

Deliberation in Irish Industrial Relations: Towards post-corporatism?

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ABSTRACT

For those that argue that the Irish system of social partnership is innovative, the role of deliberation and problem solving deliberative working groups is highlighted as one of the key new departures to the extent that Ireland has a “post-corporatist” model. It is the purpose of this paper to assess with the use of a case study the role played by deliberation in Irish employment relations. The paper is organised as follows; first, the context of social partnership in Ireland will be outlined, second a brief outline of what is meant by “deliberation”; third the arguments usually made to suggest that the Irish system is deliberative, and thus post-corporatist, in character are set out; the final section sets out the case-study designed to investigate the plausibility of this argument. The paper concludes that, on the evidence from the case study, the uniqueness of this has been overplayed.

Introduction

Since 1987, industrial relations in Ireland have radically departed from free collective bargaining with a series of national “Social Partnership” agreements (Teague and Donaghey, 2004). Social partnership emerged as a national consensus to tackle the dire economic and social situation prevailing in the country. A national pay deal was seen as the centrepiece of this strategy. Both trade unions and employers were supportive of this move towards a centralised wage agreement. For the trade union movement, national pay determination was a way of avoiding a Thatcher-like offensive, which was causing big damage to organised labour in the UK. For employers, centralised bargaining held out the promise of stable employment relations. Moreover, they did not want to be seen standing apart from a ‘national effort’ to pull the country back from the economic abyss. Altogether there have been six separate national agreements each of approximately three years duration. The first three agreements more or less replicated centralised wage agreements as practised elsewhere. The key representatives of employers and trade unions- the Irish Congress of Trade Unions (ICTU hereon), the Federated Union of Employers, the Confederation of Irish Industry¹, the Construction Industry Federation, - and four agricultural organisations (three for the PNR in 1987), negotiated these agreements. With Partnership 2000 in 1996, the institutional complexion of social partnership changed. Like other ‘corporatist’ wage deals in Europe, the Irish government make a number of commitments on public expenditure and taxation to embed the pay deals concluded by the employers and unions- the corporatist *quid pro quo*. A feature of these commitments is that the design, implementation and evaluation of the public expenditure commitments usually remain an ‘in-house’ concern of the relevant government department. Bringing civil associations into the social partnership framework opened up this relatively closed form of public policy-making. A new “deliberative” form of policy-making was introduced allowing civic associations a more active role in the decision-making cycle (NESF, 1997). The hope was that this would improve the quality of public programmes as they would possess greater knowledge of the various dimensions to a particular social problem (O’Donnell and Thomas, 1998).

What is deliberation?

Bessette (1994; 46) defines deliberation as “a reasoning process in which the participants seriously consider substantive information and arguments and seek to decide individually and to persuade each other as to what constitutes good public policy”. Deliberation assumes actors will be prepared to alter their initial preferences through reasoned discussion based on evidence. Deliberation is distinctive from bargaining in that under bargaining the preferences of the actors do not change- actors accept “second” or “third” best solutions usually as a result of the application of some type of penalty/incentive to move in a certain direction (Bessette, 1994; Fung and Wright, 2001).

Deliberation and bargaining are not necessarily mutually exclusive. In order to gain the agreement of some parties, bargaining will be necessary as deliberation may not be enough to persuade the relevant parties. As Bessette (1994) outlines, where a broad number of different participants are involved in the decision making process, it can be more effective to try to use persuasion to achieve shifts in preference as the need for side payments and reciprocal action is lessened. Much of the distinctions drawn between deliberation and bargaining differ little from the distinction between distributive and integrative bargaining (Walton and McKersie, 1965): integrative bargaining contains many of the elements of deliberation, particularly problem solving and positive sum game. However, deliberative theorists argue deliberation must be classed as different to bargaining as bargaining necessarily involves reciprocal actions whereas deliberation does not: parties do not necessarily try to gain vis-à-vis each other, the decision taken is the one which is felt holistically best in the circumstances.

CONDITIONS FOR DELIBERATION: Fung and Wright (2001) outline a number of conditions necessary for the conduct of effective deliberative democracy. These are in two broad groups: organising principles of deliberation and institutional design characteristics. Three organising principles are considered necessary for deliberation. First, the need for a practical orientation. The focus should be on a narrow, specific task which must be realistic and achievable by the parties. Second, stakeholders directly affected by the proposed policy must be included in the process to generate a broader range of ideas and to give a greater sense of ownership to those who will be directly affected by any decision. Finally is deliberative solution generation. This means that the process should focus on generating solutions through parties making factually informed policy choices. In addition to these, two institutional design characteristics are said to enable deliberation. First, governments must be prepared to devolve power and authority to societal stakeholders. Second co-ordinated decentralisation. This allows the devolution of policy decisions to the deliberative bodies whilst government retains a role in co-ordinating and monitoring the policies. The rationale here is that in co-ordinating the decentralisation and devolution of policy formation, accountability can be ensured and learning across policy networks can be co-ordinated.

Deliberative democracy, Irish employment relations and post-corporatism

Deliberative explanations first emerged in relation to the Irish economy in a review of local area partnerships for the OECD by Charles Sabel in 1996 (Sabel, 1996). In particular, Sabel stressed the problem solving and inclusion aspects of these bodies. This analysis was focussed mostly on economic development and only tangentially on employment relations. However, in 1997, the National Economic and Social Forum (NESF), drawing largely on Rory O'Donnell and inspired by the work of Sabel, published a highly influential report focussing on the national frameworks of social partnership (NESF, 1997). This report argued that the Irish system of social partnership was a radical departure from the traditional European model in that it represented a deliberative rather than bargaining model. This is based upon the argument that Irish social partnership was a "problem solving" rather than distributive mechanism. O'Donnell² argued "problem solving" was taking place through the creation of "shared understandings" created by the social partners deliberating potential solutions (O'Donnell, 2000; O'Donnell and Thomas, 1998; 2002; O'Donnell and O'Riordan, 2000). In the past decade, the development of the "uniqueness" of Irish social partnership has developed from a measured tone (Hardiman, 1992; Teague, 1995; O'Donnell and O'Riordan, 1996) to much more extravagant claims (O'Donnell and Thomas, 1998; 2002; O'Donnell and O'Riordan, 2000). Baccaro (2003) also highlights the deliberative properties of Irish social partnership in arguing that democracy and discussion have acted as substitutes for interorganisational cohesion and co-ordination. This approach has reflected the growing breadth of social partnership from being a co-ordinated macro-economic strategy to encompassing organisational change and finally the development of working groups which have prompted some to label the Irish system as "post-corporatist" (O'Donnell and O'Riordan, 2001: 68).

The case study: financial participation and deliberation

Following limited uptake of enterprise level partnership, in 2000, it was decided financial participation could be used as a tool to advance partnership at the enterprise level and a working group would be established to examine policy alternatives to encourage this (NESC, 1999,

Government of Ireland, 2000). The output of the working group was to be considered in Budget 2001. From the outset, the working group was consultative in nature. It did not have the power to implement its conclusions: merely to provide recommendations to the government. It was decided to create a supportive public policy regime to make it more attractive for employers and workers to become involved in arrangements of this sort. Employers, unions and workers would still be free to make any type of arrangements which they wished but the issue at hand was the types of schemes which would receive support in the form of tax relief. This distinction is crucial as the form which tax relief has taken is that profits on these types of schemes are subject to capital gains tax at 20% rather than income tax, which for high earners, is taxed at 40% in the upper band.

PARTICIPANTS IN THE CONSULTATIVE GROUP: Over 25 participants contributed to the process and the body met a total of seven times between May 2000 and December 2000. The government were represented by the Department of Enterprise and Employment, the Department of Finance, the Department of An Taoiseach, the Revenue Commissioners and Enterprise Ireland. The Department of Finance provided the secretariat and chair of the working group as well. Trade unions were represented by the Assistant General Secretary of ICTU, the Secretaries-General of four of the largest unions (two being large public sector unions), two researcher officers of the Services, Industrial, Professional and Technical Union (SIPTU), Ireland's largest union, and another representative of ICTU. Of the IBEC representatives, one was a director of IBEC and two were Heads of sectors of IBEC- namely the Irish Profit Sharing Association and the Irish Software Association.

TYPES OF SCHEMES AND WHAT WAS AVAILABLE BEFORE BUDGET 2001: Three broad categories of schemes were covered by the group. The first, profit sharing, has had tax relief available since 1982. Profit sharing schemes can be either in the form of cash or in company shares. However, only those schemes which are share-based in the form of Approved Profit Sharing Schemes (APSS), introduced by the Finance Act, 1982, were eligible for tax relief. Under APSS schemes, the company establishes a trust into which it pays the profit and the trustees purchase shares on behalf of the participating workers. Shares must be allocated to the participating workers within 18 months, employees then can sell their shares or retain them. As long as the employees leave their shares unsold for three years they can receive up to IR£10,000 on which the employees pay capital gains tax rather than income tax. A second profit sharing scheme is Employee Share Ownership Trusts (ESOTs). These were first established under the Finance Act 1997 and are broadly similar to APSSs except that in addition to the money from the company, the ESOT can borrow or use dividends to purchase extra shares. In order to get tax relief, ESOTs must transfer the shares into an APSS before distributing them to employees. From hereon, the APSS tax relief rules apply.

The second broad category of scheme under discussion were employee Share Ownership Schemes. The crucial difference between profitsharing and Employee Share Ownership Schemes is that, under the latter, the employees must buy the shares themselves whereas under profitsharing the shares are allocated for employees and bought from the money in the relevant trust. Within this category there are two types of scheme. The first of these are Share Option Schemes (SOS). Under SOSs, the company sets aside a certain number of shares for the employees. The prices are fixed at the time that the scheme is established. If the price rises, the employees can sell the shares at the higher price. The purpose of these schemes for employers is twofold. First, employers can assign option quotas on the basis of performance and second if the company performs well on the market employees will receive a reward in the shape of the value of their share prices. Prior to Budget 2001 there was no tax relief for these schemes. The other type of employee share ownership scheme is that of Save As You Earn (SAYE) which were introduced by the Finance Act 1999. Under SAYEs, workers can deposit a monthly sum from their earnings of between IR£10-IR£250 for either 3 or 5 years. Once the time period is lapsed the worker can either take the savings plus interest, which is exempt from Direct Interest Retention Tax, or they can buy shares at the price which the shares were when they joined the scheme. If they take the stock option, and sell it, any profit is taxed at the capital gains tax rate of 20%.

The final type of scheme being examined by the working group was gainsharing. Gainsharing is a system where improvements are made to the efficiency of organisations and the financial gains are shared between workers and the employers. In theory, this gives both parties an incentive to improve efficiency in terms of use of materials, time and waste. A key distinction point between gainsharing and all of the other schemes outlined above is that gainsharing is based upon operational rather than performance criteria of the company as a whole. In addition, gainsharing is a mechanism which can be applied to different parts of the organisation rather than being introduced in a uniform manner. This means, as Cahill (2000) points out, if a particular organisational sphere is highly productive or reduces waste greatly due to a gainsharing regime, payments have to be made even if the company overall has had a poor performance in the given period.

The distinction between the different types of scheme was of critical importance in terms of the motivation of the various parties. The first key distinction between these two is that gainsharing criteria are based upon operational rather than stock value criteria. In addition, because it is based on operational criteria, all sectors of the economy- public sector, private sector and even voluntary sector- can use gainsharing. In favour of the share based systems, measurement is much easier if it is based upon the value of stocks and shares rather than “exceptional” gains on which gainsharing is based. The key difference between share based and profit sharing schemes is that in the first workers must purchase the shares initially from their own capital whereas in the second the shares are purchased with money from the trust.

POSITION OF THE IRISH BUSINESS AND EMPLOYERS CONFEDERATION (IBEC): IBEC believed that the body could provide a system to provide employers in Ireland with tax relief in order to encourage financial participation in high value added sectors of the economy. The clear preference of IBEC was for tax relief for employee share ownership schemes with special provisions of up to one third of all available shares being ring fenced for “key workers”. “Key workers” could be as few as three. IBEC is generally in favour of individualism of pay and thus felt that the key worker position would provide an incentive to individual motivation. The IBEC reasoning for the key employee category was to encourage a greater proportion of employment in the high value added sectors and to help employers recruit and retain talented workers. IBEC argued that, even with low unemployment, the goal for the Irish economy was to move up the value added chain and argued that the times of Ireland competing on cost basis were gone. Thus, schemes such as this would help to encourage higher value added activity by attracting “key workers”. IBEC argued that in this area comparisons had to be made between countries of the same industry – not within sectors of the Irish economy.

IBEC opposed tax relief for Gainsharing for a number of reasons. First IBEC believed that the stock market was the most accurate independent evaluator of gain in a company, thus gains should be based on this. The second problem IBEC had with gainsharing was that IBEC were heavily concerned about the issue of pay for change. Third, in Private Limited Companies, employers had large problems over the issue of disclosure of information as in the absence of share prices high levels of disclosure would be required. On the other hand, employees believed this was essential for them to have this as they had problems trusting employers. IBEC wanted tax incentives for share option schemes to promote the schemes as they felt, without these, companies would be reluctant to pursue them. IBEC argued that public sector workers do relatively well all of the time and that comparing pay increases in good economic times was unrealistic. In addition, IBEC wanted any initiatives targeted at the software industry where employment turnover is highly volatile compared to the public sector.

THE POSITION OF THE TRADE UNIONS: The trade union position on financial participation was threefold. First, the maximum number of workers possible should be included- the schemes should be designed so that it was not limited to any group and that no group was excluded. SIPTU research had shown that only 10% of employees were covered by share ownership schemes at the time of the working group and that only a further potential 10% could be covered (SIPTU, 2002). Schemes, which involve stock/ shares, are in reality limited to employees of Public Limited Companies (hereon PLCs). Public sector workers are excluded by definition. In addition, in operating terms, the vast majority of Private Limited Companies would be excluded as many of

these companies are small and family run, therefore the likelihood of shares being allocated to workers is slim. This was a crucial reason in the trade unions arguing that tax relief for gainsharing was the preferred option as potentially all workers could be covered by such agreements. Second, participation should be based upon operational factors rather than financial market factors. For this reason again, the trade unions favoured gainsharing as the most appropriate mechanism as it covered both of the concerns which the trade unions had. First it was determined from the operating gains that were accrued in comparison to share options which are dependent on company performance on the stock exchange. In addition, the unions argued that it removed the issue of employee distrust of employers as gains were based on operational matters and employees had a closer involvement in the calculation of any gain. Third, workers in PLCs especially in the ICT sector, were amongst the highest paid in Ireland. The trade unions felt that tax relief for schemes should be aimed at the lower paid workers, as this would follow the principle of progressive taxation. The trade unions were not opposed to employee share option systems per se but were opposed to the use of tax relief in order to enable employers to retain workers. They believed that tax relief should be as widely diffused as possible. In addition, the trade unions were vehemently opposed to special treatment for “key employees”, which IBEC was seeking, as they believed this was contrary to the principle of partnership which this group had been established to examine.

ROLE OF GOVERNMENT: The role of government was threefold in that, first, it raised issues of strategic concern to the country as a whole, second, it raised issues as the largest employer in the state and third it provided technical expertise. First and foremost the government departments- especially Finance and the Revenue Commissioners- had technical knowledge to input as to operationalising any given scheme and also possessed much information as to the costs of the various schemes. In addition, a key consideration for the Revenue Commissioners was to ensure that the systems would be designed in a way to avoid fraud. On the strategic level, the Department of Enterprise, Trade and Employment was heavily supportive of SOS as they felt it would be a means of encouraging foreign direct investment in the ICT sector in Ireland. This placed them in a position where they were much more in favour of employee share ownership schemes than those of gainsharing for the same reasons as IBEC. Second, the Department of Finance had problems with gainsharing in the public service for three reasons. First, as outlined above, the findings of the benchmarking body were still to be made public and they were reluctant to commit to gainsharing in the absence of a clear strategy on public service pay. Second, the Department of Finance had an overseeing role in Ireland on the issue of pay in all parts of the Irish public service. The introduction of gainsharing would remove some of this function and as one official from the Department of An Taoiseach stated “there seems to be lack of trust in Finance for Departments to take control of their own finances”. Third, the public service in Ireland is currently undergoing a series of change management projects. Finance believed that in the Partnership agreements and Strategic Management Initiative agreements, unions accepted that adapting to change was accepted by unions, therefore they did not want gainsharing to be perceived as a means of achieving pay for change.

THE USE OF INFORMATION TO PROVIDE PERSUASION: A key principle behind deliberation is that arguments should be backed up by informed opinions. Initially, a member of the NESC secretariat was asked to provide an outline of the arguments for and against each of gainsharing, share options and profit sharing (Cahill, 2000). The role of the Revenue Commissioners in the working group was to provide much technical and statistical information. Included in this was an estimate by the Revenue commissioners about the potential costs of various tax relief to the exchequer. As one interviewee stated Revenue’s purpose was to ensure that the law was being followed, provide information on opportunity costs of the various schemes and to comment upon how the various schemes may be implemented in practice. Both trade unionists and employers brought their own independent information with them to the group. One of the public service unions, the Civil and Public Services Union, commissioned a detailed report by external consultants on the possible implementation of gainsharing and how it could be operationalised within the context of the public service. This compared experiences of gainsharing type models in other economies and argued for their adaptation to the Irish system.

It argued that in the context of gainsharing individual contributions would be difficult to evaluate therefore gainsharing should be based on group schemes. IBEC used a lot of “in-house” expertise. The IBEC representatives included members of the Irish Profit Sharing Association and the Irish Software Association as they had much information pertaining to the IBEC position. In addition, in advance of the group being established an in-depth survey of the various types of schemes was carried out under the supervision of a former director of IBEC.

DELIBERATIONS: The working group was brought together to look at a number of issues which were being debated. Trade unions were raising the issue of gainsharing in the context of enterprise partnerships, IBEC and in particular the Irish Software Association raised issues around favourable taxing of share options. IBEC always viewed the group as looking at the issue of employee share ownership schemes but also looked at a model for unquoted private limited companies and all other systems coming under the broad heading of employee share involvement. A key point which emerges from the case study is that both IBEC and ICTU had different visions of what it would help to achieve. The trade union group who were involved saw financial participation as a means of increasing the take home pay of workers and thus workers would show greater interest in partnership whereas IBEC saw it as a mechanism to retain workers in tight labour market conditions. In addition, IBEC believed that in order to receive tax relief an active enterprise partnership should not be a prerequisite. Thus, IBEC and ICTU approached the working group with clearly defined problems to solve but the problems were different.

On the issue of persuasion, a trade union interviewee said that there was no real need for the employers to try to inform the trade unionists of their position as the trade unionists knew and understood exactly their position. The IBEC argument was that the type of financial participation envisaged by IBEC was a reality worldwide for the high value added/ high tech industries. In these sectors, these workers receive a high base salary plus a contingency element to their pay. The IBEC argument was that if it was not done in Ireland it would be done elsewhere. However, ICTU did not have a problem with this- ICTU’s problem was that IBEC wanted the government to subsidise this type of scheme by granting them favourable tax relief. The ICTU argument was that it was regressive to have high paid workers having their contingency pay being supplemented by favourable tax breaks or as one ICTU interviewee stated “asking the ordinary tax payer to subvent the pay of the high earner”.

An ICTU official stated that they were “blue in the face seeking tax relief for gainsharing” but that IBEC were completely opposed to this. IBEC were not opposed to gainsharing in principle but the perception of the ICTU official was that they were dragging their heels on it. The main problem over the issue of gainsharing was whether or not it would eventually become part of the expected wage or whether it is a one off payment. IBEC believe that it would become part of basic even if the gains were discontinued. The ICTU officials recognised that there is a strong possibility of this happening but they argued that if the gains made are kept up then there should not be a problem with this. From a practical point of view, the IBEC position was that if a gain was made in one year then for a gainsharing payment to be made the following year, more gains would have to be achieved whereas the ICTU position was that if the gain from the previous year was being replicated then the payment should still be forthcoming. This was a major stumbling block in the issue of gainsharing. From an ideological point of view an ICTU interviewee believed IBEC were opposed to gainsharing as they believed it was productivity bargaining under a different guise i.e. paying for change. IBEC also believed that change is part of everyone’s job therefore there should be no need to pay for unexceptional change. The trade union representatives acknowledged this but the problem of what would be an exceptional enough change to require a payment was an unresolved problem.

Based on what the agreement covering the period from 2000-2003, the Programme for Prosperity and Fairness, stated, the trade union position that the eventual output was inconsistent with enterprise partnership is correct. First, it potentially created two levels of workers in companies and second, the resultant tax relief was not related to enterprise partnership which was explicitly stated as the rationale for this working party. However, enterprise partnership was never discussed in the meetings until the last meeting of the body at which Government and Employers expected to be just finalising the draft report into the final report. It is clear from interviews that gainsharing was discussed at length, however it is equally clear that the explicit linking of gainsharing to

enterprise partnership was not discussed in any detail. There seems to be two explanations for this. First, trade union interviews stated that the links between gainsharing and partnership were obvious. Second, IBEC interviewees stated that they did not see any of the proposed schemes being linked to any particular organisational configuration.

On the depth of consensus, IBEC interviewees believed that the trade unions were in general agreement with them until the very last meeting when the trade unionists raised a number of serious concerns. IBEC interviewees argued that the IBEC position evolved/ was refined though did not fundamentally change but both trade union and IBEC interviewees highlighted the change in the union approach at the end. At the draft report stage, a SIPTU interviewee argued the report was very much looking like "ICTU were giving everything away". The draft report recommended tax relief on share ownership schemes which would be unlimited. This again was regressive as wealthier workers could buy more shares therefore benefit more from the tax relief. This was further deteriorated by the recommendation of a key employee clause exactly as IBEC had sought. At this point a schism occurred between the ICTU officials and the individual unions involved, resulting in a fragmentation of the union voice. The individual union participants were opposed to proposed tax relief schemes for SOS whereas the ICTU officials were much more willing to be persuaded into accepting the IBEC arguments. However after examining the draft report the trade union representatives believed that what was being proposed was contrary to the interests of their members. Until this point the ICTU officials had taken the lead in the group. Then, the individual unions, lead by SIPTU threatened to walk away from the body unless their opposition to what the government and IBEC wanted was incorporated into the final report. The unions were willing to give on this issue in order to "get something on gainsharing". In the final report, the trade union position solidified in their opposition to the proposed scheme and their outright opposition to the recommendations were recorded. In their opposition to the report and the resultant Finance Bill, all the unions involved were opposed to the report but the resources of SIPTU enabled SIPTU to be more vocal in their opposition.

THE OUTPUT OF THE PROCESS: As stated earlier the working group had no power to take any initiatives; they were required to make recommendations to the Minister of Finance. Under the Finance Act 2001, the main area which was affected was that of SOSs. Under this any profit made on the sale of the shares purchased in the options would be taxed at the Capital Gains Tax. In addition, the Finance act allowed for the creation of the key employee class. Under the Key Employee category, 30% of the shares allocated in company systems could be reserved for these Key Employees who could number as little as three workers. In terms of preference shifting, it is clear that little was achieved. IBEC representatives outlined that through consultation with the government representatives their position became refined, though no real shift occurred. Within the trade union participants, there was a shift in attitude amongst the participants but rather than coming closer to the position of the employers, despite some shifts towards them during the negotiations, the trade unions probably moved further from the employers than their original position.

UNION ATTITUDE TOWARDS THE OUTPUT: The trade union pillar of the working group was highly disappointed with the provisions for a number of reasons. First, the only schemes covered by the tax relief provisions were share based schemes. Second, in built to the system was a provision that 30% of the shares being set aside for workers could be granted to "key employees". Further to this problem was the issue that this key employee category could be limited to as little as three workers. Third, was the fact that the schemes were subject to tax relief in that they were subject to Capital Gains Tax rather than income tax. In essence, this meant that the tax was being used to finance these schemes for workers to get a high level of income rather than the employers paying. As the bulk of Irish taxes are income tax this meant that lower paid workers were effectively financing these schemes. One trade union interviewee claimed that from the outset the process was an "IBEC and Government stitch up". IBEC, especially the software industry association, claimed a trade union interviewee, wanted to introduce an incentive system for workers to stay with their employers and the financial participation working group was used by them for this purpose. SIPTU were publicly highly critical of the output of Budget 2001.

SIPTU's criticism was two pronged first due to the SIPTU belief that the schemes were regressive in giving tax breaks to higher paid workers and allowing for ring fencing of 30% of shares to an even more elite category. Second, that in addition to being regressive in taxation, the schemes did little or nothing in the way of encouraging enterprise partnership. SIPTU Secretary-General John McDonnell's press release went as far to argue that the scheme was divisive in terms of its effect on enterprise partnership.

Discussion

The working group achieved little of the "promised" outputs of deliberation. The deliberations did not create any "shared understandings" or "problem solving activity". Three issues of note emerge from the case study. First, the arguments put forward by O'Donnell *et al.* that the deliberative element has helped to move Ireland into being a post-corporatist society is questioned. The second issue is that the depth of the shared understandings between the social partners must be questioned by the evidence in the case study. Finally, the third is that uniting the interests of trade unions can prove more problematic than that of employers.

The assertion that deliberative bodies represent "post-corporatist" tendencies lacks substantiation in the case study. Two key elements of this argument is that by getting parties to deliberate decision making is made through pragmatic problem solving and informed through shared understandings. As Fung and Wright (2001) highlight for deliberation to be successful participants must concentrate on specific tangible problem solving. It is clear that both the employers and unions had specific problems/ issues which they felt could be pursued but the issues each party envisaged solving varied greatly. In examples cited of empowered deliberative democracy, the problems cited were common to the parties but their initial proposed strategies to solve the problems varied (Fung and Wright, 2002). Cohen and Rogers (2003) argue that this is a problem with seeing deliberation as an answer to the formation of public policy: deliberation only functions effectively where there is a concrete problem which all parties concerned share. However, in the above case, the parties did not share the issue they wanted to resolve; the trade unions were seeking an incentive for enterprise partnership and a means of redressing the insider/ outsider divide. On the other hand employers wished to see financial participation used as an incentive for talented workers. Nor did they want to use a common solution for different problems thus there was insufficient ground for either pragmatic problem solving or shared analysis to take place. Parties approached the issue with the idea of bargaining and quickly retrenched into partisan arguments rather than any sort of shared understandings.

A related issue which Fung and Wright (2001) raise is the need for deliberative bodies to have the powers to formulate and implement policies. This direct link to policy delivery they highlight makes parties see an acceptable solution. However as Rogers and Cohen (2002) outline when parties do not bear the ultimate responsibility for the final policy design and implementation, therefore being made to "accept the consequences of their deliberation" it can lead to parties taking an entrenched defence of their arguments. The design of this deliberative body left the power of final decision at the discretion of the Minister for Finance and thus did not draw out a real problem solving approach as the output was advisory in nature. In the end, even though IBEC achieved what they sought from the body, it would be difficult to uphold the argument that a shared approach to problem solving was followed.

In the case study, the trade unions exhibited the vulnerability of establishing solidaristic action outlined by Offe and Wiesenthal (1980). Different participants were motivated by different rationales. Towards the end of the negotiations of this working group, a clear shift occurred in the trade union attitude. IBEC officials observed that the initial attitude of the trade union involvement was sceptical of the IBEC proposals but these changed when IBEC highlighted the arguments for their proposals. However, at the final meeting when it was believed by IBEC and government officials that only minor alterations would be made to the final reports yet at the final meeting the trade union participants raised a series of major concerns. As outlined above reasoned debate and argument on the issues at hand can have the potential to shift preferences on an issue but may also make parties more resolute as to the legitimacy of their argument (Cooke, 2002). In this case study, the more that the arguments were put forward on issues the more apparent it became that it would not be resolved to the satisfaction of all parties. Where

quid pro quo bargaining is involved, parties may be willing to get involved in exchanges on policy issues. However where problems are to be solved by deliberative means this is not an option, therefore parties may in fact become more entrenched in their positions.

Conclusion

Using the particular case-study chosen, it would be quite easy to jump to the conclusion that deliberative bodies deliver little in terms of problem-solving. However, a more cautious conclusion will be drawn here. The first point is a methodological point in that much more work needs to be carried out on the functioning of other deliberative bodies. However, what the case study does demonstrate is that the preconditions for integrative bargaining (Walton and McKersie, 1965) contain important lessons for experiments in deliberative democracy. In this case study, there neither existed a shared problem requiring deliberative solutions nor a shared mechanism requiring deliberated outputs; in short no real meeting of agendas occurred. There is no doubt that deliberation and integrative bargaining do play an increasingly important part in modern European social pacts (Baccaro, 2003; Rhodes, 1998; Hassel, 2003). This stream of literature argues that recent social pacts have been less focussed on distribution, with more focus being placed on creating the conditions for economic growth. However, “difficult” issues such as financial participation (D’Art, 1992; Pontusson, 1992) remain “distributive” issues and the expectation of deliberation to deliver on these is probably at best unrealistic and at worst foolhardy. To classify Irish social partnership as being “post-corporatist”, in essence post distributive bargaining, has not been sustained in the case study. Distributive bargaining remains an important element of social pacts, even if the areas where it manifests itself have changed.

1. In 1993 the Federated Union of Employers and the Confederation of Irish Industry merged to form the Irish Business and Employers Confederation (Hereon IBEC).
2. It is unclear though when O’Donnell distinguishes bargaining from deliberation whether he is taking all four of Walton and McKersie’s (1965) forms into account or just distributive bargaining. The latter seems more likely.

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