

From Civil Dialogue to Participatory Democracy: The Role of Civil Society Organisations in Shaping the Agenda in the Debates on the European Constitution

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Abstract

This article, based on ongoing research, explores the role of civil society organisations in the debate about participatory democracy in the European Constitution (TCE). The findings are based on the qualitative analysis of position papers and interviews in order to determine the ways in which civil society organisations contributed to shaping the model of participatory democracy (article 47 TCE). The article focuses on the debate on the role of civil society for democracy in the EU (Greenwood 2007b; Kohler-Koch 2007; Maloney and Van Deth 2008), by addressing its ability in fostering citizens' participation. It considers firstly the place of civil society in the European public sphere. It then presents the role of civil society in shaping the agenda on participatory democracy before the debate on the European constitution. It particularly investigates the formation of coalitions of organisations which aimed to include these debates in the Convention's agenda. It considers that although the Convention's structure could have been appropriate for coalitions to voice demands from the general public, which is one of the expected functions for coalitions in the literature (Mahoney 2007: 375), this was not the case both because of the inability of European civil society organisations to mobilise the public and the high efficiency of insider strategies.

Keywords

Civil society; Participatory democracy; European Convention; European Constitution; Public sphere

EUROPEAN INSTITUTIONS ARE INCREASINGLY ACTIVE TO PROMOTE A EUROPEAN public sphere.¹ This interest is linked to the path towards politicisation that the EU is following (Hooghe and Marks 2009). The turning point in this tendency is the year 1999: the debate about the democratic deficit of the Union, which arose around the Treaty of

¹ In this sense, see the Commission's plan D (European Commission 2005) or the Parliament's Citizens' Agoras.

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Maastricht, takes form and visibility in the resignation of the Santer Commission, conveniently relayed by the media (Bastin 2002; Georgakakis 2004). Whereas the scholarly debate about the democratic deficit is far from being over (Follesdal and Hix 2006; Moravcsik 2006), EU institutions² and Member States now consider it necessary to involve their citizens closer with the European integration process. This point is made in the Laeken declaration (European Council 2001) and is a relevant theme in the debates on the European Convention that met in 2002 and 2003 and proposed the Constitutional Treaty. EU institutions seek to “close the gap” with citizens through two strategies. Strengthening representative democracy is considered the first objective. However, its shortcomings in some aspects at EU level have led the Commission to consider complementary models of direct and participatory democracy (European Commission 2001). Since 1999 a number of initiatives have been taken to promote the existing mechanisms for the consultation of civil society into complementary models and practices of democracy in the EU. Perhaps unsurprisingly, the institutions have sought to use these mechanisms not only to foster participation but also deliberation on the future of EU³ (European Commission 2005). The plea for a European public space has a legitimising potential, although this claim has to be balanced by considering the importance of specialised publics relative to general publics in the European public space (Eriksen 2007: 38).

The literature on European civil society and interest groups is rich and burgeoning (Greenwood 2007b; Kendall, Will and Brandsen 2009). However, Maloney and van Deth (2008: 4) point out that little is still known about the actual links between the organisation of European civil society and the functioning of the EU as a democratic polity. The existence of civil society can be considered a prerequisite for democracy in a Toquevillean sense. In addition, civil society is expected to contribute to the consolidation of the public sphere, another prerequisite of democracy, in a “reflexive democratisation process” (Eder and Trenz 2007: 178-179).

The aim of this article is to examine the potential of civil society organisations in the promotion of participation and deliberation by European citizens. In order to do so, it analyses the involvement of these organisations in the development of a scheme for participatory democracy in the EU during the European Convention (2002-2003). The primary objective is to analyse the ways in which civil society organisations shaped the European Convention’s agenda on participatory democracy. This analysis is carried out by focusing on two independent variables. The first concerns civil society organisations’ access to the agenda. The second is the coalition building strategies in which these actors engaged. These two variables need to be linked in order to contribute to Maloney and van Deth’s (2008: 4) call to know more about the role of civil society in the functioning of the EU as a democratic polity. On the one hand, the study of agenda setting must pay attention to issue framing, and thus to the role of civil society in the emergence of debates about the EU. On the other hand, it is necessary to study whether these organisations have the potential to make citizens take part in European debates. In this sense, the choice of collective action registers is a key variable: do these groups tend to influence the agenda by contacting officials and members of the European Parliament or do they on the contrary, try to mobilise supporters and the media to create a pressure on decision makers?

The article is divided in three sections. The first section discusses the role of civil society for the legitimacy of the EU. It presents the burgeoning academic debate and the importance of this issue for policy makers and interest representatives. This section addresses more in

² The endorsement of this question by the EU institutional system has been incremental but sustained, as initiatives such as the White Paper on governance (2000), the Laeken declaration (2001), the convention on the future of Europe (2002-2003) and plan D (2005) *inter alia* attest.

³ In particular, the Commission strategy after the 2005 ‘no’ votes was to extend consultations beyond Brussels into the national arenas as a way to foster the interest of citizens at large and the media.

detail the contribution of civil society to one of the dimensions of European democracy, the emergence of a public sphere. The second section analyses how civil society organisations have been involved in a policy setting process concerning the mechanisms of participatory democracy for years before the Convention and which collective action registers were used to bring these ideas into the Convention. The last section addresses the question of how effective civil society collective action was in providing European citizens with the chance to participate in the Convention.

The interest of studying the debates on the Constitution for Europe could be contested by arguing that its rejection during the ratification process clearly demonstrates its failure to foster an EU public sphere (Habermas 2005). However, it remains a unique experience, and thus an excellent analysis opportunity of the participation of civil society in a large pan-European debate on the future of Europe. Available literature (Will *et al.* 2005: 12-13; Pérez Solórzano 2007: 174-175; Lombardo 2007: 158-162; Kvaerk 2007: 185) has pointed out the role that civil society organisations played in the debates about democracy during the Convention. However, these studies do not consider the ways in which civil society contributed to framing the issue before the Convention. Moreover, little research exists on the role of these organisations in the communication between different publics in the segmented European public sphere.

The Convention can be considered an example of participatory democracy in the EU (Rio Villar 2004). Civil society organisations were short of being members of the Convention as some of them expected. However, the Convention provided several different access and influence possibilities for civil society organisations, including contributions to an online forum which received over 700 contributions (Kvaerk 2007: 203-213). Regular meetings with civil society organisations were held at the European Economic and Social Committee under the supervision of Jean-Luc Dehaene, a member of the Presidium. Moreover, the Convention established eight working groups where civil society organisations and Convention members worked together for a few months and which prepared a public hearing where civil society organisations representatives from the eight groups, chosen by the civil society organisations themselves were invited to present their views (European Convention 2002:2). Many civil society organisations did as well engage in informal lobbying.⁴

As agenda setting happens across a relatively long period of time, the method applied in this article consists in analysing the role of the organisations that were active in the European debates on participatory democracy that preceded the Convention. The organisations whose role is studied here are those which contributed to the Convention forum and at least two of the previous consultations related to participatory democracy.⁵ This criterion allows a focus on those organisations that followed the debate closely and had more opportunity to influence the agenda. The role of groups which were involved only in the Convention is considered at a second step as a way of controlling whether long term involvement is a decisive factor or not. The Convention moment in section 4 demonstrates the advantages and weaknesses of this approach.

The analysis is carried out via a qualitative textual examination of the positions of civil society organisations about participatory democracy as it appears in 70 contributions submitted to the Convention (called position papers thereafter).⁶ The choice to analyse

⁴ Interview with a member of the Secretariat of the Convention, Brussels, 10 April 2009.

⁵ There were four consultations on topics relevant for the setup of a model of civil dialogue between 1997 and 2001 on the role of voluntary organisations, on partnerships with NGOs, the White Paper on European Governance and the definition of consultations standards (European Commission 1997, 2000, 2001 and 2002).

⁶ Additionally, where position papers were not available, information on the positions of civil society groups was obtained via minutes diffused by institutions like the European Economic and Social Council or the European

these documents is justified by the importance of position papers for organisations. Drafting them implies devoting different kind of resources to an activity which will not be decisive in terms of policy influence. These documents provide evidence of the interest of being involved in the ongoing debate. Moreover, as they are publicly available, organisations tend to support their views with arguments and try to refute opposing viewpoints. This analytical approach allows for a detailed study of the framing process followed by civil society groups and the reflection of these in the Convention debates. Moreover, this approach offers a systematic way of looking for convergences and divergences in the positions and frames adopted by these groups and thus to grasp the eventual existence of coalitions or other forms of collective action. Systematic analysis of minutes from meetings and about 30 in-depth interviews conducted with civil society organisation representatives, and members of the Convention and officials are used as sources of information on the strategies followed by the groups. These are preliminary results of ongoing research, and will be completed at a later stage by a study of the coalition making process via network analysis.

Civil society organisations within the European public sphere

European institutions and academics have devoted much attention and optimism to European civil society as a promoter of democracy in the EU. They expect that encouraging the participation of civil society organisations in policy making will contribute to bridging the gap between the EU and its citizens (European Commission 2001, 2002, 2005; Rio Villar 2004; Eder and Trenz 2007). This section proposes to critically appraise the contribution of civil society to the democratisation of the EU by assessing its role in the emergence of a European public sphere. It does this by first analysing concurrent definitions of civil society and their different implications for the legitimacy of the EU and for the organisation of collective action. Second, it analyses the critical position of these groups in the public space at the crossroads between institutions, experts, and the general public (Eriksen 2007: 33-34) where they can play a key role in linking these arenas, on the proviso that they effectively inform and involve their members and the public.

EU civil society and the legitimacy of the EU

Civil society is a concept that has been present in the history of political thought for centuries although it is far from being consensual. Smismans (2004: 48) points out that the notion has had completely opposing meanings, from Aristotle's conception of civil society as the political community resulting of mankind's nature as a "*zoon politikon*" down to Hegelian inspired conceptions of civil society as the non-political sphere of public life. By extending this view, much understanding is not uncommon where civil society comes to mean the entire social body. This article by contrast considers civil society as the groups created by citizens on a voluntary basis to defend a cause or interests in the public space (Smismans 2004: 48) rather than citizenry as a whole.

However, this definition is impartial regarding the question of what the boundaries of civil society are. This question implies not only an important conceptual debate, but is in itself an important practical issue in EU policy making: interest groups differ as to whether economic actors, as much EU interest groups can be considered, are part of civil society. One concept is that civil society comprises only non state actors engaging in public activities and operating at the crossroads between the state, the market and individual citizens (Smismans 2004: 48; Fazi and Smith 2006:15-16). This concept encompasses civil society as a third sector or space between public and private. A good example of how citizen interests groups

Convention itself after public hearings with civil society or directly from organisations via semi-focused in depth interviews.

uphold this position is a study commissioned by the Civil Society Contact Group which excludes “profit optimising actors” from the definition of civil society (Fazi and Smith 2006:16).

Nevertheless, the Commission follows a second conception of the boundaries of civil society, where: “[...]‘civil society organisations’ are the principal structures of society outside of government and public administration, including economic operators not generally considered to be “third sector” or NGOs.” (European Commission 2002: 6). In addition, the Commission does not only hold a very broad conception of what civil society is, but refuses to stick to a definition: “It should be noted that in its policy of consultation the Commission does not make a distinction between civil society organisations or other forms of interest groups. The Commission consults ‘**interested parties**’, which comprises all those who wish to participate in consultations run by the Commission.”⁷

Moreover, part of the literature is critical of European civil society. These authors point out that the boundaries between associations, characterised by a strong participation of members and thus being “schools of democracy”, and interest groups is increasingly blurred by the strong emergence of Non Governmental Organisations (NGOs) which results in “the formation of a ‘lobby-cracy’ consisting of ‘merchants of influence’ offering a mixture of conventional lobbying and more up-to-date forms of politicking” (Maloney and Van Deth 2008: 6-7). The inability and even lack of interest of NGOs in mobilising membership at the European level pointed out by Sudbery (2003: 87-93) is a further reason for Maloney’s and Van Deth’s (2008) scepticism. This aspect will be considered in the last part of this article. Considering that the definition and the boundaries are amongst the issues of contention between the actors considered here and the blurring of boundaries, the article will use the rather general definition outlined at the beginning of this section.

Despite this, the participation of civil society has emerged as one of the elements of the debate on the legitimacy of European policy-making (Smismans 2003; Rio Villar 2004). The White Paper on European Governance (European Commission 2001) can be considered as a turning point in the relations between the European Commission and organised civil society (Smismans 2003; Greenwood 2007b; Maloney and Van Deth 2008). According to Kohler-Koch (2007: 257), before the publication of the White Paper, the relations with interest groups were considered helpful to legitimise the EU not through a discourse on participation of civil society but rather as a contribution to what Scharpf (1999) calls output legitimacy, which is the contribution to efficient policy making thanks to expertise and the support of stakeholders. By contrast, since the publication of the White Paper the Commission expects positive effects in terms of input legitimacy increases from its relations with civil society organisations. A noticeable evolution in the discourse of the Commission after the White Paper (European Commission 2002, 2005) is the transformation of interest groups into “civil society organisations” (Armstrong 2002; Michel 2007; Saurugger 2007; Kohler-Koch 2007).

Greenwood (2007b: 343-345) points out that the White Paper is a landmark in the strategy of the Commission to induce a neo-pluralist regime in its relations with civil society and to institutionalise them. Smismans (2004: 40-41) analyses the potential contribution of these relations to input legitimacy by using the concept of structured relations. Structured relations are mediated by rules about transparency, fairness and balance in access to the institutions. Consequently, EU institutions can claim legitimacy for policy proposals thanks to previous consultations in public and transparent arenas with the organised civil society. Initiatives seeking to create a “civil dialogue” (European Commission 2000; Alhadeff and Wilson 2002;

⁷ Emphasis added in the original in the website “The European Commission and Civil Society”, section “Definition of civil society” http://ec.europa.eu/civil_society/apgen_en.htm, last accessed on 06 April 2010.

Fazi and Smith: 2006) between the Commission and civil society, like the setting of consultation standards (European Commission 2002) and the transparency initiative (European Commission 2006), are examples of the development of structured relations between the Commission and civil society groups. This article argues that the calls to structure the relations of the institutions with civil society found an echo in the Convention on the future of Europe (2002-2003).

Whereas structured relations may have a potential to encourage debates (European Commission 2002 and 2005, Fazi and Smith 2006, Kohler-Koch 2007), it must be analysed whether they do so among publics large enough to contribute to the democratisation of EU politics and involve the wider public.

Specialised EU publics

Interest groups represented in Brussels are frequently portrayed as lobbies whose main objective is to influence the EU policy making process behind closed doors. However deliberativist authors (Joerges 2002) have found that in some cases this provides a communicative and argumentative dimension. Additionally, although massive transnational campaigns and demonstrations are rare given their relative inefficiency in influencing EU politics compared to the difficulties to build them up (Imig and Tarrow 2002: 203, 211-213), in some cases interest and civil society groups engage in forms of advocacy that seek to influence policies through collective action. Advocacy about participatory democracy by civil society groups during the Convention shows that these actors' contributions and demands are formed following a specific logic of exchange with other actors.

Spatial models explaining the behaviour of social actors according to their positions in relation to others in a social field (Martin 2003) will be useful for analysing this phenomenon. Contributions to the Convention on participatory democracy express a form of contention between various groups for the definition of issues of common interest. These debates create an autonomous social field which bears resemblance with Eriksen's notion of a specialised public within a segmented European public sphere (Eriksen 2007: 33-34). This space consists of skilled actors active in the European policy making process which participate in debates in order to promote institutional change (Stone Sweet, Fligstein and Sandholtz 2001:11). Conceiving civil society groups as actors of a segmented public space has the additional advantage of placing these groups between institutional and general public debates. This position is relevant for the agenda setting process, as the literature points out that one of the strategies available to actors wishing to influence agendas is to include issues in larger frames within general publics (Muller 2008: 58-61). It is thus necessary to analyse not only the dynamics of this segmented space, but also its connection to national spaces during the Convention.

When analysing whether and how civil society organisations influenced the EU constitutional agenda on democracy through expertise and collective action, one can refer to theoretical and empirical contributions on the role of ideas and technical knowledge for policy analysis in the EU (Chalmers 2003). However, the advocacy coalition framework (Sabatier 1998; Engel 2007) or epistemic communities (Zito 2001) are not particularly useful in this case because of the relatively small number of actors and the low degree of technical complexity. It is instead more interesting to use the simpler framework of issue coalitions as defined by Hula (1999). Mahoney (2007: 368) argues that coalitions anticipate, albeit imperfectly (Hula 1999: 49), the electoral costs and benefits of policy decisions among large constituencies to decision makers. Thus, articulating general public demands in front of institutions could be one of the reasons for the formation of coalitions of civil society organisations during the Convention. Although Mahoney's (2007: 377) own findings that the EU's democratic deficit

hinders the efficiency of issue coalitions in the EU, as well as Sudbery's (2003: 87-93) on the disconnection between EU civil society organisations and their grassroots members do not support this hypothesis, it is worth considering the Convention as a new venue where different dynamics may have operated.

The fragmented nature of the EU public space and the apparent disconnection between its different publics are a strong reminder that the link between the public space and democracy is not direct. Such a fragmented public space is not likely to produce a new "European demos" (Eriksen 2007: 40-41) but public deliberation on EU affairs can at least contribute to the appropriation of the EU by citizens through a democratic functionalism (Eder and Trenz 2007: 178-179). Understanding the mechanisms by which EU specialised publics influence debates by general publics can contribute to understanding the actual democratising potential of the participation of civil society groups in these debates.

This section has argued that European civil society organisations are active within specialised public spheres. Their involvement can contribute to the enlargement of policy deliberation to the general public and thus make the EU more legitimate. However, it is not the mere participation of organisations in policy debates that will cause an increased interest in the public. The following section analyses the strategies that these groups used to promote their positions on participatory democracy. The last section considers whether and how these strategies contributed to attracting the interest of the general public for the issue.

The role of civil society organisations in the construction of model of participatory democracy in the EU: from Amsterdam to the Convention

By stating that "The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society" (article 47 TCE) today article 11 of the consolidated version of the Treaty on the European Union as modified by the Lisbon Treaty, inscribes the principle of "civil dialogue" in the primary law of the EU.

This section analyses how the aspects of a model of participatory democracy were developed in debates between the Commission and civil society groups before the Convention and presents the coalitions and strategies used by civil society groups to promote it during the European Convention. It argues that the inclusion of this point in the agenda has been the consequence of the struggle by the Commission to reinforce its legitimacy and of a strategy of some civil society groups to obtain rules on the access by interest groups to the decision making process. This section first analyses how the Commission, and in general the EU's discourse about its relations with civil society, has been framed in different moments according to the context and the position of the actors in the field. The main aim of the section consists of analysing the influence of civil society organisations in shaping this discourse, by pointing to the emergence of a constituency of actors interested in this policy, and analysing in detail the different positions existing in this field, and how these gave birth to different coalitions.

The EU and civil society: from civil dialogue to participatory democracy

The reflection of the European Commission about its relations with interest groups, which started in 1992 with a communication which considers the need to create rules for these contacts (European Commission 1992). Further reflection to the 1992 communication involved the organisation of a European Social Policy Forum with civil society organisations in 1996, followed up by a Communication analysing how to promote the role of associations and foundations (European Commission 1997). Civil dialogue is not yet the main aim of these contacts, which seek to define European civil society, including its legal status

(European association status) and issues about funding. However, the 1997 communication was preceded and followed by intense consultation with experts, national and regional institutions and civil society organisations. Unsurprisingly, the concept of civil dialogue appears in the follow up documents (European Parliament 1998: 9).

Interpreting debates on participatory democracy as the final point of the policy debate on civil dialogue would be an inexact and teleological interpretation. In fact, it appears that when the Commission refers to participatory democracy (European Commission 2000; 2005), it does not seek to address the public at large in the first instance, but the specialised groups, which are its “natural constituency” (Greenwood, 2007a: 343). Additionally, the debate is not closed as more discussions over the regulation of these principles will follow the ratification of the Lisbon Treaty.

However, the constitutional debate and the structure of the Convention can be considered an opportunity window used by organisations to raise the profile of the civil dialogue debate. It is telling that it is only during the Convention that a majority of organisations involved in the debate, although not all of them, linked civil dialogue to participatory democracy. Of course, most of these groups were equally or primarily interested in other issues “of substance”, but the Convention opened a new access opportunity to influence the text of the Treaty on civil dialogue, particularly because the Convention’s mandate focused on matters of procedure rather than on the negotiation of new policy areas.

It could be argued that advocacy for civil dialogue does not correspond to a promotion of participatory democracy (Smismans 2003: 502). Article 47 has two main dimensions in providing a legal base for two different kinds of inputs by citizens. One is the participation via organised civil society (47.1, 2 and 3). The second is the direct attribution to one million citizens the right to ask the Commission to initiate a legislative proposal (47.4). It appears that the second dimension is completely new in EU politics and that it was advocated by a coalition different from that advocating the first one (see below). Moreover, participation via organisations one implies only an indirect participation, as the citizens are *represented* in policy by the organisations to which they belong. This notion of representation is a rather conflictive issue for organisations as it will be seen, and somehow contradicts the notion of participatory democracy.

However, the promotion of civil dialogue can be linked to the development of a model of participatory democracy in the EU in that it develops new possibilities of input legitimacy (Zimmer and Freise 2008: 32-33). These belong to a democratic model based on structured relations between the institutions (the principle will apply to all the institutions) and civil society. The proposals made by organisations in this respect are relevant for the functioning of the EU as a democratic polity and not only for providing opportunities for better policy-making. In this respect it is interesting that European institutions seem to have been more active in the promotion of this agenda, and that organisations start framing their proposals for civil dialogue under the banner of participatory democracy as a reaction to the proposals by the Institutions. It must however be understood that participatory democracy is conceived as a complementary model and not as a replacement (Smismans 2003: 487). Thus, it provides opportunities to participate in the policy discussions, although decision making power remains in the hands of the institutions.

Whereas this principle can certainly promote more structured participation, it remains unclear whether this participation can serve to attract the attention of the European public (Kohler-Koch 2007: 262) or to produce a reflexive democratisation as expected by Eder and Trenz (2007: 178-179).

History of the discussions between the Commission and civil society on their relations

After having presented the institutional agenda and the different meanings attached to the notion of participatory democracy, this sub-section considers how the demands from civil society organisations were advanced in the agenda.

Advocacy from civil society organisations on civil dialogue is a form of policy entrepreneurship (Kingdon 2003) in that their activity consisted in the investment of significant organisational resources for the emergence of a new agenda item, in the expectation of a future return for the organisations influence capacity. Such entrepreneurship can be clearly divided in two periods, before and after the fall of the Santer Commission. Between 1997 and 2000, the main feature is the persistency of the organisations to raise a point to the agenda, as the objective to provide a legal basis for civil dialogue in the Amsterdam Treaty is not achieved and there is no visible progress despite the “Red Card” mobilisation.⁸ The most active organisation in this period is the Social Platform. It is during these years that the Commission comes to be interested in civil dialogue for legitimacy purposes, after suffering a “Red Card” campaign and especially the resignation of the Santer Commission. This is translated into an increase of the “political dimension” of the issue as the follow up is assumed by the Secretariat general of the Commission.⁹ This increased interest for the question results in the communication on “Building a stronger partnership” (European Commission 2000).

The apparent conflict between civil society organisations and the Commission services makes it tempting to present the history of civil dialogue as a conquest from civil society over the Commission (Alhadeff and Wilson 2002). However, structured communication between civil society organisation and the Commission continues during this period, as evidenced by the Commission’s new discussion paper in 2000. Despite civil society organisations’ criticism for its “low profile” (Alhadeff and Wilson 2002), this document follows up the main issue for civil society organisations concerning dialogue, that is, the adoption of a legal basis for civil dialogue. It also reflects some of the main positions of civil society organisations, such as their role in representing categories of people and causes, as promoters of participatory democracy in Europe and the need to create clear and transparent rules on consultation. The clearest evidence of the engagement from organisations is their contributions in the form of position papers, which need a non negligible investment of resources for small organisation. Thus, 2000 can be considered a turning point for entrepreneurs on civil dialogue, as the Commission sees a convergence between the issue and its new approach to the legitimacy question. Kingdon (2003) considered that successful policy entrepreneurship requires a window of opportunity, but in this case this only opened after three years of persistent agenda setting work. The opening of this window of opportunity goes together with a strong increase in the number of actors seeking to influence the policy.

The moment where this issue is clearly turned into an important point in the agenda is 2001 with the White Paper on Governance (European Commission 2001). Although the document does not include many new ideas on civil dialogue compared to the 2000 discussion article, the profile of civil dialogue is clearly raised and included in a reflection on the new modes of governance in the EU. Not only is this new mode of governance a salient issue for the Commission, it resonates in the call for a Convention in the Laeken declaration. This new structure is an opportunity for civil society organisations to advocate the inclusion of civil dialogue in the Treaty. In 2002, the Commission put forward a proposal on the minimum

⁸ Civil society organisations showed their dissatisfaction for the cancellation by the European Court of Justice of a funding programme to the president of the Commission during a public hearing (Alhadeff and Wilson 2002).

⁹ Interview with a Commission official, 17 February 2009, Brussels.

standards for consultation with civil society organisations, which is a way to define the practicalities of civil dialogue.

Thus, the history of civil dialogue is that of the convergence of agendas between the Commission and civil society organisations, both through mobilisations and advocacy and coalition building. The next section examines in more detail which coalitions were formed during this period and their contribution to the inclusion of the issue in the Convention's agenda.

Civil society organisations positions on participatory democracy: 1997-2003

A quantitative analysis shows that the landscape of organisations interested in civil dialogue strongly increases as the issue gains more relevance. 19 EU level organisations or umbrella organisations which sent in contributions on civil dialogue to the forum of the Convention had previously contributed to policy consultations on this topic between 1996 and the Convention (2002-2003).¹⁰ The increase in interest over time is confirmed by the increased involvement of these organisations in the subsequent consultations: 4 in 1997, 12 in 2000, 15 in 2001 and 13 in 2002.

A qualitative analysis of the contributions by civil society and the Commission's proposals supports the hypothesis that a small number of policy entrepreneurs shaped the agenda when the Commission opened up the debate (1996-1997). The main objective of the policy dialogue was defined at this moment: the creation of a structure for dialogue between civil society and the EU institutions (European Commission 1997: 8; Alhadeff and Wilson 2002: 6). During this period, a shared understanding and expertise is generated in discussions by civil society and the Commission. The organisations entering the debate subsequently have to assume this expertise on the policy proposal and can try to influence the details of the civil dialogue, but each new consultation document narrows down the agenda.

An analysis of the debates between 1996 and 2003 clearly shows the importance of early involvement: the Commission states that it will endeavour to include a legal basis for civil dialogue in the Treaty, as a consequence of the demands from civil society organisations expressed in the 1996 European Social Policy Forum (European Commission 1997:7-8). The most active policy entrepreneur of this moment is the Platform of European Social NGOs (Social Platform), who was involved in the 1996 Social Policy Forum and advocates the need for a legal basis in the Treaty in its opinions in the follow up consultations to the 1997 communication.¹¹ Three other organisations, the European Foundation Centre, CEDAG and the European Volunteer Centre are active in advocacy for civil dialogue in this context¹² and remain strongly involved in the subsequent consultations (see infra). Interestingly enough, the social partners are informed of the ongoing discussions¹³, but their involvement in the issue will remain relatively small.

Relevant "expertise" on civil dialogue is created between 1996 and 2000 in the subsequent discussions between the Commission and civil society groups. The most relevant aspects of the discussion are the definition of civil society, the principles and mechanisms of consultation of organisations, the kind of organisations that should take part in consultations, the selection mode, including the eventual creation of an accreditation system and the specificity of dialogue in each policy sector.

¹⁰ See the list of organisations whose contributions are analysed in the appendix.

¹¹ Interview with a Commission official, 17 February 2009.

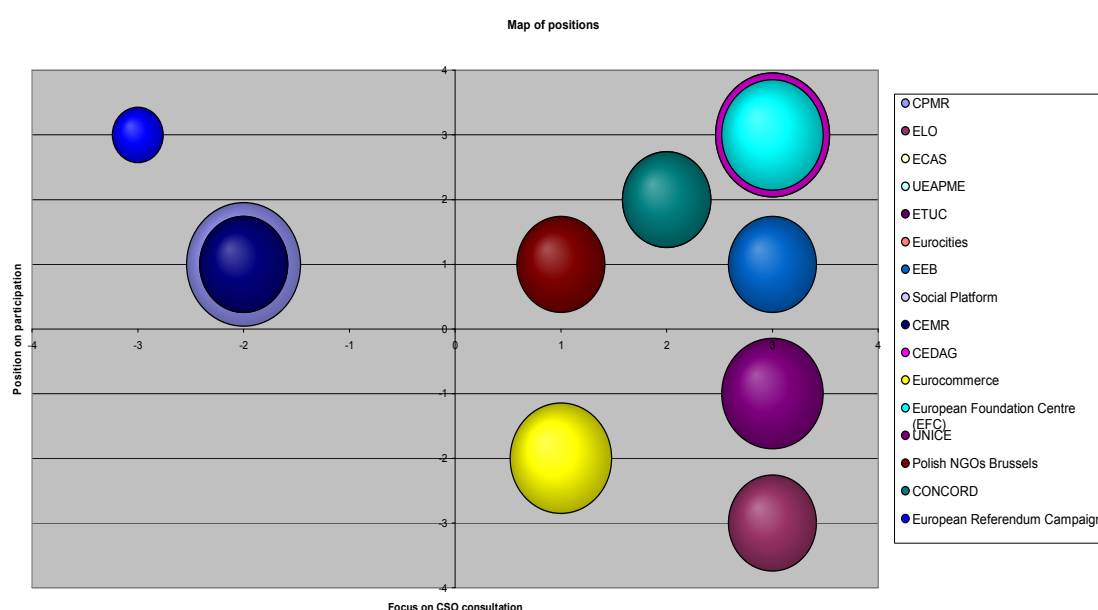
¹² And are kept informed by the institutions of the ongoing discussions, as evidenced by the fact that the Parliament sends them the Report (EP 1998:9, 226.444/fin) and their involvement in the follow up consultation (Interview with a Commission official on 17 February 2009).

¹³ (EP 1998:9, 226.444/fin).

Civil society organisations record of participation in the consultations on civil dialogue can be classified according to their positioning along three variables: the number of participations in consultations on civil society, the degree of focusing on civil dialogue expressed by these contributions (either total or negligible) and the positioning on the issue of the legal regulation of civil dialogue.

The combination of these variables results in the identification of three kinds of organisations: advocates of civil dialogue, sceptical or opposed organisations and those contributing to the debates (even quite frequently) whose main concern is not civil dialogue but a different kind of process. This typology of positions on civil dialogue is not yet one of coalitions, which are presented below.

Figure 1: Map of the positions of civil society groups on participatory democracy



Source: own elaboration based on the above-mentioned data

The formation and activity of coalitions

The group of organisations advocating civil dialogue is the largest and most active: 12 of the 19 organisations intensely involved in civil dialogue show a degree of support for it. Relevant features of this group include its organisations showing the earliest and more intense involvement, which is coherent with the agenda of the Commission since 1996. There are some differences between the organisations advocating for civil dialogue, particularly concerning the need for organisations participating in dialogue to be representative and on the mode of selection of these.

However, this seems not to have been an obstacle to the formation of a coalition advocating civil dialogue, whose organisational manifestation is the Civil Society Contact Group (CSCG). Eight of the organisations advocating civil dialogue joined the CSCG (as five of these organisations are members of the Social Platform, itself member of the CSCG with the European Environment Bureau and Concord). Although this group was not created with the single purpose of including civil dialogue in the Treaty, it is a major platform for presenting a common front of civil society organisations for achieving several of their objectives. The

organisations joining the CSCG have a well defined conception of civil dialogue: it must include all EU institutions (not only the Commission), the European Social and Economic Committee cannot as such be the forum for civil dialogue, the representativeness of the organisations should not be the main issue but rather their track record of expertise and ability to raise important causes and a position in favour of a transparent accreditation system. That said, this coalition may not have been entirely homogenous as some of the members of the social platform have slightly differing views on the mode of selection of organisations to be consulted at the European level. The European Trade Union Confederation, a social partner at EU level, supported this coalition, as a way to further promote the social agenda in the Constitution. It supported civil dialogue, but its understanding of it is different to that of the three main organisations: it clearly marks out that civil dialogue should not undermine social dialogue, and that the representativeness of the civil partners is essential.

Data from primary¹⁴ and secondary sources (Will *et al.* 2005: 27-28) confirms that the organisations involved in the CSCG consider that the inclusion of civil dialogue in the European constitution (article 47) was obtained as result of their advocacy. In this sense, early involvement and coalition making for strong advocacy seem to have paid off.

A smaller group is constituted by a number of organisations that are sceptical on civil dialogue as it is being presented by the Commission in its documents. In this sense, few of their contributions ever argue against civil dialogue, but question its ability to bring citizens closer to the EU or fear that it may introduce a risk of more regulation or imbalance social dialogue. A relevant number of organisations in this group are representative of business interest.

This group is not involved from the beginning. Moreover, its members contribute far less than the other groups, and there are no signs of the existence of a coherent coalition, in that the organisations and their arguments are quite different. In this sense, the available data does not support the existence of a coalition opposed to the groups advocating for civil dialogue. However, the fact that some of these organisations take time to send contributions to the consultation fora and that two of them are recognised social partners (UNICE and UEAPME) indicate that their position may have influenced the wording of article 47 of the European constitution. This article refers to “representative associations and civil society”. The issue of representativeness is essential for social partners, who can themselves claim to be representative (Michel 2007), whereas the coalition advocating for civil dialogue rejects this principle.

The third group consists of organisations that contributed to debates related to civil dialogue before the Convention, but for whom the main focus is not civil dialogue, but rather alternative proposals on how to bridge the gap with citizens. Most salient among this group are three organisations representing local and regional authorities. Their contributions say little about their positioning on civil dialogue, although they tend to consider it as a side issue which cannot replace the importance of multilevel governance. In this sense, these organisations try to promote an alternative agenda as more important for democracy than civil dialogue, yet without taking position against it, which demonstrates a lack of interest for this issue. Their contributions are based on strong expertise in the domain of the multilevel governance and the modes to ensure the respect for the subsidiarity principle.

A coalition of actors stands out of this group, the European Referendum Campaign (ERC). The essential contribution of this group is further discussed in the next section. None of the members of this coalition took part in the four consultation rounds preceding the Convention,

¹⁴Two interviews with members of Convention Secretariat, with Mr Lamassoure (18 March 2009), a member of the Social Platform and a personal communication with a member of the Convention.

this forum being their first access point to the debate. This group, as decisive as their contribution was for the final wording of article 47, has little interest in the definition of civil dialogue, its focus being the citizens' right of initiative.

What does this typology and the move from entrepreneurship to an extended involvement of civil society organisations in the constitutional debate tells us about the dynamics of the specialised EU publics? The debates that shaped article 47 of the European Constitution can be fruitfully examined as a social field. In this sense, a group of differentiated social actors managed to include the topic in the agenda, and this provoked the involvement of a larger number of organisations who set up alternative coalitions. This is followed by a formalisation of the debate into policy options.

The implication for organisations in debates and informal coalitions can be explained in rational terms, in that they devote some resources to this activity in the hope to influence the final policy. These resources are both internal to the organisations and those created by policy networks to which they belong. This was clear in the organisation of the CSCG, as one of the entry requirements was the ability to devote resources to the common cause. However, advocacy is subject to the effect of the social field in that it creates social pressure for organisations to comply with requirements by other actors. An example is the Commission's expectation that main actors in any field will take part in policy consultations (Michel 2007).

This section has pointed out that participatory democracy has been the object of intense and divergent advocacy by civil society organisations. The common feature to these activities is that they essentially targeted EU decision makers. The following section examines whether the Convention as a new policy-making venue influenced the strategies and frames used by these coalitions before the Convention, and particularly, whether these favoured the effective participation of citizens as expected by the theories on civil society involvement. The role played for the inclusion of the provisions on participatory democracy in the Constitution by the ERC, a coalition of organisations which did not participate in the debates previously mentioned is a key factor for this analysis.

Civil society organisations in the debates about democracy in the Convention and beyond

This section points out that despite its novelty as a venue, the Convention did not essentially transform the ways in which the different coalitions of civil society organisations sought to influence the Convention's decision about participatory democracy and reflects on how these coalitions had difficulty to translate input from general publics into the Convention, which may have influenced the emergence of new influential actors at the national and European level.

On the influence of different kinds of coalitions in the Convention

As mentioned above, civil society organisations were at the heart of most proposals concerning participatory democracy (article 47), whether taken by the Presidium or by Convention members. This article was created in two successive phases, with a different theme being included each time. The three first sections of article 47 including civil dialogue in the Treaty were included in the first draft of the text by the Presidium, (European Convention 2003: 5). The CSCG considers that this principle corresponds to their demands to Convention.¹⁵ These paragraphs will be discussed in relation to the need for civil society organisations to be representative.¹⁶

According to members of the Convention, the right of one million citizens to ask the Commission to introduce a legislative proposal (art.47.4) was a “last minute goal” (Lamassoure 2004: 423-425), as it was introduced in the last week of the Convention, following a proposal by a high number of Convention members headed by Jürgen Meyer. The wide support to this proposal by Convention members is a consequence of strong lobbying by the European Referendum Campaign, who brought together some 100 NGOs involved in the promotion of direct democracy or citizenship rights (IRI Handbook 2004). The importance of this campaign for the inclusion of the citizens’ initiative in the Treaty is evidenced by the failure of similar proposals presented earlier by Convention members (amendments by Einem and Borrell¹⁷).

Interestingly, this issue had never surfaced in the debates about civil dialogue, except perhaps in general reflections from the Active Citizenship Network. This organisation is the only one of the 19 organisations identified for their early interest in civil dialogue to have been involved shortly in the ERC. Moreover, none of the organisations involved in the ERC campaign in June 2003, when the citizens’ initiative was included in the draft Treaty, had taken part in the previous discussions.

This data provides evidence of a strong cleavage between, on the one hand organisations using insider strategies for whom the Convention provided an opportunity to raise the profile of their issues and, on the other hand, those organisations for whom involvement in the Convention was the first contact with EU affairs. The first typology applies to the 19 organisations mentioned in the previous section, which had a strong knowledge of the EU machinery, preferred to directly access the policy makers and developed strategies to encompass their positions to the agenda of the institutions. In this sense, early involvement, close contact with Commission services and coalition making on the wake of an important opportunity window appear as the strategy used for influence by these organisations during the Convention. On the other hand, the ERC consists almost entirely of outsider organisations, which seldom engage in structured policy dialogue with the EU institutions and were not particularly interested in civil dialogue. However their condition of “outsiders” did not prevent the ERC from influencing the Treaty.

¹⁵ Interview with a member of the Social Platform, 06 March 2009, Brussels, and interview with a member of the Civil Society Contact Group, 29 July 2009, Brussels.

¹⁶ Interview with Mr Dehaene, Brussels, 10 February 2009, and with a member of the Social Platform, 06 March 2009.

¹⁷ Available from the Convention’s website: <http://european-convention.eu.int/amendments.asp?content=34&lang=EN>.

Engaging national publics, the weak side of coalitions of European civil society organisations

Following Princen's (2009) model for agenda setting at the EU level, it could be questioned whether the novelty of the Convention as a policy making venue, characterised by new rules and the presence of new actors such as national parliamentarians, created a new opportunity structure more encouraging for campaigns mobilising new kinds of coalitions of national and outsider groups, such as ERC's one (IRI Handbook 2004). As a consequence of non-involvement in previous debates, organisations active in the ERC had a far larger range of possible positions in the upcoming debates. For instance, a significant number of associations in the ERC were involved in the "no" campaigns in the national debates, such as ATTAC in France. This contrasts with the unanimously favourable position, yet not very active, of the organisations that advocated for the inclusion of article 47.

Some studies (Feron 2006; Akrigoliansky 2007) have pointed out that engaging in European debates has been an opportunity for organisations advocating "another Europe" to raise their profile in national arenas well beyond their usual relevance during the debates on the ratification of the Convention. In this sense, one could question along with Will *et al.* (2005), whether the Convention was a moment of Europeanisation from below for civil society organisations at national level who had not been involved with the EU before.

However, the analysis of the forms of collective action of civil society organisations during the Convention, and particularly coalition making, provides little support for this hypothesis. Firstly, the ERC may have been a coalition of outsiders at the EU level; it nevertheless used the more effective insider register of lobbying Convention members. Its degree of mobilisation and collective action at the national level was small. In fact, the coalition seems to fit well with Hula's (1999: 39-48) coalition model, with a strong core made of two European organisations and a number of groups at national level who just "lend" their names to the coalition.

Concerning the coalition of the "usual suspects", the results are much clearer. Primary data from interviews tend to confirm Sudbery's (2003) results: EU level organisations found it either challenging or not very useful to mobilise their member organisations at the national level. Concerning their eventual participation in the upcoming debates, these groups found themselves either powerless or uninterested in public debates, considering that this was a campaign for national parties to carry out.

By reference to Mahoney's (2007) findings, it appears that in this case the main motivation to engage in coalitions was not so much the ability of European civil society to anticipate the pressure of European public opinion to decision makers, but their ability to mobilise a number of important resources at European level. In this sense, two interviewees from the Social Platform and the Civil Society Contact Group said that the Convention included the principle in the Treaty after almost every organisation in the room had asked for it. If this demand had been irresistible, it is because these organisations' input was necessary in many other aspects.

Thus, civil society organisations played an important role in setting up a model for participatory democracy during the Convention. Their role in the creation of a democratic participation instruments must be acknowledged. However, they could not or did not want to foster debates in the wider public. Having in mind the lively debates that took place in France, and the number of contributions received from national organisations, the argument that general publics were not interested does not explain the phenomenon. It is worth asking why civil society organisations do not try to mobilise their members when access strategies proved to be so useful.

Therefore, this may have been a consequence of the way in which the agenda was made: article 47 TCE (currently 11 in the TEU) already includes a certain number of consensuses of what is acceptable by the institutions and the different actors and possible under EU law. Finding these compromises requires a degree of expertise and inter-organisational bargaining that have to be carried out for some years before the Convention. However, the inclusion of the citizen's initiative under the pressure of a coalition, not involved previously, confirms that there was room for innovation. Its preference for lobbying as a form of collective action confirms that this register was efficient for including points in the agenda of the Convention.

Conclusion

This article has argued that the discussions on the regulation of a model for participatory democracy between civil society organisations, as well as between them and the Convention, constituted a segmented public space. This space is characterised by the fact that it is constituted by groups operating as policy networks and coalitions rather than individuals. In the medium term, involvement in this space proved an appropriate way to build a coalition able to influence the EU agenda when the window of opportunity of the Convention opened.

The analysis has shown how the agenda of the Convention on participatory democracy built strongly on the advocacy by an emergent coalition of civil society organisations between 1997 and 2002. The advocacy by some of these actors, particularly the Social Platform, to obtain a structured mechanism for dialogue with the Commission is assumed in further reflections on democracy in the EU. This caused more organisations to become interested in the issue, be it in favour or against, both for rational calculation or as a result of a social pressure. The Convention moment, with its high profile, openness and explicit Treaty making purposes was an excellent window of opportunity for these groups to engage in a more formalised coalition seeking to include this principle in the treaty. That said, this agenda setting process could also open a window of opportunity for a policy innovation in this field. This is the origin of the citizens' initiative right, which was mainly included as the result of the campaign of a set of previously un-involved organisations, the European Referendum Campaign.

Although these debates were public and the Convention did explicitly target dialogue with citizens, there is no evidence for an eventual "spill over" of these discussions from segmented into general publics following democratic functionalist mechanisms as expected by Eder and Trenz (2007). The legitimising effect of this public space is slightly paradoxical. On the one hand, rules on transparency and the higher profile of the Convention played in favour of the setup of a participatory democracy model, and this is despite the emergence, albeit far less organised, of opposing organisation. On the other hand, there was a very limited use of collective action registers where general publics play a decisive role: media strategies and mobilisation. In line with Eder and Trenz's (2007) expectations, one could argue that the Convention's ability to attract contributions by a number of organisations seeking "another Europe" under the banner of the ERC demonstrated is a sign that, indeed, deliberation on democracy by specialists could attract the interest of other actors, including protesters. However, it appears that their role was rather small. Secondly, this involvement does not seem to have been considered relevant by the organisation when addressing the general public in the referendum campaign.

The analysis of the contribution of civil society organisations to debates on democracy in the European Constitution reflects that social actors retain a key role in the creation and enlargement of European public spaces. Thus, it can be said that if civil society

organisations did not play a decisive role in associating the general public to this reflection, this is because it was not necessary or efficient. The efficiency of other strategies of influence seems to be an obvious reason. The second reason concerns the particularities of agenda setting in the EU, where an important degree of expertise seems to be necessary for influencing policy: this seems to impair the capabilities to listen to voices coming from outside the segmented public space.

As it has already been mentioned, this is work in progress. In line with the conclusion above, it appears necessary to analyse in more detail the role of national organisations in the Convention. Even though European coalitions were relatively uninterested in gathering national members, a number of national groups may have had an opportunity to influence the Convention. It would be useful to determine if their ability to represent a voice "from outside" the field could have a weight in different circumstances.

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Interview with a Commission official, 17 February 2009, Brussels.

Interview with a member of the Social Platform, 06 March 2009, Brussels.

Interview with Mr Lamassoure, 18 March 2009, Paris.

Interviews with 2 members of the Secretariat of the Convention, 10 April 2009, Brussels.

Personal communication with a member of the Convention, 18 April 2009.

Appendix: List of the organisations and their contributions that have been analysed in this paper

Organisation	Contributions to
Cittadinanza Attiva - ACN	The Commission and NGOS, 2000 White Paper on European Governance, 2001 Convention, 2002-2003

CEMR	White paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
CPMR	White paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
CEDAG	Promoting the Role of Associations and Foundations, 1997 The Commission and NGOS, 2000 White paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
European Landowners Organisation (ELO)	The Commission and NGOS, 2000 White Paper on European Governance, 2001 Convention, 2002-2003
Eurocommerce	The Commission and NGOS, 2000 White Paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
ECAS	White Paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
European Foundation Centre (EFC)	Promoting the Role of Associations and Foundations, 1997 The Commission and NGOS, 2000 White Paper on European Governance, 2001 Convention, 2002-2003
UEAPME	The Commission and NGOS, 2000 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
UNICE	The Commission and NGOS, 2000 White Paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
ETUC	The Commission and NGOS, 2000 Convention, 2002-2003
Polish NGOs Brussels	White Paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
Eurocities	White Paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002

	Convention, 2002-2003
Eurodiaconia - Caritas	White Paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
EEB	White Paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
CONCORD	The Commission and NGOS, 2000 White Paper on European Governance, 2001 Convention, 2002-2003
Social Platform	Promoting the Role of Associations and Foundations, 1997 The Commission and NGOS, 2000 White Paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
COFACE	The Commission and NGOS, 2000 White Paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
European Referendum Campaign	Promoting the Role of Associations and Foundations, 1997 The Commission and NGOS, 2000 White Paper on European Governance, 2001 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
Centre Européen du Volontariat	Promoting the Role of Associations and Foundations, 1997 Towards a Culture of Consultation and Dialogue, 2002 Convention, 2002-2003
