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**Civil society meets the State:  
A model of associational democracy**

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## TABLE OF CONTENTS

<b>Associational democracy .....</b>	<b>2</b>
<b>Unresolved issues in the associational democratic project.....</b>	<b>6</b>
<b>Concluding remarks .....</b>	<b>13</b>
<b>References .....</b>	<b>16</b>

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## ***Civil society meets the State: A model of associational democracy***

At a time in which the state is in disrepute, civil society is often proposed as an alternative.<sup>1</sup> In advanced countries, the crisis of *dirigiste* policy-making has spurred reflections on the role of social actors in the conception and execution of public policy (see Levy, 1999; Putnam, 1993 and 1995; Cable, 1995). In developing countries, private associations are touted as an alternative to state-led development (for discussions, see Sanyal, 1994; Tendler, 1996; Edwards and Hulme, 1996; Hulme and Edwards, 1997). In all countries, uniform state solutions imposed to an increasingly heterogeneous mass of citizens, firms, and local economies are regarded with scepticism (for general overviews, see Bernard et al. 1998; Fiszbein and Lowden, 1999; EESC, 1999; World Bank, 1992).

In these changing circumstances, the relationship between civil society and the state is often one of competition. Civil society organizations are perceived to be intrinsically more dynamic, innovative, and efficient than state structures – marred by inflexibility, outmoded practices, and rent-seeking behaviour of state bureaucrats (on the latter, Buchanan and Tullock, 1962; Buchanan, 1980). It follows from these premises that to restore effectiveness, policy should strive towards less state and more civil society.

This paper takes issue with simplistic views of inefficient state and efficient civil society as well as undifferentiated accounts of civil society that do not distinguish among particular associations and their qualitative features. Drawing on recent literatures, it outlines a model of “associational democracy” in which state and civil society organizations are both part of a single, new regulatory framework that transforms both (Cohen and Rogers, 1995a; Hirst, 1994; Cohen and Rogers, 1995b; Cohen and Sabel, 1997; Dorf and Sabel, 1998; Fung and Wright, 2002).

In this new regulatory framework the state no longer dictates regulatory outcomes from the above in “command-and-control” fashion. The key idea in the model is the devolution of many regulatory functions to local groups and associations with detailed knowledge of problems and possible solutions, extensive monitoring capacities, and the potential to deliberate about generalizable as opposed to purely sectional interests.

The state does not wither away in this new model but does new things. Besides defining the basic goals of public policy, it selects the social actors participating in policy (based on their potential contribution), encourages the organization of underrepresented interests, establishes minimal standards of performance, favours circulation of information and best practices among locales, and reserves the right to intervene in case self-regulation fails. With minimum standards and reporting obligations, this regulatory model is far from voluntaristic.

While broadly sympathetic with the associational democratic agenda, this paper seeks to introduce greater doses of realism in the abstract, normative model. It does that by discussing three themes in particular: the difference between membership-based and non-membership based organizations, the relationship between associational democracy and corporatism, and the relationship between deliberation – a crucial element in the normative model – and bargaining.

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<sup>1</sup> The views expressed in this paper are the author’s only. They do not necessarily coincide with those of the International Institute for Labour Studies or the International Labour Organization.

Since not all groups are membership-based, legitimation problems arise when groups whose mandate to speak for particular constituencies is unclear are granted access to the public policy sphere. Also, while corporatism and associational democracy proceed from very different normative and empirical assumptions (the assumptions of the former being less appealing than those of the latter), many real-world examples of associational democracy develop around a very solid corporatist core. Finally, real actors rarely deliberate; they bargain. Yet, this is a kind of bargaining that retains many attractive features of deliberation itself, like truthful communication and problem solving orientation, while falling short of the full array of normative preconditions.

The remainder of the paper is divided in three parts. The first lays out the associational democratic programme in abstract form. The second discusses the portions of this programme that, in my opinion, need clarification. The third and final provides some examples, based on the Irish experience, to show that the associational democratic model may already be shaping the self-perception of policy-makers.<sup>2</sup>

## **Associational democracy**

The associational democratic project proceeds in three steps. With the first, it advocates devolution of public policy prerogatives to local secondary associations. Secondary associations are civil society organizations, that is, social groups intermediate between the economy and the formal institutions of the state (Cohen and Rogers, 1995a: 7). With the second, it encourages the constitution of *deliberative fora* composed of these secondary associations. With the third, it promotes a redefinition of the role of the state. This is no longer expected to provide standardized solutions to regulatory problems; it is instead expected to make self-regulation possible and effective. According to Paul Hirst, “associationalism makes a central normative claim, that individual liberty and human welfare are both best served when as many of the affairs of society as possible are managed by voluntary and democratically self-governing associations” (Hirst, 1994: 19).

By bringing otherwise unrepresented (or underrepresented) groups in, this strategy promises to produce net gain in terms of distributive fairness and public participation. Also, the inclusion of groups promises to increase the effectiveness of public policy. In fact, one of the key assumptions of the associational democratic model is the groups’ *informational advantage* over central bureaucracies.

### **a) Step one: Involvement of secondary associations**

Associational democracy begins by advocating a greater role for groups in public policy-making. Groups are supposed to have detailed knowledge of the problems they are faced with as well as good ideas as to the various ways in which these problems might be addressed. Groups are also expected to have greater capacities to *monitor* the behaviour of their members and promote voluntary compliance than public institutions. At a time in which regulation increasingly concerns

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<sup>2</sup> While this is mostly a “theory” paper, it also contains examples and illustrations based on field research I am conducting in three countries, Bangladesh, South Africa, and Ireland. Goal of the research project is to investigate the contribution of civil society organizations (in the restricted sense of associations other than trade unions and employer organizations) to the design and implementation of labour and social policies. The countries selected are very different from one another on various dimensions, especially per capita income. Within these countries, the same policies are studied. The goal is reconstructing the policy process in these various policy areas and understanding the role played by different types of actors in each of them. By reading across different countries and policy areas, the project seeks to uncover empirical regularities, if any, and produce a structured assessment of the role of civil society organizations. This paper is a preliminary attempt at making sense of some of the empirical material.

objects and situations whose heterogeneity, complexity, and volatility escapes the cognitive and administrative capacities of central bureaucracies, these group capacities become quite important for policy-makers, particularly when their tasks fall in the following classes (Cohen and Rogers, 1995b: 249):

- (i) The setting of general standards of performance by centralized agencies is theoretically possible. However, the monitoring of these standards is so costly that it becomes very difficult if not altogether impossible. Workplace regulation probably falls into this class.
- (ii) Government has the capacity to indicate targets, but the specific means of implementation have to be determined case by case. Environmental regulation seems to approximate this ideal type. It is possible to produce general air quality or toxic source reduction standards. However, due to changing technologies and production patterns, determination of the most efficient means for meeting the standards has to be left to decentralized actors.
- (iii) The object of regulation is so complicated and multifaceted that even setting the goals of regulation becomes impractical except in very general terms. Every policy problem that cuts across functional domains (e.g. economic development) falls in here. But even problems that appear straightforward at first sight may be subsumed in this category. As an example, consider the problem of increasing school attendance by children in a country like Bangladesh.<sup>3</sup> It is not enough to just mandate school attendance and monitor compliance. Children are often too poor to afford schooling. They have to work to survive. In this situation, the goals of policy have to be differentiated according to the recipients. For some, it is practical to set the goal of (re)integration in the standard educational curriculum of state schools (provided ways to replace the children's lost income are found, e.g. through food for schooling programmes, stipends, etc.). For others, reintegration is not realistic. Non-formal programmes of education have to be designed to develop the children's worker skills, alert them to health and safety hazards, provide them with literacy skills, and make them aware of their rights as well as of ways to redress violations. It is very difficult for the content and duration of these non-formal education programmes to be decided at the central level by governmental bureaucrats. Detailed knowledge of the situation of particular children is required. This may vary not just city by city but often street by street.

While emphasizing that group involvement into policy design and implementation allows policy-makers to tap into group knowledge and monitoring capacities, associational democrats are well aware that group involvement is not without problems. These problems are of two kinds: incomplete representation and self-serving behaviour.

Group representation tends to be imperfect. Organization is easier for more affluent social groups than less affluent ones. Research on developing countries shows that particularly poor people do not organize spontaneously (for an example, see Howes, 1997). Even abstracting from differences in incomes, dispersed interests (e.g. the interests of consumers, citizens, etc.) are less likely to find representation than more concentrated interests (e.g. producer groups) (Olson, 1964). This means that some groups are likely to exert greater than proportional influence. This, in turn, may translate in the "capture" of the policy process by groups intent on squeezing private gains out of provisions intended to serve the interests of all (see Lowi, 1969; McConnell, 1966; Schattschneider, 1960).

Associational democracy responds to these threats in two ways. First, through a typically pluralist strategy, it proposes to use state resources to redress representational asymmetries and promote the organization of interests that do not find adequate expression in the existing associational structure. Second, it proposes to select in the universe of groups those whose

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<sup>3</sup> This example is based on the author's recent field research in Bangladesh.



qualitative features make them amenable to incorporating some notion of the “common good” in their dealings (Cohen and Rogers, 1995a).

Not all groups are the same. The same theory that chastises groups for their “rent-seeking” behaviour also points out that “encompassing” groups are more likely to internalise the systemic consequences of their actions than sectional ones. While sectional groups may not care about negative externalities associated with their choices, encompassing groups are compelled to care because these consequences are likely to affect their own constituencies (Olson, 1964; 1982). Encompassing groups are not simply groups that organize a large proportion of potential members (as implied by most operationalizations of encompassingness). Even relatively small groups are encompassing if their internal composition approximates the population at large. In the field of labour, encompassing groups are confederations aggregating workers in various sectors and geographic locations, including unemployed workers. These confederations are less likely to pursue purely sectional interests than craft, company, or industry-based unions.

Given a plurality of groups claiming to represent the same constituency, the state should select those with more encompassing features. Also, the state should use its prerogatives to encourage the formation of encompassing groups. For example, it might provide incentives for organizations to merge. Similarly, the state should use its statutory powers to ensure that groups are internally democratic and accountable to their members. Organizational democracy is not just normatively desirable, it also seems expedient. In fact, detailed knowledge of problems and solutions is more likely to be accumulated in groups where regular interactions take place between group leaders and members than in oligarchic groups.

**b) *Step two: Constitution of deliberative fora***

Connected with limiting self-serving behaviour, another central idea in the associational democratic project is the creation of deliberative fora (Cohen and Rogers, 1995b). Groups should not negotiate with one another over policy; they should deliberate. Deliberation is a particular decision-making procedure in which collective decisions are taken by exchanging reasons on the desirability or undesirability of various possible collective choices. These reasons are backed by appeals to principles and/or generalizable interests. No one can credibly argue that the proposed solution should be adopted because it benefits him/her, even though this same person could argue that such proposed solution benefits an entire class of persons (to which s/he belongs) and that this class is especially worthy of attention or protection. The proposal that withstands criticism and wins the contest of ideas becomes the collective choice of the group as a whole (on deliberation, see Cohen, 1989; Bohman, 1996; Gutmann and Thompson, 1996; Habermas, 1996; Elster, 1998).

There is a clear difference between decisions by deliberation and decisions by procedures, like voting, that do not require communicative exchanges. Like deliberation, voting assigns each member of the decision-making body equal influence on the collective outcome. The principle is “one head, one vote” and votes are counted equally. With voting, participants implicitly recognize one another as members of the same political body and implicitly accept to be bound by the result even in case it is unfavourable to them. But voting does not require that the decisions of the majority be supported by reasons that are acceptable to the minority as well.

Deliberation is also very different from bargaining (for more on this difference, see Elster, 1994; 1995). Similar to deliberation, the parties that bargain implicitly recognize their interdependence. In fact, each party acknowledges that it needs the other to satisfy its interests. Similar to deliberation, these parties use language to coordinate. However, these linguistic exchanges are not in communicative mode (Habermas, 1984). The parties do not seek to understand one another and reach agreement on the overall good of the group. They use language to strategically influence each other.

Threats and promises figure prominently in these linguistic exchanges. Promises often involve side payment. Consider a dyadic bargaining relationship. One of the parties is promised compensation in other domains for the losses incurred in this particular exchange. These payments are the price for complying with a collective solution the party in question does not agree with. The threat of walking away from the relationship is particularly effective (when it is credible) in influencing the counterpart. As argued in every negotiation coursebook, negotiators are successful when they are able to build for themselves (or get the other party to believe they have) an attractive alternative to a negotiated agreement (Fisher et al., 1991; Thompson, 1998; Lewicki et al., 1999). The less the negotiator needs to coordinate with the counterpart, the higher the probability s/he will be successful in appropriating a greater proportion of the bargaining surplus than the other (Thompson, 1998: 21).

A negotiated agreement is, in line of principle, very different from a deliberative agreement, even though this difference might be difficult to observe empirically. In deliberation, the parties choose an outcome, say outcome A, for the same reasons. This implies either conversion, in the sense that one of the parties has come to see the truth of the other's position and eventually embraced it, or the joint construction of a solution acceptable to each. When agreement is reached through bargaining, the parties again agree on outcome A. Their reasons for doing so, however, are different. One party agrees on A because of X, while the other agrees on A because of Y (for more on this, see Habermas, 1996: 166).

The requirement that groups do not negotiate with one another but engage in deliberation is important to get around some of the problems plaguing pluralist bargaining. According to normative pluralist theory, a decision that is reflective of the common good (intended simply as arithmetic average, not as substantive conception) can be reached if all groups representing the various interests are included in the decision-making process and enabled to influence it (Dahl, 1989). Even though the actors share neither concern, nor notion of the common good, an equilibrium – quite akin to a market equilibrium – can be found. Each of the groups pushes to advance its interests. By virtue of this pushing, the “pluses and minuses [...] cancel each other out, and what remains as the sum of the differences is the general will.”<sup>4</sup>

There are two problems with this normative conception of pluralist bargaining. The first is empirical. As argued above, representation tends to be incomplete so the pluses of some interests are in practice not counterbalanced by the minuses of others. The second problem is theoretical. Group representation can never be made representative of the array of interests at stake when problems include an inter-temporal dimension. Virtually all policy problems involving the public budget and intergenerational transfers fall in this category. These problems affect the interests of actors that are not there yet. Unless the existing actors are able to move beyond pure group interest and deliberate based on notions of the common good, some voices will not be heard in the pluralist bazaar and some interests will not be incorporated in collective decisions.

### c) *Step three: Redefinition of the role of the State*

The third and final step in the associational democratic programme is the redefinition of the role of the state. Associational democracy is not intent on hollowing out the state by transferring its tasks and prerogatives to private actors. The state is still an important actor, perhaps the key actor, but its role is different from the past. Since not all associations are the same and their contribution to public policy is contingent on their organizational features, the state is called upon to use its resources and prerogatives to shape the associational environment in ways that are conducive to the public good (Cohen and Rogers, 1995a). Unlike the past, the state is not expected to directly provide solutions to regulatory problems. It is instead expected to encourage local groupings to

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<sup>4</sup> The author of this sentence is Jean-Jacques Rousseau (1987: 155-6).

come together and deliberate about their common problems, experimenting with different solutions. The state uses its funds and organizational capacities selectively to make this possible.

This new regulatory framework seeks to mimic a series of organizational innovations which have recently emerged in the private sector, where the large, vertically integrated firm is in decline, the boundaries between producers and suppliers have become increasingly blurred (especially in the area of new product design), and various local units collaborate with one another as well as compete with similar groupings in coming up with the most effective technical solutions to practical problems (see Helper et al, 2000).

Some local groupings may be unable, for various reasons, to come up with satisfactory answers to their problems. These units could benefit from a system that forces them to confront, and learn from, the experiences of other units faced with similar problems (Cohen and Sabel, 1997: 23; Dorf and Sabel, 1998: 287-8). The state grants secondary associations freedom to deliberate and experiment. This freedom is, however, contingent on transparency and the possibility for public oversight.

In other words, locales are obliged to provide a series of metrics rich enough to allow public evaluation of their performance (Dorf and Sabel, 1998; Sabel, 1999). These metrics are then confronted with those of other local groupings dealing with similar issues. This process of comparison favours both competition among groups (which strive to come up with the most effective solutions) and organizational learning. The metrics are continuously updated in light of these exchanges and of the changing contours of the problems at stake.

The associational democratic project dispenses the state from the onerous and so far, not especially successful task of providing direct solutions to regulatory problems. In this model, the state is expected to encourage local groupings to come together and deliberate about their common problems, experiment with different solutions, and systematically compare their provisional solutions with those of others. In this new regulatory model, the state defines the general objectives of policy making and minimal criteria of performance, uses its funds and organizational capacities selectively to fill in some of the gaps in group representation and to strengthen group capacity to deliberate, favours local experimentation, contributes to establish a collectively-shared system of measurement to make the various experiences comparable, promotes benchmarking across different local units, favours the circulation of information about best practices, assists local units with the implementation of innovations, and steps in when the results of group self-determination are patently unsatisfactory. After summing up what is taken away and what is added, it is unclear whether the balance for the state is really negative in this new regulatory model.

## ***Unresolved issues in the associational democratic project***

### ***a) Membership-based Organizations and NGOs***

The literature on associational democracy seems to take it for granted that social groups are membership-based organizations, i.e. that they are representative of particular constituencies, and that regular interactions take place between leaders and members (see Cohen and Rogers, 1995a: footnote 2, p. 91). Yet not all social groups are membership-based. Some organizations, the so-called NGOs, “serve” particular constituencies (e.g., by funding projects, engaging in service provision and capacity building, contributing to awareness, promoting self-organization) but are not representative of (i.e. accountable to) these constituencies.

In a country like Bangladesh, virtually all civil society organizations are NGOs. Membership-based organizations are very rare. These NGOs are very important in virtually all policy areas. Yet,

their legitimacy is dubious. They are mostly funded by external agencies. As such, they are sometimes perceived as the carriers of foreign values and political agendas (Edwards and Hulme, 1996; Hulme and Edwards, 1997). Also, it is unclear exactly for whom these organizations stand for. With tens, sometimes hundreds NGOs claiming to speak for the same groups, which ones should be involved in policy-making?

A possible solution is the one elaborated by South African policy-makers. With the National Economic Development and Labour Council (NEDLAC) Act of 1994, these policy-makers decided to institutionalize group participation in economic and labour market policies. Participation was open to government, unions, employer associations, and (interesting innovation) civil society organizations as well (on NEDLAC, Gostner and Joffe, 2000; Webster, Gostner, and Nkadimeng, s.d.). Language in the NEDLAC statute created stringent requirements for civil society organizations. Organizations were to be membership-based, their leaders were to be democratically elected by the membership, and the organizations were required to have organizational structures in various localities as well as a national coordinating structure. These requirements de facto excluded NGOs. It is unclear whether this institutional solution is applicable to other countries. Even in South Africa, the requirements of the NEDLAC Act may have unduly restricted the space for associational involvement.

Associational democratic arrangements may be perceived as questionably legitimate. This is not the traditional accusation levelled against “corporatist” modes of policy-making, i.e. that they expropriate legislative assemblies of their prerogatives and force them to rubber stamp executive decisions negotiated in private fora. In this regard, the choice to abstain from direct regulation and to delegate decision-making tasks to private groups is the choice of a government that responds to a parliament or is legitimated by a direct popular vote. This choice is as legitimate as the government itself is legitimate. The illegitimacy at stake here is of a different kind. Who are these associations? Who do they represent? By what criteria were they singled out for inclusion?

The examples of Bangladesh and South Africa show that numerical legitimacy may be difficult to achieve in associational democratic arrangements. In other words, it is often not possible to proclaim that the organizations involved represent X percent of the population affected (where X is a reasonably high number), that all organizations agreed on the outcome, and that this outcome is, therefore, legitimated by numbers. Not all organizations have members that can be counted in this way. Excluding the non-membership based organizations may imply excluding important reservoirs of information and experience.

One possible solution could be that the state closely monitors organizational capacities and performance and bases inclusion on this record. More generally, the criterion of legitimacy should be based on the model of free discussion in an open public sphere (Habermas, 1989). If all group activities, exchanges, and deliberations are public and transparent, if citizens, groups, and the mass media are freely allowed to exercise public scrutiny on the activities of each other and of the associational democratic fora, and if these associational fora are able to withstand public criticism, then the legitimacy of these new institutions will rest on deliberative criteria, not on the number of citizens (indirectly) involved in the policy process by means of social representation.

#### **b) *Associational democracy vs. corporatism***

Associational democracy has many traits in common with corporatism.<sup>5</sup> Like associational democracy, corporatism, too, is about inclusion of particular secondary associations in the design and implementation of public policy. This inclusion is necessary to reduce the regulatory burden encumbering the state (Schmitter, 1981; Lehbruch, 1979). Like associational democracy,

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<sup>5</sup> For readings of associational democracy as a way to introduce corporatism in America, see Mansbridge, (1995) and Offe (1995c).

corporatism, too, emphasizes the need for active state intervention in shaping the associational environment (Offe, 1981). But the similarities end here.

According to corporatism, participation should be restricted to centralized associations, particularly those representing labour and capital as a whole. These associations negotiate with each other and with the state at the national level. Corporatism makes it a point to reduce, not expand, the number of groups. Group pluralism is to be avoided because of the tendency to degenerate in invidious comparisons (or leapfrogging), with each group demanding a bit more than the other has already obtained. In contrast with corporatism, associational democracy opens itself up to a variety of other, non functionally-based groups and sees this multitude as desirable. Also, associational democracy regards peak-level social pacts with suspicion and prefers more decentralized forms of social dialogue.

Corporatism and associational democracy focus on very different attributes of groups. For corporatism, what matters is the groups' capacity for social control over their members, that is, the groups' capacity to produce more or less voluntary compliance with centralized agreements. Corporatist inclusion is important because it limits distributive conflict and makes it easier for government to pass controversial policies. To be able to exercise social control, groups' authority has to be centralized in the hands of peak leaders. The members' freedom to exit from corporatist groups (in case they disagree with the policies groups pursue) is limited by compulsory or quasi-compulsory membership arrangements. Public funds and special recognition allow group leaders freedom to pursue policies that are (at least in the short term) in conflict with the members' short-term preferences.<sup>6</sup>

Associational democracy underscores the groups' problem solving capacities. These are in turn dependent on the groups' in-depth knowledge of their constituents as well as of the problems these constituents face. In-depth knowledge is accumulated through frequent exchanges and interactions between group leaders and members. Unlike corporatist groups, associational democratic groups are decentralized and participatory.<sup>7</sup>

One characteristic tenet of associational democracy is the belief in the plasticity of groups. Groups form around particular issues or problems and then disband when these problems disappear. Charles Sabel, Joshua Cohen, and Joel Rogers express this concept as follows:

"A public is simply an open group of actors, nominally private or public, which constitutes itself as such in coming to address a common problem, and reconstitutes itself as efforts at problem solving redefine the task at hand. The polity is the public formed of these publics." (Sabel and Cohen, 2001: 23, my emphasis).

"There is [...] no limit to the number of [deliberative] arenas that might thus be constructed, then folded on the completion of the task; no restriction on the number of times individuals or groups might have the experience of such joint problem-solving under conditions that are defined only by their intended facilitation of that problem-solving." (Cohen and Rogers, 1995b: 251, my emphasis)

The notion that groups disband "on completion of the task" may not be especially realistic. In other words, it might be relatively easy to form new groups in response to new demands and new perceived interdependencies, but much more difficult to then get rid of them, especially if these groups have been granted access to the policy-making sphere. Pluralist stagnation, the ghost that haunted corporatist theory and led it to seek radical simplification of the associational environment, may resurface to haunt associational democratic institutions as well. This problem is not just purely

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<sup>6</sup> Compliance in corporatist groups can also be produced through more dialogical and democratic processes (Baccaro, 2002).

<sup>7</sup> This dimension of problem solving was not unknown to corporatist theory (see, for example, Streeck and Schmitter, 1985), but was not the central dimension in this theory.

abstract. It might be the problem that policy-makers, particularly in Ireland, but also in South Africa, are facing at this very moment.

A model of “postmodern corporatism, expanded to include bargaining partners beyond the traditional social partners of labour and capital and policy arenas beyond the economy” (the definition is from Cohen and Rogers, 1995b: 237) has recently emerged in Ireland. Since 1987, social partnership in this country has developed around a very solid corporatist core composed of the tripartite constituents plus the farmers’ associations. This core deals with the traditional corporatist theme of centralized control over wage increases. During the 1990s, this core has been progressively enlarged to include a variety of new actors (e.g., organization of the unemployed, women’s league, community workers cooperative, youth council, religious organizations, people with disability, association of the older people, gay and lesbian associations, traveller movement, etc.) and practically all other policy areas, e.g. urban regeneration, housing policy, tax policy, the fight against poverty and social exclusion, social protection, child care, equal opportunity, skill development.

Beginning with the early 1990s, social partnership at the national level was complemented with local area partnerships dealing with problems of long-term unemployment and local development. These local partnerships involved a plurality of actors in addition to the traditional social partners (see Sabel, 1996). Once the viability of these expanded forms of social partnership had been tested at the decentralized level, they were replicated on a larger scale at the national level as well.

A similar model of postmodern corporatism seems to be emerging in South Africa as well. As argued above, the NEDLAC Act instituted a statutory consultative structure, composed of various social actors, with the task of submitting proposals and of reviewing all legislation and policies in particular fields prior to approval. NEDLAC is composed of four chambers: Trade and Industry, Labour Market, Public Finance and Monetary Policy, Development. At least in theory, these chambers deal with the whole gamut of economic policies.<sup>8</sup> The first three chambers are tripartite. The fourth is open to the so-called “Community Constituency,” which is composed of umbrella organizations representing civic associations, disabled people, women’s movements, youth organizations, and cooperative associations.

Similar to Ireland, involvement of the civil society organizations at the national level was based on prior experiences of involvement at the local level. The period of transition from apartheid to democracy (1990-94) saw the emergence of a myriad local fora dealing with all sorts of administrative issues from rents to water, electricity, police, schooling, etc (De Villiers, 1994). Civic associations participated in these fora. These civic associations were often used by formerly illegal political parties (particularly the ANC) to make sure that the provisional government (democratically illegitimate) did not seek to impose its will on the majority of the population. After the establishment of a democratic government in 1994, the vitality of these local fora appears to have dried out.

The institutional arrangements emerging in Ireland and South Africa are new and their assessment premature. However, many actors in both countries, both among the traditional social partners and the new civil society actors, are dissatisfied with recent developments.<sup>9</sup> Interestingly enough, the one thing that seems to be working well with these new institutional arrangements (particularly in Ireland) is the old corporatist core, which focuses on control of nominal wages and

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<sup>8</sup> In practice, however, some of the most important policy choices are decided outside of NEDLAC. For example, GEAR, the rather orthodox policy framework that has shaped South African macroeconomic policy since 1996, was not discussed within NEDLAC. More recently, the Millennium Labour Council, i.e. a labour-capital bilateral attempt at producing a European-like “social pact,” was also negotiated outside of NEDLAC.

<sup>9</sup> This is based on field interviews.

the consensual regulation of labour market issues. In other fields, the contribution of civil society organizations seems to be marginal.

The South African civil society associations have very basic problems of financial survival that severely limit their contribution to problem-solving (see also Heller and Ntlokonkulu, 2001). The associational democratic model takes it for granted that citizens' groups have more detailed knowledge of problems and solutions than public bureaucracies, including the decentralized arms of the latter. Yet, whether such knowledge is there or not is an empirical question. Following transition to democracy, many international donors shifted their funding priorities from civil society organizations, which they had been supporting during the apartheid regime (since they were the only legal political opposition), to the democratic state (Hearn, 1999). With no money to pay for their telephone bills, let alone engage in those decentralized consultations through which detailed knowledge and monitoring capacities are constructed, the contribution of these organizations can only be symbolic.<sup>10</sup>

The question of whether civil society organizations really have important problem-solving capacity to contribute often surfaces in Ireland as well (see O'Donnell, 2001). The reaction of the major Irish employer federation is interesting in this regard. For this organization, the most interesting part of social partnership is the incomes policy component. They support the extension and deepening of social partnership to other domains to the extent that it does not interfere with the corporatist core.

Once they enter the public-policy sphere and obtain official recognition as "social partners," these new actors struggle ferociously to be included in all bargaining tables, including the ones for which they have no clear competence. So far, no attempt has been made at dismantling some of these tables, but it would be easy to predict that were these attempts to be made in the future, they would be staunchly resisted.

Negotiations, let alone deliberations, are often very difficult as groups struggle to make sure the one issue (concerning women, disabled, youth, travellers, etc.) which concerns them is dealt with at the bargaining table. Even when coordinating bodies negotiate in lieu of single organizations, these bodies do not have clear bargaining priorities. They present the counterparts with a laundry list of demands and then struggle to obtain satisfaction of as many of these demands as possible. Given their loose organizational structure, they have to show they were attentive to the needs and interests of each of their different constituents and were able to bring something home for everybody. Because of these constraints, their effectiveness is impaired, as is acknowledged by representatives of the organizations themselves.

### c) *Deliberation or integrative bargaining?*

In light of the preceding examples, is the associational democratic requirement that actors deliberate rather than bargain realistic?

Deliberation plays an important role in the abstract model. By favouring circulation of information on the particular features of the problem as well as the actors' preferences over alternative solutions, deliberation leads to more efficient collective choices. Deliberation also produces, according to the normative model, a transformation of preferences. In fact, the need to justify one's claims through reference to either principled reason or generalizable interests, leads the participants in a deliberative assembly to suppress those arguments which, being based on self-interest only, cannot be easily defended and made acceptable to others. This, in turn, gives

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<sup>10</sup> This example highlights that the groups' administrative capacities are strictly linked with their finances. Volunteers devoting time to the cause are dear to our hearts. Yet they are only part of the story. If the state is serious about group contribution to policy, a system of public financing for groups (particularly groups representing, say, the urban and rural poor) is to be put in place (for a proposal, see Schmitter, 1995).

arguments that other people's interests take into consideration a privileged chance to emerge from the debate.

In other words, deliberation contributes to filter out those preferences that being excessively privatistic, cannot be justified and accepted by others. For some participants in a deliberative assembly, this self-censoring is the result of the "civilizing force of hypocrisy," i.e. the need to pretend one is concerned with others if one is to gain their support.<sup>11</sup> For others, deliberation enlarges the self to which interests inhere (e.g. from individual to member of a community). Still for others, deliberation triggers the making of a purely ethical choice, i.e. the choice that a representative of humanity as a whole (in similar circumstances) would make.

The requirements for deliberation are extremely stringent. According to Habermas (1984), communicative action (deliberation) requires truthfulness, moral appropriateness, and sincerity of communication. Also, deliberation takes place in an "ideal speech situation" in which power differences are levelled (see also Cohen and Rogers, 2002). According to Rawls (1993: 49), participants in deliberation are "reasonable," that is, "ready to propose principles and standards as fair terms of cooperation and to abide by them willingly, given the assurance that others will likewise do so." The theory of cheap talk games argues that non-costly signals (e.g., verbal utterances) have an impact on beliefs (and hence, actions) only if the preferences of the sender and the receiver are not too discordant. In this case the sender does not have too big of an incentive to misrepresent his/her private information. If this is not the case, the receiver ignores the message (Spence, 1973; Crawford and Sobel, 1982; Farrell and Rabin, 1996; Mackie, 1998).

The murkiness of the real world, where interests are not necessarily aligned, power differences exist, and individuals are sometimes unreasonable, makes the concept of deliberation of dubious practical utility. Theorists of associational democracy seek to get around some of these problems by assuming that the actors' utility functions, to use economist language, are in most cases already compatible with one another and that most practical problems are really coordination games. These actors may at first not know this is the case, due to asymmetric/incomplete information and/or bounded rationality. By deliberating, these actors discover their interdependence and find efficient ways to accommodate their mutual interests.

"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. If the right arrangements of collective choice were in place, the parties could come to terms on one of the available alternatives ... Put another way, we assume that for some substantial range of current problems, citizens agree sufficiently much 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, they would improve their common situation, and possibly discover further arenas of cooperation." (Cohen and Sabel, 1997: 18, my emphasis)

In contrast with this view, one could argue that even in genuine coordination games (and not every social problem is a coordination game) there is embedded a distributional problem since the costs or the benefits of coordination may be unequally distributed. This distributional problem may prevent the reaching of consensus even when there are mutual gains to be reaped. Consider, for example, a classic coordination game: the battle of the sexes (see Gibbons, 1992: 11-2). Both he and she prefer to go out somewhere together than going out alone. However, he wants to go to the

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<sup>11</sup> "I maintain that even those actors whose preoccupations were purely dictated by egoistic interests might have been forced or induced to substitute the language of egoistic interests with the language of impartial argument. I maintain also that this substitution has had an influence on the outcome, on the basis of what could be referred to as 'the civilizing force of hypocrisy.'" (Elster, 1994: 190, my translation)



match and she wants to go to the movies. The game has two equilibria: going to the movies together and going to the match together. However, as every couple knows, the choice over whether to actually go to the movies or to the game can be wrought with conflict.

Consider a more concrete example. Virtually every actor I talked with in Ireland agreed on the need for public policy to strengthen child care provision. The Irish labour market is getting tight. One way to increase labour supply is by increasing women's participation. For that to happen, however, forms of affordable child care have to be put in place. The employers realize that publicly-subsidized child care is in their best interests. The unions and the community sector agree on that. The state, in turn, is ready to step in and pass some form of policy. However, a sharp disagreement has arisen between the unions and the community sector on the specific form this policy should take. Unions think that subsidized child care should be in the form of tax deductions. The community sector, whose constituency has little taxable income to report, prefers lump-sum payments. So far, this disagreement has provoked a stalemate and no consensus has been reached.

In theory, the Irish actors could deliberate on this issue. It is likely that the outcome of the deliberation would be that child care support should be in the form of lump-sum payments. The reality is, however, that the actors do not deliberate; they bargain. Is the abstract model incorrigibly flawed? Do we really need deliberation to reap the benefits of truthful and informationally-rich communication and of joint problem solving? Is bargaining to be rejected in toto or is there some form of bargaining that is good enough for our purposes here?

When theorists of deliberation or associational democracy talk about bargaining, they seem to have a particular type of bargaining in mind, referred to by industrial relations scholars as distributive (Walton and McKersie, 1965). In distributive bargaining, parties are in a "win-lose" situation. Each negotiator seeks to lead the opponent to settle on an outcome that is as close as possible to the opponent's reservation (or walk-away) point. This is to appropriate as much bargaining surplus for him/herself as possible. In this particular situation, being deceitful about one's own reservation point is the commonest strategy. Textbook distributive bargaining behaviour includes starting with outlandish positions (so as to gain an advantage in case the difference is split), making small, infrequent concessions, and talking the opponent into believing the negotiator has excellent alternatives in case a negotiated agreement is not reached.<sup>12</sup>

Not all bargaining is distributive, however. Another kind of bargaining, known as integrative, starts when the parties recognize that they depend on one another to satisfy their mutual interests and focus on expanding the pie prior to dividing it (Walton and McKersie, 1965; Fisher et al., 1991). Unlike the previous, this type of bargaining is premised on truthful communication. The parties have to know what their respective interests really are to be able to reconcile them in creative ways. It also requires joint problem solving and exploration of alternatives that could potentially accommodate the interests of the various parties. A typical example is that of two children quarrelling over an orange. Both want the orange for themselves. First they propose to split the orange. Then they start investigating their respective interests. It turns out one child wants the peel to bake a cake, while the other wants the fruit to eat it.

Integrative bargaining should not be romanticized. In the end, there is the distributional problem of how to apportion the value actors have jointly contributed to create. Sometimes it may not be possible to reach an agreement on particular issues. However, the parties could agree on impartial procedures to resolve their difference without disrupting their relationship. For example, they could agree to devolve the controversial issues to an external third party or, in case of multiparty bargaining, they could agree to vote.

Integrative bargaining thrives on uncovering differences among the parties and exploiting these differences to create joint value. Some of these differences are differences in the intensity of

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<sup>12</sup> Even in distributive bargaining situations, repeated interactions reduce the tendency to exploitation and rip-off.

preferences. For example, A has a strong preference for X over Y and a weak preference for W over Z. B strongly prefers Z to W and weakly prefers Y to X. An integrative outcome for both parties is X and Z. Other kinds of differences are differences in beliefs about the likelihood of future events, differences in risk attitudes, and differences in intertemporal rates of discount.

The parties to deliberation set aside their specific interests and base their choices on principles or generalizable interests, i.e. what is good for the group as a whole. Deliberation leads to convergence since the parties agree on the same outcome for the same reasons. According to some critics of deliberation, this convergence may be undesirable in some cases as some people may use their superior technical knowledge to induce others to entertain beliefs that are not in their best interests (Przeworski, 1998). In integrative bargaining, the parties do not seek to annihilate their differences. They acknowledge these differences as legitimate while seeking to exploit them to come up with new, mutually satisfactory options (along similar lines, see Mansbridge, 2002).

The question of how integrative bargaining is brought about is only slightly less complicated than the question of how deliberation itself is brought about. The building of trust among the various actors and perhaps even cultural predispositions (Gambetta, 1998) probably play a role. Based on the previous discussion, a few things can be said in this regard. It is very difficult, if not outright impossible, to bargain integratively over a single issue. In a single-issue negotiation, if one wins the other inevitably loses unless the interaction is repeated. Sometimes a single issue can be unbundled in its constituting parts (like in the case of the orange). In other cases, however, such unbundling is not possible. All other things being equal, integrating bargaining takes place on policy packages or on complex issues, i.e. issues that contain a variety of dimensions linked with one another. Also, the more differentiated the actors, in the sense of caring for more than a single, dominant issue, the greater the likelihood that they will find creative ways to accommodate their differences while satisfying their fundamental interests. From an organizational point of view, horizontal groups may be more conducive to integrative bargaining than vertical groups, e.g. groups organized around functionally-specific sectors of the economy or ascriptive features.

## **Concluding remarks**

This paper has laid out a model of associational democracy in which the design and implementation of particular public policies is delegated to various fora of secondary associations. These associations exchange information about the particular features of the problems to be regulated and seek to come up with solutions that take local circumstances into account. The state helps these local groupings to develop the capacities they need for self-regulation, favours organizational learning through the circulation of best practices, and intervenes in cases of clear regulatory failures.

The paper has also discussed some open issues in the associational democratic project. NGOs are important social actors, particularly in some contexts. Even though they do not speak for clearly defined constituencies, they are important reservoirs of knowledge and administrative capacities. Inclusion of these groups in the decision-making sphere is likely to generate even greater problems of legitimacy than those traditionally associated with devolution of public prerogatives to private groups. These problems can be overcome, however, if the state monitors NGO capacities and bases involvement on the NGOs' record. Perhaps more importantly, if all activities take place in an open public sphere, the legitimacy of associational democratic institutions rests on deliberative criteria rather than the sheer headcount of people represented by groups.

Even though associational democracy is based on very different normative premises from corporatism, many real world experiments with associational democracy build on a robust

corporatist core. There are limits to group plasticity. Once involved in the policy-making arena, groups are difficult to disband. In light of this difficulty, strategies aimed at limiting involvement to groups with social control capacities in addition to problem solving capacities become understandable if not fully justifiable.

Finally, the requirement that groups engage in deliberation forces the theorist to make heroic assumptions about human capacity for self-forgetfulness. I have proposed that the notion of integrative bargaining is closer to what really happens in the associational democratic fora. This notion allows retention of many attractive features of deliberation, including truthful and rich communication, creativity, and experimentation, while relaxing some of the most stringent requirements on the actors' dispositions. None of these remarks is, in my opinion, fundamentally at odds with the basic architecture of the abstract, normative model. They seek to introduce greater doses of realism in it.

The principles of associational democracy are not simply on paper but have permeated the self-perception of policy-makers in a country like Ireland. To illustrate this last point, let me quote a few passages from an official Irish document.

The document is entitled Supporting Voluntary Activity. Its immediate motivation is the need to create a framework for public funding of secondary associations at a time in which the European Structural Funds, which used to support associational activities in Ireland, are being phased out due to Ireland's astonishing economic success. Aside from this more practical intent, this document contains a series of interesting insights on the new role of the state in the associational democratic model.

"A strong democracy enhances and protects the capacity of citizens to participate directly in social life, create their own social movements to address issues that concern them and speak directly on issues that affect them. In a strong democracy people regard the State, not as the answer to every problem, or as the essential funder of every action, but as just one player among many other. All the others – the private sector, trade unions, religious organizations, non-governmental organizations, sporting organizations, local community and residents' associations – have a pivotal role to play in our democratic life and in ensuring continued economic and social progress." (Government of Ireland, 2000: 32)

"In Ireland it is evident that despite a dramatic improvement in Irish economic performance, real economic and social issues remain to be resolved. State agencies are increasingly aware of the need to consult with local groups in developing appropriate responses to many social and economic problems and to involve them in delivery of such responses. Local groups have the local knowledge on which to base plans and to prioritise actions. The participation of tenant groups in local authority estate management, emergence of local home work clubs and out-of-school services and neighbourhood responses to drug use and drug dealing (through the local Drug Task Forces), are examples of the increasing recognition by the State of the merit of bottom-up responses." (Government of Ireland, 2000: 41)

"Although the solution envisaged is not a centralized solution, it is based on the central allocation of resources within a facilitative and enabling framework which promotes the growth of 'civil society.' It requires the development of an enabling and open State which is engaged in dialogue and partnership and which allows bottom-up responses to emerge from voluntary organizations and community groups. It requires a consistent degree of commitment from Government to participate as an active partner in the process. But it also requires recognition that Government is only one of the players – all must play an active part." (Government of Ireland, 2000: 42)

"Individuals and communities must be facilitated to participate in a process of dialogue involving exploration of the problems affecting them and the development and implementation of appropriate policy responses. The process of effective engagement with government agencies is crucially contingent on an open approach by officials, involving flexibility towards new, interactive ways of responding to issues and concerns arising across society [This] requires a philosophy reflecting what is sometimes called an enabling state or assisted self-reliance where local mobilisation is assisted through the provision of external resources and technical assistance. The promotion and strengthening of social dialogue across society involves the State

developing partnerships with a wide range of bodies and organizations, including not only community and voluntary interests, but also employer representatives, trade unions and farming organizations. Such partnerships should reflect the civic dimensions, as well as the collective bargaining function.” (Government of Ireland, 2000: 43)

Ireland is one of the miracle economies of the 1990s. In 15 years, it jumped from being one of the poorest countries in Europe to being one of the richest in terms of per capita GDP. Unemployment is well below European levels. Public finances are in order. A country well known for exporting its labour force all over the world now has positive net immigration flows. The Irish economic success is overdetermined by a variety of factors, e.g. FDI inflows, clairvoyant educational policies that increased the supply of skilled labour at a time in which demand was also increasing, wage moderation, the European structural funds, etc. It is unclear what role institutional innovations played in the Irish success story. However, actors at the highest levels seem firmly convinced that these innovations are important. Government is willing to spend a considerable amount of money (almost 1 billion Irish pounds in 1999, see Government of Ireland, 2000: 115) to support voluntary activities and enable group participation in public policy-making. While no proof, this is good *prima facie* evidence that these new institutional arrangements may not be just desirable for their normative properties but may even be conducive to good economic performance.

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