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Title	The good of association and the freedom that we share
Authors	Schmid, Hans Bernhard
Publication date	2025-01-01
Original Citation	Schmid, H. B. (2025) 'The good of association and the freedom that we share', Societās Working Paper 37/2025 (23pp). Cork: School of Law, University College Cork.
Type of publication	Working paper
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Download date	2026-11-05 09:54:44
Item downloaded from	https://hdl.handle.net/10468/17849

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Societās Working Paper 37/2025 August 2025

Global Perspectives on Freedom of Association: The Good of Association and the Freedom we Share

Hans Bernhard Schmit

Societās Exploring the Value of Freedom of Association

IRISH RESEARCH COUNCIL An Chomhairle um Thaighde in Éirinn

Societās Working Paper Series

Global Perspectives on Freedom of Association Collection

The Global Perspectives on Freedom of Association collection is presented under the auspices of "Societās: Exploring the Value of Freedom of Association". The project is generously funded as a Laureate project of the Irish Research Council and hosted at the School of Law in University College Cork.

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Final versions of these papers appear in (2025) 12 1&2 *European Journal of Comparative Law and Governance* and in Maria Cahill & Giulia Lasagni (eds.), *Associational Life and Freedom: Insights from Philosophy and Law* (Hart Publishing, 2025).

The Good of Association and the Freedom that We Share

Hans Bernhard Schmid[*]

In the Introduction to this collection, Maria Cahill writes that "right to freedom of association protects individuals in their sociality, in the collaborative context of their relationships with others".[1] As the good that is protected by the right to freedom of association, sociality here appears as a value. Although existing rationales for freedom of association focus on its protection of the individual's right to live their lives as they see fit or on the ways in which it serves a healthy democracy, and even on the ways that associations support self-development and flourishing,[2] none of those defences focuses on the dimension of sociality that is inherent to associations.[3]

This picks up on earlier observations made in the philosophical literature on freedom of association, but marks an interesting contrast, too. It aligns with Amy Gutman's diagnosis in the introductory essay of her influential 1998 collected volume.[4] 'Associational freedom', Gutman says here, 'is not merely a means to other valuable ends'.[5] However, Gutman does not focus on sociality, but locates the value of associational freedom in its connection to individual

[*] This publication is a contribution to the *Societās: Exploring the Value of Freedom of Association* project, directed by Professor Maria Cahill at the School of Law, University College Cork, and funded by the Irish Research Council (now Research Ireland) under grant IRCLA/2022/3860. The chapter builds on ideas discussed during the workshop *Exploring Associational Life: From Social Ontology to Law and Back Again*, held at University College Cork on 25–26th April 2024. I wish to thank the participants in this webinar and the main workshop, and especially Giulia Lasagni and Maria Cahill for detailed and very insightful criticism and comments!

[1] Maria Cahill, "Comparative and Interdisciplinary Interfaces of Associational Life and Freedom", in Maria Cahill & Giulia Lasagni (ed.), *Associational Life and Freedom* (Hart Publishing, 2025), 1, 1.

[2] *Ibid*., 2-7.

[3] The invitation to consider the importance of sociality within associational contexts was made by Maria Cahill and Giulia Lasagni under the auspices of the *Societās* project in the context of an invitation to dialogue between social ontologists and legal theorists (See https://www.associationalfreedom.org/post/webinarnovember2023, last visited on 29th August 2025), which led to the *Exploring Associational Life* workshop referenced above. This chapter considers the dimension of sociality within associations from a philosophical perspective and is offered as a contribution to that dialogue, sensitive to the fact that no settled position has yet been articulated on the same theme by legal scholars.

[4] Amy Gutman, 'Freedom of Association: an Introductory Essay' in Amy Gutman (ed), *Freedom of Association* (Princeton, Princeton University Press, 1998).

[5] ibid 4.

freedom, on the one hand, and liberal democracy, on the other hand: 'associational freedom […] is essential for […] individuals to live a good life and for constituting a just society'.[6]

In her project of elucidating freedom of association, Gutman gathered philosophers and social scientists, and the spirit of the discipline at the time shortly before the turn of the millennium was communitarian – with a renewed emphasis of the importance of social bonds and belonging, directed against the perceived individualism of the "liberal" tradition.

Cahill's initiative is distinctive in that it aims to bring together legal scholars and social ontologists, and the task is to articulate the specific value of associational freedom.

As a rapidly evolving and diverse field that came to be established only in the decades after Gutman's publication, social ontology is certainly not a unified position, or method, or stock of knowledge. But it is not entirely without recognisable contours either. One view on which, although in different versions, many (although certainly not all) early 21st century social ontologists agree is this: agency is not only instantiated by individuals, but by (some) groups, too. As freedom arguably centrally involves agency, and as associations are often defined as forms of joint action, the issue of collective or group agency is obviously relevant to the question of the value protected by the right to freedom of association. It is thus reasonable to expect substantial insight from enlisting social ontologists to the task of discussing the value of freedom of association.

This chapter thus approaches the issue from a joint action-focused view of Social Ontology.[7] The question is how the value protected by the right to freedom of association involves associations *as subjects* rather than just as objects – as belonging to those who *have* the right and whose *own* good is thereby protected rather than just as an object (or good) *to which* there is a right.

Cahill suggests that the right to freedom of association protects *individuals* in their sociality, which might perhaps be taken to suggest that individuality and sociality relate in the way of a subject (or substance) and a property thereof (or accidents). This chapter explores challenges to any such reading. Might 'individuals in their sociality', as protected by the right to freedom of association, be just that – *groups as agents* whose *own* good is thereby protected rather than just them in turn being protected as the good of other agents, the individuals?

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[6] ibid 5.
[7] Hans Bernhard Schmid, *We, Together – The Social Ontology of Us* (New York, Oxford University Press, 2023).

Tackling this question of course involves the ontology of groups, the theory of "group rights", as well as considerations of the many ways in which "the good" (or "value") is relational. The chapter has two main parts. Part I approaches the question of how sociality figures in the right to freedom of association with some considerations on how the right to freedom of association might be an individual *and* a collective right. It is argued in this section that this distinction, drawn in terms of individual and collective rights-holders, collapses. It is not the case that the right to freedom of association is an individual right to associate or disassociate (with individuals as rights-holders), and a collective right to organisational autonomy (with associations as rights-holders), as the "individual" right extends to associations, too, and the "collective" right is also the participating individuals', in terms of rights-holders. Part II engages critically with a prominent (and influential) proposal of a group rights perspective (and underlying conception of group agency) in early 21st century social ontology – Christian List's and Philip Pettit's. A significant feature of this view is its firm commitment to (normative) individualism, and the way in which ontological view and normative commitment interrelate in this theory is instructive. It is argued in this section that considering the case of freedom of association might reveal both a flaw in the conception of group agency and, correspondingly, a somewhat limited conception of political freedom (Pettit's "Republicanism") in that conception.

A concluding Part III applies the plural action view of the ontology of associations to one of the moot court cases depicted in the introduction to this volume. In matters of the relevant jurisdiction, the emerging view of the status of organisation and incorporation seems practically relevant when it comes to the question of whether "unregistered" or formally non-incorporated plural agencies (such as a group of people running a non-profit soup kitchen together) should count as protected by the right to freedom of association. The social ontology of association that emerges in this chapter tends to give a positive answer even in cases where no informal "governance"-structure (or distribution of roles) has been established – such cases are paradigmatic instantiations of the right to associational freedom; imposing organisation and registration of them may be harmful to them, and constitute an infringement on their right to freedom of association. However, it is argued that incorporation (and registration) may reasonably be demanded of larger scale plural activities.

I. Freedom to Associate and Organisational Autonomy

In early 21st century social ontology, there is a widely shared view (perhaps even one of the core claims) that agency can be properly instantiated not only by individuals, but by groups, too. Constituent features of agency are identified in the literature, and different degrees of agency are distinguished – just that something is an agent does not imply that it is a *person* capable of moral action – and it is argued on that base that not only individuals, but groups, too, can be agents. Christian List's and Philipp Pettit's uniquely influential account makes the further case that some groups can be of the kind of agents that make them suitable for the role as *holders of rights*.[8] The kind of agent that can be a holder of rights is, they argue, a person, and a person is – to paraphrase the view – a suitable target of normative expectations, that is, an agent who can act for normative reasons. Although List and Pettit argue that some groups are indeed of that kind and thus may (or should) have rights, they should not, they say, have 'equal rights' – the rights that they may (or should) have are not 'on a par with individuals'.[9] In List's and Pettit's view, groups should only be given rights that are compatible with "normative individualism", defined as the view that 'something is good only if it is good for individual human or, more generally, sentient beings'.[10]

Are associations potential cases in point, and might it perhaps even be that the right to freedom of association is – in part – just that, a group right? List and Pettit do not discuss the issue of freedom of association, and neither do they discuss associations in particular. Indeed, it seems rather obvious that associations of the "intimate" (or "primary") kind, such as married couples – do not qualify as groups (and thus potential group agents or even holders of group rights) in their sense. List's and Pettit's concept of a group assumes an entity that persists through the exchange of their members, which is not the case in marriage or friendship, where the death of one of the participants necessarily terminates the association. This conception of a group, however, might very well be associations of the "collective" (as defined by Brownlee and Jenkins)[11], "secondary" or "third" kind (as defined in Gutman)[12] – the 'groups of people organised for a joint purpose' as which the Oxford English Dictionary defines associations. "Collective" associations (on which the focus will be in the following) do seem, in principle,

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[8] Christian List and Philip Pettit, *Group Agency. The Possibility, Design, and Status of Corporate Agents* (New York, Oxford University Press, 2011) C 8.
[9] ibid 170.
[10] ibid 182.
[11] Kimberley Brownlee and David Jenkins, 'Freedom of Association' in Edward N. Zalta and Uri Nodelman (eds), *The Stanford Encyclopedia of Philosophy* (Fall 2024 Edition) <https://plato.stanford.edu/archives/fall2024/entries/freedom-association/> accessed 26 July 2025.
[12] Gutman, 'Freedom of Association'.

to be fit candidates for List/Pettitean groups, and thus for holders of group (or collective) rights, too.

Might freedom of association, in part at least, be just that – a group right in the sense of a right that some groups (the groups that are associations) have? Before investigating this further, one should not forget, however, that classical formulations of the right to freedom of association do themselves address the question of who its subjects are. 'Everyone has the right to freedom of peaceful assembly and association', the Universal Declaration of Human Rights famously states in Article 20. This answers – with some authority at least – the question of who's *right* freedom of association is. But who is everyone? The Universal Declaration does *not* say "every individual", or "every natural person". And it seems quite easy to spell out the right to freedom of association as an individual *and* a collective right in a way that the two are not simply (and perhaps implausibly) on a par (with individuals and associations having *equal* right).

That freedom of association is an *individual* right seems obvious enough. Freedom of association obviously protects the agency *of individuals* from state interference; in this regard, the right to freedom of association can be characterised as each individual's right to team up with other individuals in the formation of an association (which is, one might think, something that *individuals* can do), or the right of each individual to join any existing organisations that is willing to accept them as a member. In particular, it protects individuals against states prevention of joining up or joining in (organised) team action. Viewed in this way and based on an understanding of association as shared activity, it does indeed seem quite basic: it is the individual's right to engage (with others) in joint action.

There is yet another regard in which the right to freedom of association seems to be focused on the protection of *individuals*. It is, as it seems, characterised as an *individual* right as the right to *leave* any association, too – this point stated separately in Article 20 of the Universal Declaration of Human rights, right after the above: 'no one may be compelled to belong to an association'. Why should one think that this does not exhaust the right to freedom of association, and that it is a collective right (or group right), too? One way to approach this is the following. Associations, it seems, are not just spontaneous team acts. They are organisations. Although this of course involves individual participants, organising associational activity is in an important way the association's *own* business – its role in the act is that of an agent rather than that of an object acted upon. As a collective or group right, freedom of

association is recognition of associational agency; it is every (legal) association's right to pursue its purpose as it, the organisation that it is, sees fit (within the limits of the law).

It thus seems that freedom of association *cannot* just be the freedom to (not) join up or join in, but needs to extend to the freedom to do (at least) that for which the association has been founded and for which it is kept running by its members. This is the association's business, it seems, and pursuing it should be recognised as a freedom that is, in this sense, really *the association's,* as the collective or group that it is. Freedom of association is the association's freedom to pursue its goals, and to do so in the way it sees fit, within the limits of the law.

The law might certainly distinguish between different types of association, and place requirements on their organisational structure accordingly, but the state cannot prescribe a pursuit, goal, or purpose to it, or infringe on associational self-organisation by determining the way it pursues its goal (or else the association would cease to be an association, and turn into a de facto state organ). In order to see this collective aspect of freedom of association, it is necessary to recognise that associations exist, that they exist as agents, and that in an important sense, the right that is freedom of association is the associations' own freedom, which makes them holders of the right to freedom of association of their own.

Most controversially perhaps, the collective dimension of freedom of association comes to the fore when thinking about the *right to exclude,* which is arguably part of freedom of association, too[13], and which obviously attaches to associations rather than to any individuals as the relevant subjects (rights-holders); *you* (singular, as an individual) cannot enrol me or throw me out of the History of Ontology Association, unless the association has, in virtue of its organisation, authorised you to do so, so that what you do is what the association does.

It is not difficult to make the case that the right to freedom of association implies the right to exclude. For associations to be able to pursue their business in a modally robust way, they need to be able to not accept (or to exclude) members who are obviously inimical to or unfit for the purpose that is the association's. To mention some clear cases, no fringe political party can be required to accept members who apply only to subvert or take over the association (the right to exclude allows an association to defend itself against what is known in the literature

[13] Michael Walzer, 'On Involuntary Association' in Amy Gutman (ed), *Freedom of Association* (Princeton, Princeton University Press, 1998).

as “entryism”, the strategic infiltration of association with the aim to repurpose rather than support it).

Is the answer to the above question – who is everyone? – thus perhaps simply this: each and every individual, *and* each and every (legal) association, so that associations are included in a full list of rights-holders – although plausibly not “on a par” with individuals, since it is the *collective* right of which they are the holders? Is the answer that there are really two separate rights to freedom of associations, an individual right and a collective right, with two kinds of rights-holders to consider?

If associations are indeed to be counted as subjects of the right to freedom of associations *alongside* individuals (on one and the same list of who is included in “everybody”, although in different categories), one should expect individuals and associations to be sufficiently similar (analogous) in the way in which they “have” their respective (individual or collective) right to freedom of association (or in how it is that the right to freedom of association is “theirs”).

Although it is notoriously difficult to determine what’s “sufficiently similar” for something to be an analogy rather than a disanalogy, one might think that this is not be supported by the description of how the right is individual and collective so far.

An apparently clear disanalogy is that for individuals, the right to freedom of association includes, besides the right to form or join an association, the right *not* to participate. Not joining – or leaving – are protected options; they are exertions of individual freedom of association. There seems to be no correspondent to this in the collective case, considered so far. One might perhaps think that an association’s freedom extends not only to being in charge of (and going about) its own business without undue interference, but also to “change its mind” and do *something else entirely* (for example, by changing its statutes), or to closing down shop altogether, too. Or one might think that the correspondent to the individual “stay out” or “exit-option”, in the collective case, is the exertion of the right to exclude (with the exclusion of *every* member perhaps being a way of deciding to close down shop).

It seems obvious, however, that – ontologically speaking – that which is protected by the right to freedom of associations relates to associations in a much more fundamental way than how it attaches to individuals (at least if one takes associations to be *voluntary)*. Take away individual freedom of association, and you end up in a world where individual lives are lived in isolation except of state-ordained venues; the existence of the individual right-holders does

not depend on the right. Take away collective freedom of associations, and you end up in a world in which there *are no voluntary associations,* but perhaps only state agencies of sorts. A traditional distinction that might be apt to capture the difference is this: freedom of association is *regulative* as an individual right, but it is *constitutive* as a collective right.

The thought experiment – if it works – even gives a reason for doubt concerning the distinction between an individual and a collective right to freedom of association that is not affected by the vagueness of analogy. The world without individual freedom of association and the world without collective freedom of association are *one and the same* world: a world without associations. This suggests that individual and collective rights to freedom of association may not be different rights (the respective rights of different kinds of rights-holders) after all. If they come and go together, perhaps one is either *reducible* to the other, or they are non-reducibly *identical* in some way after all? Might it be that the "individual" right to freedom of association *is* (in some sense of identity) a "collective" right, and/or vice versa?

One might think that joining up with others freely (or joining in an association – the exertion of the individual right to freedom of association) is a very different thing from the associations' not being unduly interfered with in the running of its business (the exertion of the collective right to freedom of association). But the thought experiment (if it does indeed have the stated result) perhaps supports a different view. One could perhaps imagine a non-revolutionary anti-liberal regime change where the existing associations are left in charge of running their business as they see fit, but where people are not free to set up new associations, or join any existing association without special state permission (arguably, this would be a scenario with collective freedom of association without individual freedom of association). This would likely result in the persistence of exactly those "associations" (if they can still be called such) which the state regime would have permitted to exist had it chosen the opposite route by abolishing the "collective" right to freedom of association while maintaining the "individual" right to freedom of association.

Of course, this does not prove identity – sometimes, very different things can have the same result. But this perhaps still supports the intuition that the right to freedom of association is not two rights with two different types of rights-holders, but, in some way, one package.

A further complication with the (apparently) neat and clean house-keeping solution to expand the list of rights-holders to include associations while keeping them distinct as different kinds of holders of a different kind (or perhaps just "aspect") of right to freedom of association

is this: it does not seem absurd to think that the individual right to freedom of association, as depicted so far, applies *to associations,* too. The actual legal facts are certainly difficult to see from a philosopher's armchair (even with internet connection), but it is not obvious at all why besides "natural persons", associations should not have, in virtue of freedom of association, a right to associate, too. Associations, too, are free to team up, to associate with each other, to form partnerships, coalitions, federations or some such that are, in fact, associations of associations.

It is perhaps not obvious why the associations' right to associate with other associations (assuming that it is part and parcel of the right to freedom of association) should be regarded as similarly "basic" or "essential" as the right of "natural persons" to associate.

One could perhaps imagine a world in which the individual right to freedom of association is realised for "natural persons", but not for associations (in this scenario, if an association felt that its purpose requires to strengthen another associations' activity, it would have to disband itself and encourage its members to join in the other association that could then perhaps decide whether it deems it fit to organise itself in such a way to allow those members to form one of its "organs", such as a regional chapter). An association's *individual* right to freedom of association is perhaps not tied to the right to freedom of association *as such* (or *sans phrase*) quite in the way the individual right to freedom of association is tied to the collective right to freedom of association (where it seems that the one stands and falls with the other). But it seems plausible enough to assume that the distinction between the individual and the collective right that is freedom of association (according to the above characterisation thereof) may not coincide with the distinction between "natural persons" and associations as rights-holders. The individuals that "have" the right to freedom of association include, it seems, associations.

Is the converse true, too – might a point be made that among those who have the "collective" right that is freedom of association are not only associations, but individuals, too? Here is a reason why this may indeed be the case. Whatever exactly it may be to which individuals have a right to do freely, in virtue of the right to freedom of association – the process of teaming up with each other in founding an association (arguably the conceptual core of the right to freedom of association) –, already involves (to some degree at least) an exercise of that which the *collective* right to freedom of association is to protect: the exercise of the sort of joint self-organisation that is the core of associational autonomy. Associating with each other, or

founding an association together, is joint action, and we usually can't just do it spontaneously if it is to be about more than just enjoying our company while it lasts. If you and I do it, it is something that we, together, do, and arguably on an agreed-upon plan that involves *some* degree of organisation. Although you may have proposed the plan, it becomes real only by me accepting it, with your proposing it to me and my accepting it being our respective individual contribution to a token act that is *ours*, collectively: our founding an association.

The legal picture may or may not align perfectly with this ontological claim. The French 1901 association law (according to the currently valid amendment of the law) requires at least two signatories in order to come into existence through registration (although significantly, the 1901 original version of the law did not require registration). If it should turn out that some legislations do allow for single individuals to formally found (via registration) an association all by themselves, a point could perhaps be made that what registration constitutes here is an *initiative* for an association rather than the association itself. However, if – as the French case suggests – registration is needed for the association to exist as a *legally recognised* entity, it seems that our above picture is incomplete. It is not just any bunch of individuals who can associate by any means – they need to show up, in some form, in front of some government teller and hand in the paperwork – and wait for state confirmation of recognition.[14]

However, it seems rather clear that restricting the concept of association to associations of the *legally registered* kind is way too restrictive for the spirit of the right freedom of association, and indeed, in a very important sense, it would interfere so heavily in the process of founding an association that doing so would become very cumbersome if not outright impossible. The 19th century fight over the legal right to freedom of association was for legal *toleration, acceptance,* or *recognition* of what people where already doing: gathering up in clubs and other circles to promote their shared interest. And even a legalistic view of association presupposes some way in which (proto-)associations can exist prior to legal recognition. People need already to associate with each other, and act together organisedly, as it were, even if it is just to register their association with the government. Arguably the right to do so is itself a collective right after all, or rather: not to be neatly distinguished from, but identical with the right to "team up".

[14] I vividly recall doing this together with Alessandro Salice with the Austrian *Vereinspolizei* – literally, the association police – in the process of founding the International Social Ontology Society (ISOS).

"Founding and organisation" (a part of freedom of association as an individual right) and associational self-organisation (a part of freedom of association as a collective right) might not really be separable in the way assumed by the initial description. Even people's meeting up and discussing an issue of shared interest is already a joint activity. It is not simply a distribution of actions (you saying something, I saying something etc.), it is a token action that involves a plurality of participants, and it involves them together. It is done *collectively.*

The conversation and self-organisation that results in the founding of an association is certainly not *the associations'* action in a sense that is distinct from what the participating "natural persons" are doing. And it does not seem to be a matter of the right to freedom of association, but rather a matter of the right to *freedom of assembly.* A cursory look at the literature in legal theory and legal philosophy suggests that the two are indeed (seen as) being tightly interrelated. It seems that as far as the right to found an association is concerned at least, freedom of association *presupposes* freedom of assembly, and it is difficult to even imagine an associational life without any opportunities for assembly – and of course, assembly is hard to imagine without *freedom of expression,* which explains why so much of the literature seems to be discussing them together. "Assembling", as an action type, seems to be plural – it is a token action with a plurality of agents.

It thus seems that the proposed distinction between the "individual" and "collective" aspect of the right to freedom of association not only fails to distinguish between individuals and collectives as rights-holders. It seems to collapse altogether. The right to team up and form an association *is* the right to joint activity, and the right to self-organisation that is identified as the collective aspect of the right to freedom of association is essential already for the formation-story.

If you and I fail to organise ourselves in the pursuit of a shared goal, it is *us, together* who fail, not just you, me (and whoever else is involved) severally. Self-organisation is not an individual task, but a joint task. Achieving self-organisation is something we, the participants, should do *together* (and setting up some "aggregation procedure" with extra insurance of collective rationality in virtue of which we constitute a formal extra group agent are just ways of tackling this). Organisation is not a *prerequisite* for a bunch of individuals to be a collective agent – rather, organisation – in terms of self-organisation – is something *we* do, and we do it together.

II. Towards a Pluralist Ontology of Group Agency

The most successful theory of group agency in recent social ontology – List's and Pettit's – suggests that group agency comes to be and exists as an *extra agent* (that is, as an addition to the full list of agents), an entity that ensures the collective rationality of the group's attitudes to such a degree that one can plausibly speak of an agent, and potentially a group person with rights of its own. But the view that a group can only be an agent (or indeed a group person that is a rights-holder of its own) if it is sufficiently organised misses an important point that neatly comes to the fore when thinking about assembly and association (rather than corporation): coming together, setting up a joint venture, and establishing an organisational structure is itself something in which the participants are involved collectively rather than severally.

If I am not mistaken, it is this pre-corporate "jointness" of agency that seems to be at the core of what the right to freedom of association protects. It is neither "just" individual agency (or freedom), nor is it some corporate agency (or freedom), but perhaps better adequately described as *plural agency*, and thus a freedom that is neither distributive (anyone's own individual freedom) not collective (the freedom of some "group agent"), but the freedom that agents *share,* or *have together.*

Association crucially involves a plurality of individuals participating in one token activity, and the self-organisation thereof over time. That activity is *neither* just individual activity, nor is it some group agent's own. If this is right, exploring the specific value that is protected by freedom of association will hardly profit from the group agency idea as developed in early 21st century social ontology; to the contrary: thinking about freedom of association could perhaps better serve as a starting point of rethinking the ontological commitments involved in established group action theory. But how could this help further in elucidating the value protected by the right to freedom of association?

It is worth noting that (conceptions of) values are closely tied up with ontological commitment. Values are openly declared in List's and Pettit's conception of group rights where they argue that group rights should be compatible with what they call normative individualism. To recall, normative individualism is described as the view that 'something is good only if it is for individual human or, more generally, sentient beings'.[15] In a footnote to this sentence, they explain further that they 'take it as a working assumption that group persons do not have

[15] List and Pettit*, Group Agency*, 182.

whatever functional characteristic it is that makes individual human beings distinctively valuable, such as sentience of the right kind or other distinctively human qualities'[16], but this seems confusing, because the footnote thus shifts from the subject of value (that for whom something has value) to the object of value (that which is valued). A reference is given in the text for the concept of "normative individualism", and it is to a monograph[17] on John Rawl's *Theory of Justice*[18] where "moral individualism" is ascribed to Rawls as the plausible view that the good that is a socio-political arrangement is to be judged according to the good it is *for* individuals. In an instructive discussion, this "doctrine" of moral individualism is distinguished from three other versions of individualism about the good.

The first "doctrine" that they reject as distinct from the "good for individuals"-doctrine of normative individualism is the "good by individuals"-doctrine, as the authors call it, a view according to which the good is to be understood according to the individuals' own conception thereof (rejecting this view leaves room for the possibility that individuals might not recognise what is good for them). Second, the authors distinguish the "good for individuals"-doctrine from what they describe as the "good of individuals"-doctrine, which is best explained in the authors' own words:

> 'The *of* doctrine decrees that the only goods in virtue of which a state can be praised are items that belong to individual people: items like their liberty, their happiness, their equality. It rules out the approval of a socio-political arrangement for the production of goods which, though they affect people, belong in the first place to aggregate-level entities. Examples of such aggregate goods might be the solidarity of a community, the continuity of a culture, or the harmony of relations between racial groups'.[19]

"Aggregate goods" – the term introduced here – need not be disregarded by moral individualists of the advertised doctrine. And even more decidedly, the "good for"-doctrine is distinguished from the "good in individuals"-doctrine, according to which "proper" good takes into account only what individuals can "have for themselves", in separation from each other.[20]

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[16] ibid 85.
[17] Chandran Kukathas and Philip Pettit, *Rawls: A Theory of Justice and its Critics* (Cambridge and Stanford, Polity Press and Stanford University Press, 1990).
[18] John Rawls, *A Theory of Justice* (Cambridge MA, Harvard University Press, 1971).
[19] Kukathas and Pettit, *Rawls*, 15.
[20] ibid 11–16.

In this normative discussion, it is easy to recognise a distinction that Pettit contributed to social ontology in work published shortly after the Rawls-book. This discussion pre-empts, one might think, the influential distinction between the atomism-holism controversy on the one hand, and the individualism-collectivism controversy on the other hand, as presented by Pettit in his *Common Mind*.[21] The individualism vs collectivism issue is basically over whether or not social facts (or collective entities) compromise the picture of intentional agency (the collectivist view for which Durkheim is taken to be the paradigm gives a positive answer). The atomism vs holism issue is over whether or not agential capacities can be understood as being non-causally dependent on social relations (Hobbes with his assumption of pre-socially constituted individual agents serves as the paradigm for the atomistic view here). Pettit argues that these two controversies are independent of each other, leading to a 2x2-matrix of potential positions (with Pettit arguing for the combination of individualism and holism, and against both atomism and collectivism).

Certainly, one should not forget that the descriptive issues surrounding individualism (or atomism) are not exactly the same as the normative question[22], but as Kukathas' and Pettit's discussion shows, any normative position depends, in what it is understood to be, on view of what it is, descriptively, that it is *about.* In particular, the point made that focussing on the good *for* people does not commit to limiting one's view of what's good in, by, or of people is congenial to the view that people are who they are not just in, by, and of themselves. As Pettit himself puts it in a much later paper that looks back on the issues, a commitment to individualism and holism, in terms of a position in social ontology, has normative "corresponding implications": individualism commits to prioritising the interests of individuals, holism commits to including the good that comes from social relations.[23]

The discussion of associations in the previous section, with its emphasis on plural action, however, casts doubt on the attempt to capture the good of association as merely an "aggregate good", with the producers thereof understood as "aggregate entities". It is not obvious, to say the least, that the concept of an aggregate good captures the distinction between what is produced as a non-intended consequence of a complex individual action (such as a market equilibrium), and a feature of intentionally acting together (such as, arguably, a

[21] Philip Pettit, *The Common Mind: An Essay on Psychology, Society and Politics* (New York, Oxford University Press, 1993), P 2.
[22] Steven Lukes, *Individualism* (New York, Harper & Row Publishers, 1973).
[23] Philip Pettit, 'Three Issues in Social Ontology' in Julie Zahle and Finn Collins (eds), *Rethinking the Individualism-Holism Debate. Essays in the Philosophy of Social Science* (Cham, Springer, 2014).

convention – unless one thinks that a conventional equilibrium account thereof works, and that a joint action account thereof is unnecessary).

Focussing on association (and the good thereof) thus nourishes the suspicion that there might be something important missing in the influential 2x2-matrix of the distinction between atomism and holism and the distinction between individualism and collectivism, and it concerns a form of "sociality" that is not just a precondition of individuality (that the holist view holds), but sociality of the *active* kind: the joint pursuit of living together.

To conform to Kukathas' and Pettit's labelling method of "doctrines", we should perhaps identify as separate from the other "doctrines", and as mistaken, the "good out of individuals"-view. It is the view that the good that is anybody's acting well (admittedly, a rather Aristotelian conception of the good) is realised only in the actions of single individuals. Normative or moral individualism, if it is to be a plausible position, should be compatible with the contrary view, that is the view that part of the good that is in acting well is realised in plural action, in activities that jointly involve several individuals as agents (just the sort of activity that is associational life, if we disregard associations of the "tertiary" kind, that are basically corporations with little contact to their "members").

The ontological correspondent to this normative issue is the distinction between singularism and pluralism, that is, between the view that any action has *one* agent, and the view that there are plural actions, too – that is, token actions with a plurality of agents. This issue is, as it seems, independent of both the atomism/holism and individualism/collectivism issue: one need not *necessarily* be committed to any view concerning whether or not human agential capacities non-causally depend on social relations, or concerning whether or not social-structural regularities override intentional regularities to choose one's position in the singularism versus pluralism controversy.

Pettit calls the controversy between atomists and holists the "horizontal issue", and the controversy between collectivists and individualists the "vertical issue".[24] In his important 2014 paper on *Three issues in Social Ontology*, Pettit – based on his and Christian List's recent work on group agency – does indeed add a third issue to this – the *depth issue*, one might think, although Pettit does not use this obvious way to place it as a third dimension in the geometry of his previous two ontological distinctions. Pettit labels it the controversy over singularism

[24] Pettit, *The Common Mind*, 111.

and anti-singularism. Singularism is the view that only agents of the kind some of which are "natural persons" ("individuals", one might tempt to call them) can instantiate agency; anti-singularism is the view that groups can instantiate agency, too. Based on his previous work, Pettit of course argues for the "anti-singularist" view.

Why, one may ask, resort to the label "anti-singularism" rather than choosing the natural antonym "pluralism"? After all, the other controversies are not over "individualism" versus "anti-individualism" and "atomism" versus "anti-atomism" either – Pettit has no issue with choosing the proper antonym there. Whence does the reservation against pluralism come from?

The straightforward answer is, I submit, this: Pettit's position, his group agency view, is *not pluralist.* He does not conceive of the agencies that meet his criteria for group agents as plural, but rather as collectively singular – an often-made mistake in the history of thought – the misconception of "us" as a collective "me". As to the issue of how agency might be realised cooperatively, he follows down the Platonic line rather than heeding Aristotle's sage advice. Plato famously argued (throughout the *Republic*)[25] that for the city to be a proper agent, it needs to have the same form of unity as the properly active soul – to which Aristotle objected (most convincingly, I tend to think) in the *Politics* that this misconceives of the city, which is a unity of *many* rather than just one.[26] In the depth-issue, List and Pettit's position thus seems thoroughly singularist.[27] The groups which they discuss as agents are singular agents (they instantiate agency in the same way as individual persons), and from a pluralist perspective, they thus mistake the plural for a collective singular.

Thinking about the value of the right to freedom of association invites a pluralist view. Freedom of association is insufficiently conceived of as a right that attaches to associations, as corporate agents, qua collective right, and that attaches to individuals as an individual right. Freedom of association undercuts the view that wherever there is action, it needs to be a singular agent's (individual or collective). It is the freedom to action that is many agent's, and perhaps this is (part of) its specific value.

To return to the normative issue: the good of associations, thus conceived, might be inadequately captured by normative individualism in (List's and) Pettit's sense. The good of a particular association may indeed be the "good for" its individual members, in Pettit's sense,

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[25] Plato, *The Republic* (Cambridge, Cambridge University Press, 2000).
[26] Aristotle, *The Politics* (Chicago, University of Chicago Press, 1984).
[27] List and Pettit, *Group Agency*.

and this is certainly the case if it is the *purpose* of the association, and if it is successful in its purpose. But many associations are not about promoting the "good for" its members, but about what is good for other people, or about the common good, or about values that may not easily be reducible to what's "good for" anybody in particular or indeed everybody such as the pursuit of knowledge, or ecocentric concerns, or transcendent religious belief. As a socio-political arrangement, the right to freedom of association may be about the protection of the "good out of" pluralities rather than just the "good out of" singular activities, about the protection of the "pursuit of the good" (happiness, or whatever else it might be after) that is done *together* rather than just alone.

The suggestion is that social ontology might learn from thinking about the right to freedom of association. It invites to reconceive of Pettit's "singularism/anti-singularism issue" as the singularism-pluralism-issue that it really is.

This has normative ramifications in thinking about the good, as an important part of the good that is associational life is inadequately captured as a good "for" individuals; it involves individuals not just as *beneficiaries*, but as *sources* of the good, but it involves them *plurally,* or together, rather than severally. This is an issue that Pettit has sadly missed in his turn towards group agency, which remains thoroughly singularist in what we might call the "depth"-issue in social ontology.

From the earliest pre-history of the label in the 19th century, "social ontology" tended to come with political commitments (of a wide range of orientations).[28] It seems that this history continues with Pettit. Towards the end of his seminal *Common Mind,* Pettit observes that how we view the make-up of the "social world" is 'bound to have an impact on the way we see political values'.[29] His anti-atomist anti-collectivism, he argues further, is related in this way to republicanism as a normative view. Pettit's book on *Republicanism* picks up on this, and it centrally involves a theory of freedom as non-domination, that one might perhaps legitimately call *republican* rather than democratic in that it features public *contestability* of government action rather than government by popular consent.[30] The ideal of freedom around which this thinking revolves is of none of us being *subordinated* to anybody else*,* every one of us being able to look anybody else in the eye without having to resort to "fawn or toady or

[28] Hans Bernhard Schmid, ''Social Ontology'-Pre-Histories of a Label' in Stephanie Collins, Brian Epstein, Sally Haslanger and Hans Bernhard Schmid (eds), The *Oxford Handbook of Social Ontology* (New York, Oxford University Press, forthcoming).
[29] Pettit, *The Common Mind*, 285.
[30] Philip Pettit, *Republicanism. A Theory of Freedom and Government* (New York, Oxford University Press, 1997).

flatter".[31] The concern is with the relation between agents – it is not, however, so much with our potential to act bottom-up together. Joint agency involves an additional dimension of freedom: a freedom that we *share.*

With his republican conception of freedom, Pettit is heavily invested in political agendas, as is manifested by his special relation to the Spanish socialist prime-minister José Luis Zapatero.[32] Pettit has established himself as a thinker of considerable political influence on social democracy at a time of vacuum after the "third way" phase in the last decade of the 20th century.

Some of Pettit's remarks seems to suggest that the order of inspiration goes from social ontology to politics – perhaps the order might appear to be reversed in hindsight. In their 1990 book, Kukathas and Pettit say of John Rawls' *Theory of Justice* that it is 'more than the reconstruction of political prejudice' because it relies on consideration and on a back and forth between principles and particular judgments[33], and this is certainly true of Pettit's venture, too. If I am right, Pettit's later concerns with issues concerning joint action could (or should?) perhaps have had the potential – if developed – to give his thinking about sociality a more decidedly democratic direction by taking a *pluralist* stance rather than just extending singularism to the collective level.

Considering the question of how the right to freedom of association attaches to agency supports a decidedly pluralist view – a view that does not subscribe to the doctrine that the only practical source of the good is singular activity. It involves a conception of freedom that goes beyond non-domination; it is freedom that is shared. The value protected by the right to freedom of association is the good that comes out of the source of acting together.

III. Application to the Problem of Legal Recognition

How does pluralism in social ontology, along the lines developed in this chapter, matter for legal issues surrounding the right to freedom of association? Let us see whether (and perhaps how) this applies to the scenarios of legal dispute that the editors of this volume have proposed for the contributors to consider (see introduction).

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[31] Pettit, *The Common Mind*, 5.
[32] José Luis Martí and Philip Pettit, *A Political Philosophy in Public Life. Civic Republicanism in Zapatero's Spain* (Princeton, Princeton University Press, 2010).
[33] Kukathas and Pettit, *Rawls*, 7.

I have suggested that the fundamental ontology of associations is plural action rather than formal organisation, constitution, or incorporation as a "group agent". This may make a difference concerning the question of registration as it comes up in one of the moot scenarios proposed by the editors.[34]

This seems obviously relevant to the type of legal dispute such as captured by the "soup kitchen" moot scenario presented at the beginning of this volume.[35] The case is a number of friends and family running a non-profit soup kitchen together. They are faced with the accusation of not complying with the Charities Act by failing to register. Against mandatory registration, they invoke the right to freedom of association.

The reasons for the soup kitchen's resistance against registration (as mentioned in the moot scenario) are, first, that registration (and the organisational structure that it imposes) is costly (the case description suggests that they might have to pay for a bookkeeper once they open a bank account) – money that would then have to be diverted from the charitable work. A second (and perhaps even more weighty) reason is that the soup kitchen people understand what they are doing as a joint activity of friends who offer their service to people they know personally as their guests; they feel that formal organisation (or incorporation), as demanded by registration, would make what they are doing somewhat "impersonal" (a Charity providing services to customers).

From a plural action view as suggested in this chapter, the soup kitchen people's argument receives much sympathy and support. Being the plural agency that they are, they do not want to turn what they, together, are doing (and how they, together, thereby relate to their guests) into something else. They do not want to turn it into something "the association", as a corporate agency, is doing. They do not want to establish, among themselves, a however supervenient collective group agent entity to which they then basically relate third-personally ("the association", "the charity") rather than just being who they are in acting together ("we, together").

The philosophically relevant point here is that a joint activity changes its nature once it is incorporated as group agency – a fact to which much of conventional social ontology seems rather blind, but which seems rather obvious from a plural action perspective.

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[34] Cross. Ref. Introduction.
[35] Cross Ref. Moot Scenarios

The scenario has the soup kitchen run as informally organised in some way, with established roles, but they may not wish to establish formal decision procedures, officer roles (such as "the treasurer", etc.), as they may be demanded by their national association laws. In a more radical version of the case than the one assumed in the description, they may even want to keep things in flux rather than settle on one established division of roles. And all of this may not only be because of how they themselves see what they are doing – it may also be that this is not how they want their joint effort to relate to the people they serve. They may want to relate *directly* and *personally* to their soup kitchen's guests rather than having a corporate third party ("the association") mediate between them, as it would happen if the guests became the association's clients, and the soup kitchen members the association's role bearers.

A plural action ontology may thus be taken to support the line of argument of the soup kitchen volunteers in this case. It is, from this perspective, good news that according to the narrative in the case description, they won in court.

And yet, even from the armchair of a social ontologist who recognises plural action as fundamental, it is not difficult to fathom potential reasons for legal impositions of registration on joint activities of certain kinds. By requiring people who are jointly engaged in charity work on a regular basis to register as a charity, the law aims at making sure that what's going on is indeed charity work – to protect the donor's and stakeholder's interest, to protect the public interest by making sure that tax-exemption is indeed deserved, and to prevent fraud and misuse of funds, which serves to promote public trust in the entire charity sector. It is comprehensible, from a legal perspective, that joint action, if it is happening at some scale and with some regularity, not only be charitable, but *accountably* so. This requires self-organisation of the sort that requires the plural activity to incorporate and register; it is not enough for the participants to actually solve their task through shifting and more or less spontaneous divisions of work, as this can easily lead to a lack of transparency and knowledge of who is doing what exactly in the joint action, which may already become problematic for any joint venture, in and by itself; they also need to be solving it in a way in which government knows whom to ask about what when it comes to core functions. In order to fulfil these demands, plural agency needs to be constituted at an organisational level.

From this perspective, the case at hand is thus expressive of a general feature of acting together; it is not in virtue of "constitution" or incorporation that people act together, but in order to know properly what it is they are doing and how – in order to act *accountably* together

– constitution and incorporation come into play.[36] And yet, constitution and incorporation do change the nature of what is being done and how, and here, the soup kitchen activist's complaint is relevant.

As a general matter, this issue is characteristic of living together. In the specific case at hand, this is perhaps best seen as a case of balancing of interest or proportionality assessment. Here is an armchair philosopher's recommendation to lawmakers, administrators, and judges: leave plural activities such as the soup kitchen people alone; people such as these know well enough what it is they are doing together and how, even without the sort of formalisation that comes with registration. But do require formal registration, incorporation, and organisation of larger scale associations, where the issue of accountability becomes more pressing.

[36] Schmid, *We, Together*.