

Civil society meets the state: towards associational democracy?*

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This article discusses the ‘associational democratic’ model of relationship between state and civil society organizations, which recommends devolution of as many regulatory functions as possible 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 goal is to introduce greater doses of realism in a model that has, so far, mostly been confined to abstract, normative discussions. The article does so by discussing two themes in particular: the link between associational democracy and neo-corporatism, and the relationship between deliberation—a crucial element in the normative model—and bargaining.

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1. Introduction

At a time in which the regulatory capacities of the state are in disrepute, civil society is often proposed as alternative.¹ In advanced countries, the crisis of *dirigiste* policy-making has spurred reflections on the importance of involving social actors in the conception and execution of public policy (see Kooiman, 1993; Putnam, 1993, 1995; Cable, 1995; Levy, 1999; Pierre, 2000). In developing countries, the policy debate has often focused on private, non-profit associations,

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which have been presented as alternatives to (presumably) failed models of state-led development (for discussions, see World Bank, 1992; Sanyal, 1994; Tendler, 1996; Edwards and Hulme, 1996; Hulme and Edwards, 1997; Bernard *et al.*, 1998; EESC, 1999; Fiszbein and Lowden, 1999). In all countries, uniform state solutions imposed on an increasingly heterogeneous mass of citizens, firms and local economies are increasingly regarded with scepticism. In this context, civil society organizations are often described as intrinsically more dynamic, innovative and efficient than state organizations—marred by inflexibility, outmoded practices and rent-seeking behaviour of state bureaucrats (on the latter, Buchanan and Tullock, 1962; Buchanan, 1980). The relationship of state and civil society is, according to these premises, one of competition. To restore effectiveness, policy should strive towards less state and more (civil) society.

This paper takes issue with the simplistic views of inefficient state and efficient civil society. Drawing on a recent literature, it discusses a model of ‘associational democracy’ in which state and civil society organizations are both part of a *single*, new regulatory framework that transforms both (Hirst, 1994; Cohen and Rogers, 1995*a,b*; Cohen and Sabel, 1997; Dorf and Sabel, 1998; Fung and Wright, 2003).

In this new regulatory framework the state no longer dictates regulatory outcomes from above in ‘command-and-control’ fashion. The key idea in the model is the devolution of as many regulatory functions as possible to local groups and associations with detailed knowledge of the 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 formation (based on their potential contribution), encourages the organization of under-represented interests, establishes minimal standards of performance, favours circulation of information and best practices, 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 what is often presented as a normative model. It does this by discussing two themes in particular: the link between associational democracy and corporatism, and the relationship between deliberation—a crucial element in the normative model—and bargaining. Although 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 are the result of evolution and transformation of previous corporatist arrangements (and a corporatist core remains very solidly at their root). Also, real actors rarely deliberate; they bargain. Yet, there 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 organized as follows. Section 2 lays out the associational democratic programme. Section 3 contrasts this programme with Habermasian views on civil society, germane in various respects, but also considerably different in others. Section 4 discusses those portions of the associational democratic framework for which there is a gap between normative statements and empirical realizations, in my opinion. The final section considers some legitimacy problems of associational democratic institutions. Although this is for the most part a ‘theory’ paper, it also contains examples and illustrations based on field research in two countries: South Africa and Ireland.

2. Associational democracy revisited

The associational democratic project proceeds in three steps. With the first, it advocates devolution of public policy prerogatives to locally based secondary associations. Secondary associations are civil society organizations intermediate between the economy and the formal institutions of the state (Cohen and Rogers, 1995a, p. 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.

2.1 Step 1: Involvement of secondary associations

The rationale for group involvement is in the groups’ detailed knowledge of the problems they are faced with as well as of possible solutions. Groups are expected to have greater capacities to *monitor* the behaviour of their members and promote voluntary compliance than top-down public institutions (Bobbio, 2002). At a time in which regulation increasingly concerns 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 (a) the setting of general standards of performance by centralized agencies is theoretically possible but monitoring is, at best, very costly; (b) government has the capacity to indicate targets, but the specific means of implementation have to be determined case by case; and (c) the object of regulation is so complicated and multifaceted that even setting the goals of regulation becomes impractical except in very general terms (see Cohen and Rogers, 1995b, p. 249).

Group involvement, however, creates two kinds of problems, both well known to students of interest group politics: incomplete representation and self-serving behaviour. Group representation tends to be unequal. Research on developing

countries shows, for example, that the poorer the people are the less likely organization is (for an example, see Howes, 1997). Aside from income differences, 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, in a system in which policy-making is open to group influence, the influence of some groups is likely to be greater than others. This, in turn, may translate in the ‘capture’ of the policy process by groups intent on squeezing private gains from policies that, given their public nature, are intended to serve the interests of all (see Schattschneider, 1960; McConnell, 1966; Lowi, 1969).

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 qualitative features make them amenable to incorporating some notion of the ‘common good’ in their dealings (Cohen and Rogers, 1995a); that is, groups that can be considered *encompassing* in the sense of Olson (1964, 1982). It should be noted that such are not just the groups that organize a large proportion of potential members (as is implicit in most operationalizations of the construct) but also relatively small groups if their internal composition approximates the reference population. Different from sectional groups, who have no incentives to take into account the negative externalities associated with their actions, encompassing groups cannot ignore such externalities as their negative consequences would be felt by their members as well.

Given a plurality of groups, all claiming to represent the same constituency, the state should therefore select those with more encompassing features, or 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.

2.2 Step 2: 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; Fung and Wright, 2003). According to associational democratic

theory, groups should not simply bargain over policy; they should deliberate, that is engage in 'a dialogical process of exchanging reasons for the purposes of resolving problematic situations that cannot be settled without interpersonal coordination and cooperation'. (Bohman, 1996, p. 27). In a deliberative assembly no one can credibly argue that a particular solution should be adopted because it benefits him/her, even though this same person could argue that a proposed solution benefits an entire class of persons (to which she/he belongs) and that this class is especially worthy of attention or protection. Arguments have to make reference to principles of justice or generalizable interests. In a deliberative assembly, the proposal that wins the contest of ideas becomes collective choice (on deliberation, see Cohen, 1989; Bohman, 1996; Habermas, 1996; Gutmann and Thompson, 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 all votes are counted equally. By accepting to use the vote as the decision-making mechanism, participants implicitly recognize one another as members of the same political body and implicitly accept to be bound by the result even if it is unfavourable to them. However, different from deliberation, voting is based on aggregation of pre-existing preferences, not on the shaping of preferences through dialogue, and 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 (see Elster, 1994, 1995). Similar to deliberation, the parties that bargain implicitly recognize their interdependence and use language to coordinate. However, these linguistic exchanges are not *communicative* (in the sense of Habermas, 1984). The parties do not seek to understand one another and reach agreement on the overall good of the group. They use language *strategically* to influence each other. Threats and promises figure prominently in these linguistic exchanges. Promises often involve side payment: 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 choices of the counterpart. As argued in every negotiation course book, negotiators are most 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 she/he will be successful in appropriating a greater proportion of the *bargaining surplus* than the other (Thompson, 1998, p. 21).

A negotiated agreement is, in line of principle, very different from a deliberative agreement, even though this difference might be difficult to pin down empirically. In deliberation, the parties choose an outcome *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 mutually acceptable solution. When agreement is reached through bargaining, the parties again agree on a particular outcome. Their reasons for doing so, however, are *different*. Each party has its own reasons to agree. One party, for example, agrees on outcome *a* because of *x*, while the other agrees on *a* because of *y* (for more on this, see Habermas, 1996, p. 166).

The requirement that groups coordinate through deliberation is important because it allows associational democratic theory 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 no concern, nor notion of the common good, an equilibrium—quite akin to a market equilibrium—can be found if each of the groups involved is allowed to push freely for its own view. 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'.²

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. These problems affect the interests of actors that *are not yet there*. Unless the existing actors are able to go beyond pure group interest in their dealings, some voices will not be heard in the pluralist bazaar.

2.3 Step 3: 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. It no longer provides direct solutions to regulatory problems but (as argued before) contributes to redress representational asymmetries, promotes

² The surprising author of this sentence (surprising because it perfectly summarizes the pluralist view) is Jean-Jacques Rousseau (1987, pp. 155–6).

the emergence of groups with organizational characteristics that are conducive to internalization of externalities, and encourages groups to deliberate about their common problems, experimenting with different solutions.

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). The state grants groups the freedom to deliberate and experiment. In exchange, it requires transparency and exercises public oversight. Some local groupings may be unable, for various reasons, to come up with satisfactory answers to their regulatory 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, p. 23; Dorf and Sabel, 1998, pp. 287–8; Sabel, 1999). For this to be possible, the various decision-making units are obliged to make available a series of data and indicators. Measurement favours the comparison of different experiences. The process of comparison, in turn, promotes both innovations (because the various units strive to come up with the most efficient solutions) and organizational learning. Data and indicators are constantly updated in the light of interaction among the various units and the changing nature of problems.³ When the results of auto-regulation are patently inadequate the state intervenes directly.

Many of the building blocks of the associational democratic model, and especially the idea of deliberation, draw on the thinking of Jürgen Habermas. There are, however, significant differences, particularly with respect to the specific role attributed to civil society organizations in the formation of collective decisions. The next section analyses these differences.

3. Habermas on civil society

Unlike other intellectual traditions (for example, those associated with Locke and other English liberals on the one hand, or with Tocqueville on the other hand),⁴ the Habermasian views on civil society are not embedded in a theory of *limited government*. In fact, the work of Habermas is not concerned with limiting state power but, as with the associational democratic project, with revitalizing it.

³ A similar logic seems to inspire the EU's open method of coordination: see Zeitlin and Pochet (2005).

⁴ For more on these intellectual traditions, see Baccaro (2001, pp. 3–8).

In the Habermasian tradition civil society is the sphere in which a process of unconstrained communication, i.e. communication aimed *not* at influencing or gaining power but at reaching understanding with others on issues of common concern, takes place. The logic of unconstrained communication, typical of civil society, is in turn very different from the logics regulating both government and the economy, each conceived by Habermas as self-contained systems guided by their own regulatory mechanism or ‘steering media’, i.e. power and money, respectively.

Beginning with the *Structural Transformation of the Public Sphere*, the work of Habermas (1989[1962]) has been concerned with the particular institutional conditions under which political power inspired and legitimated by rational discussion among free and equal individuals is possible in advanced societies. For some time, in line with other critics of liberal democracy (see, for example, Schmitt, 1985), he has appeared to believe that the emergence of mass parties and large organized interest groups in the sphere of institutional politics had irrevocably turned the liberal ideal of deliberation (see Mill, 1991) into political utopia. In mature democracies, the constituting ideal of deliberation, i.e. that of unconstrained discussion aimed at discovering the common good, seemed to have been irredeemably replaced by pressure politics and political bargaining.

Recently, however, Habermas’s position has changed (see Habermas, 1996). While a politics of deliberation remains technically impossible in many socio-economic fields—because these fields (e.g. the economy and public administration) need to be steered through specialistic codes and knowledge, which are poorly attuned to democratic discussion—the ideal of deliberation is not just utopia. Unconstrained communication is made possible by civil society organizations (typically, social movements), which periodically renew the political debate and force the official circuits of power, i.e. government and political parties, to be attentive and responsive to new issues arising at the periphery of the system. On the one hand, these associations contribute to identifying new problems—which are then passed along to the actors of institutional politics to be transformed into policies (Habermas, 1996, Ch. 8; see also Habermas, 1992; Cohen and Arato, 1992). On the other hand, they discuss and critically evaluate the results of governmental action and thus, contribute to keep alive the ideal of democratic legitimacy, i.e. that collective decisions are formulated *as if* all those affected could rationally consent with them.

These views have inspired a portion of the literature on social movements. Authors like Offe (1985) and Cohen (1985) have argued that social movements are an indispensable element of a well-functioning democracy. In fact, not all societal demands are effectively processed through institutional channels (the political party system, the interest group system, parliaments and executives). New issues are periodically brought to public attention by grass-root movements

acting in the field of ‘non-institutional politics’. The demands these social movements advance concern new values (e.g. environmentalism, feminism, etc.) whose recognition should, in the intentions of those who mobilize, be potentially binding for everybody. One of the characteristics of ‘new’ social movements, which differentiates them from the ‘old’, is their ‘self-limiting character’. In other words, these movements ‘abandon[] revolutionary dreams in favour of the idea of structural reform’. Also, they ‘do not seek to abolish the autonomous functioning of political and economic systems’ (Cohen, 1985, p. 664).

The views on civil society inspired by Habermas’ work seem to be characterized by overconfidence in the regulatory capacities of the state. This remains the major agent of regulation and applies the decisions that have been reached through deliberation in institutional fora, while civil society associations monitor what the state does from without. Introducing elements of civil society participation in state and market realms, implies, according to Habermas, ‘damag[ing] their proper systemic logic and therewith their ability to function’ (Habermas, 1992, p. 444). Strangely enough for a theory that presents itself as a celebration of the role of civil society (see also Cohen and Arato, 1992), this view greatly restricts the space for concrete civil society action. According to this view, in fact, civil society organizations need to limit themselves to an upstream function of *issue innovators* and a downstream function of *democratic vigilantes*. Governments and markets have to be left free to operate according to their own logics as they are more efficient than the poorly structured organizations of civil society. Civil society ‘cannot supply a substitute for the systematic inner logic of public bureaucracies. Rather, it achieves an impact on this logic “in a sieglike manner”’ (Habermas, 1992, p. 452).

Such confidence in the ‘systematic inner logic of public bureaucracies’ appears excessive in light of the growing difficulties these public bureaucracies face in solving problems like industrial regeneration, long-term unemployment, skill development and the revamping of public education, just to name a few. The functional prerequisites for efficient problem-solving seem to have changed and public organizations appear nowadays all the more effective the less they act as *closed systems*. Opening up public bureaucracies to the input and participation of civil society organizations may make them more, not less effective. Exactly for this reason, associational democracy assigns civil society organizations a much greater role than Habermasian theory. Rather than limiting themselves to ‘the procurement and withdrawal of legitimation’ (Habermas, 1992, p. 452) or to having ‘at most an indirect effect on the transformation of the political system’ (Habermas, 1996, p. 372), these organizations often play a much more direct role in the design and implementation of public policies. The next section returns to the associational democratic programme. The goal is to revisit some of its key tenets and make its often lofty normative preconditions more attuned to reality.

3. Unresolved issues in the associational democratic project

3.1 *Associational democracy versus corporatism*

The associational democratic project is at times interpreted as an attempt at introducing a semi-corporatist model in America as well (see Mansbridge, 1995; Offe, 1995). Indeed, associational democracy and corporatism share many traits. Like associational democracy, corporatism, too, is about the inclusion of particular secondary associations in the design and implementation of public policy (Lehmbruch, 1979; Schmitter, 1981). Like associational democracy, corporatism, too, emphasizes the need for active state intervention in shaping the associational environment (Offe, 1981). The similarities, however, end here.

According to corporatism, participation should be restricted to centralized associations, particularly those representing labour and capital. 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 into 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, the 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 automatic recognition procedures allow group leaders freedom to pursue policies that are (at least in the short term) in conflict with the members' preferences.⁵ 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

⁵ Compliance in corporatist groups can also be produced through more dialogical and democratic processes (Baccaro, 2002).

group leaders and members. Unlike corporatist groups, associational democratic groups are decentralized and participatory.⁶

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 (Cohen and Rogers, 1995*b*; Sabel and Cohen, 2001). 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 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 abstract. It is the problem that policy-makers in Ireland and 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, 1995*b*, p. 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 with excellent results in terms of economic performance (Baccaro and Simoni, 2004). During the 1990s, this core has been progressively enlarged to include a variety of new actors (e.g. an organization of the unemployed, a women’s association, a community workers cooperative, a youth council, religious organizations, an association of people with disability, an association of the older people, gay and lesbian associations, the travellers’ 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, and so on.

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; Teague and Murphy, 2004). 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.

⁶ The 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.

A similar model of postmodern corporatism seems to be emerging in South Africa as well. The National Economic Development and Labour Council (NEDLAC) Act of 1995 instituted a statutory consultative structure, composed of various social actors, with the task of submitting proposals and of reviewing all legislation in particular fields before approval. NEDLAC is composed of four chambers: Trade and Industry, Labour Market, Public Finance and Monetary Policy, and Development. At least in theory, these chambers deal with the whole gamut of economic policies.⁷ 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. Language in the NEDLAC statute created stringent requirements for civil society organizations participating in the fourth chamber. These are to be membership-based, their leaders have to be democratically elected by the membership, and the organizations are required to have organizational structures in various localities as well as a national coordinating structure. These requirements *de facto* excluded NGOs, that is organizations that, while often playing a very important role, e.g. by funding projects, engaging in service provision and capacity building, contributing to awareness-raising, promoting self-organization, are not membership-based and hence are not necessarily representative of particular social groups.

Similar to Ireland, involvement of the civil society organizations at the national level was based on previous 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. Participation in these fora was often used by formerly illegal political parties (particularly the African National Congress) to ensure 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.⁸ Interestingly enough, the one thing that

⁷ In practice, however, some of the most important policy choices are decided outside of NEDLAC. For example, GEAR, the rather orthodox (i.e. neo-liberal) 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 an European-style 'social pact', was also negotiated outside of NEDLAC.

⁸ This is based on field interviews in both countries.

seems to be working well with these new institutional arrangements is the old corporatist core (especially in Ireland), which focuses on control of nominal wages (in Ireland) and the consensual regulation of labour market issues (in South Africa), and which is restricted to government and the traditional social partners, labour and capital (Baccaro and Papadakis, 2004; Baccaro and Simoni, 2004). 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 really there or not is an empirical question. In South Africa, after the 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 often be only symbolic. The groups' administrative capacities are often 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 those that represent less affluent constituencies, say, the urban and rural poor) is to be considered. With this, however, we leave the associational democratic camp and return to corporatist territory (for a proposal, see Schmitter, 1995).

In Ireland, the basic principles of associational democracy seem to have been deeply internalized by policy makers. A government document states, for example, that 'the State [...] is not as the answer to every problem . . . but [...] just one player among many other' (Government of Ireland, 2000, p. 32); that policy plans and action priorities have to be based on the groups' local knowledge (p. 41); that the groups' contribution needs to be supported through technical assistance and financial resources; and that the role of the state is to develop a number of partnerships with civil society groups (p. 43). For many years, the Irish secondary associations have been financed by the European structural funds. Now that, due to the recent economic miracle, these funds are being phased out, the government has chosen to shoulder the burden directly. Even in Ireland, however, the question of whether civil society organizations really have important problem-solving capacity to contribute often surfaces (at least at the national level, see O'Donnell, 2001). Once they enter the public-policy sphere and obtain

official recognition as ‘social partners’, the new actors struggle ferociously to be included in *all* bargaining tables, including the ones for which they have no clear competence. The reaction of the major Irish employers federation is interesting in this regard. For this organization, the most interesting part of social partnership is the wage moderation component. Organized employers support the extension and deepening of social partnership to other domains and actors to the extent that it does not interfere with this corporatist core.

Negotiations, let alone deliberations, are often very difficult at these tables as groups struggle to ensure the one issue (concerning women, disabled, youth, travellers, etc.) that concerns them the most is adequately dealt with and accommodated. Even when coordinating bodies negotiate *in lieu* of separate organizations, these umbrella organizations 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.

3.2 *Deliberation or integrative bargaining?*

In light of the preceding discussion, is the associational democratic requirement that actors deliberate rather than bargain realistic? According to the normative model, deliberation favours circulation of information on the particular features of the problem as well as the actors’ preferences over alternative solutions, and leads, through this channel, to more efficient collective choices. At the same time, deliberation also produces 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.

For those that interpret deliberation through a rational choice framework, this self-censorship is the result of the ‘civilizing force of hypocrisy’, i.e. the need to pretend one is concerned with others to gain their support (Elster, 1994, p. 190). For others, deliberation enlarges the self to which interests inhere, e.g. from the individual to the 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 would make in similar circumstances.

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 (including those linked to rhetorical abilities) are levelled (see also Cohen and Rogers, 2003). According to Rawls (1993, p. 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 persist 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 the economist’s language, are in most cases already compatible with one another and that most practical problems are really coordination games (see Cohen and Sabel, 1997). These actors may at first not know this is the case, owing to asymmetric/incomplete information and/or bounded rationality. By deliberating, these actors discover their interdependence and find efficient ways to accommodate their mutual interests.

In contrast with this view, one could argue that even in genuine coordination games (and, obviously, not every social problem is such) there is embedded a distributional dimension that is linked to the problem of equilibrium selection. This distributional dimension 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, pp. 11–12). Both partners prefer to go out together than going out alone. However, one wants to go to the match and the other wants to go to the movies. The game has two equilibria: going to the movies together and going to the match together. However, the choice over whether to *actually* go to the movies or to the game, given that both are equilibria, is often 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, some form of affordable child-care needs to be put in place. The employers realize that subsidized child-care is in their best interests. The unions and the community sector agree, too. 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. The 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. This disagreement has provoked a stalemate and no consensus has been reached.

In theory, the Irish actors should deliberate on this issue. 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, the 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.⁹

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 before 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 of integrative bargaining is that of two children quarrelling over an orange. Both want the orange for themselves. First they propose to split the orange, in typical distributive mode. Then, when they investigate their respective interests, they realize one wants the peel to bake a cake, while the other wants the fruit to eat it, and that their interests are perfectly compatible.

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

⁹ Even in distributive bargaining situations, however, repeated interactions eliminate incentives to exploitation and rip-off (see Axelrod, 1984).

are in the intensity of 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 bargaining outcome would include x and z in a single bundle. 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.

Different from deliberation, the parties engaging in integrative bargaining are not required to converge on the same solution for the same reason. A convergence of this kind, aside from being unrealistic in most cases, may even be normatively undesirable as it might entail the risk that some use their greater technical or scientific knowledge to induce others to entertain beliefs that are not in their best interests (Przeworski, 1998).¹⁰ In integrative bargaining, there is no attempt by the parties at cancelling their differences (including differences of interest), but an effort to understand them for the purposes of exploring mutually beneficial options, if available (see Mansbridge, 2003).

The question of how you get integrative bargaining is only slightly less complicated than the question of how you get deliberation itself. Cultural predispositions probably play a role (Gambetta, 1998). 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. However, a single issue can sometimes be unbundled in its constituting parts (as in the case of the orange). All other things being equal, integrative bargaining is more likely to take place when policy packages rather than single issues are at stake.

Also, integrative bargaining should not be romanticized. At the end of every integrative process there is the distributional problem of how to apportion the value actors have jointly contributed to create. Integrative bargainers tend to be victimized by their more distribution-oriented counterparts in this final phase. In fact, openness and willingness to share information may play to their disadvantage in the stage of apportionment of costs and benefits. Indeed, integrative bargaining contains two different phases (Scharpf, 1997, Ch. 6). One is the problem-solving phase in which partners push out the Pareto frontier and seek to come up with creative solutions to increase joint welfare. The other is a distributive phase in which the benefits and the costs of cooperation have to be divided. The first needs open and truthful communication to be effective; the

¹⁰ Some critics believe that deliberation unduly downplays certain voices, those that do not express themselves through rational and sedate discussion, but prefer the emotional recounting of their experiences and life stories. See Sanders (1997) for a feminist critique of deliberation and, more generally, Dryzek (2002, Ch. 3).

other may require secrecy and even deceit. These requirements are potentially contradictory. In particular, the distributive phase may make the problem-solving phase very difficult. One possible solution is to devise mutually accepted rules that *a priori* sterilize distributive conflict (Scharpf, 1997). The parties could agree at the outset on impartial procedures to resolve the differences that may arise. For example, they could agree in advance to devolve the most controversial issues to an external third party or, in the case of multi-party negotiations, to use the vote as a dispute-resolution mechanism.

4. Concluding remarks

This paper has dealt with a particular project of institutional renewal, referred to as associational democracy. It has focussed on the problems linked to the transition from normative prescriptions to concrete realization and examined two aspects in particular: the link between associational democracy and corporatism, and the relationship between deliberation and bargaining. 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 society's capacity to mould groups. 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 capacities for social control in addition to problem solving capacities become understandable if not fully justifiable. The Irish and South African cases suggest that the involvement of civil society organizations other than the classic social partners (labour and capital) has limited influence on the quality of public policy, at least at the national level.

The requirement that groups engage in deliberation forces the theorist to make heroic assumptions about human capacity for self-forgetfulness. The notion of integrative bargaining seems closer to what really happens in the associational democratic fora than the notion of deliberation. It allows retention of many attractive features of deliberation, including truthful communication, creativity and experimentation, while relaxing some of the most stringent requirements about the actors' dispositions.

The associational democratic tenet that all potentially interested or affected groups should be involved in policy-formation—apparently incontrovertible—risks generating in practice a series of legitimacy problems that we now consider briefly at the end of this article. The illegitimacy claim is not the one traditionally levelled against neo-corporatist systems as well, namely that of expropriating elective assemblies and governments of their legitimate prerogatives, forcing them to ratify decisions reached in private arenas. In addition to it, there is a new one, which concerns the lack of clear and widely acceptable criteria to

justify the involvement of some organizations and the (inevitable) exclusion of others.

The associational democratic literature seems to take it for granted that all associations have a clearly identifiable membership base. Yet several organizations are not of this kind. Many NGOs, for example, speak and act in the name of particular social groups but do not represent them in the sense of being accountable to them. In many developing countries, tens of NGOs, some membership-based and some not, claim to represent the views and demands of particular constituencies. Which ones should be involved? On the one hand, the South African solution, that of privileging those social groups with a membership base and formal organizational structures, may unduly downplay other possible criteria, such as competence and problem-solving capacity (see Papadakis, 2003). On the other hand, the lack of criteria, or their multiplication case by case, risk producing arbitrary choices.

A possible way out of this dilemma could be that of basing the legitimacy of associational democratic arenas not on quantitative criteria of social presentation, but on their capacity to pass the test of collective scrutiny. According to this view, everything, from the internal activities of the organizations involved, to the choice of criteria for involvement, to the assessment of outcomes, should be public and transparent. An active and mobilized public sphere—composed of citizens, social groups, mass media—should be able to exercise constant control over associations and policy fora (see Habermas, 1989).

Hence, after criticizing the Habermasian view of civil society, this article concludes by reasserting its necessity. It is highly likely that modern democracies need both a civil society of the Habermasian kind, which controls from outside the formal structures of government specialized in the resolution of practical problems, and a civil society of the associational democratic kind, which participates directly in problem-solving. What we need to understand at this point—and the question is not just theoretical but eminently empirical—is whether such duplicity of functions is sustainable: whether civil society is able to regenerate itself constantly and smoothly, so that for each organization that accedes to the bureaucratic circuit another emerges to take its place in the unstructured public sphere, or whether the transition of civil society associations from the ‘lifeworld’ to the ‘system’ of an enlarged bureaucracy (Habermas, 1987) does not deteriorate their capacity for critique and articulation of value-based alternatives.¹¹

¹¹ For empirically grounded explorations of these questions, see Baccaro and Papadakis (2004) on South Africa, and Teague and Murphy (2004) on Ireland.

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