

Some Skeptical Considerations on the Malleability of Representative Institutions

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What we are dealing with in the discussion of the work by Cohen and Rogers is the relationship of rational actors and social order. Let me first distinguish four solutions to the problem of how rational actors can achieve social order.

Rational Actors and Institutional Order

Solution (1) follows a Hobbesian logic. Given the essential equality of human actors, their capacity to act rationally and the scarcity of goods they need for their survival, the result will be eternal, violent conflict and a state of nature governed by fear. Having experienced this state of nature, rational actors will look for ways to overcome it. The only solution will be concluding an irreversible contract of domination. This contract involves the collective self-disarmament of all members of society in favor of a third party, the absolute authority of the Leviathan, who himself is not part of nor bound by the contract. The exchange is rational because what the actors sacrifice (the natural 'right' to use violence against others plus obedience to an absolute authority) is clearly inferior in value to what they gain (namely, the secure enjoyment of life and property). This collective exchange of *obedience* and the forbearance of the use of violence for *protection* is clearly and self-evidently rational so that the actors' capacity for rational action alone, without any further commitment to moral norms, will suffice to effect and sustain the contract – at least, that is, if we assume general compliance with *pacta sunt servanda*.

Solution (2) replaces macro-contractarianism with micro-contractarianism, known as market liberalism. Its proponents raise doubts concerning both the desirability and the durability of once and for all macro-social contracts. Instead, the market is seen as the

meeting point of an owner of money (M) and an owner of commodities (C). M and C have reciprocal preferences: M prefers having the commodity over having the amount of money that is equivalent to the price of the commodity, and C has exactly the reverse preference. The exchange contract that occurs between them as a consequence results from each of the two actors' conscious intention to achieve his most preferred state. Economic theory teaches us how it happens that both sides of this market transaction give rise to further ones, thus generating an invisible hand type of unintended collective order. Collective and once for all times contract-making (solution 1) is thus unnecessary and replaced by individual and infinitely reiterated contract-making.

Solution (3) is based on a critique of the happy outcomes suggested by solution (2). The rational and intentional market interaction of individuals remains a mixed blessing – as long, that is, as it is not complemented and to an extent compromised by an authoritatively enforced and morally recognized institutional order which provides and protects 'status'. The rules providing such market-exempt status are not interest-driven, but will still serve the interests involved. This type of solution comes in many variants – Roman Catholic, social democratic, conservative and neocorporatist among them. Their shared claim is that market actors must first be located in the right places and endowed with the right kind of status rights and privilege before the market transaction can possibly lead to collectively beneficial and hence stable social order. Some 'sacred' ordering of status, based on tradition and the recognition of tradition or moral principles, must transcend the realm of what is interest-contingent and hence appropriately assigned to market transactions. It is this combination of 'order' and 'interest' that will eventually serve interests better than any arrangement driven by interest alone. To illustrate, it is argued by the theorists of the social democratic variant of this solution that granting the status right of a supply cartel to organized labor (in the form of unions with protected procedural rights in the process of collective wage determination) is not only mandated by *normative* considerations of social justice, but is equally justified on *consequentialist* grounds. For it is only a system with strong unions that will generate sufficient wage pressures to force employers and investors to pursue a dynamic strategy of efficiency-increasing innovation and competitiveness.

Such a hybrid combination of market forces (i.e. the free play of interests) and status order (i.e. the observance of durable status rights and regulatory norms) is seen to be preferable to a 'pure' market mechanism because of the desirable (if unintended) byproducts the

latter is bound to generate. The basic intuition behind this solution is that if we restrain the operation of interest, interests will be served better. Within this approach, social order is conceptualized as a kind of *metabolism* between symbiotic elements rather than the intentional transaction between partners in *exchange*, the difference being that the mutually beneficial chain effects that operate within the former become visible only to the outside observer or in retrospect, whereas in the latter case of exchange the anticipated benefits are the sole motivation for action. Solution (3) in its many variants thus always advocates the preservation of a synthesis of the 'good' and the 'right', of institutions and interests, the sacred and the secular, status and contract, or principles and consequences, usually with an emphasis on each of the first elements within these conventional pairs of apparently opposite sociological concepts.

Solution (4) draws purposive-rational consequences from the discovery of the favorable latent function of some institutions. It restores the rational and intentional element of institution-building that we also find in solution (1). If we see in retrospect that adherence to 'sacred' institutions, status orderings and principles has not only not damaged the pursuit of individual and collective interests, but positively furthered it (at least in the long run), the rational consequence to draw from this insight is to 'design' institutions in ways that best serve given purposes and interests, thereby turning the hitherto 'latent' functions into 'manifest' ones. For instance, if we learn from comparative historical research that liberal democratic political institutions show significant correlations with high growth rates, or corporatist arrangements with a consistent location of the national Philips curve on the inward side, or certain forms of federalism with acceptable levels of public debt – it is certainly tempting to turn such analytical knowledge into so many blueprints for institutional engineering. In this perspective, much of the institutional setup of Western capitalist democracies is seen in the Central and East European countries as a model to be transplanted – not so much because its normative assumptions and guiding *principles* are shared, but because its economic *consequences* are so strongly desired. Similarly, the IMF often prescribes certain institutional reforms (leading again to Western-style liberal democracy) for Third World recipients of its loans because it is anticipated that the adoption of these reforms will generate the right institutional framework for healthy economic development.

These and other examples may help to illustrate the idea that there are not only 'games *under* rules', but also 'games *about* rules' which

result in a designed, negotiated and intentionally chosen and adopted institutional order. Such institutional choices often take the form of transplanting arrangements that are believed to have been working successfully in one place (e.g. Sweden or Germany) to other places (such as the United States). There are, however, a number of conceivable faults with this mode of reasoning and its implications for institutional (or constitutional) choice.

First, simple quantitative correlations between certain institutional features and economic indicators may be misleading in that they causally attribute certain effects to one institutional pattern which in fact are the synergetic result of a whole network of institutions. As a consequence, it remains a matter of uncertainty and good luck whether or not an institutional arrangement will actually be able to perform the intended function. Second, the 'purposive' adoption of institutions for the sake of promoting some economic objective (rather than 'for their own sake') may well spoil their desired effect, as only the institutions as a formal set of rules and procedures, but not the cultural values, norms, shared meanings and moral underpinnings that generate compliance with those rules, are being transplanted. Third, the supportive beliefs and expectations may or may not be generated by the implantation of the rules themselves, but if they do, they are likely to emerge only after a time-consuming process in which people 'get used to' and begin to feel 'at home' in the new institutional framework. It remains always an open question whether the institutions can survive this period of transition (other than under the most fortunate of circumstances) during which the complementary attitudes, beliefs and practices must emerge and become accepted as 'normal'.¹ Alternatively, a sense of cynicism may emerge which would doom the whole operation to failure and which would also expose the efforts of its initiators as a case of consequentialist misunderstanding of the nature of institutions. Finally, if institutions consist mostly in procedural rules and extend status rights to the incumbents of certain positions, they seem to presume that the players of the game are already constituted, the only problem being that their interaction must now be regulated. In transferring 'successful' institutions to other places, we often see that it is by no means clear who qualifies as a player, and consequently that players (corporate actors, trade unions, political parties, professional associations, etc.) must first be constituted before they can play according to the newly designed rules. This logically prior problem of constituting players can, however, not be solved by copying institutional rules which presume this problem as one being solved already.

Four Positions in the Debate on Corporatist Arrangements

The role assigned to organized groups or associations in political life (or, for that matter, of keeping certain issues and conflicts out of political life) has always been at the center of designs for institutional innovation, if sometimes (as in the Rousseauian tradition) in sharply negative ways. This is so for two reasons. First, organized groups have two great advantages over individual action. They pool individual resources (such as membership dues) and thus accomplish enormous scale effects. Second, they generate not only much improved means of action, but affect the ends of action itself in desirable ways. This happens as groups help to discover the 'true' preferences of individual members – preferences that would easily be missed or distorted as long as individuals have to rely on their own insights, experience and communicative resources.

The second reason why intermediary associations have such a central role in political theory and the practice of designing 'appropriate' institutions is a little more complicated. It has to do with the fact that only a limited range of institutional mechanisms is available if it comes to determine the best way of the intentional making of collectively binding decisions.

In principle, there are three, and only three, modes of explicit collective decision-making: voting, commanding and bargaining. These activities are performed, respectively, by the many, the individual agent at the top and the few. One is the bottom-up aggregation of individual preferences through voting and referendums, which is well known to have many disadvantages. It relies on the primitive language of yes/no or for/against communications; it tends to be future-blind and beset by passions; and much of the outcome depends on the questions being asked or candidates being proposed, which itself cannot be done through voting or referendums. The Achilles' heel of 'polyarchic' decision-making is the problem of agenda-setting: the people cannot answer the question, which question needs to be answered? The second mode of collective decision-making is through binding commands issued top-down by some supreme authority. While this method involves some regard for the future (depending on the length of the term of office and the statutory possibilities for re-election), and while it also allows for qualitative variation (more/less, this/that, sooner/later, etc.), there are also some major drawbacks, the most significant of which are (1) doubts about the legitimacy of the authority, and (2) the transaction costs of enforcement/implementation of the orders given. Third, there is the 'lateral' method of bargaining

between collective actors. In terms of the rationality (by which I mean in the present context something like 'probability of retrospective approval' or 'non-regret') of collective decision-making, this method is superior to the other two methods in that (1) it is capable of filtering out passions, (2) its potential for qualitative variation, as well as flexibility in time and space, is greatest, as dimensions of demands and concessions can be discovered and utilized in the process of bargaining itself, and (3) as long-term considerations, even extending beyond a term of office, can easily emerge. This 'timespan capacity' of bargaining systems is one of their greatest functional advantages, as 'bargaining partners [share] a common institutional memory of past behavior and [their] relative stability lengthens the shadow of the future'. Another functional advantage of intergroup bargaining is commonly seen in the fact that such negotiations take place behind closed doors, a feature which minimizes the chances for mobilization and 'incompetent' interference of outsiders. Cohen and Rogers² quote approvingly authors who conclude 'that certain forms of group organization play a central role in resolving problems of successful governance, not in causing them'. They are consistently convinced of the virtues of the bargaining between properly designed groups (referred to as 'performance-enhancing group structures'), and of the cooperative gains resulting therefrom.

The great number of arguments concerning the political role of voluntary associations in general and of corporatist arrangements in particular that have been advanced in the 1970s and 1980s can conveniently be ordered along two axes. One axis measures the evaluation given by authors in the debate. This evaluation can be measured along the dimension of *favorable evaluation/explicit advocacy* of a strong role of functional representation through interest associations vs *critical assessment/explicit rejection* of such role as something dangerous or illegitimate. The other axis represents the kind of criteria that enter such evaluation. Here we find *normative* arguments (explicating the principles of a well-ordered democratic polity and the standards of its legitimacy) vs *functional* ones, which point to observable consequences of certain arrangements for the solution of public policy problems. To simplify the latter dimension, we can also say the 'normative' approach assumes the point of view of the *citizen* (and his or her supposed interest of being part of a legitimate and well-ordered democratic polity), whereas the 'functional' approach is much closer to the narrower concerns of *policy*-making elites confronted to given problems of steering, intervention, control, regulation and institutional reform.

Let us now look at the type of arguments that have emerged in the debate and locate them in the matrix defined by these two dimensions. Most participants in these debates would probably agree that the majority of arguments and insights derived from the extensive research on business and other associations conducted in the 1980s fall into the favorable/functional quadrant, which hence is the most densely populated of the four. Among these arguments, three stand out as particularly widely shared:

1. Contracting out policy-making functions to voluntary encompassing associations taps their expertise and unburdens governments from parts of their decision load and responsibilities, thereby enhancing the efficiency and effectiveness of governance.
2. Involving target groups of regulation in the formulation and implementation of regulatory standards and granting them a role in decision-making will facilitate enforcement of the policy.
3. Strengthening representative monopolies will provide them with authority over their constituency and put them in a position that allows them to play an active role in the shaping of preferences among the rank-and-file membership.

Next numerous are arguments that clearly belong in the opposite box, namely the negative/normative quadrant in which 'mischiefs of faction' or 'exploitative coalitions' types of argument are being revived. This set of objections to a strong role of interest associations in the making of public policies claims that corporatist arrangements will violate principles of popular sovereignty and/or market freedom which must be defended even though this may involve forgoing some functional advantages of corporatism. These objections come from two sides.

First, there is the objection from the democratic Left. Corporatism, it claims, even 'liberal' corporatism, interferes with fair and egalitarian methods of territorial representation through elections, parties, parliaments, legislation and the division of powers, ultimately also popular sovereignty. It assigns privileged, perhaps even monopolistic, representational and decision-making roles to certain collective actors representing key economic groups and discriminates against others. It invokes the *bourgeois*, as defined by his position in the societal division of labor, rather than the *citoyen* as the idealized locus of autonomous deliberation and judgment about public affairs. Cohen and Rogers summarize these concerns by saying that 'the system of organized interests will tend both to be highly particularistic, and to reflect

inequalities in conditions favoring collective action across different populations and areas of concern' (pp. 23-4). Furthermore, the authors emphasize the important insight that the set of groups participating in inter-associational bargaining is almost by definition 'incomplete' and hence very likely to impose negative externalities on excluded third parties: 'A system of peak bargaining among encompassing groups plausibly requires the exclusion of some interests. For it is precisely the limits on the number of "social partners" that permits such groups to function effectively' (p. 94; cf. also the quotation from Schmitter on p. 105).

Second, there are objections from the market-liberal Right. From this political point of view, stable associational regimes are thought to interfere with the free market and competition and to lead to cartelization and the formation of exploitative coalitions. Proponents of this set of arguments cite the dangers of the 'autonomy' of collective bargaining, of rent-seeking, of captured agencies, as summarized on pp. 39ff. Even if it is granted that collectivist arrangements based on strong associations will produce the morally attractive benefit of comparatively greater distributive equity and 'decommodification' (pp. 94-5), it is still predicted that such arrangements will soon tend to strain the capacity for class solidarity by making the 'better-off' segments of both major classes aware of the opportunity costs they contribute to the arrangement - an awareness that will soon lead them, as decentralizing tendencies in the Swedish union federation LO in the 1980s serve to illustrate, to 'opt out' of solidaristic wage and labor market policies.

Both these normative objections to the distortions that group power can imply for both the democratic political process and the operation of market mechanisms must be weighed, however, against the plain fact that in 'post-liberal' or 'post-individualist' societies the joining of citizens into groups and associations is a sine qua non of popular sovereignty. People have 'voice' only to the extent that they merge their political resources into associative action, thereby overcoming a communicative condition of the mere 'noise' of unorganized interests, initiatives and opinions. Groups facilitate coordination among individuals with shared interests and thereby 'make a substantial contribution to the welfare of citizens' (p. 29). For this reason, and 'given the existence of associative liberties, groups will form to influence policy, and once formed, they will affect policy. They cannot be legislated out of existence' (p. 27). They may even have desirable retroactive effects on their constituent members, as they socialize them, draw them into deliberative processes and thus 'function as

informal school of democracy and citizenship' (p. 29). Furthermore, the absence of organized groups would deprive governments and legislatures of indispensable sources of information.

The design problem of the political theorist is thus one of optimizing, that is to say, the problem of inventing an institutional framework that is capable of checking the democratically undesirable consequences of associative action, while preserving the features that contribute to the democratic quality of citizenship and governance.

Third, we have a sparsely populated category of negative functional arguments. Sometimes the Austrian example is used to demonstrate how extreme forms of 'social partnership' can lead to immobilism and stalemata, as well as to an inability to cope with problems of the international political economy.

Another set of arguments that seems to belong in the functional/negative cell raises doubts about the transnational transferability of institutional arrangements. One could argue, for instance, that models of the political economy and the institutional rules governing whatever the functional superiority of such models may be *cannot* be designed in the spirit of a purposive-rational, problem-solving approach. For they 'evolve' out of centuries-old national traditions and the elite values inculcated by them. It is the very essence of 'institutions' (as opposed to 'organizations') that they are not amenable to rational change and design as they rely on ideas and a specific 'spirit' that transcends rational calculation. Similarly, non-corporatist elements of the institutional structure of the political economy, e.g. individualism and market liberalism, have sunk their roots so deeply into the everyday habits, practices, expectations and modes of thinking of investors, consumers, bureaucrats, banks, employees and commercial organizations that it is at best under conditions of extreme crisis that such inherited patterns will become replaceable by alternative modes of interaction. In the absence of such crisis, normal practices will assert themselves and will resist major institutional innovations.

Underlying these objections is the notion that institutional arrangements are ultimately based on cultural dispositions and national traditions that transcend the scope of what can be easily engineered or manipulated. After all, the politics of designing and implementing new institutions must take place in the context and under the shadow of the very institutional patterns that are to be replaced, and the expectations, habits and power relations generated by the old system of rules will combine to obstruct all but the most marginal alterations of the status quo. Thus the whole process resembles a bootstrapping act and is bound to frustrate the ambitions of rationalist-constructivist

political theorists. At any rate, it might be only under conditions of extreme crisis³ that a negotiated or otherwise agreed change of institutional rules can ever occur, and the path-dependent self-reproduction of an existing institutional regime can be interrupted.

While Cohen and Rogers, rightly in my view, emphasize the 'artificiality' of associative action (p. 30), they also tend to equate this property with 'contingency', i.e. the property of institutional arrangements of being relatively easily tractable, elastic and alterable. It is not only students of, say, British industrial relations, or British union reform, or of the attempted abolition of large-scale state subsidies to German industry who will tend to take less sanguine views on this issue.⁴

Finally, we have the almost empty cell of arguments that are both favorable *and* based on normative considerations. Along with the work of the Austrian socialist Otto Bauer on 'functional democracy', written in the interwar period, the essay by Cohen and Rogers, together with a few recent contributions by Schmitter, Mansbridge and others, plays a pioneering role in this field. Their essay is dedicated to the effort to explore 'forms of group representation that stand less sharply in tension with the norms of democratic governance'. They believe that 'the artful design of secondary associations can strengthen democratic order' (p. 5) and that 'qualitative variation' (p. 36) and 'deliberate artifice' (p. 37) can pave the way toward democratically more appropriate associative action.

A Digression on Institutional Designs

Let me consider for a moment, by way of a digression, what we can possibly mean by the activity of 'artfully designing' institutions. The act in question involves an actor who commands sufficient power or control to alter the given institutional setting and a standard of rationality or evaluation according to which a different set of institutional rules, viz. the one proposed, can be shown to be 'superior' to the ones that are currently in existence. In a nutshell, this means a situation in which *institutions* can be treated as if they were *organizations*, namely authoritatively imposed and relatively easily changed rules that are justified in an instrumental perspective as being the best available means to achieve a 'trans-institutional' set of objectives. For example, if you want to economize on interest payment and still ensure a continuous flow of deliveries, and if you also have sufficient power over the suppliers of parts, you can achieve an improvement of organizational

rules by installing a JIT regime. Under these conditions, there is no relevant and sufficiently powerful motive to stick to the old rules if evidently 'better' ones are available.

But in most cases, institutions *cannot* be treated like organization. This is so because institutions do not serve an external purpose (against which they can be compared to other institutions), but they 'internalize' the purposes and values to which they contribute. That is to say, they select means and ends simultaneously, and they thus come to define and prescribe practices that are 'valuable in themselves'. Even if they can be shown to be grossly deficient in some conceivable instrumental respect, there are other aspects that still make them intrinsically valuable and are seen to compensate for those deficiencies by those who recognize the institution as valid. Moreover, institutions always have a dual function, instrumental and expressive: they select and prescribe certain ways of doing things, and they educate and socialize citizens into the value code they themselves incarnate. They generate a 'spirit' which in turn contributes to their continued operation.

After having reminded ourselves of these fairly conventional sociological preliminaries, we can now explore the problem of 'artful design'. To be sure, institutions are not 'natural', but artificial; but does that mean they are alterable at any point in time? And to the extent they are, are they tractable by rational design? The third of the four approaches to the problem of order I have distinguished before considers institutions contingent, but *not* 'designable'. If institutions change, this occurs in slow, evolutionary or quasi-biological ways which are immune from intentional manipulation – or so proponents of the third approach would argue. Somehow, and under unanticipated circumstances, certain institutions do not make sense any longer to those involved in them, or they break down under the burden of costs and inefficiencies that places them into a position of relative competitive disadvantage⁵ vis-à-vis other institutions, or under the burden of revolutionary or military violence.

From these evolutionary models, the special and rather exceptional case must be distinguished in which 'new designs' are in fact conceivable and 'political choice' (p. 58) concerning institutional patterns can seriously be considered – the case, that is, which Cohen and Rogers seem to presume as the normal one. Let me claim here, without much further argument, that the features that set this case apart from both the 'path-dependent' and the 'evolutionary' case of institutional change are either (1) a built-in tension between the principles and structures of institutions, or (b) the coexistence of multiple, but potentially inconsistent principles within one institution.

1. Tensions between principles and structures: The values and principles built into an institutional structure are so highly abstract and reflexive that from the point of view of the actors, the institution in question is not the *only* structure that can implement these abstract principles, but the way toward improvements is itself kept open, and the rebuilding of institutional structures permitted, by the underlying principles. Operational rules and underlying principles are loosely coupled, and in order for the institution to remain consistent with the latter, the former must be continuously adjusted. As a consequence, the following apparent paradox can emerge: the institutionalized principles may *mandate* an alteration of (parts of) the institutional structure in which they are supposedly incarnated. To put the same notion differently, the institution that embodies the principles exposes itself to criticisms that are based on these principles and activates, through ongoing self-monitoring, the scrutiny of its own insufficiencies. In this case, the institutional rules that make up the social order allow themselves to be treated as intentionally contingent *organizational* rules, if only the design activity that leads to reform is guided by the principles established and sanctioned by the original institutional structure. 'Immanent self-transcendence' would be another way to capture the paradoxical quality of this kind of arrangement. It is to be found in institutions that contain a program of optional self-amelioration. Examples may be found in certain radical conceptions of democracy, but certainly not in others. Some constitutions regulate the process of constitutional change and at the same time specify the principles that are to remain immune from change, but rather guide it. The same applies in scientific institutions in which the pursuit of the core value of 'true knowledge' may enforce the reform of the institutional structure through which it is pursued. One might find other examples of this unlikely condition in some religious institutions.

Cohen and Rogers recognize this problem when they emphasize that a move toward 'associative democracy' cannot be driven by considerations of functional superiority alone but that 'active popular support is needed, and that it is unlikely to be forthcoming unless an associative democracy connects with deeper aspirations to democratic order' (p. 90). They fail, however, to point out which kind of reformist agents and political promoters of such popular support they have in mind, nor what the widely endorsed 'deeper aspirations' are that they consider a necessary catalyst in the process of institutional change. May we conclude from this symptomatic omission that 'associative democracy' is an arrangement of the greatest functional, but at the same time very limited normative appeal,⁶ which for this very reason is

quite unlikely to be adopted in contexts in which it does not already find favorable conditions due to historical antecedents? To say the least, the authors' 'background assumption that . . . some measure of refashioning of conditions of association is possible' (p. 99) bears some elaboration.

2. Conflict within an institution about the structure of the institution and the potential for intentional change may also emerge in institutions that base themselves on more than one basic value or principle. It might then become possible to utilize such latent inconsistencies and ambiguities for the purpose of intentional institutional innovation that alters the mix of already existing ingredients. The examples I think of are dual sovereignties in federal systems, the conflict between liberal and democratic principles in Western democracies, or the co-incidence of 'social' rights of workers and 'economic' rights of owners and managers which together shape the legal framework of labor and industrial relations.

The Dual 'Non-naturalness' of Interest Groups

The design problem as conceptualized by Cohen and Rogers focuses on just one of two problems of the role of groups in democratic governance. Central to the discussion of the authors is the question of how groups might be 'appropriately' designed and related to one another and to the state' (p. 61). This focus assumes, in the tradition of liberal political theory and its problem of 'action', that the *substance* of groups is already there, and that the problem is now to find an appropriate *form* for them, i.e. a model according to which they must be constituted and a procedural role they are to play in the political process. Logically prior to this latter question, on which the authors spend most of their imaginative and constructive discussion, however, is the question, what makes for the existence of groups, their substance, in the first place? Why should it be the case that individuals with their preferences and interests decide 'naturally' to join and to engage in associative action in order to defend and promote their common interests?

The conventional answer to this question is well known. The original endowment of individuals and the societal division of labor together determine a class structure which places individuals into types of positions from which their central interests will follow 'naturally'. Furthermore, as the advantages to be obtained through associative action are self-evident to individuals, as such action provides the

opportunity to limit internal rivalry and to pool resources, they will equally 'naturally' tend to form some sort of organized groups (provided they can somehow overcome the collective action problems through the autonomous or external generation of either positive or negative selective incentives). As a consequence, we get those well-known organized blocks of interests as the owners of land and industrial capital, employers, unions, the self-employed, professions, civil servants, all subdivided by sector and region, all of which in turn form the raw material for constitutional or institutional designs of 'associative democracy'. Manifest groups, together with 'potential' or 'quasi-groups', are thus the natural substance of politics, or so the conventional wisdom of pluralist political theories tells us.

A number of doubts and objections can be raised against this conventional view and its validity for contemporary democratic capitalist societies.

First, the ease with which groups will crystallize and play a role in the process of governance depends not only on social structures, but also on the 'interventionist' vs. 'liberal' nature of the state. Briefly, if there is lots to win from the state through associative activity, there will be a correspondingly stronger incentive to undertake the efforts of group formation and pressure politics. The same holds true if the state provides resources supporting associational action or assigns functions to them (such as the binding definition of technical and safety standards). Inversely, governments that follow extreme market-liberal doctrines (such as Thatcherism) will not only be unresponsive to groups, but beyond that will actively try to disorganize intermediate groups. A number of groups exist which are constituted by the fact alone that they are the target population of some state policy, rather than some autonomously formed entity growing out of the division of labor or some cultural or social formation within civil society. The recipients of welfare transfers or university students are examples of such groups of 'policy-takers'.

Second, 'production cleavages' play a receding role. It is hard to determine whether this is true in an 'objective' sense. But it suffices to note here that it seems to be true on the reflexive level, given the prevalence of consumption cleavages and other lines of differentiation and stratification that cross-cut the cleavages that result from the class structure and the societal division of labor. The paradigm of consumption cleavages is illustrated by the intuition that there may be (however 'subjectively') more in common between two owners of a yacht, one of whom is a blue-collar worker, than between two blue-collar workers one of whom owns a yacht. More relevant is, of course,

the cross-cutting cleavage of owner-occupancy vs. renting. A further reason that contributes to the relative obsolescence of production-related cleavages may be seen in the fact that the ideological and cultural distinctiveness of socioeconomic 'blocks' has largely evaporated under the impact of democratic mass politics and mass communication.

Third, socioeconomic categories are not easily coded as the bearers of homogeneous interest. Internal differentiation within these categories of individuals – by regional location, industrial sector, organizational status, skill-level, gender, age, ethnicity, household type, family status, mix of sources of household income, social security status, consumption status, cultural and political background, etc. – increases the difficulty to define the common denominator of a shared interest, and it also undermines the intensity with which this supposedly common interest is pursued. This applies to both labor and capital. The direct consequence of this differentiation and individualization, if not 'atomization', is a shrinking scope of interest generalization and increasing organizational costs to recruit and mobilize members. It is this feature of 'modern' societies and the vanishing of 'natural' blocks of interest that makes the basic idea of Schmitter's 'secondary political market' particularly attractive – an idea which renders the political weight of groups and the political resources at its disposal contingent not on a group's members, but on resources allocated to it through a voting process in which the citizenry as a whole is entitled to participate.

Fourth, interests and preferences that perhaps used to be best promoted through associative action can today often be satisfied through commercial alternatives, such as in the paradigm case of the athletics club being replaced by a commercial fitness center. Other alternatives include services provided for by the state administration or through privately purchased insurance packages, services of lawyers or consulting firms.

Fifth, sociopolitical movements, whether nationalist, populist or 'new', which receive only very scant attention by Cohen and Rogers, appear to offer an alternative mode of collective action and of aggregation of individual preferences that surpasses more conventional forms of collective action in terms of its dynamism and attractiveness. The issues on which such movements focus are typically such that they do not put one interest against some distinctive opposite interest (which then must in some way be respected as a partner in negotiation), but some claimed value or principle against some inferior holders of power. Also, communities sharing certain lifestyles, consumption preferences and habits are forming everywhere which

also differ from group politics in that they show a lesser degree of formal organization and capability for strategic action. In the spirit of political postmodernism, they tend to be – and express themselves as being – 'different from' other communities and subcultures, without being related to them through any kind of adversary or bargaining relations. The core motive of associative action is 'identity', not interest. Even if an 'opponent' is named and focused on (as 'patriarchy' is in feminism), it is often not the case that this opponent is organized (no National Association of Patriarchs exists), nor is it clear what negotiations (should they ever start) would be 'about' (as it is clear in the case of industrial conflict that union-management bargaining is about wages, working conditions and perhaps union rights). Many bearers of political preferences and interests have fuzzy social boundaries, amorphous opponents and uncertain substantive domains.

Sixth, it is the standard practice of large and well-organized interest groups to present their own interests and preferences not as such, but as the outcome of the prudent and impartial consideration of the common good. Groups act as if they were not partial groups, but detached experts. For example, farm associations will demand price subsidies in order to maintain national autarchy in food supplies, and teachers' unions strive for making possible the best possible education for our children. This practice may be driven by tactical considerations and attempts to disguise the interest-related component of the group's demands. But chances are that this is not the case. If so, can we still speak of 'group politics'? How and where do we draw the line between 'groups' and the responsible agents and authentic advocates of the public good? Strong power positions may make the difference unrecognizable, as in the case where a single big employer so dominates the local or regional economy that if that company is allowed to suffer, everyone else suffers even more severely. In these circumstances, if the company's board claims to stand for the common good, it is not easy to disagree. In such cases – which are by no means uncommon in advanced capitalist economies – the very notion of group politics seems to break down. For 'group politics' always connotes that where there is a group, there must be an opposite and eventually 'countervailing' group, or at least potential group, which is not the case under such circumstances.

Finally, the question must be asked what the normative presumptions are that we employ if we speak of certain collective actors as 'groups' or 'factions'. The clear assumption in all three of the paradigms of political theory that the authors discuss – namely, liberal constitutionalism, civic republicanism and egalitarian pluralism – is

that 'beyond' groups, there are – or ought to be – collective agents that are less afflicted with the ills of particularism and the narrow and selfish pursuit of interests. If, on the other hand, *all* kinds of collective actors were conceived of as groups, the concept would lose all of its critical implications. Thus the questions emerge: What is the anti-theoretical notion to group politics, what is its institutional location and what evidence can we produce to the effect that legislative assemblies, the executive branch of government, the public administration apparatus or the judiciary do in fact differ from 'groups', in that they are more deliberative, farsighted, unbiased, neutral and fair than any 'group'?

Hence the problem is not to design an appropriate form for already *existing* groups, regulate their interaction and curb their power and influence wherever it is deemed inappropriate, but to go one step beyond and design the structural conditions for the *formation* of groups – as opposed to individual action and to other forms of interest aggregation. How much group activity is possible and desirable from the point of view of democratic political theory and in the context of structural transformations that are going on in society? What forms of collective action should be encouraged, and their formation facilitated? What can and should the state do in order to make the instrumental uses of collective action, as well as its deliberative and preference-forming byproducts, more widely available to citizens? By answering questions such as these through legislation, the state would not only regulate the interaction among groups, but would 'create incentives to group formation and operation along certain lines' (p. 64).

Underlying this proposal, there is a complicated and certainly controversial logic which can be reconstructed in three steps. First, governance should be contingent on the empirical will of the people. Second, the task of governance is to design and implement institutions which will have a formative impact on the empirical will of the people. Third, this task is mandated, and its implementation legitimized, by the (hypothetical) will of the people to have not its *empirical* will of the many isolated individuals determine governance, but a refined, deliberated and 'laundered' set of preferences which are brought about through appropriate institutional arrangements. For this chain of arguments to become valid and plausible, two further assumptions must be introduced. First, the people do empirically distrust their own empirical will, being aware of its weakness, fallibility and susceptibility to passions, idiosyncratic interests, shortsightedness and other distortions, which might easily lead to an 'unwilled will'

and subsequent regret. Second, the institutional arrangements that are being introduced and, as it were, self-imposed through the government are not perceived to manipulate, but to the contrary to enlighten and to make more reasonable, the will of the people.

In the absence of the first of these conditions, the second cannot be fulfilled. If people hold fast to the belief that their empirical will is to be trusted without any reservation, then they will resist any institutional change that is designed to influence the process of will formation, even if this is done in the indirect way of granting representation rights and other roles in the making of public policy to organized groups. But even if the people realize the fallibility of their empirical preferences, the arrangements that are being introduced in order to assist them in 'probing' their preferences (Lindblom) may still be experienced as rather doing violence to or distorting their interests. For instance, group practices in politics may be perceived not as enlightening and representation-enhancing, but as oligarchic and paternalistic. In order to avoid both these negative outcomes, the proposed arrangements would have to be of a strictly procedural and interest-neutral nature.

This discussion of the nature of groups – and the doubts concerning the 'naturalness' of their presence in political life – leads me to distinguish between two design problems. One concerns the instrumental aspect, or the best mode of operation of groups that are already in existence. The solution to this problem provides an answer to the question: How should groups be allowed and prescribed to operate in the process of democratic governance if we want them to bring their coordination capacities, as well as their problem-solving and rule-enforcement potential, to bear upon the making of public policy, but if we also want them not to interfere with the 'republican' premisses of the rule of law, of political equality, popular sovereignty and territorial representation?

The other design problem concerns the micro-effects that collective action has upon the formation of cognitions and preferences of the members of an organization, and the provision of the political resource of 'voice' to them. Here the question is to be answered: How must groups be internally constituted in order to make and empower 'good citizens' by encouraging and spreading a 'deliberative' mode of approaching collective problems? In one of the most interesting, but perhaps also least compelling, sections of their paper, Cohen and Rogers claim that encompassing associations might contribute to 'civic consciousness' by promoting among their members an 'awareness of interdependence' and by 'creating something approximating a "public sphere"' (pp. 96–7). At least, it is an open question to what extent

contemporary associations live up to the Tocquevillean notion of the cultivation of civic spirit through associative action. On this point, the overwhelming majority of political theorists (such as Bobbio) write in a deeply pessimistic tone.

Notes

1. As an East European observer has half-seriously hypothesized, the institutional system of the 'social market economy' must have been in place for least ten years before people get used to it and before it *therefore* can begin to unfold its beneficial effects. The question, however, is what helps it survive this critical period of adjustment and accommodation? To the extent the institutions in question are not adopted for the intrinsic values and principles embodied in them, but just for the outcomes expected from them, they enjoy much less of a countervailing validity and will hence more easily fall victim to some empirical evidence of failure. This in turn will tend to shorten the lifespan credited to them, and it may even lead to their abolition at a point before their desired side-effects have had a chance to unfold. Institutions adopted for instrumental reasons are disappointment-sensitive.
2. References to Cohen and Rogers refer to the manuscript version of their 'Secondary Associations and Democratic Governance', *Politics and Society* 20 (1992), no. 4, pp. 394-471, reproduced in this volume pp. 7-98.
3. Even that may not be true. The current East Central European efforts at constitution-making and institution-building seem to provide ample evidence that, after the total breakdown of the old regime, too few uncontested routines, identities and widely shared values are in place which could serve as a reference point for renovating the institutional structure.
4. This line of reasoning is also useful, in my view, to expose the illusory and utopian nature of neoliberal proposals to abolish the pathological outcomes of a 'bargaining democracy' within the framework of a 'bargaining democracy' itself.
5. It is worth noting, however, that institutional patterns that are characteristic of certain countries, such as contribution vs. tax-financed social security schemes, 'make' vs. 'buy' patterns of industrial organizations, banks vs. brokerage firms as the major channels of the mediation of capital of share holders, or federalism vs. centralism, often do exist side by side within the international political economy without one of them (presumably the one less conducive to 'efficiency') succumbing to the competitive pressure generated by the other. In these cases at least, stubborn path-dependency seems to be stronger than quasi-biological mechanisms of selection.
6. As I have argued elsewhere about corporatism, it is a practice without a political theory.

4

A Deliberative Perspective on Neocorporatism

Jane Mansbridge

The political Left in the United States is suspicious of corporatist thought because of the strong historical links between corporatism and fascism. To moderate this view, I shall argue that bringing some private negotiations among interest groups under some form of state umbrella has two beneficial results. It can make power more equal between participants in the negotiation, and it can interject into the negotiation greater consideration of the public interest.

Politics consists of persuasion as well as power. Empirically, interest groups deliberate as well as apply pressure. They deliberate externally with elites from other interest groups in an effort to create common interests and define areas of conflict, and they deliberate internally in an effort to create common interests and define conflicts among their members. Their internal deliberations are both vertical – between elites and ordinary members – and horizontal – among members within different levels of information and authority. Normatively, any political deliberation ought to draw its participants closer to understanding their interests, regardless of whether those interests conflict or coincide. The quality of deliberation, external and internal, should be one of the major criteria on which to judge a system of interest representation.

Interest groups can also act as self-serving collectors of 'rent'. In the absence of governmental institutions designed to curb 'rent-seeking' they will often use power to seek benefits for themselves at the expense of others rather than contributing to the common good by enhancing productivity or justice. Attempts to improve systems of interest representation should therefore follow the advice: 'maximize the deliberative benefits; minimize the rent-seeking costs.'

Normative Considerations

Power¹ and persuasion² both play, empirically, an important role in