

## Groups Have Rights

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Individuals are naturally members of the groups because in this way their lives would have a more robust basis than when they live separately. We should take note that the human is essentially a social being who finds himself, from his birth, as belonging to a variety of groups. This is a point that has been generally underestimated by many liberals who try to advance a concept of right that is defined detached from one's belonging social milieu:

Liberal rights theory is not conducive to strengthening the rights of peoples and groups and, as a result, defines the individual in an artificial way. Individuals do not naturally exist in a solitary state, but rather within social contexts and natural groups (Felice, 1996, 117)

Accordingly, the liberal view that regards groups as secondary entities and subordinate to individuals is questionable. In this paper, I will discuss the communitarianism-liberalism debate on whether groups themselves are right-holders? That is, are there values that can be attributed to groups intrinsically rather than instrumentally? In this regard, there are two prominent camps that hold opposing views about the collective rights, i.e. liberals and communitarians. Prioritizing individuals over groups, liberals resist the essential valuableness of groups while communitarians advocate group rights. As rights are meant to protect interests (Wellman, 1999, 16), this controversy on the possibility of attributing rights to groups comes down to the question of whether groups have any interests of their own.<sup>1</sup>

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<sup>1</sup> In this paper, I refrain from delving into the metaphysical questions surrounding the nature of groups and their grounding in individual members. Specifically, I do not address inquiries about the existence of composite objects

Collective rights can be conceived in two ways: from one point of view, collective rights are those rights that are radically of a higher order and cannot be reduced to a set of rights that belong to individuals. That is, they are rights that are founded on a basis that is absolutely different from the individual rights.<sup>2</sup> In this sense, the collective rights may even contradict the rights of the individuals. There is another view on the collective rights that regards them as dialectically related to the rights of the individuals in a way that they are determined in their reciprocal relationship. The second definition of collective rights is tacitly accepted by Hartney (Hartney, 1991, 298), but he defies the first notion of collective rights. In the following essay, I will show why communities have their own unique sort of rights. But before that, it is helpful to attend to Hartney's (liberalist) argument against this view. Harney's argument goes as follows:

1- Collectivities have no values in themselves. They are valuable just in so far as they contribute to the wellbeing of their members.

2- A collectivity should be protected only when it contributes to the wellbeing of the individuals

3- A collectivity has a right but this right is merely subordinate to the rights of individuals. If the collectivity doesn't serve the interests of its members it has no inherent interests on its own.

Therefore, the only bearers of moral rights are individuals and collectivities are valuable for serving the interests of individuals. Surely, as per Hartney, there are goods that have collective significance and even there are goods that are shared by many or all people, but we cannot make a conclusion that the sum total of different individual interests constitute an independent collective good. The kind of rights that are usually attributed to the collectivities are reducible to individual

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like groups, independent of their constituent parts. For a more extensive exploration of this subject, including discussions on composite objects and their relations to parts, see: (Hashemi, 2022).

<sup>2</sup> See: Stapleton (1995)

rights. I think such a futile attempt to reduce all community-based benefits to the goods of individual is untenable. There're some reasons that justify my position:

1- In my view, the argument upheld by Hartney can be countered by appealing to the Aristotelian distinction between distributive and corrective justice. Distributive justice requires an equal share of goods in accordance with the merits of the individual recipient. In a just society there should be a mechanism that ensures a share of goods for every individual that is proportional to his merits in a way that all are provided with a secure baseline of welfare. Corrective justice is contrasted with the distributive justice in that it doesn't factor in individual merit. When someone inflicts harm on his fellowman, corrective justice requires that the harm-doer be punished and the wrong be corrected regardless of any merits that the harmed and harm-doer possess. In the case of corrective justice when someone has committed a wrong, the social institution is the only authority that can enforce its corrective measures, without being possible to reduce this function to absolutely individual benefits. In fact, there's good reason to believe that collective rights are essential to corrective justice and this good cannot be reduced to individuals as community is the only power that brings the corrective rights into effect. The value of corrective justice belongs intrinsically to the community because it concerns those cases in which there's a conflict among members. So, this value aims at the interrelations among individuals rather than individuals themselves. Besides, there's a great possibility that the corrective measures conflict with the benefits of *most* people, rather than just *some* of them because humankind in general has an inner tendency to return to the state of nature. Therefore, the value of corrective justice is in no sense reducible to individual benefits.

2- Hartney's issue with the collective rights is that even if the groups are irreducible to their members, they have no interest of their own, apart from their members. This thought leads to what

he calls “the aggregate interest of a group, i.e., the sum of the interests of its members” (Hartney, 1991, 299), something that I found untenable because there’s a difference between the way the group rights and individual rights are grounded and justified. Communities enforce many regulations that are completely grounded on themselves rather than following the interests of their members. For instance, a class of group rights aim at the solidarity and self-determination of the group itself without having anything to do with the immediate interests of the members. The laws that requires the individuals to respect the unity and solidarity of the group are first and foremost grounded on the group.

Against this view, liberals may say that this solidarity would in the final analysis benefit the individuals, but this reply is not right because the kind of benefits that are relevant for Hartney’s argument are those that serve the interests of the individuals immediately. If he claims that all collective goods result in a causal chain that finally may benefit some individuals at least partially, his position will be totally trivial because the benefit from a distant causal chain may be drawn from any collective good whatsoever (similar to butterfly effect!!). In a similar vein, the solidarity of the group, regardless of the variety of ways that may have negative or positive byproducts for the individuals, is a good that primarily belong to the group itself and its justification as a right is based on the group not on the individuals.

3- Another case in which the collective goods transcend the individual goods is when a group yield some benefits that are immediately enjoyed by others that don’t participate in the group. For example the defensive alliance between Australia and New Zealand may benefit US politically and economically while the US has no affiliation to this treaty. Hartney’s position presupposes that all group goods are reducible to their members, however this example represents a group good that at least partially isn’t reducible to the goods of its members. In other words, the individual’s

endeavor for constituting a group is reasonable but it doesn't entail that all the benefits of the group are conferred to them and there always remain benefits that goes beyond the dynamism of group-members. This surplus value belong to the group and there may be outsiders like the US that seize the opportunity and grab this good, however they are not necessary elements in the mechanism of the group and this extra value may remain unused.

A liberal may repel my arguments by saying that the values of the groups can be attributed to a potential member rather than actual ones. For example some measures that are taken by groups may bring no benefits for its members, but contribute to the wellbeing of the next generations. I think this way of expanding the concept of membership to include potential members is similar to what communitarians have in their mind when talking about groups. To say, a potential member is a conceptual framework that is defined prior to and independent of what an actual member prefer and what he deems as beneficial. Therefore, analogous to communitarianism, it is the group that defines autonomously the values for its potential members.

Based on the three given counter-argument, Hartney's reductionist approach to group rights is put into question. Communitarianism is justified in this regard, because, as I have argued, there are many reasons that groups have privileged position over their members and their right can in no way be reduced to the individuals' rights.

## **References**

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