that persons and their behavior and dispositions are real and that explanations must be about these in order to be about what is real. To fail to analyze a group and its doings into its component persons and their doings is to do an incomplete job of explanation. MacIver claims that

The ultimate stuff of history is the countless individual doings of individual human beings through the ages...¹¹

In a similar vein, Watkins (whose views we have already examined in part) claims that

The ontological basis of methodological individualism is the [warranted] assumption that society is not some unimagined sort of organism, but really consists only of people who behave fairly intelligibly and who influence each other directly and mediately in fairly comprehensible ways.¹²

What is the status of groups under such an individualist ontology? Hayek regards the social entity as a useful mental construct that

¹⁰I do not wish to claim here that this ontology is the only one that would justify the individualist methodology or even that its justification must be in an ontology of some sort. My remarks here should not be taken as an argument against individualism as a scientific methodology.

¹¹A.M. MacIver, "Levels of Explanation in History," p. 304.

¹²J.W.N. Watkins, "Ideal Types and Historical Explanation," p. 732.

enables us to more conveniently interpret individual behavior. To attribute any extra-mental existence to it, though, is to engage in a fallacy of misplaced concreteness.¹³ MacIver regards referring to a social entity as merely a linguistically convenient way of referring to individuals.¹⁴ Just as "I have some books" is no more than a way of saying that "I have the Republic and the Critique of Pure Reason," so also "The 4-H Club of Dogneck, Montana refused to participate in the war protest" can be translated into statements about the behavior of the individuals who are members of the club.

In all three thinkers, then, the basic argument being offered is that, because persons are real and because groups are nothing more than the persons who comprise them, all sentences about groups must be translatable to sentences about persons in groups. Obviously, since my purpose in this study is to show how groups can be described correctly as moral agents in ways not reducible to the moral agency of persons in groups, it is important to explore this ontology more carefully. As mentioned above, there seem to be three basic principles concerning agency that underlie this position.

One of these principles may be expressed as follows: what is not an individual is not an agent. The same principle may also be expressed as: every agent is an individual. "Individual" should here be taken to mean a being that exists extra-mentally and that is a single, unified being. Thus, mere collections and aggregates are not individuals;

¹³F.A. Hayek, The Counter-Revolution of Science, p. 54.

¹⁴"Levels of Explanation in History," p. 308.

nor are laws, ideas, etc. Granted, the term "individual" is often used in other ways, but I will here use the same meaning employed by these philosophers when they call themselves "individualists."

That the three thinkers under consideration here accept this principle in their ontology is made evident in two ways. First, the principle is instantiated in their claim that the human being is an individual. All three thinkers regard human beings as more than the sum of their parts. Persons as beings capable of acting in their world (i.e., as agents) are not reducible to their parts and the behavior of those parts; persons are the basic unit of social explanation. Human persons (and not, for example, their molecular components) perform the acts that are fundamental to the explanation of social events.

Secondly, the individualists, in rejecting the possibility of group agency, do so by claiming that groups are not individuals:

This [central] assumption [of the individualist position] could also be expressed by saying that no social tendency is somehow imposed on human beings 'from above'...-- social tendencies are the product (usually undesigned) of human characteristics and activities and situations...¹⁵

Gellner (who is not himself an individualist) has summed up well the position of the ontological individualist on this matter:

What the Individualist here will object to is the inference from an holistic concept, somehow abstracted from the concrete behavior of concrete individuals, being then able to figure in the antecedent of a causal sentence.¹⁶

¹⁵J.W.N. Watkins, "Methodological Individualism and Social Tendencies," pp. 271-272.

¹⁶Ernest Gellner, "Holism Versus Individualism," in Readings in the Philosophy of the Social Sciences, ed. by M. Brodbeck, p. 262.

According to the individualist, groups do not do things to persons. Groups are not individuals in the world able to affect other individuals in the world; they are mental constructs and cannot therefore be agents or causes of any sort.

This first of the principles of the ontological individualist is not itself necessarily supportive of his position. In fact, it is a two-edged sword; if it can be established that there are some things that groups do that are not reducible to what persons in groups do (and that groups can have other important characteristics of agents), then we will have reason to assert that these groups are agents and therefore objectively existing individuals and not merely mental abstractions. That groups can have the various essential characteristics of agents will be argued in the chapters to follow, and we have already seen the irreducibility of some things that groups do.

Perhaps the subjective or mental element that the individualist claims to find in statements about groups and their performances comes from the fact that these are constituted according to rules. There does seem to be some contribution by human minds in the existence of rule-constituted beings. This contribution involves the acceptance by persons of the rule that X counts as Y, or that some acts by persons count as a performance by a group. One might attempt to argue from this contribution by the mind that the Y known is itself something purely in the mind of a person encountering the Y. But this would surely be wrong-headed, for the beings and performances so constituted are beings and performances in the world; they are not simply subjective mental constructs. The adjournment of the legislature would be, according to that

argument, not an event in the world, but in the minds of Senator Bladderhorn, of the lobbyist, of the stock speculator, and so forth. Indeed, the individualist may be constrained to such a conclusion; but Senator Bladderhorn, the lobbyist, the speculator, chess players, football players, and all persons dealing with rule-constituted beings and performances all treat these as things and occurrences in the world. The evidence appears to be on the side of Senator Bladderhorn et al., but it needs to be explained more fully with an adequate analysis of objectivity and the place that constitutive rules and the conventions have in our world. I shall not do that here.¹⁷

In fact, we do already consider some groups and other rule-constituted entities as efficacious and, thus, as objective or in the world rather than simply as subjective mental constructs. The first of the principles of the individualist ontology, that agents must be individuals existing in the world, appears to present no difficulty for the claim that groups can be agents. Again, I have so far argued only that the performances of groups exist and are irreducible. The rest of the account of group agency will be provided in chapters to come.

The second principle of the individualist ontology is: an agent is an individual that can perform acts that are not simply the aggregate of acts of the components of that individual. The principle can be expressed more formally as follows:

¹⁷The analysis of objectivity might begin by acknowledging that reality is constituted in some way by the activity of mind. (See Kant, KRV 105 B26). Rule-constituted beings seem to be objective in this way, for their objective existence requires the acceptance of rules by persons.

If A is composed of a,b,c,... , then A is an agent only if A can perform some act that cannot be reduced to acts by a,b,c,....

This principle stresses the irreducibility or ultimacy of agency. If all that A does could be completely redescribed as what a,b,c,... do, then absolutely nothing is gained by ascribing agency to A itself. For A to truly do something A's performance must not be resolvable into the performances of A's components. The ultimacy of agency thus consists in the unity of the agent in its action; the unity of A in acting is absent where the act is reducible to the acts of the various components of A. The principle can also be expressed in terms having more directly to do with the problem of group performances:

If A is a group and a,b,c,... are persons in A, then A is an agent only if A can perform some act that cannot be reduced to acts by a,b,c,...

Hayek appeals to this principle implicitly when he contrasts the objectivity of the physical sciences with what he calls the "subjectivity" of the social sciences.¹⁸ The human goals, purposes, desires, decisions that the social scientist must consider cannot, he believes, be reduced to the chemical reactions that occur in the human body simultaneously with them. The human being as subject and agent is therefore

¹⁸F.A. Hayek, op. cit., pp. 25-36. The same view of the person as the ultimate in social explanation can be found in Watkins, who states that "We shall not have arrived at rock-bottom explanations... until we have deduced an account of them from statements about the dispositions, beliefs, resources, and inter-relations of individuals" ("Methodological Individualism and Social Tendencies," p. 271). Similarly, with Watkins "...the ultimate premises of social science are human dispositions... And while psychology may try to explain these dispositions, they do provide social science with a natural stopping place in the search for explanations of overt social phenomena" ("Ideal Types and Historical Explanation," p. 735).

a unity, an ultimate, that cannot be properly understood unless considered as such; in other words, something is missing if the human being is redescribed simply in chemical terms.

The individualist might employ this second principle in arguing against the possibility of a group agent. This principle, coupled with a second premise that the performances of groups are always reducible to the acts of persons in groups, yields the conclusion that groups are not agents. But, again, the principle can cut both ways; it does not support only the individualism for which it is the tendered explanation. The same principle combined with a different second premise, that a group can perform an act not reducible to those of persons in the group, would yield the alternative conclusion that the group is in fact an agent. The conclusion would still have to be supported with some attribution of other agential characteristics to the group. But we have already seen that groups can engage in irreducible performances. The evidence for this was discovered when we saw that a performance by some group can have a practical significance that is not to be found in the aggregate of acts by persons that counts as the group's performance. Further analysis revealed that this difference in practical significance is due ultimately to the existence of relevant constitutive rules, and the existence of such rules ultimately explained also the irreducibility of the group performance. Before arriving at the conclusion that groups are agents in the full meaning of the term, we still need to see how it is that they can have the various characteristics that belong to agency. For now, though, we have at least seen that groups can satisfy this second condition, for they can engage in performances that are not re-

ducible to the acts of persons in groups.

A third important principle of the ontology under examination is that no single agent may be composed of other agents. This principle can be formally expressed as follows:

If A is composed of a,b,c,... and if any one of a,b,c,... is an agent, then A is not an agent.

Although there is some similarity between this and the second principle, there is an important difference. The second principle stated that A is not an agent if all of its acts are reducible to the acts of its components; the present principle states that, if any one of A's components can act, then A itself cannot correctly be said to be an agent.¹⁹ This principle, if correct, would enable the individualist to argue simpliciter that, because persons in groups are agents, no group composed of persons can itself be an agent. If the principle stands, and if persons are agents (as surely they are), then there can be no group agency.

With this third principle we are again taken back to the heart of the matter. We need to ask whether an entity composed of persons who are themselves agents can be reasonably said to be an agent as well. We have seen, through several examples, that a group can engage in per-

¹⁹This position that, if groups are agents, then the persons in them are not, is common in the individualist literature. See Watkins, "Ideal Types and Historical Explanation," p. 732 and "Methodological Individualism and Social Tendencies," p. 271-272. One can see the political fears that might result from the belief in such a position: the State could easily be pictured as an acting being, with no persons accountable for its actions. Once we understand, though, how it is that group agency does not entail a denial of personal agency, such fears are not grounded in reason.

formances in virtue of the acts of persons in the group, and that, in such cases, both the group and the persons in the group act. Legislatures adjourn through the actions of various members of the legislature; companies sell and promise delivery through their authorized agents, etc. Analysis of the kinds of rules that constitute groups and their performances has shown how it is that both the group and persons in it can act: constitutive rules establish a distinctive relation between a group and its members, a relation that I have signalled with the phrase "in virtue of" and examined in some detail above. The situations I have examined, then, stand as counter-examples to this third principle; and analysis shows how these counter-examples are possible. It seems, then, that the third principle of the individualist ontology is incorrect.²⁰

* * *

To what general assessment of the individualist ontology can we come? The first two principles do seem to express fundamental insights into the nature of agency: it does seem to be the case that an agent must be an individual existing in the world; and it does seem to be superfluous to attribute agency to a being when all its exercises of

²⁰There may be another way in which this third principle can be understood: it may mean simply that attributions of agency for the group's act and that ascription of agency to the group for some act Y entails a denial of agency for act Y to all other agents. Such an interpretation would make the third principle consistent with the nature of groups as we have explained it and would be a corollary to the second principle. There is no reason, though, to think that the individualist would accept this interpretation.

agency can be exhaustively described as acts by its components. But these two principles are consistent with the claim being defended -- that groups can act.

The third principle entails that, if a group can act, then persons in the group cannot act. Here the individualist fails by misunderstanding the nature of groups. He sees correctly that, where persons act, their actions are not erased from existence by the fact that they act in groups. What he does not see is that this is consistent with the agency of groups. I have argued that the relation of group to personal action is such that one need not deny the agency of persons in order to affirm the agency of groups. Indeed, as we have seen, the agency of groups entails the agency of persons in groups.

What seems to be missing from the individualist ontology is a full understanding of the nature of rules and their place in the constitution of groups. The individualist has seen that groups are groups of persons, but he has not seen that they are groups of persons acting under constitutive rules. Thus, he fails to see how it is that a group can engage in performances that are not simply the aggregate of acts by persons in the group.

So far, I have argued for the irreducibility of group performances and have defended this claim against objections raised by an individualist ontology. This does not by itself establish that groups are agents. I intend to argue in Chapter Three that groups can also have other characteristics of agency besides the ability to engage in performances that are irreducible to the acts of persons in them. Among these characteristics are the ability to have goals and to make decisions.

I will argue that groups are capable of these and that these are not reducible to the goals and decisions of persons in groups.

CHAPTER THREE

GROUPS AND THE CHARACTERISTICS OF AGENTS

In Chapter One I argued that groups are what they are due to the systems of socially accepted rules that constitute them. Such systems of rules are, we have seen, the key to the explanation of how group performances are not always reducible to the acts of persons in those groups. But showing that groups can engage in irreducible performances does not by itself establish that groups are agents. For agency includes only those performances or instances of behavior that can be described or qualified through a cluster of interrelated concepts that include goal-orientation, decision, practical reasoning, voluntariness, etc., a cluster of concepts that refer to what I shall henceforth call "agential characteristics." My intention in this chapter is to explain how the performances of groups can be correctly described through attribution of such agential characteristics.

I shall focus here on two agential characteristics above all others, namely the having of goals and the making of decisions. These two characteristics seem crucial; for we ordinarily do not consider a being that is incapable of having goals or of making decisions to be an agent. There are other agential characteristics; but the analyses of the two that I have singled out can serve as models for the others. The discussion here is intended to show, in general, how groups can have

agential characteristics that are not reducible to the agential characteristics of persons in groups as well as to instantiate this in the cases of two such characteristics.

Before proceeding to examine the agential characteristics of groups, it is important that we observe three cautions that any such examination must respect. I will state and explain the importance of each of these three cautions and will have some brief remarks on some of the more likely temptations to ignore them. The value of these cautions will eventually be confirmed when we have seen the merits of the constitutive rule analysis of agential characteristics.

The first caution is that in describing the group agent, we must avoid unwarranted anthropomorphization of groups. We must avoid assuming that the agential characteristics of groups are similar in all respects to those of persons, the agents with whom we are most familiar. Instead we must describe what we see. The belief that we must anthropomorphize groups in order to explain their agential characteristics will eventually be shown to be unfounded.

It is worth noting at this point that the issue of consciousness creates a special temptation to violate this first caution. Consciousness is regarded in several diverse philosophical traditions as a basic fact about human beings, and one necessary for the explanation of phenomena such as making a decision, having a goal, and so forth.¹ If such agential characteristics can characterize only a conscious being, then

¹This view is maintained in various ways and with various conceptions of consciousness by traditions as diverse as the scholastic, Kantian, phenomenological and existentialist.

either groups are conscious or they are not agents. Those who take this position and who find the notion of a group mind philosophically repugnant will obviously feel justified in concluding that groups cannot be agents.²

In insisting that consciousness is a necessary condition for agency, though, one might be neglecting to consider that, just as humans have a peculiarly human way of being agents, so also might groups have a way of being agents that is peculiar to groups.³ That is, the agency of groups might be in some aspects sui generis. If this is so, then the necessary conditions for human agency might not all be identical with the necessary conditions for group agency; and the importance of the first caution would then become obvious. In the forthcoming analysis I argue that the constitutive rules of groups ground their agential characteristics and show that anthropomorphization is unnecessary in this matter. Groups can have agential characteristics though they have no consciousness of their own, because such characteristics are always had in virtue of some characteristics of or acts by persons in the group. This will be more fully explained shortly.

The second caution is that group agency, if there is such a thing, must have something in common with the agency of persons, if we are to be justified in using the same concept of agency for both. The possibility that group agency is somehow sui generis might lead us into

²See Ernest Gellner, "Holism Verses Individualism," in May Brodbeck (ed.) Readings in the Philosophy of the Social Sciences (London: The MacMillan Company, 1968), p. 257.

³I am indebted to Louis Werner for proposing this possibility in unpublished remarks on Martin Benjamin's "Can Moral Responsibility be Collective and Nondistributive?" Social Theory and Practice, IV (1976), 93-106.

the mistake of not seeking similarities. If there are no similarities, or if they are minimal or irrelevant, then we need separate concepts to describe group agency and personal agency. The case for group agency would be philosophically uninteresting if we could not find such similarities, for we would be left with a mere equivocation -- the use of the familiar term "agency" to refer to phenomena altogether different from what we ordinarily recognize as agency.

The third caution for the ascription of agential characteristics to groups is that these characteristics must be ascribable to the group itself rather than simply to either some or all of its members. We saw in Chapter One that, although the performances of groups exist only in virtue of performances by persons, there is nevertheless a conceptual distinction between a performance by the group and performances by persons in virtue of which it exists. This distinction is essential to the claim that the group itself is an agent. The distinction must be preserved not only in the matter of performances by groups but also in the matter of those agential characteristics that a group must have for its performances to be exercises of agency by it.

It should be noted at the outset that the nature of agential characteristics continues to be a matter of lively philosophical dispute. There is, for example, a trend in the explanation of the behavior of persons (a trend that could be reasonably extended to the explanation of group behavior as well) that tends to reduce agential characteristics to either observable behavior or some measurable quality of observable behavior. Occasionally analyses of having goals have been provided on such a model, for example, the various "teleological" machines designed

by some behavioral theorists.⁴

If we were to accept the adequacy of such behavioral accounts in general, we would probably not find it difficult to provide a behavioral account of group goals. We would need only to accept the proposition that groups behave or perform in ways not reducible to the behavior or performances of persons in them, a proposition that I argued for in Chapter One. Given this, it would remain only to show that a given group was constituted in such a way that it could engage in behavior of the appropriate sort.⁵

Alternatively, an account that would argue against the adequacy of behavioral explanation of agential characteristics might hold that having a goal is not reducible to any form of behaving. Such arguments often appeal to some aspect of the "interiority" of agency.⁶ They claim a difference between what an observer can know about agency, and what the first person, the actor, who is interior to agency, can know. Such a first person perspective is sometimes used to point out the problems

⁴See, for example, D.M. Armstrong, A Materialist Theory of the Mind (New York: Humanities Press, 1968), pp. 138-139.

⁵For an example of a behavioral account of group goals, see Herbert Simon, "On the Concept of Organizational Goal," Administrative Science Quarterly, IX (1964), 1-22.

If the behaviorist were to refuse to acknowledge the justificatory function of constitutive rules (Chapter One, p. 10) and instead analyze rules as simply patterns of behavior, he would then be left without an explanation of why one thing might count as something else. This is discussed in more detail on p.64 of the present chapter.

⁶An interesting and rather elementary contrast of these two approaches can be found in the debate between Brand Blanshard and B.F. Skinner, "The Problem of Consciousness -- a Debate," Philosophy and Phenomenological Research, March, 1967. See also Chapter Two of Jerome Shaffer's Philosophy of Mind (Englewood Cliffs, New Jersey: Prentice-Hall, 1968).

of translating statements such as "A intends to do X" to "There is a probability of ___ that A will engage in behavior X." That is, I do not experience my intentions as mathematical probabilities but as personal commitments to perform the acts I intend. In a similar way, while a behavioral account might see no relevant difference between "I have my reasons for doing X" and "There are causes of Smith's engaging in behavior X," the interiority approach would hold that reasons justify acts while causes make behavior occur. Thus, it would be claimed that a behavioral account does not provide the conceptual tools with which to explain the justificatory activity that often accompanies agency.

It is not my intention here to offer a resolution to the dispute between philosophical behaviorists and those who claim the relevance of first person accounts of agency. Moreover, because behavioral accounts of agency are already available, it seems more useful to direct our attention to those accounts of agency that do not simply describe observable behavior.

* * *

Agents have goals. These may be short-term or long-term; in either case, allusions to the goal(s) of an agent often figure in discussions of his agency. The intended consequences of an action are often said to be an agent's goals. Similarly, the goal of an action figures in discussions of whether that action is rational. It is not my intention here to provide in exhaustive detail an analysis of each relation that goals bear to the exercise of agency; such an analysis would depend, in the end, on how goals are related to the exercise of agency in general.

My primary concern here will rather be to show that we do in fact believe that groups have goals and that such beliefs are intelligible. I shall argue later that this belief fits into the general picture of the group as agent.

We need first to distinguish between having a goal for oneself and having a goal for some other being. An agent may have a goal for some nonagent: Jones the fisherman may tie his flies carefully with the goal of catching fish with them. Agents may also have goals for other agents: Jones may want his boy, Bill, to become an accomplished fisherman himself. The case of Jones's boy, Bill, differs from that of the fishing flies in that Bill can also have goals for himself. Even if Jones's goals for Bill are similar to the goals of Bill himself, the relation is one of similarity; Jones's goals for Bill and the goals of Bill are clearly distinct from one another. This is always true of the relation of the goals of one agent to the goals of another agent: they may be similar, but they are at least numerically distinct. Such is not the case with the goals had by an agent for an inanimate object, such as fishing flies. Their goals are the goals that agents have for them.

I shall, in what follows, speak of the goals of an agent and of the goals had for an agent. Henceforth, I shall employ the locution "goals of A" to refer to some agent A's own goals and "goals for B" to refer to goals had for B (where B might or might not be an agent) by some agent that is not B.

I shall argue that there are goals of groups distinct from goals had for them by persons. I shall claim that, when persons have goals for a group, the group comes closer to being in the position of Jones's

son Bill than being in the position of the fishing flies. That is to say, the group is an agent, rather than simply the instrument of agents having goals for it. It will remain true, though, that persons can have goals for groups, because one agent can have goals for another. I shall first examine the evidence for the claim that there are goals of groups. Then I shall show how constitutive rules of groups figure in the explanation of this.

Let us first consider, as an example, my relation with the corporation that employs me. My goals (or at least my principal goals) for the corporation might be that it provide me financial security, increased social status, the opportunity for fulfilling labor, and so forth. Yet, it is conceivable (and even fairly likely) that these would not be the goals of the corporation.⁷ Corporate goals are more often such things as maximizing profits, outselling the competition, increasing production, penetrating the market, better quality control, and so forth. In a similar example, I might join the SPCA in order to meet new friends, but this would have to be distinguished from the goals of the SPCA itself. Such examples provide some prima facie evidence for the distinction between goals of a group and goals for it. We need to see how best to account for this distinction.

⁷ Although there is no conceptual barrier to business organizations having such goals, it seldom occurs in this way. One common opinion of the goal of business organizations is that they have only one: the maximization of profits. Recent research into organizations has shown this to be an over-simplification. See Charles Perrow, Organizational Analysis: a Sociological View (Belmont, California: Brooks/Cole Publishing Company, 1970) especially pp. 133-175; Richard M. Cyert and James G. March, A Behavioral Theory of the Firm (Englewood Cliffs, New Jersey: Prentice-Hall, 1963); and the various views expressed in Joseph A. Litterer (ed.), Organizations: Structure and Behavior (New York: John Wiley and Sons, Inc., 1963).

James Thompson, in discussing organizational goals, has noticed the error of regarding the individual's goals for the organization as the goals of the organization. Thompson expresses the difficulty thus:

There is obvious danger in reifying the abstraction "organization" by asserting that it, the abstraction, has goals or desires... There is little to be gained, however, by swinging to the other extreme of insisting that the goals of⁸ an organization are somehow the accumulated goals of its members.

Thompson has noticed two dangers here, while tacitly acknowledging a third one. The first is the danger of reifying the organization. But we have already seen in Chapter Two that groups can (and do) exist extramentally as social realities and are not merely abstractions by the mind.

The second danger noticed by Thompson is that of regarding the accumulation of all goals had for a group as the goals of the group. Thompson has an insight here: he is rightly concerned with the problems involved in claiming any and all goals had by persons for a group to be goals of the group.

Thompson implicitly brings up a third danger, one included in the first caution proposed at the beginning of this chapter. He is concerned that regarding a group as something more than an abstraction might require us, in claiming that it has goals, to attribute to it, without evidence, human characteristics such as desires.

Thompson's own solution to the problem of group goals is that the goals of a group are the goals that some special sub-group has for it. Thompson calls this sub-group the "dominant coalition," a group of

⁸James D. Thompson, Organizations in Action (New York: McGraw-Hill, 1967) p. 128.

...interdependent individuals who collectively have sufficient control of organizational resources to ⁹commit them in certain directions and to withhold them from others.

Thompson's solution has some intuitive appeal, for it at least provides a basis for excluding the goals of some persons for the group as not being the goals of the group. Nevertheless, Thompson's solution is, in the end, unsatisfactory. Thompson's claim is actually that some persons or groups of persons who have goals for an organization also have sufficient power to use the organization to further their own goals (the goals of themselves). We know this to be something that actually occurs, but that is not sufficient evidence to show that what we mean by the goal of a group is nothing but the goal had for the group by some dominant coalition of persons in it.

In fact, there is one particular feature of our ordinary understanding of group goals that indicates the inadequacy of Thompson's account:, namely, that we sometimes criticize persons who are successful in using a group to accomplish their goals for the group. To see this we can fruitfully return to the case of Jones and his boy, Bill. Bill might be a particularly pliant boy and Jones a particularly dominant father, so that he can generally direct the boy's life as he wills. Here we could intelligibly criticize Jones by saying, "Your son has goals of his own; he's not simply an object to be used for your goals for him." Similarly, we might criticize a dominant coalition by arguing that the goals toward which they were directing the group were their own goals (for the group) and not the goals of the group. Unless all such crit-

⁹ibid., p. 128.

icism is to be dismissed as self-contradictory or unintelligible, we must conclude that Thompson's account of the meaning of group goals is misguided.¹⁰

Other statements made by Thompson indicate that, despite his stated objective, he does not really intend to offer us an account of goals of a group. Instead, he is making an empirical claim, that those who have power tend to modify the structure of groups (i.e., to set up or modify their constitutive rules) in such a way that their own goals will count as the goals of the group. Thus, he summarizes at one point:

We have asserted...that organizational goals are established through coalitional behavior.¹¹

Thus, Thompson is actually giving a genetic empirical account of goal selection in groups. He does not, however, address himself to the conceptual problem that is our concern here. Thus, the problem of how there can be goals of a group is not yet solved.

The problem of distinguishing goals of a group from goals had for it is actually related to a problem already discussed. In Chapter One I argued that a performance by a group is distinct from performances by persons in that group. This distinction was shown to be established by the existence of constitutive rules of a certain type (rules of act-specification). In what follows I shall argue that constitutive rules of other types, i.e. different from rules of act-specification, estab-

¹⁰ The same point could be made by stating that Thompson's distinction confuses the notions of force and authority in a group. Having the force to do something (e.g. to direct a group toward some goal) is not the same as having the authority to do so.

¹¹ Thompson, p. 32. The emphasis is mine.

lish the distinction now under discussion. In order to see this we will first have to examine differences among types of groups.

First, there are groups that in their entire structure are directed at some specific goal or goals in such a way that, if these goals were altered, the group could rightly be said to no longer exist or to no longer be the same group.¹² Examples of such groups are governmental organizations such as the Internal Revenue Service and the Selective Service System and perhaps also the Society for the Prevention of Cruelty to Animals and the Welfare Rights Organization. Groups of this first type are often recognizable by their names; frequently, the name states the goal or goals of the group. This is not always so, however; it is not true that a name announcing the goals of a group is a requirement for being a group of this first type. Nor is the existence of such a name always a sure sign of the nature of a group. Other groups, even groups without a name, may be structured around some basic goals. Informal bowling leagues, poker groups, and the committee that planned the neighborhood block party might also be examples of groups of this first sort.

Groups of this first sort have in common that the goals that they presently have form an essential part of their identity. Should those goals change, there would be a reasonable doubt that the same group still existed. If, for example, Catholic Charities began a campaign to remove the welfare burden from self-supporting upper middle class citizens, we might reasonably conclude that the group was no longer Catholic

¹²See Amitai Etzioni, Modern Organizations (Englewood Cliffs, New Jersey: Prentice-Hall, 1964) p. 4. See also John Ladd's analysis of the formal organization, "Morality and the Ideal of Rationality in Formal Organizations," The Monist, LIV (October, 1970), 488-516.

Charities, that Catholic Charities was now defunct, and that some new group had usurped its name and resources. Any adequate account of goals of groups must be able to explain the goals of groups of this first type.

Not all groups, though, are of this type. There are at least some groups that appear able to change their goals or add new ones without reasonable men thereby claiming the group to be now defunct and to have been replaced by a new one. Thus, a Philosophy Department may decide to change from its goal of preparing professional philosophers to the goal of meeting the needs of all students in a university (or vice-versa). Any adequate account of the goals of groups must be able to explain why it is that groups of this second type may change goals, and also why it is that some groups cannot change goals. It is the constitutive rules of groups of these two types that provide the relevant explanations, i.e. both to the general question of how there can be goals of groups as well as the more specific problem of how some groups can change goals and other cannot. I shall examine first the type of group that seems to have provision for change of goals and then the type that seems incapable of changing goals.

Let us begin by inquiring how goals in fact are changed in groups where this is possible. One common way in which goals are changed is by specifying a role that has the authority to select goals for the group. Of course, this would have to be supplemented with a system of constitutive rules that provide for selection of a person to occupy that role. In such a case, there must exist some rule that goals selected by the persons with such authority shall count as goals of the group. For example:

It shall be the duty of the Grand Poobah to select the annual goals

of the Loyal Order of Aardvarks at the beginning of each year of his reign.

When the example is stated thus, it appears to be a norm of conduct for Grand Poobahs, rather than a constitutive rule; but it has also a constitutive rule embedded in it:

Under conditions C, a goal (formally) designated by the Grand Poobah shall count as a goal of the Loyal Order of Aardvarks.

This manifests the general structure of constitutive rules (under conditions C, X, counts as Y).

The constitutive rules of groups often specify the procedure for goal-selection rather than the person empowered to select goals. For example, boards of directors or trustees, committees on purposes and aims, constitutional revision committees, or general memberships sometimes have the power to select goals. In such cases, though, the constitutive rule expressing this is embedded in a whole system of constitutive rules that together constitute a method for goal selection. For example, if there exists a constitutive rule stating that a goal selected by the board of trustees shall count as the university's goal, this rule becomes intelligible and functional only in the context of a larger system of constitutive rules: what shall count as a goal-selection by the board of trustees; what shall count as the board of trustees; what shall count as a meeting of the board of trustees; what shall count as a vote by the board of trustees, etc. It should also be noted that similar rules would come into play in the group's discontinuing some group goal.

There are, as I stated above, groups that have no provision for goal changes. We need also to know what kinds of rules constitute such groups. Such groups are characterized by the absence of those rules

that establish methods for goal-selection and discontinuance and those rules that establish the capacity for doing so. This is simply to state that such groups have built into them no provision for goal change or for the selection of new goals. This is the rather simple answer to the question of how it is that such groups cannot change goals: they are unable to because they lack the relevant rules. And should they acquire the relevant rules, there is the possibility that their identity changes so drastically that they are not the same groups.

But besides accounting for the inability of some groups to change goals, we must also account for the existence of the goals that such groups do in fact have. Groups of this second sort are characterized by some set of constitutive rules having the general form:

Goal X shall count as the group's goal Y.

If the group exists and there is no provision for changing such constitutive rules, the rules (and thus the goals) constitute part of the group's ongoing identity.

In summary, a goal is a goal of a group only where there exists a constitutive rule that establishes this goal as a goal of the group. This may be achieved in several ways: the constitutive rule may simply establish a goal; or it may establish the appropriate method for determination of the goal.

This account explains the distinction between goals of and goals for a group: where a goal is had for a group by persons but does not meet the conditions expressed in the constitutive rule, it is not a goal of the group. We are now able to see the conceptual inadequacy in Thompson's position: it is not necessarily true that the goals of a

dominant coalition for a group are the goals of the group, because a dominant coalition's activities do not necessarily meet the conditions for goal adoption that are expressed or specified in the group's constitutive rules.

One of the implications of the account I give here is that there could conceivably be a goal of a group that is not a goal had for the group by any person(s) in it. Note, though, that such a group is only logically possible. Whether a group of this sort would actually exist is another matter; it is quite likely that it would not, as it might well fail to provide the necessary incentive to get persons to fulfill the demands of roles and to otherwise support the group. Thus, that persons have some goal G for a group is quite likely a condition for G becoming a goal of the group; but it is an empirical condition and not a logical one. It is in this that Thompson's analysis of group goals is weak.

I have explained what it is for a group to have a goal and examined how it is possible to distinguish between goals of a group and goals had for it. At the start, I claimed that this distinction was valuable in that it enabled us to criticize persons who misdirect groups toward their own goals. That certainly is a value of the analysis provided here; but it is not the only value and, indeed, not the most important one for my thesis. To argue that there can be goals of a group is already to argue that this important agential characteristic is attributable to the group itself rather than to any particular persons in the group. It was important to show that this is so, as it will figure in my ultimate conclusion that such groups are moral agents. In order to arrive at that ultimate conclusion, though, we must first see if other agential charac-

teristics belong to groups themselves rather than to persons in groups. Let us, therefore, examine the nature of decisions by groups.

DECISIONS

In the exercise of their agency, persons sometimes make decisions. I shall deal with decision insofar as it involves selection of an action by an agent from among alternative actions that he might perform, as in the following example:

At first Jones was reluctant, but, having considered the alternatives, he decided to sign a four-year contract.

The instances of decision that concern us here are always related to "performances," those behaviors or activities that, when conjoined with appropriate agential characteristics, are considered exercises of agency. A decision, in this sense, is always a decision to do X, where X is some performance that, if carried out, is an action by the agent deciding.¹³

Decisions of this sort are commonly made by persons. The problem here will be to establish whether groups can, in some similar sense, make decisions to perform acts. We must further determine whether such group decisions are distinct from decisions by persons in groups.

¹³There is another sort of usage of the term "decision" to mean to bring about some result, as in the following example:

The heavy wind from the north decided the match early in the second period.

Similarly, the attendant's mistake decided the outcome of the experiment.

This use differs from the one with which we are concerned here in that it does not have the various relationships with other agential characteristics.

The project here is made complicated, as it was in the analysis of goals, by the lack of resolution among philosophers concerning the nature of decisions. Again, rather than attempt to resolve that controversy, I have gathered the various competing analyses into three groups and will make some very general remarks about each group. I shall discuss here (i) behavioral accounts of decision, (ii) systemic accounts, and (iii) volitional accounts. I shall not attempt to give a complete conceptual analysis of decision. Instead, I shall show how, under any of the competing accounts, if persons can make decisions, then so can groups. Should the correct conceptual analysis of decision eventually be shown not to belong to any of these three groups of theories, it may still be the case that, given the existence of constitutive rules and their relation to group action, groups can still be said to make decisions.

Let us first discuss (i) behavioral accounts of decision. Behavioral accounts, in general, analyze decision as either observable physical behavior or as some verifiable quality of the behavior decided upon. Under such accounts an agent's decisions are theoretically as accessible to the spectator as they are to the agent deciding. As an example of this type of account, I will examine Ryle's behavioral account of deciding, as found in the Concept of Mind.

Ryle holds that an act of willing (which he regards as essentially the same as deciding) is not really some mental act or act of volition. Willing is not an act that agents engage in and which subsequently causes a bodily motion; and to believe otherwise is simply a mistake. The source of this mistake is, he claims, a wrong conception of voluntariness, which we ordinarily take to be a characteristic of willed behavior:

...the doctrine of volitions is a causal hypothesis adopted because it was wrongly supposed that the questions "What makes a bodily movement voluntary?" was a causal question.¹⁴

Instead, when one characterizes behavior as willed or voluntary, he means simply to say that the one behaving could have done otherwise. But, according to Ryle, the ability to do otherwise is reducible to (a) knowledge of how to do otherwise and (b) not doing otherwise.¹⁵ Knowing how is some quality of a performance (e.g., carefulness, efficiency, success, etc.) and not another performance antecedent to what one does.¹⁶ So behavior that is willed or decided upon can be accounted for without postulating some act of willing or deciding as an antecedent event. Willed behavior then is behavior by a being that could perform some alternative behavior carefully, efficiently, successfully, etc.

What we must ask now is whether groups can engage in such behavior. If so, then we must conclude that, under a behavioral account, a group can be said to engage in behavior that is willed or decided upon by it. It is important to note initially that there is something contradictory about a behaviorist claiming that groups behave at all. We saw earlier that it is the existence of constitutive rules that founds the claim that a group engages in some irreducible performance. A behavioral account must ignore the justificatory function of rules and instead

¹⁴Gilbert Ryle, The Concept of Mind (New York: Barnes and Noble, 1949), p. 67. This citation must be understood in conjunction with Ryle's characterization of the "ghost in the machine" in Chapter One of his book.

¹⁵Ibid., p. 70.

¹⁶Ibid., pp. 40-41.

deal with rules only insofar as they are patterns of behavior by persons.¹⁷ If one regards such a behavioral account as exclusively correct, he could then never claim that we are justified in treating groups as capable of irreducible performances. He could state only that there exists a pattern of activity by persons, a pattern that consists in treating groups (and their decisions, goals, etc.) as irreducible. We saw in Chapter One that we do often feel justified in treating some X as Y. Thus, we are compelled to regard a behavioral account of rules in general and of groups and their characteristics in particular as inadequate.

But if the behaviorist will (per impossible) grant us the possibility of rule-constituted group performances, it can then be shown that groups can engage in performances that are willed or decided upon; and this is all that we need to claim at this point. For if a group can do otherwise (i.e., can engage in alternative behaviors), then group behavior is behavior that, on the behavioral account, can be said to be willed, voluntary, or decided upon. For, in Ryle's account of knowing how, there is surely a sense in which groups "know how" to behave other than they do. A group knows how to do otherwise when it can perform alternative behaviors carefully, efficiently, successfully, and so on; and there is no reason in principle why a group's alternate behavior could not be careful (if those who have roles in it perform those roles carefully), efficient (if its goal is met with minimum surplus effort), and successful (if its goal is met at all). Thus, the behavioral account

¹⁷On this justificatory function of rules, see Chapter One, pp. 10,12.

of decision is rather easily extended to group decision, provided that we first agree that groups can behave in ways not reducible to the behavior of persons, i.e., that constitutive rules play an essential role in our description of group acts.

A second sort of analysis of decision is the systemic account. Systemic accounts usually consist of some set of propositions that become true when some agent A has decided to engage in some performance Y. Such accounts do not proceed by isolating and describing the decision as an event in the world. Instead, they show what is changed in the world (what other things become true) on the condition that a decision is made. The following are some representative examples of this sort of analysis:

- (1) It is analytically true that, if A decides to do Y but does not do Y, then A either was prevented from doing Y or changed his mind.¹⁸
- (2) It is analytically true that, if A assents to the proposition "I ought to do Y," then A has decided to do Y.¹⁹
- (3) It is analytically true that, if A decides to do Y, A intends to do Y.²⁰
- (4) It is necessarily true that, if A decides to do Y, then A has certain knowledge that he will do Y unless prevented.

This list is certainly neither precise nor exhaustive, but it gives an indication of how this sort of analysis would proceed. Now we

¹⁸P.H. Nowell-Smith, Ethics (Baltimore: Penguin Press, 1954), p. 102.

¹⁹Ibid, p. 262.

²⁰Andrew Oldenquist, "Choosing, Deciding, and Doing," in Edwards, Paul (editor), Encyclopedia of Philosophy, II.

²¹Stuart Hampshire and H.L.A. Hart, "Decision, Intention, and Certainty," Mind, LVII (1958), 1-12.

can ask whether, under such an analysis of decision, groups can correctly be said to make decisions. On this sort of approach, we do not need now to isolate some given event and show that that event is a group decision. What we need to do, rather, is to show that agential characteristics like those cited in the representative propositions above (e.g., being prevented, changing one's mind, assenting to an ought-proposition, intending, having certain knowledge, etc.) can be attributed to groups and that the various necessary relationships among those characteristics (again as exemplified in the four propositions given above) obtain in the case of groups as well.

Given what we know about group performances from the analysis in Chapter One, it seems clear that any such explanation can fruitfully proceed by an examination of constitutive rules. Being prevented, for example, can be analyzed only with reference to the rules that constitute some group performance and with a description of the obstacle to that performance. Intending, insofar as it can be described without reference to some decision-event, requires only certainty on the part of those whose acts count as the groups performance that they will in fact perform the acts that count as the group's performance. Changing one's mind can here be considered simply a metaphor referring to a change of intention. For a group to assent to an ought-proposition seems to require two things: that it can have knowledge of ought-propositions and that it can act in accordance with those ought propositions of which it has knowledge. There is little difficulty in seeing how any being's activity is in accordance with some ought-proposition, as such an accordance is purely formal, at least in the sense that it requires no new

activity on the part of that being. But the question of how a group can have knowledge is another matter, one that I will discuss briefly here and in more detail in Chapter Four.²² To the question of whether a group can have certain knowledge (or any sort of knowledge, for that matter) of what it is going to do, I respond that the group can have knowledge in virtue of the knowledge had by those in decision-making roles in the group; this shows that there is no need to posit some group mind to account for group knowledge.

We can now give a preliminary analysis of the relationships among these characteristics. The analysis is intended to show only that these characteristics and their interrelationships can be spoken of intelligently when applied to groups making decisions. Consider, for example, the claim that "International Widget Corporation has decided to go public." If we refrain from characterizing the decision-event itself, we must still admit that such a proposition about International Widget does not seem nonsensical. Moreover, if we do not soon find International Widget on the stock exchange, we would be entitled to conclude that the management has rescinded the decision (i.e. that International Widget has changed its mind). Or it might be true that some government regulation has prevented International Widget from following through on its decision. International Widget would have certain knowledge that it will go public if it can be said that it decided to go public. The only problem here is ascertaining what person(s) in the group to approach in order to find out that the group has indeed decided to go public. It would not be

²²See Chapter Four, pp. 82-83.

doing violence to the concept of intention to state that International Widget intends to go public. Such a locution would be appropriate between the time at which it became true that the company decided to go public and the time at which it went public. Indeed, that is the way in which we ordinarily speak of intentions.

It would be out of place here to attempt a complete account of group agency here; the point is that group characteristics of the sorts relevant to a systemic account of decision, together with inter-relations of the relevant sorts, can be explained in the case of groups by reference to constitutive rules. When this is so, a group is reasonably described as a decision-maker. There is, in principle, then, nothing that prevents this mode of analysis from being applied to groups or that suggests in advance that groups could not be said to be decision-makers; and the exemplary application of it above suggests that at least some group decision-making will be discovered when it is carried out completely.

A third group of theories of decision, and one that has been prominent in the history of philosophy, is the volitional account. On this type of theory a decision is said to be a volition or act of the will, a mental event that is the cause of a bodily movement. Descartes clearly maintained such a position with his two-substance dualism.²³ But volitional accounts have been offered by other philosophers, including

²³ Descartes summarized his own position well in the letter to Reneri for Pollot:

From the very fact that we conceive clearly and distinctly the two natures of the body and the soul as different, we know that in reality they are different, and consequently that the soul can think without the body....

some who would reject the radical Cartesian dualism.²⁴

Because decisions are, on a volitional account, regarded as mental events, there is a prima facie problem for showing how groups can make decisions. Groups do not have minds in a way that would enable us to attribute decisions to them in exactly the same way as we do to persons. But the mental acts of persons (namely, certain of their volitions or decisions) may, under certain conditions, count as a decision by a group. This will be the case when there is an appropriate constitutive rule which holds that these acts by persons do indeed count as the group's decisions.

Let us take an example:

When Dr. Jones, who is the graduate school dean, decided that young Smith shall be admitted to the Graduate School, his decision counts as a decision by the Graduate School.

In another type of graduate school, one not quite so autocratic, we may find admissions decisions made in some other way:

When a duly constituted committee of five members of the graduate faculty, only three of whom may be from the applicant's own department, vote unanimously to admit Smith, the Graduate School has decided to admit Smith.

In both of these cases, the Graduate School act of admitting Smith to the Graduate School was preceded (and caused, according to the volitional account) by an act of deciding. Also, in each case we can see that the decision to admit Smith was in fact a decision by the Graduate School only because of the existence of some appropriate constitutive rule. In each case, there is some specific event X that counts as the

²⁴

For a list and summary discussion of various non-Cartesian volitional theories, see Myles Brand (ed.), The Nature of Human Action (Glenview, Illinois: Scott, Foresman, and Company, 1970), pp. 8-9.

group's decision Y. In some kinds of cases this X may be itself a decision by some person in authority. In others it may be a series of preferences expressed or votes given by some specified number or percentage of persons in the group.²⁵ These are typical ways in which groups make decisions. The important point in any explanation of the differences in the ways in which groups make decisions is the difference in the rules that constitute them.

This seems to provide sufficient evidence that even if decisions by persons are distinct act-events or volitions, groups can still be reasonably said to decisions. For our present purposes, or course, whether the volitional account of persons' decision-making is correct must remain an open question. A number of difficulties with this account should be noted, though. There is, for one, the problem of how a non-physical cause (i.e., the mental act of deciding) can have a physical effect (i.e. the bodily performance of the action). This led the later Cartesians to propose a theory of occasionalism. More recently, it has been claimed that, if every act is preceded by a decision, and if decisions are themselves volitions or mental acts, then every decision must be preceded by a decision to decide, ad infinitum.²⁶ A third criticism is that we have no experience of volitions as such and therefore have no basis for claiming that they exist.²⁷

²⁵Note, though, that this need not necessarily be a majority vote.

²⁶This objection arises with the more general problem of basic actions. See, for example, Arthur Danto, Analytical Philosophy of Action (Cambridge: The University Press, 1973), p. 28.

²⁷Richard Taylor, Action and Purpose (Englewood Cliffs, New Jersey: Prentice-Hall, 1966), pp. 57-72.

Until such problems are resolved, the exact nature of decisions must remain open to further examination. I do not propose any one theory here as being the final answer. I simply point out that, whether decisions are volitions, or are overt behavior, or even are analyzable only through some set of conditional propositions, it will still make sense to speak of group decisions. Under any one of these sorts of theories group decisions will be describable and identifiable by means of the relevant constitutive rules of the group; and the relation between personal and group decisions in any given case will still be established through constitutive rules. Regardless, then, of which of these theories of the nature of decision is correct, we have an account of group performance which will show how group decisions may exist in virtue of personal decisions and other activities of persons.

Moreover, such group decisions are not always reducible to the decisions of persons in the group. To see this we need only to see that the decision of the dean to admit Smith to the Graduate School counts as a decision by the Graduate School only where the appropriate constitutive rule exists. Thus, we can conceive a situation in which the dean in fact makes the relevant decision ("Smith, I've decided to admit you to the Graduate School.") but in which this has no practical significance for Smith. If, for example, admissions decisions are made by committee vote, then the dean's decision is ineffectual; it is simply not a decision by the Graduate School. It is only with the introduction of the appropriate constitutive rule that the dean's decision can count as the Graduate School's decision. So the decision by the Graduate School is not, in any case, reducible to the decision of some individual person(s).

* * * * *

My intention in this chapter has been to show that groups can have the various characteristics that we attribute to agents in the exercise of their agency. Is this account correct? Obviously, in order to be correct it must reflect the way we do in fact perceive and interact with our social world. I have adduced evidence to show that we do in fact sometimes consider group goals, decisions, and performances as irreducible to the goals, decisions, and performances of persons in the group in question. Thus, we do in fact claim that groups have goals, make decisions, and act.

The real difficulty, then, is to make intelligible the ways in which we construct our social world. That we do in fact constitute our social world according to rules provides the basis for this intelligibility. However, the constitutive rule account must still be tested according to the three cautions proposed and defended at the beginning of the present chapter. Those three cautions, the reader will recall, are that the account must respect both the nature of groups and the concept of agency, and that it must explain the irreducibility of group goals, decisions, and performances.

The first caution was that we avoid assuming beforehand that groups are like persons in order to attribute agency to both. We have now seen that it is both incorrect and unnecessary to attribute human characteristics to the group. Even if persons can have goals or make decisions only on the conditions that they have brains, minds, souls, consciousness, or whatever, still groups can have goals and make decisions without having or being brains, minds, souls, etc. And this is

because of the role that rules play in the constitution of a group and its acts, goals, and decisions.

The second caution is that group agency not be assumed ahead of time to be so different from personal agency that they could not both be regarded as instances of the same concept. I have postponed discussion of this second guideline until now, for to show how it is satisfied by the constitutive rule account requires that we draw upon what has been accomplished in this chapter. What I provide here is a sketch of how such a justification must proceed; the complete justification would involve an analysis of all concepts necessary to a philosophy of action. Briefly, the justification would be a systemic account; it would show how the various agential concepts form among themselves a system of relationships that are causal, logical, or both. The second part of the justification would involve showing that the systemic account of human agency has an analogue in the case of group agency, i.e., that the same concepts have the same relations among themselves whether applied to groups or to persons. If this analogy obtains, then it is reasonable to believe that group and personal agency are instances of the same concept.

We have examined only three agential characteristics as they are had by groups. I argued that having goals, making decisions, and performing (examined in Chapter One) are all things that can be attributed to groups in such a way that they are not reducible to the goals, decisions, and performances of persons. The constitutive rule account can, I believe, be used to explain other agential characteristics already examined. Consider, for a moment, young Jones, the budding violinist:

Because Jones's goal is to soothe the savage breast, he has decided to play his violin in a soundproof cubicle.

We need to consider also the Flat Earth Society:

Because its goal is that all mankind shall be informed of basic truths of geography, the Flat Earth Society has decided to issue monthly press releases.

Here we have two instances of what I claim to be agency (involving specifically performing, having a goal, and deciding), the first an instance of personal agency and the second an instance of group agency. So far we know on the basis of what we have learned in Chapter One only that neither type of agency, considered in general terms, is reducible to the other, i.e. that group agency and its characteristics are not reducible to personal agency and vice-versa. We must, initially, admit that the same words ("deciding", "doing," etc.) are applicable in both cases. However, a systemic account will show that the similarity is more than this.

If Jones is asked why he practices in the sound-proof cubicle, he may well respond that it's the best way he has found to soothe the savage breast. Similarly, if the Flat Earth Society, perhaps through its public relations office, is asked why it issues monthly bulletins, it may well reply that doing so helps it inform all mankind of geographic truth. There is a relevant similarity between the two responses: the goal of the agent bears a certain logical relationship to the performance it undertakes. In deciding on a performance, each will consider its goal as a reason for settling on a course of action. Also, when each is asked to justify its acts, the reason cited is the goal that each has. This highlights a basic fact about goals and agency: goals are used as reasons for action; they serve to justify performances as well as to justify de-

cisions to perform. In this respect, at least, the relationships between goals and decisions and performances are the same in group agency as in personal agency.

We may note also a second similarity. I stated early in the chapter that the relevant sense of "decision" is one in which it is parasitic on performances: a decision is always a decision to perform. We find now that it makes sense to attribute decisions to groups as well as to persons under this meaning of the term. When Jones decided as well as when the Flat Earth Society decides, their decisions are always decisions to bring about some state of affairs or to engage in some performance.

Let us consider a third similarity. Brown, who knows Jones and has followed closely the proceedings of the Flat Earth Society, tells us that Jones is in his cubicle today and that we may expect to hear from the Flat Earth Society on a monthly basis. We ask Brown why he feels justified in making such statements. He responds:

I follow closely the activities of each. I know that yesterday Jones decided that henceforth he will practice in his cubicle. Also, I was at the meeting when the Flat Earth Society decided to send monthly press releases. I know for a fact that they have decided to do these things.

Brown's response is based on some basic logical features of decision making: when an agent has decided to do Y it is true that the agent will do Y unless he changes his mind or is prevented.²⁸ Thus, Brown is entitled to feel justified in making such predictions, both in the case of Jones and in that of the Flat Earth Society; in both cases he need only

²⁸In the present chapter, on p. 65, see propositions (1) and (4), which could reasonably be projected to be true (though differently analyzed) on any of the three accounts of decision proposed.

appeal to the fact that we already know that they have decided. If what Brown says makes sense, then there is this third similarity between the two kinds of agency: a decision to engage in Y entails that it is true that the agent deciding will do Y unless he changes his mind or is prevented.

The above considerations establish, I believe, some important similarities between the exercise of personal agency and the exercise of group agency. To have a complete account, we would need to list all concepts related to either kind of agency (rather than only to personal agency, for we are looking for similarities between the two). Then we would need to determine if and how the rules that constitute a group make it possible to attribute to the group all the characteristics to which these concepts refer as well as to show how these concepts form an interrelated system. Finally, we would need to show that a similar system exists both in personal and in group agency. What I have offered here are only the beginnings of such an account, but these beginnings indicate the correctness of the account in regard to three crucial agential characteristics.

The third caution stated that the intelligibility of the agency of the group as such requires that it not be reducible to its members and their individual actions. Again, the fact that groups are constituted by rules that are socially accepted creates this irreducibility. Thus, groups are able to adopt goals, decide and perform in virtue of the activities of persons without being reducible to them.

Using the techniques that I have outlined in this chapter, we can establish that many of the concepts attendant upon personal agency

can also be attributed to group agency without significant change in meaning. The case for the group as agent is thereby strengthened and is provided with a working vocabulary; and group agency has been shown to be in many ways similar to personal agency. The following chapter will assess the grounds for regarding groups as morally responsible agents. This will further complete the picture of the group as an agent having rights and obligations and capable of deserving praise or blame. Chapter Five will return once more to the relation of persons in groups to those groups. There my concern will be specifically with the moral aspects of that relation.

CHAPTER FOUR

GROUPS AND MORAL RESPONSIBILITY

I have argued in previous chapters that groups, when constituted by the appropriate rules, can have goals, make decisions, and engage in performances and that none of these need be reducible to the goals, acts, or performances of persons in the group. This is what I mean when I claim that groups are agents. In the present chapter I shall argue that this group agency can be moral agency. By this I mean simply that a group is capable of being responsible for what it does, i.e., that it can meet certain general conditions for praise - or blame worthiness. Specifically, I will show that groups are capable of voluntary action and that groups can have moral rights and obligations. Thus, a group can be morally praise - or blameworthy depending on the relation of its voluntary acts to its rights and obligations. My claim here is not that a group can be a moral agent in exactly the same way as a person can. Even if groups are moral agents, for example, it would be wrongheaded to expect them to have singularly human moral emotions or to feel guilty, to blush with shame, to explode in moral outrage, etc.

Even if groups can have goals, decide and act, their performances might be morally insignificant if they cannot be responsible for what they decide and do.¹ In ascribing moral responsibility to an agent, we

¹Here I begin to employ the word "act" to refer to the perfor-

acknowledge (at least implicitly) that the agent has or can have some sort of control over his acts, i.e., that the agent acts or can act voluntarily. Voluntariness, or control over one's actions is thus a necessary condition of moral agency. If an agent is in general incapable of acting voluntarily, then all ascriptions of praise - and blameworthiness to him are necessarily incorrect. If in a specific situation an agent does not act voluntarily, then the agent cannot be praise - or blameworthy on that occasion. My first project in the present chapter will be to discuss the voluntariness of group action. I shall argue that the agential characteristics of voluntariness and involuntariness are applicable to groups as agents in order to show that they are morally responsible agents.

An agent acts voluntarily if, in acting, he satisfies three conditions related to his control over his action. The first two of these conditions have met with general agreement. They are, briefly, that an agent must have knowledge both of what he does and of the consequences of what he does and that he must not be compelled or coerced to act as he does. In addition, at least some philosophers would claim that there is a third condition that must be met: Voluntary action must exhibit an interiority of the sort discussed in Chapter Three where we considered the notion of volition.² These three conditions together spell out more

mances of groups. I have refrained from using this term until now for it in fact presumes that the performance referred to is by an agent. It was thus inappropriate to speak of "group acts" until after it was argued that groups are agents.

²See Chapter Three, pp. 49-50.

explicitly what is meant by the general requirement of control over one's actions as a condition of moral responsibility. I shall examine each of these three conditions in turn and show how groups satisfy them.

The first condition is that, in order to be acting voluntarily, the agent must know both what he is doing and the consequences of what he is doing. In the case where an agent decides to do what he does, he necessarily knows what he does; for that is at least part of what it is to make a decision. But the matter of knowledge of the consequences of what one does is a bit more complicated, for agents are not always aware of the subtle or long-term consequences of what they have decided to do. There are consequences that are so remote that, realistically speaking, they cannot be known. The judgment that such consequences cannot be known justifies our refusal in such cases to hold agents responsible for them.³ Indeed, it is often problematic how far ahead an agent ought to foresee consequences of his acts; but there are cases in which we judge that an agent should have known and ought to be held responsible for what he does, regardless of his ignorance. These are cases of culpable ignorance. The existence of such cases manifests our presumption that an agent has a moral obligation to gain necessary information before embarking on a course of action. To summarize, the fact that an agent either knows (or ought to know) what he does and its consequences appears relevant to ascriptions of responsibility. Indeed, we cannot say that

³The point in the chain of consequences beyond which an agent is no longer responsible might vary according to the mental capacity of the agent, the complexity of the causal chain, the time factor involved, etc.

an agent has control over his actions unless he has or can have this kind of knowledge.

Besides knowledge of the effects of what we do there is another sort of knowledge that is usually considered relevant for ascriptions of voluntariness and responsibility: we sometimes consider an agent not responsible if he is ignorant of the moral significance of what he does. Consider, for example, Dee Brown's discussion of the Pemaquid Indians:

Settlements began crowding in upon each other. In 1625 some of the colonists asked Samoset to give them 12,000 additional acres of Pemaquid land. Samoset know [sic] that land came from the Great Spirit, was as endless as the sky, and belonged to no man. To humor these strangers in their strange ways, however, he went through a ceremony of transferring the land and made his mark on a paper for them. It was the first deed of Indian land to English colonists.⁴

It could be argued that Samoset appeared not to have known that his signature could create a contract (by the group that was his tribe) and thus be an act of moral significance, one that created new obligations and rights, and therefore that he did not voluntarily deed the Pemaquid land. But it could just as plausibly be argued that the colonists did not realize the moral significance of the Indians' acts and of their conception of land and thus had not themselves voluntarily taken it. In

⁴Dee Brown, Bury My Heart at Wounded Knee (New York: Bantam Books, 1972) p. 3. In this vein, consider John McPhee's remarks concerning the forest Eskimos:

The Eskimos undeniably got a good deal in the Native Claims Settlement Act, but it was good only insofar as they agreed to change their way -- to cherish money and to adopt the concern (for centuries unknown to them) of private property. "No Trespassing" signs have begun to appear up here, around villages, where those words would once have not been understood.

Coming Into the Country (New York: Farrar, Straus and Giroux, 1976), pp. 34-35.

such cases of moral ignorance, we often do not regard the agent as morally responsible for what he has done. But, again, we sometimes hold an agent responsible for his lack of moral knowledge; agents have an obligation to inform themselves of the moral significance of their acts. It would be out of place here to try to determine when an agent is voluntarily ignorant of what he has an obligation to know, but it is important to note that culpable ignorance does have a place in our assumptions of voluntariness and moral responsibility.

In these ways and others more complex and deserving of more study than is appropriate here, factual and moral knowledge are presupposed by our ascriptions of responsibility in ordinary moral discourse. The question we need to ask is whether a group can have such knowledge and thereby meet the first condition for voluntariness. The prima facie difficulty in such a claim is that we are not accustomed to regard a group as a knower. To do so might seem to involve us in ascribing to the group a consciousness, a mind, or a brain, sense organs, linguistic ability, etc. Obviously, groups do not have such faculties.

But we do not need to posit such faculties as these in order to be able to say that a group has the knowledge requisite for moral action. To understand this we need first to be aware of the distinction between knowing as activity and having information at one's disposal.⁵ The former is an activity of minds, and this leads one to suspect that groups are therefore not correctly characterized as knowers. If acts of knowing

⁵ This distinction was mentioned at p. 67. For a more detailed analyses of the distinction between the act of knowing and having information see Alan R. White, "Acquiring and Possessing Knowledge," Analysis, XXXVIII (1978), 120-122.

were a prerequisite for voluntary action (i.e., if only knowers were moral agents), then groups would not be capable of voluntary action. What is important for the voluntariness of action, however, is not that the agent be capable of some act of knowing, but that the agent has available and is able to make use of the premises, prepositions, reasonings, etc. that are relevant to a decision-making process. The information that a group has available to it is the information that persons involved in group decision-making have available to them; and using this information is the process in which those persons incorporate it into the decision-making process of the group. Thus, the research and development arm of a corporation, its market analysts, and those who prepare its environmental impact statements all figure in the corporation's ability to act voluntarily. Exactly how this information will be fed into the group's decision-making process will vary according to the nature of the group and of the rules that constitute it.

The matter of culpable ignorance, mentioned above, is especially complex when it comes to groups. The question here is: do groups have a moral obligation to maintain some specific level of competence, so that they know what they are doing, the consequences of what they are doing, and the moral significance of each? If it turns out that groups can act voluntarily and can theoretically have moral obligations and rights then it would seem obvious that they would have this obligation to be informed.⁶ The problem is in the extent of the obligation that a

⁶This claim should appear obviously true. If moral agents have no obligation to be informed, then in every moral dilemma there would be at least two morally correct options: the agent could either do what is right or do his best to remain ignorant of what he does, its con-

group has, i.e., how far it ought to go in acquiring the information necessary for informed decisions. Though this is problematic, the problem is not unique to groups and poses no direct challenge to the thesis of the present chapter, that groups are capable of voluntary action and are thus conceivably right - and obligation-bearers.

A number of groups have responded to this fundamental moral obligation. For the most part, groups (as well as persons) have strong prudential reasons for gathering factual data about their actions and their consequences. Unfortunately, it is not always the case that a group has prudential reasons for becoming informed about the moral significance of its actions. Nevertheless hospitals, for example, sometimes employ ethical consultants in positions where they can provide input for the decision-making process. There is some talk of businesses doing the same. To date the so-called "social audit" has been the primary vehicle by which business groups have informed themselves of morally significant effects of their activities.⁷ The social audit is an attempt to measure the social good and evil caused by corporate action, good and evil that might not show up in a conventional audit that measures only those goods and evils that can be assigned a dollar-value. In addition, many professional organizations have taken it upon

sequences, and their moral significance. There would be nothing to recommend doing the right thing over remaining ignorant; each would be a morally acceptable option. I take it that this consequence of a denial of an obligation to be informed is one that we would not find acceptable.

⁷ See, for example, Raymond Bauer and Dan H. Fenn, Jr. The Corporate Social Audit (New York: Russell Sage Foundation, 1972) and David F. Limowes, The Corporate Conscience (New York: Hawthorn Books, 1974).

themselves to institute codes of ethics and see to it that they are published and disseminated to those in decision-making roles.⁸ In summary, there is empirical evidence that some groups have acknowledged both their ability and their moral obligation to have and make use of information about the moral significance of what they do.

The second condition for voluntary action is that the agent not be compelled or coerced. In claiming that some act is coerced, we usually claim that some external force has disrupted the ordinary process by which the individual decides and acts. Thus, the distinction between forces external to and those that are part of the normal decision-making and acting process appears to be crucial to the distinction between coerced and uncoerced action.⁹ Threats of harm, immanent danger, and physical force are examples of external forces that are commonly judged to disrupt the normal decision-making and acting process of an agent and thus to diminish his voluntariness. Certain other kinds of influences are usually judged as part of the normal process and are thus not judged to diminish voluntariness; desires by the agent, for example, do not ordinarily provide an excuse for acting to satisfy the desire. "I wanted to" is not ordinarily considered a good excuse. Normal desires are incentives and may provide reasons for acting, but they are usually not considered disruptive of a normal decision making and acting process.

⁸ See Jane Clapp's Professional Ethics and Insignia (Metuchen, N. J.: Scarecrow Press, 1974). This book contains codes of ethical conduct of 205 major professional organizations in the U.S.

⁹I make no attempt here to establish the parameters of normalcy in the decision process. What is important is that we do habitually distinguish between this process and its disruption due to external forces.

But we do sometimes excuse an agent whom we regard as consumed by some over-whelming fear or desire that we judge him incapable of resisting and that is regarded as disruptive of the normal process, provided that he has not voluntarily placed himself in that condition.

In the case of groups, if there is some distinction between the influences that are part of the normal process of deciding and acting and the influences that disrupt this normal process, then there is a basis for distinguishing group acts that are coerced from those that are uncoerced. If there is a basis for such a distinction in the case of groups, then this second condition can be satisfied. That is, if a group's decision and acting can reasonably be described as either coerced or uncoerced according to the circumstances of the individual case, then it will make sense to claim on some occasions that it acts voluntarily, provided that it also meets the other two conditions listed above. I shall argue that there is a basis for distinguishing between coerced and uncoerced actions by groups.

One objection to such an undertaking is that, because groups act only when persons do, all group action is compelled by abnormal influences. If this objection holds, then no group meets the second condition and no group can act voluntarily. Examination of this objection is therefore essential to our project. Moreover, careful attention to it will repay us with a better understanding of the relation of persons in groups to those groups.

That groups act only in virtue of acts by persons does not entail of itself that groups are thereby coerced by those persons. For the relation of acts by persons to acts by groups is one of coercion

only when the acts by persons are a force external to and disruptive of the normal decision-making and acting process of the group. In the case of the group agent, the relation between acts X by persons and act Y by the group is not a causal one, i.e., not between an exterior force and an internal process; acts by groups are acts by persons formed under constitutive rules into what count as acts by groups.¹⁰ Thus, the acts by persons that count as a group's act do not coerce it but are instead a logically necessary and normal, internal component of the group's act. Therefore, we cannot conclude that group action is necessarily coerced by persons. Persons can and do sometimes coerce groups by functioning in an external way and disrupting the normal deciding and acting process; but this is not logically necessary and is, instead, dependent on circumstances.¹¹ It therefore appears that groups are capable of satisfying the second condition, that they can act uncoercedly. To see this more clearly it will help to see how groups can be coerced, and thus act involuntarily.

¹⁰The group agent is peculiar in this respect: it acts only when persons do; but the group's acts, goals, and decisions are conceptually distinct from those of persons. Admittedly this creates some special problems for the logic of personal and group responsibility, and I shall explore those problems in the next chapter.

¹¹A similar thing might be said of the various committees that are sometimes found within larger groups. They do sometimes exert pressure for certain kinds of group decisions and actions. Where this pressure is considered part of the normal process of decision-making by the group (as, indeed, it sometimes is), the group is not considered to be coerced by the committee. However, should the committee act outside of its role in the decision-making process (i.e., should it revolt and use means not accorded to it by the constitutive rules and/or norms of conduct) then it could conceivably be an external force acting on the group agent.

As explained above, an agent is coerced when some other agent, acting as an outside force, disrupts the normal decision-making or acting process of the first agent. This process, in the case of a group, can be disrupted in either of two ways, or in both of them simultaneously. First, a group can be coerced without persons in the group being coerced. Consider, for example, the case where a parent threatens to withhold a pledged contribution unless his offspring (who does not meet admissions criteria) is awarded a slot in a medical or law school.¹² The force being exerted here is being applied to the school itself. Without the pledged funds, it is the school that will suffer. It is the school's goals (perhaps of expansion of program, retention of qualified faculty, or simply maintenance of present facilities) that will be thwarted without such funds. Moreover, it is the group's, i.e., the school's deciding and acting processes (specifically, its normal criteria and processes for selecting and admitting applicants) that are being disrupted by this external force.

Admittedly, the situation might also involve persons in roles in the school being coerced. This might be so if the jobs or careers of persons in the school admissions committee would be threatened by the lack of funds and who accordingly feel constrained to act in ways in which they would not normally have acted (e.g. in voting to admit an unqualified applicant). In some such cases the external force might be

¹²In the chosen example it is a human agent (the parent) who is coercing, but it could as well have been a group if the group is capable of acting in ways that would, for example threaten the other group with serious loss. Government agencies are often capable of this; they can withhold grant monies, prevent construction projects, etc.

applied directly to some person in the group and through him to the group itself. In this regard, consider the case of the executive of some international corporation whose child is kidnapped and held hostage by terrorists who demand, in return for the child, nationalization of all the corporation's assets. In this case, the group might not be coerced in a direct way; that is, the kidnapping of the child might be of no relevance to the group's goals. The executive whose child is kidnapped might very well be concerned and might press for divestiture of his corporation's holdings in the country in question. Nor does it matter whether the executive in question has, according to the rules, the capacity to bring about divestiture. If he does not have that capacity, then the executive himself may coerce the group because of his own duress. If he does have the capacity for divestiture, then his own duress is actually the duress of the corporation and may still diminish the voluntariness of the corporation's act of divestiture.

David Ozar has recently claimed that duress is not ordinarily held to diminish the responsibility of the group:

The explanation lies, I think, in the fact individual persons cannot avoid being subject [to] the various forms of duress which excuse them, in varying degrees, from moral responsibility for their actions. But corporations' resources are much greater and I think we take it for granted that corporations can be reasonably expected to avoid having their actions be the product of such duress.¹³

Ozar goes on to explain how a corporation might be "reasonably expected to avoid" being under duress through the coercion of persons in the corporation:

¹³David Ozar, "The Moral Responsibility of Corporations,"

Since the actions of corporations can be structured to incorporate the perceptions, intelligence, and decision-making powers of many persons -- and might even be structurable so that the activities of persons acting under duress do not count as acts of the corporation -- we are unwilling to apply this excuse [i.e. coercion] in the same way that we apply it to individual persons.¹⁴

Ozar makes a legitimate point that is well worth considering here: we should at least not assume that a group is necessarily under duress everytime some person in the group is coerced. Ozar, however, appears to be claiming something stronger than this, that it is always inappropriate to assume that coercion of persons in the group diminishes the voluntariness of the group's action. To validate this conclusion, one would have to show that a group always can be restructured in such a way to prevent the activities of coerced persons under coercion from influencing and from counting as actions by the group. And it must be able to do this, not post facto, but as each relevant situation arises. This seems a bit much to expect, even from a group that has resources unavailable to individual persons. Thus, while it might be appropriate to be more stingy about excusing groups when persons in the group are coerced, it hardly seems appropriate to refuse to excuse a group as a matter of policy in such circumstances and thus to insist that it acts voluntarily.

To summarize, then, a group acts involuntarily to the degree that its moral deciding and acting processes are disrupted by some external force. When the source of the external force is an agent, the

forthcoming in Donaldson, Thomas and Werhane, Patricia (eds.), Ethical Issues in Business.

¹⁴Ibid., pp.

disruption is known as "coercion". A group may be coerced by either persons or other groups or both. The coercive agent may be an agent that would, under other circumstances, be part of the normal process. What is most important is that there be something that is regarded as a normal decision procedure (set by constitutive rules), and that this procedure be disrupted. We have seen how all of these are possible and have seen examples. Moreover, we have seen that the disruption of the normal process is due to circumstances and not to any logical necessity. Thus, it is conceivable that a group action be uncoerced; and so it can but does not necessarily satisfy the second condition for voluntariness.

The third condition, proposed by some philosophers, is that the agent exhibit a sort of interiority. We saw in Chapter Three how it is that a group can exhibit the same sorts of things that the interiority requirement demands of persons as agents. When the interiority of agency was discussed in Chapter Three, it was with the goal of establishing that the performances of a group cannot be adequately explained without reference to the group's own normal process of deciding and acting, having goals, etc. This is in contrast to the sort of causality that we attribute to inanimate objects. I discussed the goals and decisions of groups, arguing that a group can have the sort of things demanded by interiority. In the present chapter, the discussion of coercion of groups drew on the findings of Chapter Three by determining in general what would count as a disruption of the group's normal decision-making and acting process. Thus, the relevant features of the interiority condition can be satisfied in the case of groups as agents, even as we explain the nature of this disruption.

In summary, then, groups can satisfy the three conditions of voluntary action. We have also seen that there are circumstances in which a group can fail to satisfy the conditions for voluntary action. This is an important step in showing that groups can be moral agents, i. e. that they can be praise- or blameworthy for what they do. But there is an important step remaining. In arguing that groups are capable of both voluntary and involuntary action, I have argued for much of what we regard as agency. In order to show that groups are moral agents, I intend to argue also that groups can be right- and obligation- bearers. The following section of the present chapter examines this claim and offers evidence in support of it.

* * * * *

I intend here to show how it makes sense, in some specific circumstances, to claim that a group has some specified moral obligation or right. I shall assume in what follows (as I have assumed throughout) that at least some acts by persons have moral significance (i.e., that they create or satisfy moral obligations and/or rights). I shall speak, for the most part, of classes of acts rather than of specific cases, for there is no need for us to get bogged down here in the intricacies of case by case analyses. The classes of acts that I shall deal with, namely, contracting and promising, are drawn from everyday morality and the obligations spoken of are thus intended to be compatible with the moral beliefs, intuitions or sensitivities of most persons.

The basic principle to which I appeal in the discussion of the obligations of groups is the following: if Y is an act that has moral

significance when performed by some agent, then Y will be morally significant when performed by any other agent as well. In truth, this is one element of the principle of universalizability, a principle with a long philosophical history. The universalizability principle states, in general, that:

...if one judges that X is right or good, then one is committed to judging that anything exactly like X, or like X in relevant respects, is good. Otherwise he has no business using these words.¹⁵

The principle thus demands consistency in our moral judgments. For example, a person who judges that all persons have a certain obligation must include also himself unless he can cite relevant differences in his own case. Should he fail to include himself or not cite relevant differences, he is, under the principle of universalizability, committing a mistake in moral reasoning. As most moral philosophers do, I believe that this is a fundamental principle of moral reasoning and shall assume its correctness in what follows.¹⁶

¹⁵ William Frankena, Ethics, (Englewood Cliffs, New Jersey: Prentice-Hall, 1973), p. 25.

¹⁶ The principle is to be found implicit in the ancients, who by postulating a common or similar human nature, claim that the requirements of morality are common to those beings of the same nature. Kant proposes the principle of universalizability in his categorical imperative, and even attempts to deduce substantive moral obligations from it alone. More recently, analytic philosophers have dealt with this principle. See, in particular, R.M. Hare, Freedom and Reason (Oxford University Press, 1969) and Marcus Singer, Generalization in Ethics (New York: Knopf, Inc., 1961).

Hints of a similar principle can be found in Sartre, who claims in his "Existentialism and Humanism" that man is "...a lawmaker who is ...choosing all mankind as well as himself..." A.J. Ayer offers similar hints about his own position on universalizability, when he claims that moral approval and disapproval are not about particular actions but types of action (Language, Truth, and Logic (New York: Dover Press, p. 21). It is odd that these philosophers of different traditions, both usually portrayed as radically non-cognitivist, should both be concerned with a sort of universalizability. It is, of course, still questionable whether

The discussion so far has established the agency of groups in a way that showed that the agency of groups is similar in important respects to the agency of persons, namely, they both can voluntarily perform acts based on goals and decisions of their own. Thus, the concept of agency that I have been employing here has proven to be applicable to both personal and group agents. Empirical studies would have to confirm when other similarities do exist. Final judgment about whether an agent is similar to other agents in relevant respects would depend on the facts of the individual case. Recognizing this, we can see how we might conclude that a group has some given moral obligation. If we take it as given that persons have some obligation to do Y in context C, then a group, when it is similar to persons in relevant respects, will have the same obligation to do Y in context C.

In an important sense, then, acceptance of this principle places the burden of proof on him who regards groups as an exception. I have shown relevant similarities between groups and other agents (in addition to showing differences). Thus, it is up to the objector to show why a group functioning as an agent in context C should not be treated as similar to other agents in context C once the differences explained above have been taken into account. The implication of this is that, if a person has some moral obligation or right, then so will any group that is relevantly similar and in a relevantly similar context. With this principle we can begin discussing the obligations and rights of groups.

I have already noted one obligation that agents have simply

they intended to propose a universalizability in exactly the same sense as I assume here.

because they are moral agents. That is the obligation to be informed of the nature and moral significance of what one does. But if this were the only obligation that groups had, it would surely be an uninteresting obligation; for there would be no moral significance to our acts and thus nothing about which we ought to be informed. There are, however, other obligations and rights that agents have. For present purposes, it might prove useful to deal separately with those obligations and rights that exist because of some prior act(s) performed or special relations entered into by the agent, and those that exist absolutely, i.e., without some special act or relation.¹⁷ If a group can have rights or obligations of even one of those two sorts, then a group can perform acts that are not only voluntary but morally significant. And that will show that a group is not only an agent, but a moral agent, i.e. an agent capable of having obligations (and thus of being praise- or blameworthy) and/or rights.

Let us first examine obligations of the first type. There are some things that an agent does that impose new moral requirements on him. Some of the most commonplace and obvious obligation-creating acts are the various forms of contracting and promising.¹⁸ When an agent performs an act of contracting, he incurs some new obligation, an ob-

¹⁷Hart has proposed a somewhat similar distinction, but he deals only with rights. See his "Are There Any Natural Rights?" The Philosophical Review, LXIV (1955).

¹⁸As I use it here, the term "contracting" refers to a two-party promise, where each party agrees to perform some deed in return for some promise of consideration from the other party. Of course, contracts may also be multi-party with no significant change in the moral principles involved. Contracts differ from simple promises in that the latter may be unilateral and gratuitous.

ligation to do what he has contracted to do. Groups do enter into contracts: they agree to buy and sell; they hire and fire; they guarantee their products; they agree to limit their political activities in order to gain not-for-profit status; they guarantee satisfactory products to purchasers; etc. We can see how this is possible by examining the constitutive rules of the groups involved: any time a group has a rule designating some act(s) X to count as the group's acts of contracting, it is capable of contracting. Persons holding certain roles or offices within a group are often empowered to create contracts for the group. Thus, salesmen may be empowered to perform acts that count as a contract for sale and delivery of goods by the group; the admissions director of a university may be empowered to create a contractual relationship between the university and matriculating students. In such cases, it is the group that enters into the contract, but it does so in virtue of the acts of those holding office.

When a group enters into a contract it ipso facto incurs a new obligation, for this is part of what it means to enter into a contract. Because the parties to a contract also incur a new right, namely, the right to the consideration promised by the other party, the ability of groups to enter into contracts also enables them to have moral rights.¹⁹ Thus, the ability of groups to contract indicates that they can have moral obligations and rights. Groups might be capable of other kinds

¹⁹It might here be objected that a contract is purely a legal phenomenon and indicates nothing about morality. The legal significance of contracts does not entail their moral insignificance. If there were no legal framework, agents could still create contracts and all that they involve.

of obligation-creating acts as well, in addition to contracting, but this one type of example is sufficient to make our case. The example chosen is especially useful, for a large number of the social interactions of groups are contracts for the exchange of goods, services, privileges, etc. It seems, then, that the important question becomes not whether groups can have obligations and rights but instead the extent of these rights and obligations.

Groups can have other obligations besides those created by their own acts. If, for example, we agree that persons have certain moral rights, then we must admit that other agents have at least a prima facie obligation to act in ways that respect those rights. It makes no difference what grounds these personal rights or how far they extend; as long as persons have them, this entails obligations on the part of agents who interact with them. Because groups are capable of interacting with persons, groups can also have the obligation to respect the rights of persons in those interactions.

I cannot here discuss whether groups can have absolute rights and those obligations that do not derive from the rights of others or from some special relation to them. Nor can we establish here on what grounds it might be argued that a group does not have such rights and obligations. There is, however, a prima facie reason for doubting that groups have such absolute rights and obligations. Groups are, in their very nature, rule-constituted or conventional beings. Thus, it would seem odd to attribute an absolute right or obligation to a being that exists and acts only by convention and could be destroyed through a change in convention. In the end, this may prove no obstacle, but it would at least have to be

examined.

Besides praising and blaming moral agents for their actions in relation to their obligations, we also sometimes ascribe moral virtues to them for habitually or ordinarily doing right or good things of a certain type. There is some reason for thinking that ascriptions of virtue to groups are well-founded as well. When we attribute some virtue to an agent, we are (according to traditional understanding) claiming that it habitually, regularly and easily performs acts of a type that make it in some way morally better.²⁰ Thus, to claim that an agent has the virtue of honesty is to make a two-fold claim: that the agent regularly and easily acts in honest ways and that the agent is somehow morally better for being honest.

Surely, a group can perform some acts more easily than it can others. Ease in acting can be achieved through careful structuring of the deciding and acting process, through careful training and selection of those acting in roles, etc. Once we can decide how often one must act in order to be acting "regularly" or "habitually" it should not be difficult to determine whether some given group does so. What is left, then, is to determine what kinds of qualities make a group morally better. As candidates we might suggest efficiency and some other characteristics that a group could have that might enable it to serve the common good or some other moral ideal. I cannot here give a catalogue of organizational

²⁰ According to Aristotle, virtue is a state of character or a habit (E. N. 1104^a4 ff.) of making choices (1106^b36) that make the agent somehow better (1106^a21-22). See also Aquinas's Summa Theologiae, I-II, Question LV. For a more contemporary discussion of this conception of virtue see Peter Geach, The Virtues (Cambridge: University Press, 1977).

moral virtues. Note, though, that it is not a problem peculiar to groups; there is sincere dispute concerning what qualities count as virtues in human beings as well. In summary, we can see that the attribution of virtues to groups as agents is not nonsensical, although there are several questions that must be settled before one could make a case for claiming that some given group has some specified virtue.

* * * * *

In the present chapter I have argued a number of points that together lead to the conclusion that groups can act as moral agents. We say first that groups are capable of voluntary action, that they can exercise control over what they do. In this regard, we say that: groups can decide and act while making use of information concerning what they do, its likely consequences, and the moral significance of both; groups can act without being coerced to act; and groups can act on the basis of their own goals and decisions. To the degree that a group satisfies all three conditions, it is said to voluntarily act.

It is important to add that a group in its actions can fail to satisfy one or more of these conditions and thus have its voluntariness diminished. Judgments about whether a group has in fact acted voluntarily must accordingly be made with some caution. A group may have been unavoidably ignorant, for example, or it may have been somehow forced to do what it does. In arguing that groups can act voluntarily and are thus responsible for what they do, we have uncovered (but not discussed in detail) the possibility of a group, on some occasion, not satisfying the conditions for voluntariness. Elaboration on that point could provide

an account of when a group is excusable. Thus the problem of whether a group is responsible for what it does can be seen to be not a general conceptual problem, but a matter to be settled in each instance according to the circumstances of the occasion.

Secondly, we saw that there is good reason to believe that there are some specific obligations and rights that groups have. Because some acts that an agent performs create new obligations or rights for that agent, a group performing such acts acquires the obligation or right in question. This, we saw, was simply an application of the principle of universalizability in moral reasoning. We examined several other possible sources of the rights and obligations of groups and saw also that there is some basis for ascribing virtues to groups.

In summary, a group can perform, have goals, decide, act voluntarily, have obligations and rights, and be worthy of praise or blame. This is what is meant by the claim that the group is a moral agent. What is left to do is to analyze in more detail the logic of the relation of personal to group responsibility. I shall do this in Chapter Five.

CHAPTER FIVE

GROUP AGENTS AND PERSONS

In Chapter Four I argued that group agency is moral agency, i.e., that groups can fulfill the conditions of voluntariness ordinarily associated with moral responsibility, can have moral obligations and rights, and can be either praise- or blameworthy. In that discussion I drew once more on the characteristic relationship of personal to group agency: groups act in virtue of acts by persons, given the appropriate constitutive rules. This peculiar relationship is in need of more careful analysis, especially where it relates to ascriptions of responsibility for what a group does.

One important problem with this relationship has been raised by H.D. Lewis. According to Lewis, collective (i.e., group) moral responsibility requires either that persons be responsible for acts they have not performed or that persons be not responsible for acts they have performed. The second problem is raised by Martin Benjamin. Benjamin claims that ascriptions of collective responsibility are superfluous because, of necessity, they are merely ways of referring to an aggregate of persons, each of whom is already considered to be morally responsible. If the first of these criticisms were justifiable, it would make my thesis morally repugnant. If the second were justifiable, my thesis would be superfluous. I intend to show here that neither one of those

two claims ultimately affects my thesis. Each of these criticisms will be seen to be incorrect, although both will provide us with some useful insights.

After dealing with those two problems, I shall examine in more detail the nature of the praise- and blameworthiness of persons for what their groups do. I will also examine some special types of obligations that persons might have simply because they are or can be members of groups.¹ This latter discussion will necessarily be incomplete, but it should provide some understanding of the special status of persons in a society that has groups.

* * * * *

H.D. Lewis sums up well a common belief about group agency and responsibility as praise- or blameworthiness when he claims:

...the belief in "individual," as against any form of "collective" responsibility is quite fundamental to our ordinary ethical attitudes; for if we believe that responsibility is literally shared... we shall be directly implicated in one another's actions, and the praise or blame for them must fall upon us all without discrimination.²

When Lewis states that, under any conception of collective respon-

¹Earlier, I introduced the term "persons in groups" to designate those persons whose acts can count as acts by groups. The term "members of groups" should be taken to designate not only persons in groups but also those persons who have roles in groups but whose acts do not count as acts by the group.

²Lewis, H.D., "The Non-Moral Notion of Collective Responsibility," p. 122 in Individual and Collective Responsibility, edited by Peter French (Cambridge, Massachusetts: Schenkman Publishing Co., 1972). See also Lewis's earlier essay, "Collective Responsibility," Philosophy, XXIII (1948).

sibility, "praise or blame ... must fall upon us all without discrimination," he assumes that, where responsibility is ascribed to a collective or group, it must also be ascribed individually to each member of the group. Let us see how this fundamental assumption figures in his reasoning. His argument is presented piecemeal, but I believe that the following is a correct outline of its steps:

(1) Ascriptions of group responsibility always entail the responsibility of each member of the group. (This is the assumption quoted in the paragraph immediately above.)

(2) "...No one can be responsible, in the properly ethical sense, for the conduct of another."³ Because this is both a moral principle and a conceptual claim, counter instances to it are both morally repugnant and conceptually muddled.

(3) Because ascriptions of group responsibility require distribution of responsibility to all members of the group, persons may sometimes be held responsible for the acts of others.

Therefore, ascriptions of group moral responsibility are morally repugnant and conceptually incorrect.

Obviously, if Lewis's argument holds, there is something seriously wrong with my analysis of group agency and responsibility to this point. However, there are problems with both the first and the second premise. Let us consider the first premise, that ascriptions of group responsibility always entail ascriptions of responsibility to each member of the group without discrimination. There are, in fact, some cases

³
Lewis, H.D. "The Non-Moral Notion of Collective Responsibility,"
p. 121.

where this is true. Those that come immediately to mind are the ones in which the group is not itself a unified entity with its own goals, decisions, and actions but is instead simply an aggregate, a collection of atomic individuals. Let us return to an example from Chapter One, the case of the family who refused their flu shots. If refusing one's flu shot is an act for which one could be praise- or blameworthy, then each member of the family is praise- or blameworthy, provided only that he or she meets the general conditions for voluntariness.

But not all cases are of this sort; groups do have goals, make decisions, and engage in acts that are not reducible to those of persons in groups. When I argued this, I showed also that one cannot argue from the premise that a group performed some act Y to the conclusion that all or any persons in the group performed act Y. Persons might perform some acts X, W, Z; but that is not the same as performing act Y, even if, under the relevant constitutive rules R, then acts X, W, Z count as Y. For the descriptions of X, W, Z require no mention of R; while Y cannot be described adequately without reference to R. While one cannot argue from "The group performed Y" to "Jones, Brown, etc. each performed Y," one can conclude that at least some persons in the group performed some act(s) that count(s) as Y. Thus, for a group to act, it is not always necessary for all persons in the group to act; and it is never conceptually necessary or even possible that some person perform Y.

In order to determine which persons are responsible (praise- or blameworthy) for what a group of persons does, we need to know more than the membership list of that group. We need to know also what persons have control over what the group does, for we praise or blame an agent

only for what he can control. This control can be had, for example, when a person's act is (part of) the X that counts as group act Y.⁴ Thus, it is at least conceivable that a person can be a member of a group that performs some act for which it is praise- or blameworthy without that person being praise- or blameworthy. Because it makes sense to ascribe responsibility to a group itself (as distinguished from the persons in it), and because a person in a group can be not responsible for that group's act, we cannot assume beforehand that responsibility for a group's act "must fall upon ... all without discrimination." Therefore, the first premise of Lewis's argument is incorrect.

Lewis's second premise, that no agent can be responsible for the acts of others, is actually two distinct propositions. In the first place, it is a conceptual claim, a claim that it makes no sense to assert that one agent is responsible for the acts of another. In the second place, it is a normative claim, a claim that it is morally objectionable to praise or blame one agent for the acts of another agent. I shall analyze each of these two claims in turn.

In explanation of his conceptual claim, Lewis offers us this explanation of his use of the term "responsibility":

It ["Responsibility"] means simply to be a moral agent, and this means simply to be an agent capable of acting rightly or wrongly...⁵

⁴In this case the possibility of control is established through the logical relation of a person's acts to his group's acts. But control can also be gained through certain kinds of empirical relations discussed later in the present chapter.

⁵Lewis, H.D., "The Non-Moral Notion of Collective Responsibility," p. 125.

In order to be useful, however, this explanation requires further analysis. Lewis's explanation here is similar to what Hart calls "capacity-responsibility":

...the expression 'he is responsible for his actions' is used to assert that a person has certain normal capacities... The capacities in question are those of understanding, reasoning, and control of conduct; the ability to understand what conduct legal rules of morality require, to deliberate and reach decisions concerning these requirements and to conform to decisions when made.⁶

"Responsibility," in this sense of the term, is the capacity for performing morally significant acts in a morally significant way. Thus, moral responsibility is moral agency. So when Lewis states that "no one can be held responsible... for the conduct of another" he is making a true statement, for it is true that B cannot be the agent for A's act. However, the claim is not a very enlightening one, for it says nothing more than that moral agency can be attributed only to the being to whom it can be attributed. To say that B performed A's morally significant act is, in all cases, patently nonsense. Moreover engaging in such nonsense is morally repugnant: it is morally wrong to praise or blame one agent for what another agent does (i.e., it is wrong to blame the innocent, and it is right to give praise where it is due).⁷

What remains to be seen is whether the analysis of group moral agency entails such nonsense and such a morally repugnant position. In fact, attributing the agency for some act Y to some group does not

⁶Hart, H.L.A., Punishment & Responsibility (Oxford: Oxford University Press, 1968), p. 227.

⁷Lewis sees a further evil in this: it corrodes the very concept of responsibility, so that "... we tend to lapse into a state of moral indifference or acquiescence which can be one of the greatest ills to afflict a society" ("The Non-Moral Notion of Collective Responsibility," p. 143).

entail that all numbers of the group performed act Y, but only that some person(s) in the group performed act(s) X which count(s) as Y. Thus, the analysis of group agency given here does not require the attribution of agency for some act to an agent who did not perform the act.

In general, Lewis has failed to make his point, not because of the falsity of what he says but because of his failure to recognize the true nature of the group as agent. A person does not stand in the same relation to his group as he does to other autonomous persons. A group is not an autonomous individual alongside the autonomous individuals who have roles in it. Lewis fails to see this because he looks at aggregates rather than at groups as such. For example, he cites as a typical instance of an attribution of group responsibility the case of a teacher who punishes a whole class for the misdeeds of a few students.⁸ Lewis has correctly seen the problems incurred with attempts to blame each member of some aggregate for what some members of the aggregate have done. But he has not dealt with the case of the group as such and its relation to persons in the group.

We have seen that groups are sets of persons acting under rules and that groups act in virtue of the acts of persons in them. In the present chapter I have already argued that this account of the relation of personal to group agency survives one claim that it is conceptually muddled and morally repugnant. I wish to deal not with an argument in which Martin Benjamin attempts to show that, even if internally consis-

⁸ Lewis, H.D., "The Non-Moral Notion of Collective Responsibility," p. 126.

tent, such an account leaves group responsibility a superfluous concept.⁹

Benjamin says he intends to show that

...insofar as what is said morally has to do with moral responsibility, it must apply distinctively to individuals.¹⁰

In his argument Benjamin first states three conditions that an agent must meet in order to ^{be} morally responsible (i.e., morally praise- or blameworthy) for his acts and their consequences: the agent must have alternative courses of action available to him; the fault (or credit) for not acting otherwise must rest in the agent's own intentions or character; and the agent must be able to help having these intentions or character.¹¹ Benjamin then asks how a collective or group can satisfy these conditions. The nature of his question is somewhat unclear, for he never adequately explains the meaning of "collective." He first cites an example of a group that is merely an aggregate and rightly dismisses it as uninteresting for the problem of collective responsibility. He then cites a case of cooperation among several agents and shows it similar to the first case, in that all the actions undertaken are undertaken by

⁹Benjamin, Martin, "Can Moral Responsibility Be Collective and Non-distributive?" Social Theory and Practice, IV (1976), 93-106.

¹⁰Ibid., p. 93. The emphasis is his. Note that Benjamin uses the term "individual" to refer exclusively to human persons. Throughout the article he ignores the fact that there is a significant sense in which groups, too, are individuals.

¹¹Ibid., p. 98. Note the similarity between Benjamin's claim here and our discussion of voluntariness as a condition for responsibility in Chapter Three. The three conditions he speaks of amount to the claim that the agent must have control over what he does, and that is precisely what I argued groups to be capable of.

individual persons.¹² Finally, he cites an example that involves action by a committee (of vigilantes). Benjamin does not, however, give an adequate analysis of the committee and this makes it difficult to determine whether it is truly a group acting as a single agent. It will, nevertheless, prove fruitful to examine his argument in order to see whether it does apply to groups as well.

The first condition, that the agent have available alternative courses of action, can (according to Benjamin) be met only if members of the groups have alternative courses of action available to them:

If we can blame the committee for not having done otherwise, this is because at least some of the members could have done otherwise. Thus the committee can meet condition (1) only if the responsibility for not having done otherwise can be distributed to some or all of the members.¹³

But this, according to Benjamin, entails that individuals (and not the collective or group) are responsible. We shall obviously have to return to this; but let us look at the other two conditions.

The second condition, that the fault (or, in the case of praiseworthiness, the credit) for not acting otherwise rest within the agent, can be met by a group only if two sub-conditions are met: (a) the group must be able to have a character or intention in a way that is relevantly

¹²The group actions cited by Benjamin as examples of aggregates of personal acts can be expressed by the following: the Physics Department sells dope to students.

In the first example, several members of the department individually sell dope. In the second example, one member imports it, a second bags and stores it, and a third sells it. These examples are relevantly similar to the two examples I offer in Chapter One of the present work: a family's refusal of their flu shots and the community's barn-building.

¹³Benjamin, Martin, op. cit., p. 98.

similar to characters or intentions when had by persons; and (b) the intention or character of the group must not be reducible to (i.e., must be more than the aggregate of) intentions or characters of persons having roles in the group.¹⁴ But, Benjamin goes on, if (a) is met, then (b) cannot be met, for groups can have intentions and characters only if persons in them do.

Concerning the third condition, that the agent must be able to help having the intentions or character in question, Benjamin asks rhetorically:

How ... can we say that it [the collective] could have helped having the intentions or character it had without also saying that this is because some of the members could have helped having the intentions or character they had? Here again, the condition can be met only by sliding from a nondistributive to a distributive characterization of some or all of the members of the committee.¹⁵

In discussion of how a collective or group can satisfy each of these three conditions, discussion of how persons in the group can satisfy them is unavoidable. From this Benjamin concludes that "it is difficult to know what it means to blame the committee but none of its members."¹⁶ Because Benjamin can find no intelligible foundation for ascriptions of collective responsibility that do not, upon analysis,

¹⁴Ibid., p. 96. Benjamin's list here is similar to the one I provide in Chapter Three of how we can reasonably ascribe goals and decisions to a group: Benjamin argues that these conditions cannot be met. In Chapter Three I argue that the rule-structure of groups is the key to how the conditions can be met.

¹⁵Ibid., p. 99.

¹⁶Ibid., p. 99. Note that Benjamin appears to accept the proposition that either groups or their members are responsible, but not both. We have already seen that this is a false dichotomy.

disintegrate into some set of ascriptions of personal responsibility, it seems to him that ascriptions of collective or group responsibility are logically superfluous (though they may have some value in that they foster economy of language). In sum, since group responsibility requires that persons be responsible Benjamin concludes that the responsibility of the group can be nothing more than the responsibility of the persons in the group.

It is hard to fault Benjamin's argument that, where a group is responsible, persons in the group must be responsible. But his claim that the responsibility of the group is nothing more than the responsibility of the members of the group is surely open to question. In what follows I will first point out two conceptual confusions on which this further claim rests and then give reasons for preserving the notion of collective responsibility in the case of groups, i.e., reasons why it is not superfluous.

Benjamin's first confusion rests in a blurring of the distinction between a necessary condition for some Y and the reducibility of Y to that condition. Benjamin rightly argues that a group can do other than it does only if persons in the group can do other than they do, that groups can have goals and make decisions only if persons can do certain kinds of things and that they can enter into or have available to them alternative courses of action only if persons can. I have already argued to the same effect above.¹⁷ But from this we can conclude, at most, that

¹⁷The thrust of Chapters One and Three was to show that groups are groups of persons acting under rules and that the activities of persons in groups can count as decisions, goals, and actions of the group.

personal agency and responsibility are necessary conditions for group agency and responsibility. The thesis that personal agency is a necessary condition for but nevertheless conceptually distinct from group agency was developed at length in Chapters One, Two, and Three above. Therefore, Benjamin needs to do more than he has done to reach his conclusion: he needs to show in addition that the conceptual distinction between groups and persons does not exist. But he has not done this, and therefore his argument, as it stands, is inadequate for his conclusion.

Benjamin's second confusion consists in an implicit quantification of the notion of responsibility. The problem of group responsibility, as Benjamin sees it, is whether there is a "remainder" of responsibility left once it has been "distributed" among all members of the group.¹⁸ If, however, there is none left over after responsibility has been "distributed" to responsible individuals, then there is no collective or group moral responsibility. Benjamin employs a model in which ascriptions of responsibilities are likened to distribution of goods. For it is only if responsibility is viewed as being quantifiable and available in limited amounts that the mere ascription of responsibility to one agent would entail that no other agent is (can be) responsible.

But responsibility does not follow this model. Responsibility does not exist in some limited quantity available for distribution; nor

¹⁸ Benjamin, Martin. *op. cit.*, p. 95. This formulation of the problem appears to be borrowed from David Cooper, who has argued in favor of collective responsibility. Cooper argues that when persons in a group cannot be blamed for some evil deed committed, the blame must then rest with the group itself. See his "responsibility and the 'System'" in Individual and Collective Responsibility, edited by Peter French.

can it be exhausted. Rather, ascriptions of responsibility are determined by systems of good reasons. These good reasons include, but are not limited to, the ones that Benjamin himself has proposed. Thus, what counts when we determine whether a group is responsible is whether the group itself (and not merely the persons in it) satisfies the conditions for responsibility; satisfaction of these conditions amounts to our having good reasons for ascribing responsibility to it. We have already seen (from Chapter Four) that a group is itself capable of satisfying such conditions. It seems, therefore, that Benjamin's objection to the notion of group responsibility is based not only on a limited conception of the nature of groups (i.e., he regards them as always aggregates) but also on a faulty model for ascriptions of responsibility.

The case for group agency still stands, for the counter-arguments of both Lewis and Benjamin are seen to fail when they are scrutinized carefully and we have available a correct analysis of what groups are and how they differ from mere aggregates of persons.

* * * * *

So far I have explained the conceptual foundation on which group responsibility rests and have argued that it does not succumb to the counter arguments of Lewis and Benjamin. Some discussion of the obligations that groups acquire will serve to further support not just the intelligibility, but the value of retaining our concept of group moral agency. An analysis of the obligations of groups will also underline the inadequacy of Benjamin's argument by showing still more clearly that ascriptions of group responsibility are not superfluous.

First, groups can have obligations that are not the same as those of persons in the group. Let us take the case of some group A in which each of the following premises is true:

- (1) X counts as act Y by group A.
- (2) X is some set of acts in fact performed by Jones and Brown.
- (3) An agent who performs act Y incurs a new obligation to perform (or to refrain from performing) Z.

From these premises we can conclude that

Group A is obligated to perform (or to refrain from performing) Z.

Note that nothing in the argument entitles us to conclude that either Jones or Brown is obligated to perform Z, because neither Jones nor Brown has been shown to have performed act Y. Jones and Brown performed act X (which may or may not have certain obligations attendant upon it), but X is not Y. Rather, X counts as Y if and only if there exist appropriate constitutive rules to this effect. Thus, if all we speak of is Jones's and Brown's responsibility for their acts X, we have not yet said everything that is morally significant about the situation. What would be missing here is the obligation Z, and the only way to argue to obligation Z by some agent is by way of that agent's performance of Y.

If we were to omit explicit reference to group A and its act Y from our description of this kind of case, then there would be no reason to suppose that any agent involved had obligation Z. This can have rather serious implications for everyday morality. For example, if the act Y is a promise or contract by the group, then the group has incurred an obligation to do Z. But, if the acts X that Jones and Brown perform are not themselves acts of contracting, each can claim that he

has no obligation Z because he has not entered into a contract. Jones might state that he did not promise delivery and that he merely initialed the invoice that Brown brought him. Similarly Brown might deny that he contracted for delivery and insist that he had only offered someone an invoice to fill out and then returned it to Jones.

And they both could conceivably be correct in so claiming, for it is the group that has contracted. In this example, if we cannot ascribe the obligation to the group itself, we are left with the existence of a contract that no agent has an obligation to fulfill. In other words, this would not even be a contract, for contracts seem to involve, by their very definition, the creation of obligations. Cases like this show the inadequacy of a moral theory in which groups are said to exist but which does not acknowledge that a group is an agent and capable of having obligations.

Indeed, persons in the group might themselves have obligations to perform the acts that count (according to the constitutive rules) as the acts that satisfy the group's obligation. If they do it is only because these persons occupy roles that might require them to aid the group in the satisfaction of certain of its obligations.¹⁹ But one can argue that Brown and Jones have obligations to perform acts that count as group acts that satisfy the group's obligations only by first admitting that the group has obligations. Here we can see a second reason why the moral agency of groups is not superfluous: propositions con-

¹⁹I have here introduced one more very important notion: the moral obligations of persons to fulfill the demands imposed by their roles in groups. This will be examined in more detail in the final section of the present chapter.

cerning the obligations of the group are logically prior to at least some kinds of propositions stating the moral obligations of persons having roles in the group; we need the former to argue to the latter.

A third reason why group moral agency is not superfluous is the following: if the obligations created by an acting group were never any agent's but Jones's and Brown's, then there would be no reason for maintaining that the group still has this obligation should Jones or Brown die, take a leave of absence, or simply resign. Consider the following example:

Jones and Brown form the Day Care Grant Committee for the Bilkmore Foundation. In their roles, they are required to conduct cost-benefit analyses, and to commit foundation funds to individual day care projects. The Foundation promises, through their official actions, to fund the building renovation of the Mid-City Child Guidance Center. Mid-City begins renovations, confident of its financial backing.

Subsequently, Jones dies and Brown, who has fallen into disfavor, has been transferred to the Refreshments Committee. His new position requires him to make coffee and serve sweet rolls.

The question is whether the Bilkmore Foundation has a moral obligation to come through with the funds. It may or may not, but the question makes sense only if the act by which the obligation is alleged to have been created is performed by the group (i.e. the foundation) and the obligation so created is the group's obligation, rather than Jones's or Brown's. If the whole responsibility for the act (and any additional obligations or liabilities it creates) was never any agent's but Jones's and Brown's, then there is no conceptual ground for even a prima facie moral obligation on the part of the group.²⁰ In order to decide whether

²⁰Methodological individualists sometimes claim that social explanations are made in terms of anonymous individuals. See J.W.N. Watkins, "Methodological Individualism: a Reply," Philosophy of Science, XXII (1955), p. 62. Under this claim the obligation that was formerly

this consequence of the denial of group agency is acceptable, we need only to ask whether a group is invariably and necessarily absolved of all obligations created by its representatives when those persons no longer serve as its representatives.

If we do not regard the group as always so absolved (i.e., if it still has obligations created by past officers or representatives of the group) then the group's obligation is simply not identical with the obligations of the persons having roles in it. I take it as obvious that groups retain at least some obligations in cases like **this one**; for we do ordinarily hold groups responsible for keeping to the terms of our contracts with them. Insurance policies remain in effect even when the agent and other officers effecting them are no longer employed. Product warranties are valid even after the salesman has been fired and so on. It seems clear that, in order to be consistent in our everyday dealings with groups, we must acknowledge that groups themselves (and not solely persons in groups) can incur moral obligations.

In summary of these first two sections, we can state that the

Brown's might rest now with the individual (presently anonymous) who will replace him. This may be true, but it does not require revision of my present point. For one still needs to presuppose that the group has an obligation in order to argue that some presently anonymous individual (i.e. the individual who will eventually hold the now unfilled office) has this obligation. Moreover we must also consider the case of a group that, having incurred some obligation, restructures its roles and offices so radically that one can no longer identify or refer to precisely that office vacated by Brown. In such a case, the group would still have the obligation in question; but how the obligation would be met is a question that would be answered with reference to the new rules that constitute the group.

For a more general discussion of Watkin's claim, see Leon Goldstein, "The Two Theses of Methodological Individualism," British Journal for the Philosophy of Science, XXXIII (1957), 6-11.

arguments of Lewis and Benjamin do not work against the notion of collective responsibility because neither of these writers employs adequate analysis of either the nature of groups or the nature of responsibility. Moreover, in further support of my analysis of the group as moral agent, we have seen that ascriptions of responsibility and of obligations to the group itself are not superfluous, and that, without them, we could not explain how obligations, to take one important example, could exist as a result of a group's acts.

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In my discussion of Benjamin's argument I found fault with his way of understanding the issue of "distribution" of responsibility. I argued that taking the metaphor of "distribution" literally leads to an implicit quantification of responsibility and, from this, to other errors. It will not do to simply show that Benjamin is wrong, for there do seem to be some occasions when and some sense involved a person is responsible for what a group does. In the present section I shall seek an answer to the following question:

Given that group A performs some act Y, when is it appropriate to say that Jones is praise- or blameworthy?

There are a number of conditions that must be satisfied for Jones to be praise- or blameworthy for the occurrence of Y. The most obvious of these conditions is that Jones must have acted in order to be responsible. But even such an obvious condition has its subtleties. Jones may be responsible even if he doesn't act: if Jones omits some sort of action in such a way that the omission in turn affects what a group does, he may even be praise- or blameworthy for his omission. Let us include,

therefore, under the rubric of "action" also omissions and forbearances. This will simplify matters, provided that we keep in mind that omissions differ in some significant ways from simply inaction.

As a second condition, we must add that Jones's act must be voluntary. I have already discussed the notion of voluntariness and how it is a condition for morally significant action, so I will not elaborate here. The only situation in which an agent is responsible for an act performed involuntarily is when he voluntarily creates the conditions that cause him to act involuntarily. One important feature of voluntariness, though, is that the agent must have some sort of control over the event for which he is being considered praise- or blameworthy. In the present context, we need therefore to determine when and how a person can exercise control over a group's act and its consequences. A person can exercise such control in either or both of two ways, and I shall examine both. Before proceeding, however, we will find it useful to return certain of my findings concerning responsibility from our discussion of Lewis and Benjamin.

First, to say that Jones is responsible for the group's act Y does not mean that Jones alone is responsible for Y. All those agents that satisfy the conditions for responsibility are responsible, and the responsibility of one agent implies nothing about the responsibility of other agents. It may well be true that other agents as well are responsible for the event in question. Secondly, if Jones is responsible for the event that is some group's act, it does not follow from this that the group is not responsible.

The first way in which Jones can exercise control over some group

A's act Y (and thus be praise- or blameworthy) is if his own act is the X that counts as the group's act Y.²¹ In acting thus, Jones exercises some control over what the group does; and so he may be responsible (perhaps not solely responsible, but at least praise- or blameworthy) for the event that is the group's act as well as for its consequences. We should note here that the reason for not usually considering one agent responsible for another agent's act is that, usually, one agent does not exercise control over another agent's act. Thus, Jones might well not be praise- or blameworthy for what Brown does.²² But the distinction between Jones's act and Brown's act is of a sort different from the distinction between Jones's act X and the group's act Y. For, in the latter case there is a necessary relation between X and Y defined by the constitutive rule: for Y cannot happen unless X happens; and when an agent does X this itself is also (provided the relevant constitutive rules exist) the occurrence of Y. The relation between some act by Jones and one by Brown is different from this precisely because neither Jones nor

²¹In this discussion I will analyze only the simpler case in which Jones's act is by itself the X that counts as group act Y. In a more complex situation, X might consist in some set of acts by agents including, but not limited to, Jones. In this more complex situation, the only relevant difference is that some other agents, in addition to Jones, might be responsible. In all such cases, the relations of the various acts X₁, X₂, X₃, etc. which in combination count as Y will be determined by the constitutive rules defining Y.

²²However, even in the case of two persons, Jones might be responsible for what Brown does, without Brown thereby not being responsible. Consider, for example, Jones the bartender who keeps serving drinks to Brown, knowing that Brown has decided to get drunk, work up his courage, and kill his wife's lover. Recall, too, that we are here dealing with responsibility only as praise- or blameworthiness.

Brown is a group of persons acting under rules. When Jones does X the group A thereby acts; but it is not necessarily true that, when Jones does X, Brown acts. Thus it is that Jones can know that, when he performs X, some morally significant group act will thereby occur. In this way he has the power to see to it that this morally significant group act takes place.²³ Or, should he so decide, he might also have the power to see to it that the group does not do Y.²⁴ Thus, Jones may be praise- or blameworthy when he voluntarily performs (or refrains from performing) some act X that counts as the group's act Y, provided that act Y, or its consequences, or both have some moral significance.²⁵ X and Y are conceptually distinct, but he who controls X is also able to exercise some control over the group's act Y and may thus be morally accountable for Y, even though Y is attributed to a distinct agent, the group A.

But an agent can exercise control over what another agent does in other ways besides performing an act that counts as the other agent's act. Thus there are other ways in which one agent can be praise- or blameworthy for what a second agent does. We saw in Chapter Four that a group can be coerced by some other agent. Because this has already been

²³In the more complex case mentioned in n. 21, Jones at least has the ability to cooperate with other persons in the group's performance of Y.

²⁴This is not always true, however, for there may be within the group other persons who can perform the X that counts as the group's act. Such a case might occur in a voting situation where a specific number of votes is needed for an endorsement, a decision, etc., but where the vote of any single person is not essential.

²⁵Of course Jones may be praise- or blameworthy if his act X itself or its consequences have moral significance, independently of whether X counts as Y.

discussed, I will not repeat it here in great detail. It is important to note, however, that aside from the question of the praise- or blame-worthiness of the coercive activity itself there is also the fact that coercive activity is, by definition, the activity of controlling another's act. Thus, he who coerces another agent is subject to praise or blame for the activity to which he coerces the second agent and not merely for the act of coercing.

Because groups are not themselves knowers, but can only make use of information, they are particularly susceptible to a certain type of attempt to control their decisions and actions. Groups depend entirely on knowers for the information necessary to make an informed decision about the nature of their acts, their probable consequences, and the moral significance of each. Because the information available to a decision-maker can limit or even determine what acts he will decide to take, he who controls such information may very well be praise- or blameworthy for the action taken by the group according to how he provides information.

There seem, then, to be a number of ways in which persons can be praise- or blameworthy for events that are acts by groups. These ways can be divided broadly into two types: the first type is the sort of control that a person occupying a role within the group can exercise simply by the fact that what he does counts as something the group does. A note of caution is in order here concerning our ascriptions of responsibility to persons in groups for the acts of those groups. In many cases the relation that a person has with some of his society's more fundamental groups may be something less than voluntary.²⁶ All manner

²⁶Such groups are intended here to be distinguished primarily

of rewards and constraints, for example, are used to bring the child into the mainstream of his society's groups. Moreover, once in these groups, a person may find it quite difficult to get back out; so the claim that a person "could have done otherwise" in such contexts is not always plausible.²⁷ The second type of control is that exercised by an agent who disrupts the normal deciding and acting processes of a group. In either case the person may be praise- or blameworthy for the event that is a group's act. The first type of case is one peculiar to groups; only they have this sort of relation to persons. The second type (i.e., that involving coercion) is one that is not peculiar to groups; when agents coerce other agents, they become responsible for what those other agents do and can thus become either praise- or blameworthy.²⁸

from those groups in which membership is elective and less essential to personal survival and happiness.

²⁷ Hume, in discussion of the nature of the ordinary man's affiliation with government, asks somewhat rhetorically:

Can we seriously say that a poor peasant or artisan has a free choice to leave his country, when he knows no foreign language or manners and lives from day to day by the small wages which he acquires? (From Of the Original Contract. See also Treatise of Human Nature, Book III, Part 2.)

Persons may still be responsible for their acts performed in groups, even if their original affiliation with the group was not voluntary. The poor peasant or artisan in Hume's example may at some point decide that, as long as he's there, he will be a good citizen, conscientiously perform his civic duties, etc.

This is a serious issue in the whole social contract tradition. My comments here are intended only to show the importance of such questions for ascriptions of responsibility.

²⁸ There is another argument in favor of personal responsibility for group action. Briefly, the argument is that, because persons must first accept constitutive rules in order for a group to act, those persons are responsible for whatever the group does.

This argument could be assessed only with a careful analysis of a

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Moral obligations arise, are satisfied, and are sometimes altered within the dynamic framework of a changing world and of the individual's changing position within that world. I have intended to show the place of groups within that world. In arguing for a certain conception of the nature of groups, I am also advocating a position that forces us to reconsider the place of the person in the moral framework of society. In this present section I will give a general account of the differences group moral agency might make for the moral obligations of persons. I shall first discuss a general problem concerning the obligations of persons in groups to satisfy the obligations of those groups. Subsequently, I shall examine various other kinds of obligations that persons might incur either because of their roles in groups or because they live in a society in which groups can exist and with which they can interact.

We saw already that persons can perform some acts X that count as a group's act Y. We saw further that, when such an act Y is some act that creates a new obligation, that obligation is the group's (as distinguished from the persons' in that group.) And yet, because the acts of such persons count as an act by the group, it can reasonably be said that they exercise some control over what the group does. Thus, if Jones does not, for example, personally enter into a contract, it may be through his acts that some group does so.

A group may well be constituted in such a way that although Jones

number of other issues, so I shall only mention it here. Some of those other problems include whether constitutive rules are chosen or learned, the relation between accepting a rule and applying it to some specific occasion, and so forth.

is empowered to do the things that count as the group's entrance into a contract, some other persons in the group are the only ones able to perform the acts that count as fulfillment of the contract. For example, if Jones is capable of performing some act that counts as the group's borrowing of money, he might not be able to perform the acts that count as the group's disbursement of money and thus not be capable of satisfying the group's obligation to return the money.

In such a case, we would not conclude that Jones had a personal obligation to pay back the money borrowed by his group through him. It would, instead, be more appropriate to claim that the group must seek some method of satisfying its obligation. The exact process by which any given group satisfies its obligations will, of course, depend on the rules according to which it is constituted.

However, we can conceive of cases in which Jones will incur some new obligation due to the particular circumstances of the act he performs. For example, if Jones through malice or culpable ignorance involved his group in a debt to some other agent, Jones may incur some new obligation himself. As long as Jones is empowered to act for the group, the group does incur the debt, but Jones might have an obligation to reimburse the group the money he has cost it through his malice or ignorance. Notice, though, that this obligation derives from Jones's act X and from its relation to Y and not simply from Y. This example is a case where the group itself truly has incurred a debt, because Jones was acting within the constitutive rule structure enabling his group to incur debts through his actions. He ought to make compensation not just because the group loses money in satisfying the obligation, but because Jones (through his

act X) had control over the debt and was thus at fault when the group lost money.²⁹ It seems that although the obligation created by act Y belongs to the agent that performed Y, the agent who performs act X (which counts as Y) might also incur some obligations.

There are other obligations that persons can incur in relation to groups or even due to the possibility of some group existing. This needs further analysis. In order to provide this analysis in any detailed and specific way, we would need a wealth of empirical data concerning the existence of specific groups, their constitutive rules, their acts, the place of individuals within them, and their relations with individuals and groups outside them. It would be a long and difficult task to present such data about even a single group and would be out of place here.³⁰ Instead I shall offer here a brief classification of the ways in which personal moral obligations may be created or altered, given the present or possibility of groups acting. I have attempted to make this list complete (though general) but would not be too surprised if there are other facets of the person-group relation that will need to be added. More specifically, I shall discuss the following issues: moral

²⁹We can conceive of a second type of example in which Jones attempts to perform some acts in the name of the group and these acts (a) create debts and (b) are not acts that he is empowered to perform and (c) which do not count as the group's act. In such a case, the group has incurred no obligation because it has not acted. Any obligation incurred would be Jones's. However, the group might be blameworthy if it has been somehow negligent in enabling or permitting Jones to do this.

³⁰In the Appendix I make some attempt to bring group moral agency to bear on specific moral issues. This, I will indicate by way of example how the account of groups given in this work enables us to think more clearly about the moral obligations that persons have in such situations.

obligations to perform our role-duties in groups; obligations to create or destroy groups; obligations to join or dissociate ourselves from groups; and inter-agential obligations between persons and groups.

First, it is commonplace to talk of certain features of our roles in groups and other rule-constituted entities and activities as duties. In describing a job, for example, we might list specific "duties" such as answering the phone, running the mimeograph machine, etc.³¹ These certainly are duties, in that a person who accepts the job in question ought to answer the phone when it rings. Similarly, pinochle players ought to follow suit when able, policemen ought to stop speeders, and auditors ought to uncover financial irregularities. What we have to determine is when (and why) we have a moral obligation to do such things. Peter French has recently called such role-obligations "institutional" and argued that our moral obligations are those institutional obligations that ought to take priority when there is a conflict among our obligations.³² But this still demands some sort of criterion of priority. French offers us as one such criterion "the conditions necessary for the possibility of a life worth living."³³ But, in the long history of

³¹Such duties are expressed as norms of conduct for a person occupying such a role.

³²Peter French, "Institutional and Moral Obligations," Journal of Philosophy, LXXIV, 10, October, 1977, 575-587. French states that "even if the intent to participate is assumed in the rules, it is not assumed in sentences that state the obligations that derive from those rules" (p. 580).

"When ... [the word 'ought'] is used either to identify one obligation as paramount in a conflict of institutional obligations or as a reminder...that one obligation in case of such conflicts is paramount, its use is paradigmatically moral" (p. 582).

³³French, Peter, "Institutional and Moral Obligations," p. 582.

reflection on this topic, there have been offered many other criteria for determining what should be our highest-order, or moral, obligations. Thus for example one might test the acts of satisfying role-obligations against the principle of utility or the categorical imperative, or natural law. It seems clear that such tests might uncover important features of our obligations to satisfy our duties in groups. But it seems out of place to try to formulate here the consequences of such tests, given the diversity of the criteria used in determining them.

But there is more to be said about role-duties. Entrance into some groups, for example, involves some specific act of accepting a role. Where this act is contractual or promissory in nature, it may provide a foundation for a moral obligation to satisfy our role-duties. This is, of course, under the assumption that contracting and promising are themselves moral concepts. I hasten to add, though, that the model of acceptance has only a limited usefulness; we would be hard pressed to make a case for every role that we enter into as being entered into through a contract.³⁴ But it may still be useful in understanding certain types of cases, especially in formal organizations involving elective office, hiring processes, pledge nights, or some other very explicit procedure

³⁴Hart distinguishes another set of non-contractual obligations for those in roles. According to him,

...when a number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who have submitted to these restrictions when required have a right to a similar submission from those who have benefited by their submission ("Are There Any Natural Rights?" The Philosophical Review, LXIV (1955), p. 185.

Hart argues that this differs in important respects from the classic social contract model.

for initiating and terminating a role in a group. In summary, then, our obligation to satisfy the duties we incur by occupying roles in groups may also be a moral obligation, because some higher order moral rule or principle may require acts in accordance with the role or because we have contracted or promised to observe the norms of conduct that help define that role.

The substance of personal moral obligations can also be changed in significant ways given that there either already exists (or could easily begin to exist) a group capable of performing acts that would satisfy some moral obligation that we have. Let us take as an example a case where a person is morally obligated to produce some morally significant consequence Z. It is a fact that, at least sometimes, highly organized forms of cooperation with authority structures and roles can perform certain kinds of acts Y more successfully and more effeciently than can individual persons. Where these acts Y produce the same consequence Z that persons have an obligation to produce, we might argue thus:

If persons are obligated to produce Z, then if the most successful way to Z is through some group, then persons have an obligation to create that group. Conversely, if persons have an obligation to prevent Z and there exists a group that produces Z, then those persons are obligated to prevent the group from producing Z and, in extreme cases, even to eliminate the group.

So persons can have obligations to create or to eliminate groups. Of course, groups are neither created nor eliminated by a simple fiat. What we are talking about is the (non-) existence of the system of rules that constitute the group. And the existence of such rules depends on societal acceptance of and patterns of behavior using the rules in their understanding of the group in question. Thus, groups "go away" only

when the society in which they exist no longer accepts and used the rules that constitute them.³⁵

The difficulty of creating and eliminating groups might require us to ask whether the moral task of doing so is supererogatory. In such cases, then, our moral obligations might be merely to offer or withhold our personal support of those groups. We could, for example, either offer or withhold financial support, but there are many other ways of supporting or withholding support.

When we use groups as a means of satisfying our personal moral obligations, we thereby change the structure of our obligations. Persons might still have the obligation in question (to produce Z), but the specific actions required of them will change. They might, for example, incur the obligation to perform acts X that would count as a group's act Y, where Y produces consequences Z. Or, if these persons cannot themselves perform X, they might at least have the obligation to facilitate the performance of X by others.

When groups perform acts that satisfy our moral obligations, the specific acts required of persons may change. In fact, those acts that would be obligatory without the existence of relevant groups, may, with the existence of such groups, become subject to moral condemnation. As Morris Ginsberg states:

The duty of charity, for example, loses its primacy in an age in which the abolition of poverty by organized effort becomes possible.

³⁵A refusal to grant a group legal personality may be part of this refusal to accept constitutive rules. Thus, the conferring of legal personality on some given group could truly be a matter of moral significance.

the giving of charity to individuals may then even come to be depreciated as likely to divert attention from the need for a radical reconstruction of the system of property.³⁶

And Ginsberg offers a second example:

So again self-redress is condemned in societies which possess a system of public justice but may be considered a duty where there is no regular public machinery for obtaining redress.³⁷

We need not agree with Ginsberg on the specifics of these cases in order to understand the broad relevance of this type of claim: the existence of groups alters our social world in ways drastic enough that we cannot assume independently of careful inquiry that actions good where there exist no groups capable of producing some good consequence z remain good or even morally indifferent when such groups do in fact exist.

The fact that we can use groups as the tools by which we discharge our personal moral obligations might seem to require the denial of the agency of the group itself. In fact, though, we can use other agents (e.g., persons) as the means by which we accomplish personal tasks; and this does not at all entail the denial of their own agency. In this regard, we may fruitfully return to the discussion of goals in Chapter Three. I argued there that the possibility of having goals for some other agent does not itself entail that the other agent cannot have goals for himself. Our ability to treat other agents as objects does not entail

³⁶On the Diversity of Morals, p. 107. In this regard, one might wish to consult also an article in the New York Times, Sunday, July 2, 1978, Section One, p. 1. The article ("Private Charity Going Out of Style in West Europe's Welfare States") explains that private donors to charitable groups are sometimes now considered blameworthy in the countries under discussion. Behind this is the belief that charitable donations should come from groups set up expressly for that purpose.

³⁷Ibid., p. 106.

at all that the other agent cannot have goals, make decisions, and engage in actions of his own. One agent treating another agent as an object does not involve a logical contradiction, although it may create an emotionally charged conflict situation and it may, of course, involve important moral issues precisely because of that fact. So our potential for treating groups as objects does not point to an inadequacy in my main thesis -- that the group itself is an agent, albeit one whose existence depends on the existence of constitutive rules of the proper sort.

It is worth noting in passing that there is another way in which the existence of groups can significantly alter personal moral obligations. First, in addition to those obligations that persons have due to the existence of and their roles in groups, persons may incur obligations due to their special inter-agential relations with groups. A person may owe a group money, may have various contractual obligations to groups, etc., without having these obligations to any individual person(s) in the group. To understand this requires nothing more than has already been shown in this work. We have seen the applicability of the principle of universalizability to groups. Briefly, this means that, where a group is relevantly similar to a person who has some right or obligations, the group has a similar right or obligation. We have seen also that an agent can acquire through his own actions, some new right or obligation. And we have seen also the irreducibility of a group agent to the personal agents who comprise it. Since it is a general principle that agents can (through their actions and relationships) incur new obligations to other agents, and since the group is itself an agent, we have every reason to conclude that persons can incur obligations to groups.

And where this is in fact the case, groups can correctly be said to have rights.

* * * * *

In this chapter we have seen in more detail the relation of personal moral agency to group moral agency. We have seen that, contrary to the expressed views of Lewis and Benjamin, ascriptions of moral responsibility to groups are neither incoherent, nor morally repugnant nor superfluous. Group moral agency, due to the peculiar relationship it has with agency of persons in groups, can logically co-exist with personal moral agency. Thus, group moral agency does not require the denial of traditional beliefs in human moral agency.

Group agents do complicate our world, though. They can alter persons' moral obligations; they can create new obligations and do away with old obligations. In a society in which groups exist, persons may be morally obligated to participate in the creation, alteration, or destruction of groups. They may be obligated to accept or to refuse roles in groups, and may have toward institutions a good many of the same sorts of obligations that they have to persons. Therefore, if we live in a society in which there are groups, then we as moral agents need to be aware of the difference that groups make for morality.

CONCLUSION

Because the argument for group moral agency is now essentially complete, it would serve us well to summarize here the conclusion and to go over once more the steps by which it was reached. The conclusion is that groups are in fact moral agents, which is to say that they can decide to act, that they act voluntarily, have moral obligations and rights, and can be praise- or blameworthy for what they do. And this is not simply a convenient way of saying that persons in groups are moral agents, for the decisions, actions, rights, and obligations of groups cannot be reduced to those of persons in those groups.

The key to this conclusion, we discovered in Chapter One, consists in the rule-constituted nature of groups. In Chapter One we discovered how one thing can count as something else, where the appropriate rules are accepted and exist. More specifically, we saw there that some set of things that persons do can count as a performance by a group. In later chapters, especially Chapters Three and Four, I argued that rules play a similar function in establishing for groups other characteristics essential to agency. Among such characteristics are having goals, making decisions, and acting voluntarily. From this we were able to see also that, through their actions, groups can incur moral obligations and can thus be praise- or blameworthy for what they do.

I have not argued that any given group in some specific situation has in fact acted voluntarily, or is in fact praise- or blameworthy. Such

conclusions would certainly draw on my argument here, but they would have to draw also on empirical information concerning the particular group, and the rules according to which it is constituted as well as some moral principle(s) taken to be correct. In the Appendix that follows I shall provide the beginnings of such analyses for several cases.

We need not fear the conclusion arrived at here, for regarding groups as moral agents does not require denying the moral agency of persons in groups. Certainly, the relation of groups to persons in them exhibits some logical idiosyncrasies. But the relation of personal to group responsibility is not disjunctive: no claim that a group has an obligation or a right in some situation entails, by itself a denial that persons in the group have rights or obligations in that same situation. Similarly, that a group is or is not praise- or blameworthy for what it does, does not entail by itself that persons who act in the group are either praise- or blameworthy. In all such cases the obligations, rights, praise- and blameworthiness of persons in groups must be decided with empirical information on the relation of the person and his activities in the group and its activities. We might therefore find in one case that a person is blameworthy for his contribution to the evil that some group does and that he is innocent on another occasion where the group does evil.

The acknowledgment of group moral agency has a two fold value. First of all, it does render intelligible our ordinary ways of speaking and thinking about groups. We do, in fact, sometimes claim that our bank has loaned us money, that the manufacturer guarantees our new car, that a university ought to educate, and so forth. When we make such claims we

often are not referring to any individual persons. But, more importantly, the acknowledgment of the existence of group moral agency removes an unwarranted restriction on the scope of morality. It does so by establishing that moral considerations are relevant in a society where moral evil and good are the products not only of persons acting on persons, but also of persons acting on groups, of groups acting on persons, and of groups acting on groups. Any model of moral agency that does not permit evaluation of all such relationships is simply inadequate for present society, where hospitals, universities, corporations, clubs and other kinds of groups all exist and act in morally significant ways.

BIBLIOGRAPHY

- Addis, Laird. The Logic of Society. Minneapolis: University of Minnesota Press, 1975.
- Agassi, Joseph. "Methodological Individualism." Modes of Individualism and Collectivism. Edited by John O'Neill. London: Hennemann Educational Books, 1973.
- Anscombe, G. E. M. "On Brute Facts." Analysis, XVIII (1958).
- Austin, John. Lectures on Jurisprudence. 4th ed. London: John Murray Ltd., 1873.
- Bates, Stanley. "The Responsibility of 'Random Collections.'" Ethics, LXXXI (1971), 343-49.
- Bauer, Raymond A. and Fenn, Dan H., Jr. "What Is a Corporate Social Audit?" Harvard Business Review. (1973), 37-48.
- Bedau, H. A. "Compensatory Justice and the Black Manifesto." The Monist, LVI (1972), 20-42.
- Benjamin, Martin. "Can Moral Responsibility Be Collective and Non-distributive?" Social Theory and Practice, Fall, 1976.
- Bittker, Boris. The Case for Black Reparations. New York: Random House, 1973.
- Blanshard, Brand and Skinner, B. F. "The Problem of Consciousness: A Debate." Philosophy and Phenomenological Research, 1967.
- Blau, P. M. Formal Organizations. San Francisco: Chandler, 1962.
- Boxhill, Bernard. "The Morality of Reparation." Social Theory and Practice, Vol.II, No. 1.
- Brand, Myles, ed. The Nature of Human Action. Glenview, Illinois: Scott, Foresman, and Company, 1970.
- Brodbeck, May, ed. Readings in the Philosophy of the Social Sciences. New York: Macmillan, 1970.

- _____. "Methodological Individualisms: Definition and Reduction." Philosophy of Science, XXV (1958), 1-22.
- Brown, Dee. Bury My Heart at Wounded Knee. New York: Bantam Books, 1970.
- Carey, Toni Vogel. "Institutional Versus Moral Obligations." Journal of Philosophy, LXXIV (October, 1977), 587-89.
- Cherry, Christopher. "Regulative Rules and Constitutive Rules." Philosophical Quarterly, XXIII (1973), 301-15.
- Child, Arthur. "The Concept of Class Interest." Ethics, LXXX (1970), 279-95.
- Clapp, Jane. Professional Ethics and Insignia. Metuchen, New Jersey: Scarecrow Press, 1974.
- Cooper, David E. "Collective Responsibility." Philosophy, XLIII (1968), 258-68.
- _____. "Collective Responsibility-- Again." Philosophy. XLIV (1969), 153-55.
- _____. "Responsibility and the 'System.'" Individual and Collective Responsibility. Edited by Peter A. French. Cambridge, Massachusetts: Schenkman Publishing Company, 1972.
- Cowan, L. J. "Group Interests." Virginia Law Review, XLV (1958).
- Cyert, Richard M. and March, James G. A Behavioral Theory of the Firm. Englewood Cliffs, New Jersey: Prentice-Hall, 1963.
- Danto, Arthur. "Methodological Individualism and Methodological Socialism." Filosofia, IV (November, 1962). Reprinted in O'Neill.
- Downie, R. S. "Collective Responsibility." Philosophy, XLIV (1969), 66-9.
- _____. Government Action and Morality. London: Macmillan, 1964.
- _____. "Responsibility and Social Roles." Individual and Collective Responsibility. Edited by Peter A. French. Cambridge, Massachusetts: Schenkman Publishing Company, 1972.
- _____. "Roles and Moral Agency." Analysis, XXIX (1968), 39-42.
- _____. "Social Roles and Moral Responsibility." Philosophy, (1964).

- Dray, W. H. "Holism and Individualism in History and Social Science." Encyclopedia of Philosophy, IV, 53-8. Edited by Paul Edwards.
- Emmet, Dorothy. Rules, Roles, and Relations. New York: St. Martin's Press, 1966.
- Etzioni, Amitai. Modern Organizations. Englewood Cliffs, New Jersey: Prentice-Hall, 1964.
- Ezorsky, Gertrude. "On 'Groups and Justice.'" Ethics, LXXXVII (1977), 182-5.
- Feinberg, Joel. "Collective Responsibility." Journal of Philosophy, LXV (1968), 674-87.
- Fiss, Owen. "Groups and the Equal Protection Clause." Philosophy and Public Affairs, Winter, 1976.
- French, Peter A. ed. Individual and Collective Responsibility: The Massacre at My Lai. Cambridge, Massachusetts: Schenkman Publishing Company, 1972.
- _____. "Institutional and Moral Obligations (or Merels and Morals)." Journal of Philosophy, LXXIV, No. 10 (October, 1977), 575-86.
- Friedmann, W. Legal Theory. 5th ed. New York: Columbia University Press, 1967.
- Gellner, Ernest. "Explanations in History." Proceedings of the Aristotelian Society, Supp. Vol. XXX (1956), 157-76.
- Ginsberg, M. On the Diversity of Morals. London: Heinemann, 1956.
- Goldman, Alvin. A Theory of Human Action. Princeton: Princeton University Press, 1970.
- Goldstein, Leon J. "The Inadequacy of the Principle of Methodological Individualism." Journal of Philosophy, LIII (1956), 801-31.
- _____. "The Two Theses of Methodological Individualism." British Journal for the Philosophy of Science, IX (1958), 1-11.
- Gomperz, H. "Individual, Collective, and Social Responsibility." Ethics, LXIX (1939), 329-42.
- Griffiths, A. Phillips. "How Can One Person Represent Another?" Proceedings of the Aristotelian Society, Supp. Vol. XXXIV (1960).

- Gross, Barry. ed. Reverse Discrimination. Buffalo: Prometheus Books, 1977.
- Gruner, Rolf. "On the Action of Social Groups," Inquiry, IX, 443-54.
- Hart, H. L. A. "Are There Any Natural Rights?" Philosophical Review, LXIV (1955), 175-91.
- _____. The Concept of Law. Oxford: Clarendon Press, 1961.
- _____. Punishment and Responsibility. Oxford: Oxford University Press, 1968.
- _____, and Hampshire, Stuart. "Decision, Intention, and Certainty." Mind, LXVII (1958), 1-12.
- Haworth, L. "Do Organizations Act?" Ethics, (1959).
- Hayek, F. A. The Counter-Revolution of Science. Glencoe, Illinois: The Free Press, 1952.
- Held, Virginia. "Can a Random Collection of Individuals Be Morally Responsible?" Journal of Philosophy, LXVII (1970), 471-80.
- _____. "Moral Responsibility and Collective Action." Individual and Collective Responsibility. Edited by Peter A. French. Cambridge, Massachusetts: Schenkman Publishing Company, 1972.
- Hume, David. Of the Original Contract.
- _____. A Treatise of Human Nature.
- Ingram, P. G. "Social Holism: A Linguistic Approach." Philosophy of the Social Sciences, VI (1976), 127-41.
- Jaspers, Karl. The Question of German Guilt. Dial Press, 1947.
- Kessler, Friedrich. "Products Liability." Yale Law Journal, LXXVI (1966-67), 886-938.
- Kotarbinski, Tadeusz. "Les Formes Positives et Negatives de la Co-operation." Revue, de Metaphysique et de Morale, LXXV (1970), 316-25.
- Kuhn, Alfred. The Logic of Social Systems. San Francisco: Jossey-Bass Publishers, 1974.
- Ladd, John. "Morality and the Ideal of Rationality in Formal Organizations." Monist, LIV (1970), 488-517.

- Lecky, Robert S. and Wright, H. Elliott. editors. Black Manifesto. New York: Sheed and Ward, 1969.
- Lewis, David K. Convention: A Philosophical Study. Cambridge: Harvard University Press, 1969.
- Lewis, H. D. "Collective Responsibility." Philosophy, XXIII (1948). A revised version appears in Individual and Collective Responsibility under the title of "The Non-Moral Notion of Collective Responsibility." Edited by Peter A. French. Cambridge, Massachusetts: Schenkman Publishing Company, 1972.
- Litterer, Joseph A. ed. Organizations: Structure and Behavior. New York: John Wiley and Sons, 1963.
- Lukes, Steven. Individualism. New York: Harper and Row, 1973.
- MacIver, A. M. "The Character of a Historical Explanation." Proceedings of the Aristotelian Society, Supp. Vol. XXI (1947), 32-50. Reprinted in Readings in the Philosophy of the Social Sciences as "Levels of Explanation in History." Edited by May Brodbeck. New York: Macmillan, 1970.
- McKean, Roland N. "Products Liability: Trends and Implication" University of Chicago Law Review, (1970-71), 3-63.
- Maitland, F. W. "Moral Personality and Legal Personality." Maitland: Selected Essays. Edited by H. D. Hazeltine, G. Lapsley, and P. H. Winfield. Freeport, New York: Books for Libraries Press, 1968.
- Mandelbaum, Maurice. "Societal Facts." British Journal of Sociology, VI (1955), 305-17.
- _____. "Societal Laws." British Journal for the Philosophy of Science, VIII (1957), 211-24.
- Margolis, J. "The Analysis of the Firm: Rationalism, Conventionalism, and Behavioralism." Journal of Business, XXXI (1958), 187-99.
- Midgley, Mary. "The Game Game." Philosophy, XLIX (July, 1974), 231-53.
- Morawetz, Thomas. "The Concept of a Practice." Philosophical Studies, XXIV (1973), 209-24.
- Morris, Herbert. ed. Guilt and Shame. California: Wadsworth, 1971.
- Mulvaney, Robert J. "Institutional Commitment." Educational Theory, XXI (1971), 444-54.

- Nowell-Smith, P. H. Ethics. Baltimore: Penguin Press, 1954.
- Oldenquist, Andrew. "Choosing, Deciding, and Doing." Encyclopedia of Philosophy, II, 96-104. Edited by Paul Edwards.
- Olson, Mancur. The Logic of Collective Action: Public Goods and the Theory of Groups. Cambridge: Harvard University Press, 1971.
- O'Neill, John. ed. Modes of Individualism and Collectivism. London: Hennemann Educational Books, 1973.
- Ozar, David. "The Moral Responsibility of Corporations." Ethical Issues in Business: A Philosophical Approach. Edited by Thomas Donaldson and Patricia Werhane. Englewood Cliffs, New Jersey: Prentice-Hall. Forthcoming.
- _____. "Social Rules and Patterns of Behavior." Philosophical Archives, III (1977).
- Perrow, Charles. "The Analysis of Goals in Complex Organizations." American Sociological Review, XXVI (1961), 854-66.
- Popper, Karl. The Poverty of Historicism. London: Basic Books, 1957.
- Quine, W. V. O. Word and Object. Cambridge: M. I. T. Press, 1960.
- Quinn, Michael Sean. "Practice-Defining Rules." Ethics, LXXXVI (1975), 76-86.
- Rawls, John. "Two Concepts of Rules." Philosophical Review, LXIV (1955), 3-32.
- Rudner, Richard. Philosophy of Social Science. Englewood Cliffs, New Jersey: Prentice-Hall, 1966.
- Ryle, Gilbert. The Concept of Mind. New York: Barnes and Noble, 1949.
- Sartorius, Rolf. Individual Conduct and Social Norms. Encino, California: Dickenson Publishing Company, 1975.
- Schwyzler, Hubert. "Rules and Practices." Philosophical Review, LXXVIII (1969), 451-67.
- Scott, N. J. "Methodological and Epistemological Individualism," British Journal for the Philosophy of Science, II (February, 1961). Reprinted in Modes of Individualism and Collectivism. Edited by John O'Neill. London: Hennemann Educational Books, 1973.

- Searle, John. Speech Acts. Cambridge: The University Press, 1970.
- Sher, George. "Groups and Justice." Ethics. LXXXVII (1977) 174-81.
- Simon, Herbert A. "On the Concept of Organizational Goal." Administrative Science Quarterly. IX (1964), 1-22.
- Smelser, Neil J. Theory of Collective Behavior. New York: Free Press of Glencoe, 1963.
- Thompson, James D. Organizations in Action. New York: McGraw-Hill, 1967.
- Thomson, Judith Jarvis. "Preferential Hiring." Philosophy and Public Affairs, II (1973).
- Urmson, J. O. Philosophical Analysis. London: Oxford University Press, 1967.
- Walsh, W. H. "Pride, Shame, and Responsibility." Philosophical Quarterly, XX (1970), 1-13.
- Watkins, J. W. N. "Historical Explanation in the Social Sciences." British Journal for the Philosophy of Science. VII (1957), 194-17. Reprinted in Readings in the Philosophy of the Social Sciences as "Methodological Individualism and Social Tendencies." Edited by May Brodbeck. New York: Macmillan, 1970.
- _____. "Ideal Types and Historical Explanation." Readings in the Philosophy of Science. Edited by H. Feigl and M. Brodbeck. New York: Appleton, Century, and Crofts, 1953.
- _____. "Methodological Individualism: A Reply." Philosophy of Science, XXII (1955).
- Werhane, Patricia. "Formal Organizations, Economic Freedom, and Moral Agency." Journal of Value Inquiry, forthcoming.
- Werner, Lewis. Unpublished comments on an earlier version of Martin Benjamin's essay, presented at the Western Division meeting of the American Philosophical Association, Chicago, 1975.
- Winch, Peter. The Idea of a Social Science. London: Routledge and Kegan Paul, 1958.

APPENDIX

APPENDIX

My intention in this study has been to provide an analysis of group moral agency in general. But the importance of that analysis becomes apparent only when we begin to see what difference it might make in the clarification of and, ultimately, the resolution of moral issues of contemporary concern. Moreover, such an application of my analysis of group agency will have the added dividend of bringing to light parts of the account that stand in need of further examination and explanation. In this way, the appendix may also be regarded as a diagnostic tool that suggests directions in which further research into the subject of group agency and responsibility needs to be carried on.

The topic that I have chosen for more detailed discussion concerns reparation for past acts of discrimination. This discussion is valuable here, because it is often claimed that the acts or policies of discrimination for which reparation is owed were initially engaged in by groups and that those groups are therefore obligated to make reparation. I shall also discuss a second issue, that of strict liability in tort. Specifically, I shall be concerned to show how the concept of group moral agency can clarify the role that corporations have under legal doctrines calling for strict liability for harm suffered through product use.

There are, indeed, numerous other examples that could have been chosen to demonstrate the clarificatory power of the analysis of group agency offered in this study. It should shortly become obvious that I am not attempting an exhaustive treatment of even those few issues chosen for examination. But if the usefulness of the analysis of group moral agency can be exemplified and important questions in need of further investigation brought to light, I will have achieved my aim in appending this section to the study.

* * *

In April and May, 1969, the National Black Economic Development Conference (NBEDC) wrote and disseminated a document that has since become known as the Black Manifesto.¹ This document is significant in that it proposed in a highly public manner that reparation be made to blacks

¹The Black Manifesto originally appeared when James Forman interrupted the Sunday morning service at Riverside Church in New York City in order to read it. The document has since been published in a number of places. Page references here are to the collection by Lecky and Wright (eds.), Black Manifesto (New York: Sheed and Ward, 1968).

for past acts of discrimination against them. Specifically, the demand was for white Christian churches and Jewish synagogues to pay some \$500,000,000 to blacks, because

...the exploitation of colored peoples around the world is aided and abetted by the white Christian churches and synagogues.²

I shall examine two issues regarding the Black Manifesto: first, by whom reparation can be owed, and secondly, to whom it can be owed. The Black Manifesto offers answers to each of these two questions; but it is not clear from the document how the answers presented in it would be defended.

Concerning the first of these two questions, the Manifesto calls for reparation from the groups that have promoted or benefitted from racism. Its demands are addressed to churches and synagogues, with some hint that future demands will be addressed to governments as well. It is claimed that these groups have, through their actions, deprived blacks of their due:

...the racist white Christian church with its hypocritical declarations and doctrines of brotherhood has abused our trust and faith.³

Thus, one of the Manifesto's claims is that such groups are morally obligated to make reparation; for it is they who have performed acts of discrimination.

In addition to this claim on groups, the Manifesto also declares that reparation is owed by the "white racist imperialists who compose [the groups]."⁴ In a nationally broadcast radio interview, James Forman, spokesman for the NBEDC, made it clear that the Manifesto's demand was addressed not only to those groups addressed but also to individual members of the groups; that is, not just to the churches, but to their members as well (and especially to rich trustees). In summary, the Manifesto views as justified the claim that both groups and persons in groups owe reparation. There must, therefore, be an underlying belief in the intelligibility of the claim.

Concerning the second question, to whom reparation is owed, the Manifesto again appears to give a twofold answer. The Manifesto demands that money be given to the following groups (among others): the National Welfare Rights Organization, an International Black Appeal, a southern land bank, black publishing houses, alternative television networks, and a new black university. These are all group entities, but the Manifesto

²Black Manifesto, p. 120.

³Black Manifesto, p. 126.

⁴Black Manifesto, p. 125.

appears also to be demanding reparation to black individuals, since it ties the reparation fund to black population statistics. The demand for a sum of \$500,000,000 is explained thus:

Fifteen dollars for every black brother and sister in the United States is only a beginning of the reparations due us as people who have been exploited and degraded, brutalized, killed and persecuted.⁵

The wording of the Manifesto leaves it unclear as to whether the black population merely serves as an indicator for the amount of money or whether the money is, in fact, owed to individual black persons. This issue requires more careful examination.

I shall examine the cogency of claims that reparation is owed by and to groups, and by and to individuals; and I shall explore the logical relations between these two kinds of claims. It is not my intention here to demonstrate either that reparation is in fact owed or that it is not owed. My aim is rather to sort out the ambiguities involved in making such claims about persons and groups. First I shall examine what is entailed by any claim that some moral agent A owes reparation to some other moral agent B. Then I shall look at the logical features of such claims when either A or B is a group.

* * *

The discussion of the role of groups in reparation must begin with some explanation of reparation itself. Whenever reparation is owed, it is as a consequence of the agent to whom reparation is owed having been unjustly deprived. For this reason, reparation must be distinguished from other forms of compensation. To be owed compensation it is not necessary that one have been deprived through some unjust act by another. Those physically disabled by birth defects, for example, might deserve some compensation even when they have not been dealt with unjustly.⁶

Only a moral agent can own reparation. It is tempting to support this proposition with the claim that one must have acted unjustly in order to own reparation. But this is, I believe, too narrow a view of the matter. For, in some situations, not only the agent who unjustly deprives some other moral agent of his due has an obligation to make reparation, but the parties who have benefited from this unjust deprivation might also be obligated to make reparation. There are several kinds of cases in which

⁵Black Manifesto, p. 120.

⁶On the distinction between reparation and compensation see Bernard Boxhill, "The Morality of Reparation," Social Theory and Practice, II (1974).

this appears obvious, for example, the case of a recipient of stolen property. But even this case becomes complicated if he received the stolen property as part of a good faith bargain with the thief, or, perhaps, with another good faith recipient. And the matter is still more complex when we have to ask questions such as: To what extent should the injustices of fathers result in obligations on the part of their benefiting grandchildren?⁷ At what point does an agent's present advantage gained by past injustice cease to require rectification and become instead a simple fact of life? These are hard questions that need to be answered in some cases, and I do not intend to attempt to resolve them here. The point is that we cannot simply say that only those perpetrating injustice can have an obligation to make reparation. Reasonable arguments can be made regarding other sorts of situations in which the beneficiaries of injustice also seem to have such duties.

The obviousness of the proposition that "only a moral agent can owe reparation" stems not from the unique ability of moral agents to act unjustly but instead from the meaning of the terms in the proposition. In general only moral agents can have moral obligations, because that is part of what it means to be a moral agent. There is little difficulty in imagining circumstances in which a person might owe reparation provided that the person can perform acts that deprive another person of his due or can at least benefit from such acts. But with regard to groups, we need to take a more careful look. It is often claimed, with considerable historical support, that some group has deprived another agent of his due. Groups have been said to discriminate in hiring practices, membership selection, salary scales, scholarship offers and other educational opportunities, housing, loans, military conscription, and so forth. If there is any objection to be offered to such claims (besides the argument that the particular actions under consideration were not unjust), it would likely be that groups are not moral agents and that these actions were, properly speaking, performed by individuals. Thus, only individuals would have obligations of reparation in such cases. But from the account of group agency given here, we can see how such actions and policies can belong to the groups themselves (by reason of the rules that constitute them) rather than simply to persons in groups. From

⁷The Black Manifesto argues, for example, that presently existing white Americans owe reparation for wrongs suffered by blacks since at least 1619, because presently existing whites have benefited from such past injustices. I presume that the year 1619 was cited because the first recorded shipload of slaves arrived at Jamestown in August of that year. Because our present connections with events of three hundred fifty years ago are little understood and because some effects of actions then are unknown and perhaps irreversible, it might be tempting to conclude that those actions and their consequences were reprehensible, but that we have no obligation to remedy them now. The conclusion is perhaps too hasty, but it does point to the necessity of careful examination.

this is follows that it is the group agents, and not only the persons acting in groups, who can have the obligation of reparation. So far, then, the Manifesto's claim that churches owe reparation is in intelligible claim, provided only that the churches named are actually groups with the appropriate constitutive rules.

I stated above that it seems likely that not only those who engage in unjust acts but also those who benefit from such acts might owe reparation. It thus becomes important to show that groups can also benefit from injustice, as this might reveal moral obligations on the part of groups even when they do not themselves engage in unjustly discriminatory actions. In order to be a beneficiary, a being must have goals or interests. In the case of human beings, whether something is a benefit is often determined by its contribution to such goals as survival, growth, pleasure, etc., as well as to more specific goals that the person himself has adopted. In the case of a group, whether something is a benefit must be determined by its contribution to goals that the group has (as distinguished from goals that persons might have for the group).⁸ Anything that helps a group achieve its goals is a benefit to that group. Thus, a group might rightly be said to benefit from an act of discrimination if, for example, a white university receives more government grant money because less money is allocated to black schools. Groups can, then, be the beneficiaries of acts of injustice.

It seems, then, that it is intelligible to claim either or both of the following: that a group has engaged in acts of injustice for which it ought to make reparation; and that a group has been the beneficiary of some other agent's unjust acts and ought accordingly to make reparation. But to claim that some group benefits from an act of injustice might sometimes require us to admit also that individual persons within the group have also benefited. Though we can draw a distinction between the goals of a group and the goals of persons in that group, it is often the case that persons will in fact benefit when a group with which they are affiliated in some way benefits. This raises the possibility that both a group and the persons in it will owe reparation for some unjust act performed by the group; for persons owe reparation when they unjustly deprive others of what is theirs, and as we have noted, also sometimes when they merely benefit from such a deprivation. In such a case, persons would owe reparation not because of their affiliation with the group, but because of their own relation to the injustice committed.

When persons depend to a great extent on groups for the achievement of their personal goals, any penalization of the group (through payment of reparation) would also penalize the persons affiliated with

⁸On the goals of groups, see Chapter Three.

the group. This raises a rather serious moral issue for any claim that some group owes reparation, for the payment of reparation by a group may deprive persons affiliated with the group of benefits to which they might otherwise be entitled.⁹ I shall discuss this issue further, but at this point it is important to note that it is neither a logical nor an empirical necessity that a loss of benefit to a group be also a loss of benefits to persons affiliated with the group. We have seen already that a group's goals are conceptually distinct from the goals of persons in it, and this shows that there is no logical necessity in the relation between group and personal benefits. Moreover, it might at least sometimes be true that that attainment of the goals of a group would bring no benefit to the persons in it.¹⁰ In such a case a group could owe a debt of justice and pay it without thereby depriving any person in the group.

Unfortunately, it does not often happen in this way, for the welfare of groups is often intimately connected with the welfare of persons in those groups. Consider, for example, the case of a for-profit corporation that has as one of its goals the maximization of dividends for its shareholders. Any time the corporation is deprived of money, so are its shareholders.¹¹ In such cases there arises a rather complex question of justice, for any deprivation of the group will result also in the deprivation of persons in the group. When such a group owes reparation, it might sometimes be able to satisfy this moral obligation only by depriving persons in the group. In some cases, those persons deprived may have performed (or have been responsible for the performance of) those acts that counted as the groups' acts of discrimination. Even in that case, it would not be correct to state that

⁹Martin Benjamin, in the article already cited, claims that it is impossible to punish a group without punishing the persons in it. For the purposes of this examination, I shall assume that there are differences between being punished, paying reparation, and being deprived of some benefit. Benjamin does not discuss such a distinction in his analysis.

¹⁰Although this is logically possible, it does seem highly doubtful that such a group could get the support needed to survive long. A detailed discussion of various relations between group and individual goals will be found in Mancur Olson's The Logic of Collective Action (Cambridge: Harvard University Press, 1973).

¹¹As a second example, consider the International Toastmasters' Association, which has as a goal the development of the public speaking talents of persons in the group. Should the association be in some way deprived, so also might its members, although the deprivation would not be a purely financial one.

those persons owe reparation; but it might be correct to state that those persons have abused their roles in the group, thereby costing it money, and that they ought therefore to make reparation to the group.

It is also possible, though, for a person not contributing to the group's unjust act to be deprived when the group makes reparation. This is so because a person in a group is not necessarily responsible for each of that group's acts. Such a person might have benefited from the group's unjust act, but it is also possible that he did not. If he did not, then it would seem that this person is being unjustly deprived when his group makes reparation. It would thus seem that doing justice might require a group to act unjustly. We should note, though, that this difficulty does not arise out of the special logical relation we have uncovered between persons and groups. It is, instead, a problem that arises out of the interdependence of the fortunes of different beings interacting in the same world. It is not a problem peculiar to group agents. Consider, for example, the analogous difficulty of punishing criminals without thereby causing suffering or deprivation to their families and others who depend on them.

The problem can disappear in many cases when we recognize that such an indirect deprivation of a person in a group is an injustice only when that person has a legitimate claim to the benefit of which he is being deprived. One can, of course, conceive of situations in which we have a legitimate claim to the benefits that can be provided by groups, e.g., when we have contracted with the group for them. In any case, simply being affiliated with a group does not itself legitimate our claim to the benefits that the group could conceivably provide. Judith Jarvis Thomson has argued recently that members of a group can acquire a right to only those benefits that remain after the group has settled debts that it owes.¹² Only at that point may the group act justly in deciding to distribute the remaining benefits among the members. On this view, the group is not merely a device for holding the assets of its members but is also an owner in its own right, with obligations to pay its debts and the right to make decisions concerning the allocation of its remaining resources. Thus, because the group is itself an owner, we cannot assume without further examination that persons in the group have a right to all the benefits it can provide, or even to those that it usually in fact provides. As moral agents, groups are woven into the fabric of society in such a way that the expectations of their members must be weighed against the rights of others whom they must deal with in a morally responsible way.

Let me summarize what we have learned so far. So far, the discussion has been about the possibility of a group owing reparation. We have seen that, given the findings of previous chapters of this

¹²J.J. Thomson, "Preferential Hiring," Philosophy and Public Affairs, II (Summer, 1973).

study, such a claim is at least intelligible. For groups, as moral agents, can perform unjust acts and can incur moral obligations. Moreover, we have seen that the obligation of a group to make reparation is, when it exists, logically distinct from any obligation that its members may have to do so. We saw also how it is that penalizing groups might involve depriving persons in those groups, but that this is not always an injustice to them. Certainly there are other matters regarding reparation that could be discussed, but these are the matters that have the most important connections with the subject of the present work.

It might also be claimed -- and the Black Manifesto appears to do this -- that reparation is owed to a group. I want now to examine this claim in some detail. Many of the same issues that arise in a discussion of groups as owners of reparation arise again, but in new clothing, when we discuss groups as moral agents to whom reparation can be owed. For purposes of discussion, we can conveniently divide the topic into the following kinds of cases: reparation owed to a group but not to persons in it; reparation owed to a group as well as to persons in it; and, and a special kind of case, reparation owed to persons but distributed to them through groups.

We saw earlier that it is intelligible to claim that some group has a right to something. We saw that the foundation for at least some of the rights that a group can have rests in the group's ability to enter into special relations with other agents. Thus, a group capable of entering into a contractual arrangement not only incurs some new obligation but acquires some new right as well. Indeed, it might well be that groups can have other rights as well; but for present purposes we need to know only that, under some circumstances, a group can have a right to something. For, as long as a group has a right to at least something, we can conclude that, when it is deprived of the thing in question, an injustice has been done to it. And if doers of injustice ought to make reparation, we can see how reparation might be owed to a group.

It should be noted that, when a group is treated unjustly, it is not necessarily the case that any persons in the group are treated unjustly. For it is quite conceivable that a group could have a right to something to which no person in the group has a right. If, for example, a philanthropic foundation has contracted with some research institution to provide funds for a special project, it would seem reasonable to claim that the research institution has a right to those funds. This would not be itself entail, however, that any person in the research institution had a right to those funds. If subsequently the foundation should fail to provide the agreed upon funding and be unjustified in its failure to do so, the research institution (but not necessarily the persons in it) would be treated unjustly and might be conceivably owed reparation.

When certain kinds of additional relationships are introduced into the above example, it could come to be the case that both the group

and the persons in it would be owed reparation. Since persons often benefit from what benefits their groups, it is quite possible that, when the group is deprived of some benefit, so also will the persons in the group. Should those persons, in addition to the group itself, have a right to that of which they are deprived, they too may be owed reparation. The owner of reparation would then have a twofold obligation, to the group as well as to persons in the group.

Even when reparation is not owed to a group but only to persons, it can still be the case that groups are somehow involved in the satisfaction of the obligation to make reparation. To return to our earlier example, the Black Manifesto urges the moral necessity of reparation to certain groups. It may be that no reparation is actually owed to at least some of these groups. In fact, the Manifesto demands payment to some groups that do not yet exist. If, however, we own reparation to the persons that those groups might serve, one way of discharging that obligation might be to support the groups in question. In that case, the group serves as an intermediary, aiding one party in discharging its obligation and others by seeing to it that the reparation owed is distributed equitably and efficiently.

Several things must be noted concerning this third kind of situation. First, it is not a matter of reparation owed to the group itself. The Manifesto is never clear about this, and this makes its demands for reparation a bit difficult to comprehend and assess. Secondly, in its role of distributor of benefits, a group takes on an obligation that it would not otherwise have, the obligation to insure a just distribution of benefits owed.¹³ Finally, we should recognize that a group taking on such a task could thereby be radically changed. Bittker states it thus:

But the choice of means and ends would be vested in a different, and smaller, group of hearts and minds. The managers and their organizations would be transformed overnight from voices crying in the wilderness into major social and political institutions.¹⁴

¹³ Exactly how a group acquires such obligations is not discussed at length here, but several possibilities can be cited. First, a group could acquire such an obligation simply by consenting to serve as distributor of benefits. Or it could be that certain groups acquire obligations to distribute reparation benefits simply because they, of all agents, are best situated to do so. I shall have more to say on this in the next section of the present chapter, where I discuss the business corporations as distributor of risk to consumers.

¹⁴ Bittker, Boris, The Case for Black Reparations (New York: Random House, 1973), p. 82.

It would be out of place here to explore the nature of these changes, but it is important to note that they could conceivably have ramifications of moral significance and that these ramifications would ultimately have to be examined.

Finally, it should be noted that the present discussion of groups and reparation deals with only those groups of persons that have the sort of internal unity established by constitutive rules that enable them to have goals, make decisions, and perform actions that are all attributable to the group itself. Sets of persons grouped together only on the basis of race or sex do not ordinarily act as single entities, either to discriminate or to be discriminated against.¹⁵ This does not entail that blackness or femaleness cannot be a morally relevant characteristic.¹⁶ Nor does it entail that persons cannot be discriminated

¹⁵Vine Deloria has recently argued that the payment of claims to Indian tribes under the jurisdiction of the Indian Claims Commission serves as a precedent for reparation to other minority groups:

In 1946 the Indian Claims Commission was established to litigate outstanding claims that Indian tribes might have against the United States based on treaties and land cessions. This commission thus provides a prototype of structure by which the aspirations and claims of minority groups can be realized (We Talk, You Listen, pp. 148-49, cited in Bittker, op. Cit., p. 74).

Deloria may be making a mistake here if he is assuming similarities between a tribe and a race; for tribes are constituted according to certain rules and thus can conceivably be moral agents and, a fortiori, right-bearers. Not all minority groups are such. Bittker, without explicit reference to the rule structure underlying the difference, makes this same point:

To recognize the tribe as the proper recipient for Indian payments, however, is to accept the groups own loyalties and culture.... This approach cannot be automatically transferred to black-white relations. The American descendants of ... diverse African ethnic and tribal groups ... do not maintain distinctive tribal organizations, official membership rolls... By contrast, American Indians, even in their worst days, were able to preserve the structure... that characterized their separate tribal organizations (op. Cit., p. 74).

That there no longer exist such organizational structures among blacks may itself be a result of the acts of injustice perpetrated against blacks (e.g., removing them from their homelands, breaking up families, etc.). This certainly complicates the issue and is in need of further discussion.

¹⁶James Nickel has recently argued that blackness itself can become a morally relevant characteristic in the distribution of benefits.

against on the basis of race or sex. It means merely that blackness or whiteness and maleness or femaleness do not in themselves confer the unity necessary for all whites, blacks, males, or females to be a single moral agent.¹⁷ It does entail that any claim like "The male sex (or the white race) owes reparation to the female sex (or to the black race)" be either translatable to some set of statements about persons and groups or remain unintelligible.

To summarize, so far we have seen that it is at least intelligible to claim that a group could owe reparation for some past offense, either because it performed some unjust act or because it benefited from such an act. We have seen also that persons having roles in groups might have some obligations to a group that owes reparation but that whether they in fact do must be decided not simply by their affiliation with the group but instead by their own relation to the unjust act or to the benefits derived from it. We saw also that it is intelligible to claim that a group is owed reparation but that this situation should not be confused with the situation where a group functions as distributor of benefits to persons who are owed reparation. In order to analyze (and, ultimately, to assess) the moral claims that the Black Manifesto makes, we need to keep clear the nature of groups and their logical relations to the persons in them.

¹⁶See his "Discrimination and Morally Relevant Characteristics," Analysis, XXXII (March, 1972). His argument brought a number of responses. See especially the following: Paul Taylor, "Reverse Discrimination and Compensatory Justice," Analysis, XXXIII (June, 1973); Roger Shiner, "Individuals, Groups and Inverse Discrimination," Analysis, XXXIII (June, 1973); and Alan Goldman, "Reparations to Individuals or Groups," Analysis, XXXV (April, 1975). These articles share a common concern with the problem of when (and whether) blackness itself can serve as a sufficient reason for priority in a just distribution of society's benefits.

George Sher argues that "racial and sexual groups... are simply not enough like persons to fall under the principle of distributive justice." See his "Groups and Justice," Ethics, LXXXVII (January, 1977), 174-181. Gertrude Ezorsky, in responding to Sher, distinguishes between groups as aggregates and groups as single entities. See her "On 'Groups and Justice,'" Ethics, LXXXVII (January, 1977), 182-185.

¹⁷It is, of course, possible that systematic discrimination over a long period of time can transform an aggregate into a sufficiently unified and rule-constituted group that moral rights can be ascribed to it. I am indebted to David Ozar for this suggestion.

* * *

The second discussion of this appendix is concerned with the issue of strict liability in tort. As currently applied, the doctrine of strict liability requires the producer or marketer of a product to pay compensation for harm suffered (and, under some circumstances, for commercial loss) in the use of its products, provided only that the products are found to be defective. This issue is of interest to us here because it is becoming more and more commonplace that both producers and marketers are groups rather than individual persons. In this section I shall first explain the nature of strict liability.¹⁸ Then I shall examine more closely some of the justifications that have been offered for the use of strict liability in the law. This will be followed by an analysis of one type of argument that might be offered against strict liability. My concern here is not to show that any of these justifications are either successful or unsuccessful but to show rather that such justifications must ultimately regard the groups as moral agent, and to see precisely how the notion of the group moral agent enters into them and clarifies their intent.

The courts have long held that a producer who is negligent in the manufacture of a product ought to pay compensation for any damage suffered by a purchaser in the event the product proves defective. This seems to be a legal application of the moral principle that, when one acts negligently and thereby causes harm, he owes reparation to the agent harmed. Over the last century, however, the conditions under which a producer may be held liable have become less and less restricted.¹⁹ First, there was the acknowledgment by the New York Court of Appeals that, in order to claim damages in such cases, a consumer need not have had a direct contractual relation with the producer.²⁰ Then, with the

¹⁸In what follows I shall draw mainly from the doctrine of liability as understood and applied in the United States. For a brief analysis of similar doctrines in European legal systems, consult Friedrich Kessler, "Products Liability," The Yale Law Journal, LXXVI, (1966-67), 886-938.

¹⁹The brief remarks here on the history of liability are summarized from Kessler's article as well as from Michael Coccia, John Dondanville, Thomas Nelson, Product Liability: Trends and Implications (American Management Association, 1970), and also Roland McKean, "Products Liability: Trends and Implications," The University of Chicago Law Review (XXXVIII) (1970-71), 3-63.

²⁰*Thomas v. Winchester* 6 N.Y. 397 (1852). See also *MacPherson v. Buick Motor Co.*, 217 N.Y. 382, 111 N.E. 1050 (1916).

doctrine of res ipsa loquitur, it became easier to prove that a producer had been negligent in the production of defective items: the existence of specified kinds of defects was held to be sufficient evidence of negligence in their production.²¹ With a number of additional developments in the law, we have now reached a situation in which a producer can be held liable even if he has no contractual relation with the consumer and even if the "seller [producer] has exercised all possible care in the preparation and sale of his product."²² It is this final state of affairs that I wish to examine here.

Strict liability, in assigning liability with no judgment of fault or negligence, might seem to be an injustice to the producer (who is often a group) who is required to pay compensation. One could argue plausible that the consumer himself ought to bear the costs of his own injury in such cases, because the transfer of costs to some other agent from the one harmed always requires justification. If only negligence, a contractual relation, or intentional harm would justify this transfer, when all of these conditions are absent the injured party ought to bear the burden as his own. Kessler has summarized well this position (without advocating it) as follows:

Accidents not negligently caused, according to classical theory, are an inevitable part of the risk of living and have to be borne by the victim. It is up to each individual to minimize the risk inherent in the use of good by careful shopping... and by taking out insurance against inevitable risks.²³

²¹See, for example, *May v. Columbian Rope Company*, 40 Ill. App. 2d 264 (1963) and *Escola v. Coca Cola Bottling Co.*, 24 Cal. 2d 453, 150 P.2d 436 (1944).

In the former case a rope was judged to have been negligently produced simply because it broke on initial usage. In the latter, the presence of a cockroach in a bottle of Coke was sufficient evidence of negligence on the part of the bottler.

²²Restatement (Second) of Torts 402a. Note here the difference between a simple defect and a defect that is the result of negligence. With many types of products it seems reasonable to allow that, even with conscientious and skillful design, manufacture, and inspection, a certain small number of defective units will slip through the production network. The cost of preventing such defects might raise the price of the product to the point where it could no longer be afforded by consumers desiring the product. Thus, it seems important to admit that defective products could still be produced even without fault on the part of the producer.

²³Kessler, Friedrich, op. cit., p. 924.

But there are also reasons for not regarding the injured consumer as the only appropriate bearer of such costs. For example, Roland McKean has pointed out that leaving such costs to the consumer would provide an incentive to the producer to take only minimal care in preventing defects.²⁴ One might also argue, that, if the consumer had no recourse in cases of the sort under discussion, he would be saddled with an unbearable burden and that the use of strict liability in the law enables society to spread the burden over all consumers of a given product. Increased costs to the producer are reflected as price increases to consumers.²⁵ Both of these justifications have in common that they are based on the utility of holding the producer liable; the producer is so located within the market system, it is being argued, that he can, by redistributing cost to consumers, achieve the maximization of well being for the greatest number. Moreover, the possibility of legal recourse gives him a strong incentive to do so.²⁶

There are other possible reasons why the producer should have the obligation to provide compensation or at least to distribute the costs of compensation among all users of a given product. In *Henningsen v. Bloomfield Motor Co.* the New Jersey Supreme Court enunciated the following principle:

The burden of losses consequent upon use of defective articles is borne by those who are in a position to either control the danger or make an equitable distribution of the losses when they do occur.²⁷

Actually, there are two distinct principles contained in the court's claim, and I shall examine each of them. The first of the two principles is that those who are in a position to control some danger should be held liable when it is not controlled. The corporation that produces has several means at its disposal for controlling such dangers: it can

²⁴McKean, Roland, op. cit., pp. 7-8.

²⁵This raises another possible moral objection to the doctrine of strict liability: because each consumer is compelled to pay extra for protection he might not want, it seems that such restriction of his liberty demands some justification. Strict liability thus appears to be a sort of paternalistic approach. I shall not examine that problem further here.

²⁶To this must be added also the possibility that justice might require a corporation, in some kinds of case, to bear the cost itself rather than to pass it on to consumers. In what follows here, I work only with those cases in which distribution of costs is a just way of proceeding. Criteria for deciding when this is a just way of proceeding are not discussed here, though those would have to be arrived at for a complete analysis of the problem.

²⁷N.J. 358 (1960).

withhold the dangerous product from the marketplace; it can improve the product and the relevant quality control procedures; it can provide sufficient information to the consumer to enable him to protect himself from possible defects, etc.

We can see in this first principle a basis for several other moral obligations that a group which produces for the marketplace might have. To see this we must first return to a claim made by H.L.A. Hart that I discussed earlier. Hart claims that an agent can acquire some new right that he would not otherwise have due to some action that he has taken in relation to another party or to some special relationship that he has come to be in.²⁸ As examples of rights arising from acts, he cites those rights arising from promises and acts of consent. In addition he proposes that there are rights arising out of special relationships. He offers the following schema:

When a number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who have submitted to these restrictions when required have a right to a similar submission from those who have benefited by their submission.²⁹

Thus, Hart is claiming that any co-operative system based on rules is binding on those who have benefited from its existence, even when they have not given any actual consent to the system, and that those who have submitted have the right to expect the submission of theirs.³⁰

²⁸ H.L.A. Hart, "Are There Any Natural Rights?"

²⁹ Ibid., p. 185.

³⁰ Hart may be stating his point somewhat too strongly here, for it is at least not obvious that whenever several agents develop among themselves some mutually beneficial practice with rules ascribing rights and obligations, that any other agent who happens to benefit from this practice is thereby obligated to observe those same rules.

What is missing might be some reference to an underlying unity among all agents benefiting from the practice. Perhaps, Hart alludes to this when he later discusses this issue as among "members of society" (p. 186), but he is never clear on this.

Rawls, in arguing for Hart's point, claims that an obligation that arises in this manner

...is not... an obligation which presupposes a deliberate performative act of acceptance ... It is sufficient that one has knowingly participated in a practice acknowledged to be fair and accepted the resulting benefits ("Justice as Fairness," p. 17).

Participating in a practice may itself provide the underlying unity mentioned above.

In what follows I shall presume that Hart's point, even if not correct as it stands could be repaired so that it would be correct and

He calls all such rights "special rights."

Although Hart focuses his attention on rights including those "special rights," there are also obligations that arise out of acts and relations, including some that we might call "special obligations" because they arise, like Hart's "special rights," out of special relationships. Certainly in the case of a promise there is not only a right to have the promise kept but also an obligation to keep the promise. There are also moral obligations arising out of joint enterprises, such as those discussed by Hart in the passage quoted above. We can thus see how within a society, all persons who have an overabundance of goods may have an obligation to feed the hungry, insofar as they themselves benefit by the same basic structure of institutions in the society, and this even though they have not actually contracted with the poor for some sort of a reciprocal assistance program. A similar thing might be claimed in support of our obligation to save drowning persons when we have life preservers available, and so forth.³¹

Now, if we suppose that there are some obligations that arise because of mutual benefit from rule-governed co-operative activities, we can see a possible justification for the claim of the New Jersey Supreme Court that "the burden of losses... is borne by those who are in a position to control the danger." For if everyone in fact benefits from the existence of the practice of allocating liability according to this principle, then those who follow the principle have the right to expect the same from other agents. We can see then how this principle might create some more specific kinds of obligations for groups whose activities consist in producing and/or marketing. The group would be obligated to gather for itself the information necessary to make a safe product.³² Where the producer is a group, this is a complex moral obligation. It involves an obligation not only to have technical expertise available, but also to create and maintain the kind of channels necessary to provide that information to the decision-making process of the group. This may involve obligations on the part of the group itself as well as on the parts of those persons in the group who have the power or authority to control the flow of information. A group that did not provide for the flow of safety information in its decision processes would likely find itself at some point culpably ignorant. The situation here is more complex because of the nature of

applicable to the kinds of issues I address here.

³¹For a sample application of this principle to a specific moral issue, see David Ozar's "Justice and a Universal Right to Basic Health Care," as yet unpublished.

³²The group might also be obligated to provide safety information to consumers, but that issue will not be discussed here.

group decision making as distinguished from decision of persons in groups.

It should be noted, though, that the first of the two principles enunciated by the New Jersey Supreme Court does not directly relate to the issue of strict liability, for it asserts only that a producer ought to do what he can to prevent defective products from harming people. Thus, it establishes a principle by which subsequent claims of negligence might be made. Strict liability obtains, though, when a producer is held liable even though he is not negligent. The second principle of the court is thus the part that relates directly to strict liability. It states that, where losses do occur, the burden of compensation should be on those who are best able to distribute them equitably.

I suggested above that the producer (rather than the consumer) might be best able to distribute losses equitably. That it ought to take on the task of distributing losses equitably is another matter, though, and would require further justification. One might argue, in accordance with Hart's view, that the system of rules that renders producers liable even without negligence, is a system from which producers themselves benefit. Producers can, of course, benefit from economic survival, profits, and so forth. Moreover, most producers are themselves consumers and thereby benefit from the same system of allocating losses. Thus, other members of society have a right to expect producers to follow the system of rules from which they benefit.

Alternatively, sometimes the arrangement is a contractual one whereby, in exchange for certain privileges such as the right to profit, the right to certain tax advantages, and so forth, the producing group has consented to render the service of distribution of costs, satisfaction of consumer needs and desires, etc. This argument would have to show that the producing group voluntarily entered into the arrangement. This would involve showing not only that the group chose to enter into the arrangement but also that it could have chosen not to. It is only by showing both of these that one could show that a group had consented to the strict liability arrangement.

Or finally, one might accept as a general moral principle that those who are in a position making them either uniquely or maximally capable of providing (without significant loss to themselves) some benefit necessary to others have an obligation to provide that benefit. Such a principle might justify the claim that the rich have obligations to the starving, that strong swimmers have obligations to save the drowning (when they can safely do so), and so forth. But to apply this principle to the strict liability issue would require that we show that the producer is uniquely or maximally capable of distributing losses. This would be simple if persons could not purchase their own accident insurance; but, given the availability of such insurance (and the ubiquity of insurance salesmen), the conclusion would be more difficult to establish. One would have to show also the necessity of risk and

loss distribution and, in doing so, clarify the criteria for judging whether something is a necessary benefit. Finally, one would have to show that the group itself would not suffer significant loss by serving as loss distributor. The moral principle is an interesting one; it might be used to show that universities, hospitals, and any number of other groups have some moral obligations simply because they are able to provide the necessities of life. To apply it to the kind of case we are discussing here would require careful consideration of the above mentioned issues.

I have offered here several kinds of arguments that might be offered to show that producers, whether persons or groups, have obligations to distribute risk and costs incurred through the use of their defective products. One could argue for this as matter of utility, on the basis of some contractual arrangement, from Hart's principle, or from some moral principle stating the obligations of those uniquely or maximally capable of providing necessary benefits. I have not established the correctness of any of these principles, although each appears to have either historical support or intuitive appeal, or both. The merit of the discussion is that it shows that, where groups that produce and market are moral agents, an argument might proceed to establish that they have a moral obligation to do the things demanded of them under the doctrine of strict liability.

It is important that we also examine arguments against the claim that producers have obligations such as those imposed under a legal system that includes strict liability. Most notable among such arguments are those of a libertarian nature. Such arguments usually begin with the premise that each person has a right not to be interfered with except by his own consent or to prevent him from harming others. Thus, it would seem that a person ought not to be forced to provide compensation or to distribute risk and loss as long as his actions as marketer and producer do not directly harm anyone.³³ Imposing the obligation of loss and risk distribution on the producer would be, according to this argument, an unjustified infringement on his personal freedom.

This argument may be a good one; but, if it is, its relevance to the present discussion is questionable. We are concerned here not so much with the liability of persons but with the liability of groups. It does little good to introduce an argument about the unjustifiability of interference with the lives of persons. The argument might be

³³If one were to argue that the non-negligent producer of a defective product is indeed harming consumers, it could be countered that the injured consumer is injured because of his own choice to use and bear the risk of using a produce that might be defective.

salvaged in one of two ways. First, the libertarian might establish that groups, as well as persons, are entitled to maximum liberty.³⁴ How this would be established is a problem, as the value of liberty is usually taken as somehow related to the intrinsic worth of individual human persons. An appeal to the intrinsic worth of groups would likely not have the same sort of intuitive obviousness.

A second approach might be used to save the argument. One might introduce a new premise to the effect that the liberty of groups is a necessary condition for the liberty of persons, and that any restriction of the liberty of groups is necessarily a limitation on the liberty of persons. This seems to be a more fruitful line of argument for the libertarian, but a careful statement of it would still have to respect the peculiar relations of persons in groups to the groups themselves.

Perhaps these arguments against the obligations of groups under strict liability could be repaired. If so, they could be repaired only with the acknowledgment that the group is an agent distinct from the persons in it, and with an adequate analysis of the liberty of persons in the group.³⁵ On the other hand, the arguments in favor of obliging groups to distribute costs under strict liability must also acknowledge that the group itself is a moral agent, for there is no other way to show that it (rather than the persons in it) can have moral obligations of any sort at all. Thus, the recognition of the group as moral agent is essential if we are to sort out the moral problems of strict liability in a society where production and marketing are not at the hands of individual craftsmen and merchants but by the agency of groups of persons acting under rules.

* * *

What has been established in this discussion of moral issues?

³⁴For an historical view of the tendency to confuse the corporation as agent with the person as agent see T.W. Arnold, The Folklore of Capitalism (New York: Yale University Press, 1939), especially Chapter Seven, "The Personification of Corporation."

³⁵Patricia Werhane has argued recently that

...there is an inconsistency in Friedman's concept of a corporation as a free autonomous institution to whom the notion of moral agency does not apply.

Werhane's claim here is that, if we claim that groups are entitled to liberty (i.e. that they have rights), then we must admit that they are moral agents. See her "Formal Organizations, Economic Freedom, and Moral Agency," forthcoming in the Journal of Value Inquiry.

First, there are several things that I did not try to accomplish. I have not tried to solve the normative issues. I have not established that reparation is in fact owed by anyone to anyone else. But we have seen how such claims as those involved in the reparation question must be understood when groups are involved. We have seen that groups can intelligibly be claimed to be perpetrators of acts needing reparation and that they can also benefit from the perpetration of such acts by others. We saw also that groups can be unjustly deprived of what they have a right to and can consequently be owed reparation. In each case we saw that this sort of situation differs from the owing of reparation by or to persons who happen to comprise or have roles in a group. We saw also that, even when reparation is owed only to persons, a group can still be, and can sometimes have an obligation to be, a distributor of benefits to those to whom reparation is owed.

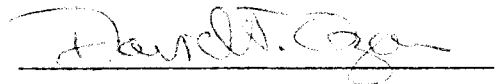
In the matter of strict liability, we saw how one might go about arguing that a group (or any other moral agent) has an obligation to serve as distributor of costs incurred by consumers in using defective products made or marketed by the group. We saw also the rudiments of a libertarian argument against holding producers liable. The libertarian argument considered was shown to be defective. To remedy the defect, one would have either to show the relation of the liberty of groups to something else assumed to be morally good (perhaps, to maximum liberty for persons) or to show that groups are entitled to freedom. Of course, one would still need to determine what freedoms a group ought to have; but this is a general issue that is problematic in the case of persons as well.

In summary, it seems that resolution of several important moral issues requires an understanding of the nature of groups and of their logical relations to persons in groups as well as of the rights and obligations of groups. This study has been intended to provide the beginnings of such an understanding. It has enabled us to see more clearly precisely what the normative issues are as well as to see other directions in which the study of group moral agency would have to be pursued.

The dissertation submitted by Michael David Smith has been read and approved by the following committee: David Ozar, Assistant Professor, Dept. of Philosophy; Thomas Donaldson, Assistant Professor, Dept. of Philosophy; Thomas Wren, Associate Professor, Dept. of Philosophy; Kenneth Thompson, jr., Chairman and Associate Professor, Dept. of Philosophy.

The final copies have been examined by the director of the dissertation and the signature which appears below verifies the fact that any necessary changes have been incorporated and that the dissertation is now given final approval by the committee with reference to content and form.

The dissertation is therefore accepted in partial fulfillment of the requirements for the degree of Doctor of Philosophy.

A handwritten signature in cursive script, appearing to read "David T. Ozar", is written above a horizontal line.

Director