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# Chapter 14

## The “Pragmatist Turn” in Theory of Governance

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### ABSTRACT

*In this essay, the author focuses on what Jacques Lenoble and Marc Maesschalck call the “pragmatist turn” in the theory of governance. Speaking of pragmatist turn, they refer to recent work by a range of authors such as Charles Sabel, Joshua Cohen and Michael Dorf, who develop an experimental and pragmatist approach of democracy. The concept of “turn” may raise some perplexity. The author believes that we can speak of “turn” about these experimentalist theories because these theories introduce a key issue, what we may call the question of “self-capacitation of the actors.” The author tries to show that this issue constitutes a novelty compared to the deliberative paradigm in the theory of governance. While the issue of collective learning is a black box in the deliberative paradigm, democratic experimentalism seeks to reflect on how the actors can organize themselves to acquire new capacities and to learn new roles. The author concludes in revealing the limits of this approach.*

### INTRODUCTION

In this essay, I would like to focus on some research results of the Centre for Philosophy of Law at the Catholic University of Louvain. In particular, I will focus on what Jacques Lenoble and Marc Maess-

chalck call the “pragmatist turn” in the theory of governance. Speaking of pragmatist turn, they refer to recent work by a range of authors such as Charles Sabel, Joshua Cohen and Michael Dorf, who develop an experimental and pragmatist approach of democracy, what they call “democratic experimentalism” (Dorf & Sabel, 1998).

The concept of “turn” may raise some perplexity. It refers to an idea of novelty or overcoming,

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an idea of transition from one paradigm to another. Can we really speak of “turn” about these experimentalist theories? Do they really permit to overcome other paradigms in the theory of governance or do they only constitute a deepening of these? Should we not rather regard such theories as a form of deepening of the deliberative paradigm?

Based on the work of Lenoble and Maeschalck (2010), my goal is to demonstrate that these theories constitute a real “turn” in theory of governance. The reason is that they introduce a key issue, what we may call the question of “self-capacitation of the actors.” They seek to reflect on how the actors can organize themselves to acquire new capacities and to learn new roles. It seems to me that the issue of “self-capacitation” of the actors is a novelty compared to other paradigms in the theory of governance.

To demonstrate this thesis, it seems useful to begin with the diagnosis of a paradox in our societies. The paradox is that although there are more and more opportunities for participation in our society, the influence of citizens does not seem to have been really increased. In a second step, I will try to show that this paradox of participatory democracy refers first of all to an unsettled question in the deliberative paradigm, of which Habermas is the most famous representative, namely the question of the “capacitation” of the stakeholders to assume their discursive role within the deliberative programming of the society (Maeschalck & Loute, 2007). In a third step, I will show how “democratic experimentalism” makes this question of the “capacitation” of the actors a central issue of theory of governance. I will conclude in revealing the limits of this approach.

## THE PARADOX OF THE PARTICIPATIVE DEMOCRACY REVIVAL

In the last few years, some reform practices that have taken place within our States, have revived the

ideal of participation: recurring theme of participative democracy, deliberative practices, implication of the users in the evaluation of public services, etc. Some authors, like Blondiaux and Sintomer (2002), refer to the emergence of a “deliberative imperative.” The European policy context is also strongly influenced by the theme of participative democracy. This is for instance illustrated with the White Paper on European Governance (European Commission, 2001) which highlights participation as one of the principles for a good governance. Other authors, like Pierre Rosanvallon (2008), show how much democratic legitimacy implies the necessity and prescription of proximity and reflexivity. Our societies have thus entered the era of “reflexive modernization” (Beck, 1986; Beck et al., 1994) which brings into question the strict divisions of the task of our representative societies and our societies founded on the power of experts (Callon et al., 2001). For us, although they constitute a new mode of participation, the paradox of these new practices initiated by politics is that they do not seem to induce a real growth of power of citizens in collective decisions. They do not seem, using an expression of Marcel Gauchet, to render power *appropriable* by the members of the political community (2002). These offers of participation touch only a small part of the population, when they are not “colonized” – using an expression from Habermas – by the lobbies or by administration discredited which seek to acquire some form of legitimacy<sup>1</sup>. The multiplication of deliberative spaces has instead had the effect of making possible new forms of opportunism and strengthening the domination of majority interest.

## COLLECTIVE LEARNING: A BLACK BOX IN THE DELIBERATIVE PARADIGM

We believe that this “deficit” of the revival of participative democracy refers first of all to an unsettled question in the deliberative paradigm,

one of the dominant paradigms which theorize participation, namely the question of the “capacitation” of the stakeholders to assume their discursive role within the deliberative programming of the society (Maesschalck & Loute, 2007). Deliberativism presupposes that the constitution of space of deliberation and the convocation of the actors suffice in themselves alone, to stimulate communicational competence, inciting participation in a “collective action” which is aimed at the discursive formation of the general interest. Following Lenoble and Maesschalck, this paradigm presupposes that “the aggregation of communicative competencies alone suffices to generate the adaptive capability needed to solve problems in the most satisfactory way possible from the point of view of group members’ normative expectations (...); learning capacities are believed to be provided and activated simply by placing the various actors in dialogue” (Lenoble & Maesschalck, 2010, p. 142). This paradigm does not really problematize the issue of the acquisition of new skills and the learning of new roles by the actors.

The question of the learning of new roles by political actors is not really addressed. Such a question seems essential, however. If an author like Habermas (2006), following Arato and Cohen (1992), recognizes that the civil society has an essential role in democracy, he confines this position however to a simple peripheral role of informing the political system, while the political system itself remains the center of political life. This centralized and hierarchical “framing” of the communicative collective action raises different questions: What guarantees that the politicians will agree to be taught by the deliberations of civil society? Does not the political system run the risk of exploiting the public space which constitutes civil society, with the aim of legitimization or control civil society? (Blésin & Loute, 2011). Does not a real participative democracy imply the institution of a form of “polycentrism” (Ostrom, 1997), and a fragmentation of power that some define as “polyarchy”? (Cohen & Sabel, 1997).

Do not the actors of the political system need to learn new roles with reference to those fixed and specialized roles as we see in representative democracy?

In *The Postnational Constellation and the Future of Democracy*, Habermas (2001) addresses somewhat the issue of the transformation of the political actors, without developing a true reflection on the conditions of learning. In this paper, Habermas raises the question of the future of democracy in the context of globalization. For Habermas, globalization has affected both the functioning and the legitimacy of the democratic nation state. Facing the de-regulation provoked by globalization, he argues, a “re-regulation” (*Idem.*, p. 112) is needed if politics want to catch up with global markets: it is necessary to implement a “world domestic policy” (*Idem.*, p. 104), a global governance. By global governance, Habermas does not mean the government of a world state, which he considers both unlikely and undesirable but rather an interactive multi-level governance (national, international and global).

What particularly interests us in this paper is that Habermas is not limited to the question – normative – of the legitimacy of a postnational normative order. For Habermas, the implementation of a globalized public space of deliberation raises a second important question: “what are the conditions for a transformed self-understanding of global actors” (*Idem.*, p. 110)? He wonders what will drive the actors to act as partners of a cosmopolitan community and not like political actors who act only in order to get re-elected by their national voters. For him, such a transformation of the actors depends on the emergence of a “consciousness of a compulsory cosmopolitan solidarity” (*Idem.*, p. 112) in civil society which will lobby politicians. This answer leaves us dissatisfied. Is the sole pressure from civil society sufficient to induce political actors’ learning?

Far from resolving the question of the transformation of political actors, highlighting the role of civil society raises a second question. How could

a "cosmopolitan consciousness" emerge in civil society? Does Habermas presuppose, as Ulrich Beck (2001, p. 312; 2003, p. 22), that dramatization and mediatization of global risks (environmental, financial, etc.) lead almost automatically to a "consciousness of a compulsory cosmopolitan solidarity"? How can civil society actors become capable of deliberating and influencing the political power? In our view, Habermas does not really address the question of the capacitation of civil society actors. He merely states that such civil society's action is possible without really thinking the conditions of "capacitation" of civil society actors<sup>2</sup> (Habermas, 2003). Habermas does not really develop the issue of actor's learning.

## **CONTRIBUTION OF THE DEMOCRATIC EXPERIMENTALISM**

Reading the work of Marc Maesschalck and Jacques Lenoble, it seems that we can consider that on this question of the "capacitation" of the actors, "democratic experimentalism" constitute a real "turn" in the theory of governance. The authors of this trend (i.e. C. Sabel, M. Dorf, J. Cohen) directly reflect on the conditions that enable the learning of new roles by actors and the learning of a new collective exercise of power. By "democratic experimentalism", these authors designate a public solving-problem system that combines a federal learning with the protection of the interests of federal jurisdictions and the rights of individuals (Dorf & Sabel, 1998, p. 288). According to such a governance model, at national level, the objectives, the contents of public policies must only be defined to a limited extent and remain vague and general to enable federal local unities to experiment contextual solutions. A double social learning process is therefore expected: the one which results from necessary choices to implement solutions by local experimentations and the one which results at federal

level from the evaluation and the comparison of the different local solutions.

We believe that this proposal draws the features of a new culture of governance. While in the deliberative paradigm, the attention was centered on the rules of rational debate within a community of discussion, these authors shift the attention towards that which makes possible a learning process through the confrontation between different groups of actors facing a common problem to solve. Thus they expect that these interactions will make possible a true "democratic experimentalism."

The pragmatist theory of participation leads to a fundamental shift in political philosophy. Following Maesschalck, it shifts the focus of the "intra-group learning" of the community of discussion, to a dynamic of "exo-group learning" (Maesschalck, 2008, p. 191). Between the level of individuals and that of the ideal community of discussion, pragmatism reinvests the level of inter-group relations in political philosophy. By group, there is no question of the community of the American communitarianism or of lobbies of the interest group theory. The pragmatist authors rather refer to a community of action, a "public" in the sense of John Dewey (1927). By "public," one does not need to understand an ideal community of deliberation, or in the sense meant by Arendt, a public space of apparition. The public space for Dewey is neither an idealistic space nor a space already constituted. The public is rather constituted experimentally through a process of collaborative and cooperative inquiry. Such a conception of the group enhances both individual freedoms – understood as the release of the personal potentiality of individuals through the association<sup>3</sup> – that democracy being experienced continuously through group's interactions.

The interest of democratic experimentalism does not seem to reproduce the aporia of the deliberativist model. It does not presuppose that the only constitution of space of deliberation and the convocation of the actors are sufficient to enable collective learning. For learning to occur,

we must *act* on the institutional design of our democracies. We must organize ourselves to be taught by the course of action and by others. In addition to a decentralization of the management of public problems, different mechanisms such as benchmarking and comparative evaluation should be set up to provoke a collective learning.

For experimentalists, the benefits of democratic experimentalism are numerous. They expect from this experimentalism that it makes possible a destabilization of existing rules which moves the attention away towards other possible normative choices. In addition, the pragmatist's public sphere seems less ambiguous than the deliberativist's one. There is no question of a hierarchical and centralized political public sphere encompassing the deliberations of civil society. In democratic experimentalism, far from being centralized in the parliamentary forum, the public sphere is "organizationally dispersed" across all areas of local problem-solving (Cohen & Sabel, 1997, p. 337). These different "pieces of public space" are connected to each other by benchmarking procedures, which enrich the debate at the global level.

## LIMITS OF THE DEMOCRATIC EXPERIMENTALISM

This experimentalist's approach of participative democracy brings to the fore some essential questions: how to make possible the realization of a social learning process which "capacitates" the actors and which enlarges their normative horizon? What organization of the public space can make possible such a democratic experimentalism? The theoretical proposition of democratic experimentalism remains, however, unsatisfactory. Democratic experimentalism does not really favor the elucidation of the conditions under which the social learning process would take place. It presumes that the existence of a common problem and the bringing into interaction of groups of actors by practical incentives like *benchmarking*

or comparative evaluation are sufficient to incite the groups of actors to position themselves in the public space and to cooperate with other groups.

On many occasions, Sabel and Cohen seem to think we can assume that all individuals agree on the urgent need to solve some common problems and to cooperate:

*The problems of modern democracy arise quite apart from the clash of antagonistic interests or any guileful exploitation by individuals of blockages created by constitutional arrangements: they are (in the game-theoretic sense) problems of failed coordination, in which mutual gains are available, but different parties are unable to come to terms in a way that captures those gains (...) Put another way, we assume that for some substantial range of current problems, citizens agree sufficiently about the urgency of the problems and the broad desiderata on solutions that, had they the means to translate this general agreement into a more concrete, practical program, would improve their common situation, and possibly discover further arenas of cooperation. (Sabel & Cohen, 1997, p. 323)*

They do not defend the idea that there is consensus on how to solve common problems. But they seem to be assuming that a common motivation to solve common problems is given. They write:

*More immediately, we assume that citizens – despite conflicts of interests and political outlook – agree very broadly on priorities and goals, but cannot translate this preliminary agreement into solutions fitted to the diversity and volatility of their circumstances because of constitutional uniformity constraints. (Idem., p. 326)*

Following Sabel and Cohen, mechanisms of benchmarking or comparative evaluation should allow citizens to translate this general agreement about the urgency of problems into concrete and innovative solutions. But, are such incentives

sufficient to ensure confidence, cooperation and commitment to the joint objectives? An author such as Donald Schön has shown that defensive routines may constitute obstacles that a sole comparative evaluation process cannot dissolve (Cf. Lenoble & Maesschalck, 2010, pp. 179-189).

It also lacks a more comprehensive theory of learning at the institutional level. One has to realize that an approach such as democratic experimentalism "must not only rely on self-governance capacities of groups of stakeholders involved at local level, but also on the ability of the regulating power to guarantee equality of status and freedom within each experimentation and between experimentations themselves"<sup>4</sup>. However, nothing is stated on what can lead the regulatory power to transform itself in its role as guarantor of general interest. However, nothing is stated on what can lead the regulatory power to transform itself in its role as guarantor of general interest. For example, some authors have shown that the Open Method of Coordination, inspired by democratic experimentalism (Sabel & Zeitlin, 2010), have not succeeded in transforming cultural preferences that still dominate the political decision of public governance in Europe (cf. De Schutter, 2007).

In this essay, I have focused on what Jacques Lenoble and Marc Maesschalck call the "pragmatist turn" in the theory of governance. I tried to show that the experimentalist and pragmatist approach of governance developed by authors such as Sabel introduce a key issue, what we may call the question of "self-capacitation of the actors." This issue constitutes a novelty compared to the deliberative paradigm in the theory of governance.

The theoretical proposition of democratic experimentalism remains, however, unsatisfactory. Democratic experimentalism does not really favor the elucidation of the conditions under which the social learning process would take place. In their proposal of a genetic approach to governance, Jacques Lenoble and Marc Maesschalck attempt to overcome these limits of the experimentalist

paradigm. However, they do not abandon the issue of the self-capacitation of the actors. They sought instead to pursue this issue. Despite its limitations, the experimental paradigm will have raised an issue that seems essential. Indeed, without a real actor's learning and without an institutional learning, the risk is great that decentralization will make possible the proliferation of opportunistic behavior.

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## ENDNOTES

- 1 Following Marc Maesschalck, “Dans certains cas, les mécanismes délibératifs ont même rendu plus vulnérables les appareils de contrôle en favorisant l’opportunisme de nouveaux agents par leur option systématique pour la décentralisation et la multiplication des intervenants” (Maesschalck M., Normes de gouvernance et enrôlement des acteurs sociaux, *Multitudes 2008/4*, n° 34, p. 182).
- 2 “The sociology of mass communication depicts the public sphere as infiltrated by administrative and social power and dominated by the mass media. If one places this image, diffuse though it might be, alongside the



above normative expectations, then one will be rather cautious in estimating the chances of civil society having an influence on the political system. To be sure, this estimate pertains only to a *public sphere at rest*. In periods of mobilization, the structures that actually support the authority of a critically engaged public begin to vibrate. The balance of power between civil society and the political system then shifts." (Habermas, J., *Between Facts and Norms, Contributions to a Discourse Theory of Law and Democracy*,

p. 379) "In the present context, of course, there can be no question of a conclusive empirical evaluation of the mutual influence that politics and public have on each other. For our purposes, it suffices to make it plausible that in a perceived crisis situation, that *actors in civil society* thus far neglected in our scenario *can* assume a surprisingly active and momentous role" (*Idem*, p. 380).

<sup>3</sup> See Lenoble and Maesschalck (2010).

<sup>4</sup> See Maesschalck (2008).