Deliberative fora and the democratisation of social policies in Brazil]

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In the context of the wider debate over the weaknesses of the Welfare State, the Brazilian constitutional text of 1988 introduced innovative proposals for an alliance between the state and civil society to overcome these weaknesses. Novel structures such as management councils and public hearings were seen as spaces where the state and civil society were expected to work together to ensure that priority-setting matched the public interest and to secure accountability in the definition and delivery of social policies.

Management Councils with responsibility for the different policy areas (primarily health, education, social assistance and provision for children and adolescents), and the corresponding infrastructure (schools, community centres, health centres) and public resources (municipal, state and federal funds) were established over the course of the 1990s. These councils, which were organised from the local to the federal level, implemented a principle of parity in their composition between representatives of civil society, of service providers and of the government.

The process of institutionalisation of participation through the Councils has been considered by the recent literature as an important mechanism of what has been labelled *deliberative democracy* (Bohman & Rehg, 1997; Cohen, 1997; Habermas, 1997, Avritzer, 2000) or alternatively *associative democracy* (Cohen & Rogers, 1995; Hirst, 1994). The substantive aspect of this model of democracy is the expansion of public spaces with the possibility of open discussion and deliberation on public policies, leading to the democratisation of the decision-making process and the possibility of increased accountability to citizens.

This article analyses the process of implementing these co-management mechanisms and discusses their potential contribution to addressing an issue which still represents one of the major challenges faced by social policy in Brazil: how to combine broader democratisation with the inclusion of the large proportion of the population still living below the poverty line.

The first section introduces the debate that has been ongoing since the end of the 1970s about the existing welfare state models and the search for alternative ways of guaranteeing citizenship rights. In the second section the problems faced by Brazil's social policies are presented and the option for a model of state-society co-management is analysed in the light of this wider debate. The third section reviews the literature analysing the experiments in social policy co-management which were institutionalised by the Brazilian Constitution, and others which have emerged since 1988. The article concludes by proposing a research agenda to investigate the coalitions, the elements of institutional design, the types of information and the forms of associational life which promote participatory citizenship.

Social Policy between the State, the Market and Civil Society

Social policies which aim to promote greater equity in opportunity structures and income distribution have been implemented with varying levels of success by the majority, if not all, of the capitalist nation-states. In these countries the presence of different actors, resources and values contributed to the emergence of a variety of taxation and income transfer systems which aimed to broaden social inclusion and mitigate the inequalities generated by the market. Probably the most controversial aspect of attempts to broaden social inclusion is the issue of who should decide who contributes how much and who receives what. Who, in the end, has the right to decide and how should this decision be made? What guarantees are there that new distortions will not be generated in the process?

From the post-war period to the mid-1970s the nation-state assumed responsibility not only for defining the distributive criteria that would drive social policy and for organising the tax system, but also for providing cash transfers and a large part of the public services associated with social policy. It was in this period that social policies expanded both in Europe and in North America. It should be noted that in South America, Uruguay, Argentina and Brazil also adopted policies of this nature early on.

In the latter stages of this period that the increasing cost of social policies became a problem. These cost increases arose due to the expansion of social programmes and of

the state apparatus responsible for their management, the increasing value of social benefits and changes in both labour markets and the age structure of the population. This conjunction of factors led to two clear problems.

On the one hand, the maintenance of these policies depended on high levels of taxation and on the commitment of a progressively larger share of state budgets to maintaining services. On the other hand, some limitations of the Welfare State project as an instrument of social justice became evident.

Between the 1930s and the 1980s Brazil witnessed a slow but permanent expansion of its social policies, access to which gradually ceased to be a privilege of those who worked in the formal sector and came to encompass a broader section of the population, though millions of Brazilian citizens remained excluded by the application of "merit" criteria for access. These criteria seek to ensure that each citizen will be rewarded by the state in proportion to his/her contribution to societal wellbeing, to the effort used in working activities, or to the costs s/he incurred in this work and the contributions made to the system. Under this system, better-off groups were frequently able to secure the largest share of benefits, thus crystallising inequalities.

In this context there are no simple solutions for social policies. Targeting of resources – that is, prioritising policies which ensure the provision of a basic "basket" of products and services to those in genuine need – can be as high-risk as seeking to universalise services. Targeting may reinforce the social segregation of the poor while requiring the creation of a sophisticated apparatus to identify those who are really in need. In a context such as Brazil's, efforts to promote the goals of democratisation and universal provision of services may easily lead to the capture of these services by more organised groups, leaving the unorganised and the poorest permanently excluded.

In order to tackle these social and economic problems, some elements of the market sector, elected politicians and civil society came in different countries to support a rethinking of the existing welfare state model and a search for alternative ways of guaranteeing citizenship rights. This shift exposed the differences in position between the proponents of the maintenance of a traditional welfare state and those who argued for

changes in the roles of the state, the market and civil society both in defining distributive criteria and in managing the financing and delivery of services.

The typology proposed by Gaventa and Cornwall (2001) synthesises the debate that has been ongoing since the end of the 1970s by recognising three distinct conceptions of the rights associated with citizenship. First, the liberal conception (Marshall; 1965) – identified with the Welfare State – recognises the right of every citizen to receive a package of resources capable of ensuring economic stability, health care and education provision. Second, the notion of citizens as "consumers" of social services highlights the right to choose the financial, health and educational services that will be consumed. Finally, the participatory conception of citizenship emphasises the right to participate in decisions on the kind of services supplied and the way in which they are to be provided.

This analysis therefore enables us to identify an arena of conflict between actors associated with the state, the market and civil society. In dispute is the manner in which private interests must be arbitrated, as well as the definition of the public interest and the way in which the production and distribution of the resources that society allocates to social policies is to be managed. The different conceptions of citizens' rights imply both that different sets of processes will be required and that different sets of actors will have the responsibility for defining and establishing rights, for formulating policies and for delivering services and ensuring accountability in their provision.

The liberal conception of citizenship promoted the state's capacity to define and supply services. The conception of citizens as consumers implies the maintenance of policy-making in the government sphere, while transferring to the market a share of the resources previously allocated to state service provision. The rationale behind this shift is that competition between public and private service providers (whether profit-driven or not-for-profit) will generate better services and lower prices. Finally, the concept of participatory citizenship promotes the capacity of civil society to manage a larger share of the resources committed to social policies, not only guiding their application to the production of pre-defined social services, but also creating new products and ways of delivering them as well as helping to shape the policy framework itself.

Social Policies in Brazil

Brazilian social policies suffer from distortions which, though identified long ago, have proven difficult to correct. Despite the growing supply of educational and health services there has been a failure to deliver substantial improvements in the quality of basic health care and education services and a large share of the 21% of GDP set aside for social policies is still used to finance pensions, higher education and high-complexity health care services whose main beneficiaries are relatively well-off groups. This failure could be attributed either to the state's lack of the necessary institutional resources for providing quality basic services, or to the fact that the upper and middle classes have completely abandoned the basic services, contributing to a lack of effective 'voice' in demanding greater quality. Finally, these policies have not ensured the inclusion of the 25 million Brazilians who live in conditions of deprivation[1] (IPEA, 2001).

The 1988 Brazilian Constitution, which established the transition to formal democracy, sought to provide a balanced response to these problems. It combined universal social policies, allocation of a greater share of total public expenditure to social spending, decentralisation of these policies and the creation of mechanisms for civil society participation in their formulation, management and monitoring. Brazilian social movements played a very important role in this process. These popular movements contested top-down models, demanding more bottom-up understandings of citizenship and democracy.

The enactment of enabling legislation and policies to implement these constitutional provisions, which occurred mainly in the early 1990s, brought about changes in the profile of social expenditure and in the distribution of resources between the federal government, the states and the municipalities – with the latter emerging greatly strengthened from this process[2]. The municipalities became a key political space, the privileged locus of participation and co-management of social policies.

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[1] CEPAL/ECLAC data (2001) shows that 29.9% of households, or 37.5% of Brazil's population, live below the poverty line, earning less than US$1 per day.

[2] A complete analysis of the development of Brazilian social policy in the 1990s would imply, therefore, an extended discussion of the different aspects mentioned above, which is not possible due to the scope of this analysis. It is possible to mention, however, that during the second half of the decade of the 1990s there was a strong process of decentralisation of policies for education and health care provision. Despite the various international crises and the pressure of debt on public finances, government expenditure on health, education, the pension system and agrarian reform grew or remained constant (IPEA, 2001).

In the context of the wider debate in this period over the weaknesses of the Welfare State, the Brazilian constitutional text clearly reaffirmed the central role of the state in guaranteeing the rights associated with the liberal model of citizenship. At the same time, the Constitution introduced innovative proposals for an alliance between the state and civil society in overcoming these weaknesses. Thus, while the proposal to establish forms of co-management of social policies resulted from social pressures, it can also be seen as an attempt to respond to the challenges faced by the 'traditional' welfare model at a time when it was clearly in crisis.

This idea was greeted as promising – understandably, given the critical importance of the democratisation of public policies. The difficulty lies in its implementation. This model of co-management is based on the idea of bringing together two sets of actors – from the state and from civil society – who, according to Gaventa and Cornwall (2001), are actually working from different conceptions of citizenship. This perspective implies the need to assess the extent to which it is really possible to establish a broad alliance between state and society to guarantee citizenship rights as conceived in the liberal model.

There is an extensive literature analysing the experiments in social policy co-management which were institutionalised by the Brazilian Constitution, and others which have emerged since 1988. The following section reviews this literature in order to evaluate the process of implementing these co-management mechanisms and to assess their potential contribution to addressing an issue which still represents one of the major challenges faced by social policy in Brazil: to combine broader democratisation with the inclusion of the large proportion of the population who still live below the poverty line.

The Institutionalisation of Civil Society Participation

In his reflection on the locus of deliberative democracy in Brazil, Avritzer (2000) highlights two kinds of fora which, in his opinion, constitute especially important arenas for interaction between State and society: the Management Councils and the Participatory Budgeting process. Both mechanisms gained momentum in the 1990s but, for reasons which are not entirely clear, the international literature (Santos, 1998; Fedozzi, 2000) has paid much more attention to the latter, while in Brazil the performance of the Councils as a

mechanism for realising deliberative democracy has been analysed by a number of scholars.

The majority of the research in this field has focused on the experience of the Management Councils in the health sector because they have been established for a longer period and are therefore perceived to be more consolidated. There are currently more than 5,000 Health Councils, almost one for each of the 5,507 Brazilian municipalities, involving almost 100,000 individuals and a vast number of associations. The institutional design – composition, structure and functioning – of these councils was established in the 1990s by the same federal legislation which made the transfer of health sector resources to the municipalities and states conditional on the formal existence of the councils.

An overview of the literature available on this theme highlights two main issues: accountability (defined as *controle social*) and civil society / citizen participation. The notion of *controle social* is directly connected with the idea of building a democratic public sphere in which it is possible for society to oversee and hold to account the public sector. This implies the institutionalisation of mechanisms capable of guaranteeing – in the case of the health system – not only the monitoring of the use of the sector's allocated budget, but also participation in the definition of priorities and strategies and of the spatial distribution of services, among other issues.

The effective excercise of *controle social* requires profound changes both in the government institutional apparatus and in the relationship between state and society. After almost a decade since the introduction of deliberative democracy mechanisms in Brazil, some experiences – especially participatory budgeting in certain regions – have reached a level of maturity which indicates that real changes have occurred. Participatory budgeting (which, according to the Polis Institute, has been introduced in around 140 Brazilian municipalities with different geographical sizes and governed by various political parties) points towards a significant change in institutional practices and in the political posture of local governments.

Evidence of changing state-civil society relations can also be seen in the case of the engagement between local government and different forms of grassroots organisation in São Paulo. The success of the "health movement" which pressured for recognition of

universal health care provision as a citizen's right is reflected in its role in the Municipal Health Council (in which 38 per cent of the citizens' representatives belong to a regional health movement). However, this public space has been able to include other sections of the population (with 32 per cent of representatives belonging to social movements and the rest to different civil society organisations including patients' associations, labour unions and private sector groups)[3]. This suggests that citizens' involvement in the Municipal Health Council reflects the influence of citizen participation in civil society health fora and the recognition by local government of these activities.

Although the results achieved in this direction in some Brazilian states are particularly well-known, important initiatives have taken place at the local level all over the country[4]. Nevertheless, it is undoubtedly true that the vast majority of Brazilian municipalities are still grappling with the difficulties imposed by the authoritarian legacy of the country's political history. In this context it is important to investigate the variables which contribute to the success of some experiences, and to identify the problems that have to be overcome to improve the effectiveness of the Management Councils as spaces that may host a broader and more public form of participation, a fundamental element in the conception of deliberative democracy.

Difficulties experienced during the process of institutionalisation of civil society participation in the Councils

Scholars have identified problems not only in the practice of excercising *controle social*, but also around the associative basis of society. All evaluations of the experience of the Councils have noted the importance of the authoritarian and patrimonialist legacy which marked the formation of the Brazilian nation state (Andrade, 1998; Sposati and Lobo, 1992) and can still be seen in the maintenance of oligarchic and clientelistic practices in government structures. Assessments of the composition and operation of the Health Councils have shown that, in some cases, the local authorities have modified the legislation at the municipal level in an attempt to invalidate the accountability processes

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[3] Data from M. Cifuentes Montoya, research report for CEBRAP project on "Social Management and Participation", Development Research Centre on Citizenship, Participation and Accountability.
[4] Particularly well-documented experiences include those of Rio Grande do Sul (Genro, 1998; Santos, 1998, Fedozzi, 2000), Minas Gerais (Avritzer, 2000; Azevedo & Anastasia, 2000), São Paulo (Cohn, Elias & Jacobi, 1993) and Ceará (Cordeiro, 1998; Teixeira, 1997).

established by the national legal framework. In this way, instead of establishing the Councils' control over the actions of local government, local government exerts control over the formation and operation of these participatory mechanisms. Resistance to the proper implementation of the principle of parity in Council membership can also be seen in the bureaucratic structures of the Brazilian state apparatus, which have historically held a monopoly of information and resource control, thereby guaranteeing a privileged role for themselves in processes of negotiation among political interests.

Another problem is civil society's reluctance to participate in deliberative arenas. It is important to remember that in their first phase of development (in the 1970s and 1980s, during the period of dictatorship) a basic characteristic of Brazilian social movements was their radically anti-state posture. This hampered the social movements' ability to shift their approach during the subsequent phase of institutionalisation and incorporation into the new model of public decision-making. The fear of being co-opted, of the potential for social movements to be used as a mechanism for legitimating the groups in power, remains very strong among some civil society groups. These factors frequently create barriers to the establishment of closer links and, most importantly, to the prospect of co-operation between civil society and government representatives within the councils.

One element which makes it more difficult to establish the co-operation which is essential for the exercise of *controle social* by the Management Councils is the issue of access to and dissemination of relevant information (Abrasco, 1993; Cohn, Elias, Jacobi, 1993). Avritzer (2000a) stresses the importance of ensuring that all the participants in deliberative processes of this kind have all the relevant information needed for deliberation. However, in the model of democracy prevalent in most countries, the bureaucracy has the majority (if not the totality) of the information necessary for the decision-making process, and this serves as a blocking factor for effective participation. As Avritzer puts it,

> "the new deliberative arrangements are based on changes in conceptions about information. The first of these is that the State, as well as the market, possesses incomplete information for decision-making, and therefore that social actors need to contribute information to the deliberations if these are to take full account of the political problems involved." (Avritzer, 2000a: 44).

This point highlights the issue of the type of information which is needed to respond to the questions posed by the state bureaucracy or by private sector managers. Clearly, decisions taken in a democratic arena must be based on information that has not hitherto been taken into account by these sectors. Making information available for decision-making in deliberative arenas therefore implies the need to produce new kinds of information. This issue is beginning to be discussed, but initiatives experimenting with ways of addressing it are still at a very early stage.

Another problem frequently raised by scholars refers to the fact that the dominant political culture often 'denies' to certain groups the condition of citizenship (Viana, 1998; Carvalho, 1998). In this sense, Cohen (1997) stresses the need for equality among participants – not merely in a formal sense, but legitimated, recognised and practised by all. These observations relate to the issue of non-formal exclusion raised by Fraser (1995), who argues that exclusion is expressed not only formally but also in the legitimacy or the authority given – or denied – to the different 'cultural styles' which characterise the different individuals that are participating in the public sphere. This approach recognises the public sphere as an arena whose layout favours some and disadvantages others, since it is embedded in a conflictive society which provides unequal opportunities for the pursuit of different issues and interests.

The last problem relates to the weakness of the social base underlying participation in the councils. The rationale for the councils is based on the assumption of an organised society, which is demanding participatory processes and has the capacity to guarantee the effective establishment of a new approach to policymaking, principally in the social arena. This is a key issue for the institutionalisation of co-management of social policies. Low levels of popular organisation undermine the proper functioning of this model. In some parts of Brazil, the population lacks sufficient organisation and is not even mobilised for incorporation into the institutional mechanisms of participation.

Despite the identification of all these difficulties, the literature on the deliberative fora is broadly optimistic about their future. The main source of this optimism is the recognition that these fora genuinely represent a potential space for new actors to present demands, participate in the agenda-setting process, contribute to the formulation of policies and

oversee their management – as well as a space in which state actors come face to face with the demands and the power of the population. In order to transform this potential into reality, there is a need for further research which identifies and classifies the groups of Councils which are proving successful in achieving these goals.

Concluding Comments

Against the background of the social policy debates which have taken place in many countries since the 1970s, Brazil's strategy of integrating civil society participation into the formulation and implementation of social policies both Constitutionally and institutionally can be seen as brave and innovative. However, the literature shows that the process has faced several problems, including the difficulty of establishing an alliance between the state and civil society. In order to understand this difficulty it is important to remember that the process of restructuring the welfare state has taken place in an environment of ongoing conflict between actors linked to the state, the civil society and the market around the definition of policymaking procedures and the way in which services should be provided and monitored.

This does not imply that alliances are not possible. After all, this is not a zero sum game[5]. On the contrary, our aim is to draw attention to the fact that disputes between the actors involved in these three spheres exist and that there are groups with profoundly heterogeneous interests in each of them, while remembering that none of them, on its own, is naturally inclined to promote the common good.

From this perspective there are many possible coalitions between these actors and it is important to observe who wins and loses from particular patterns of adjustment (or non-adjustment) in the welfare state (Pierson, 2001:104). These patterns can alter substantially the process of coalition formation and therefore the combination of state, market and civil society roles desired and possible in each nation state.

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[5] In a zero sum game, everything one participant wins the other loses. In co-operative games, it is possible to extend individual shares in such a way that the final distributed outcome is larger than the sum of what each of the participants began with.

In order to set out a research agenda to investigate the shifts in roles and resource distribution between different arenas and actors – and in the institutional framework of the deliberative fora – which can provide ways to consolidate alliances capable of expanding social inclusion and deepening the democratisation process, we will now return to the issues raised in this article.

The first point to be considered relates to the division of labour between the state and civil society embedded in the conception of citizenship which underpins the 1988 Constitution. According to this conception, the role of civil society is to exercise control over governments (accountability), influencing the process of policymaking, priority-setting, monitoring and evaluation of government actions. In this division of labour, the production and distribution of services continues to be the exclusive preserve of the state. This fails to address the problem of service production, posed from different perspectives by those who argue for the rights of "citizens as consumers" and by those who argue for "participatory citizenship". The former contend that it offers no response to the problems generated by the state's inefficiency as a service provider. The latter stress that it still does not ensure the involvement of society in the management of public services. Scholars are left with the task of assessing to what extent the transfer to the market of part of the services currently provided by the state, or alternatively the involvement of civil society in these tasks, could help to make access to services more democratic, expand the resources available to finance them and increase their quality.

The second point relates to the difficulty of implementing a coalition between civil society and the state. Dependence on such a coalition has proven to be one of the main weaknesses of the co-management model defined in the Brazilian Constitution. This model assumes that social actors are capable of translating their demands into clear policy proposals, which raises the question of the extent to which marginalised groups are able to articulate their problems in these arenas. In other words, is it reasonable to expect that the excluded – who lack information, influence and organisation and are generally widely-dispersed – can come together by articulating their problems while participating in these arenas? There is a difference between the 'need' and the 'ability' to demand which must be recognised; 'need' by itself does not produce identity, nor does it promote collective action.

While civil society does not always manage to organise itself, however, this is not the case for state actors who are always ready to mobilise in order to create barriers to entry for new actors. It is not hard to predict that these state actors will be reluctant to help strengthen fora which promote partnership with civil society in the management of public policies.

Despite the real obstacles which these difficulties and sources of resistance represent for the advance of co-management in social policies, it is possible to glimpse solutions. Such alliances could potentially be facilitated if state actors were able to promote the capacity of the councils to act as "institutional hosts". On this issue Houtzager (2001) argues that "when local networks are weak, the state can perform the role of an institutional host, contributing to the construction of associative networks between the marginalised sectors and therefore reinforcing the relations between the state and society". Similarly, Tendler (1998) points out that the functioning of associational life – and by extension, of the councils – depends on the nature of the interaction between the state and civil society, and that incentives generated by government action can make a decisive contribution.

It is therefore possible to envisage alliances between segments of the bureaucracy and of civil society which could promote the effective democratisation of these fora. However, it is important to keep in mind that there are no guarantees that these alliances will operate in such a way. There is a real risk of alliances being limited to arrangements which further reinforce the exclusion of those who lack the power to express their preferences. From this perspective, a crucial aspect is to establish an institutional design which addresses issues of councillor selection, of processes for debate and decision-making and of monitoring the implementation of these decisions. This could help to make deliberative fora more stable and less dependent on the establishment of 'good' alliances between actors from state and society[6].

To conclude, it is important to note that in this context it is difficult to predict which coalitions and arrangements have the greatest potential for promoting income redistribution and social inclusion. The researcher's role is therefore to identify the

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[6] As in the idea of "procedural justice", where justice is ensured not by the distributive outcomes achieved, but by the fact that the process of abiding by certain procedural guidelines makes it possible for the end result to be perceived as fair.

elements of the institutional framework of the Management Councils, the degree of civil society organization and the coalitions between state and social actors which have effectively promoted participatory citizenship.

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