

# **Citizen Agency and Social Capital : Embracing the Bright Shadows of the Future in Public Administration**

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## I. Introduction

There are two distinct dimensions to the fears, frustrations and even rage which surround the sense of impotence with which citizens seem presently to approach their governments and public service. The first reflects growing disenchantment with the traditional apparatus of representative parliamentary democracy as a vehicle for the involvement of increasingly active, increasingly prosperous and increasingly demanding constituents seeking to be increasingly influential in the development of rules and policies which bind or affect them. The second reflects the frustration of individuals apparently disposing of greater personal resources and capacity, but nevertheless running up against the brick walls and blind alleys of heavy bureaucratic hierarchies and trans-national corporations claiming to be bound by the dictates and imperatives of impersonal and professionalized systems apparently beyond the reach of human responsibility.

Thus 'agency' must be approached from many angles: the psychology behind individual action; the sociology of interaction; the political philosophy underlying human relationships and institutions; the legal theory behind the more formal rule of law. All of these deal with relationships among private individuals within private organizations and institutions, as well as with the public sphere.

But the apparatus of governance and public administration itself looms very large in human activity; 'public man' and the public sphere are very large elements in the life of us all. Hence we need to look specifically at the issue of agency with respect to both the formation of public policy and the structure of the public service, and that is the concern of this paper. But such an agency approach to regulation must also include concern for the laws and regulations which offer guarantees for the citizen of their opportunity to exercise agency effectively (as principals) in dealing with all the increasingly monolithic and impersonal organizational entities encountered in modern life. This interest would involve consideration of rules about privacy and disclosure, transparency and plain language which might be binding on private as well as public organizations. Broader

## II. Agency Theory

The concept of agency and its relation to action is employed in the study of economics, philosophy and political science as well as the practice of law. Agency theory as developed more specifically in the New Institutional Economics has important implications for regulatory activities and concepts of citizen agency.<sup>2</sup>

### A. Principals and Agents

The development of agency law and agency practice is inextricably bound in the development of commercial and social intercourse. A body of law has developed on the limitations within relationships, the rights and duties, that arise when one person is used by another to perform certain tasks. Special rules have been developed to address the circumstances where,

instead of there being two persons directly connected in law with each other by the unilateral act of one or the mutual acts of both, the employment of an agent introduces another person, whose conduct can affect in a variety of ways the legal position of the one on whose behalf he acts and the one with whom he deals.<sup>3</sup>

Weber, in exploring the forms and creation of rights conceived and practised relative to "legitimate" law, notes the formal mode in which law serves the interests, especially the economic interests, of the parties concerned and traces the earliest evidence of "agent" to Greek law although it seems to be absent in Roman law.<sup>4</sup> Fridman's *Law of Agency* similarly traces the historical development in English law demarcating an agency relationship. Two classes, brokers and factors, come into practice with mercantile transactions – agents and servants. Early common law makes no distinction between principal-agent and master-slave relations. Although agency relationships have always existed between beings there is no developed legal institution of agency and agency law, according to Fridman, until after the seventeenth-eighteenth century with the development of commercial life.<sup>5</sup> With the development of mercantile

practices there is a separation in the ideas of representation from that of the service function of auxiliaries, which becomes a distinct concept. The introduction of equitable and civil laws is directly related to the development and emergence of the agent-agency concept. The development of agency as a legal institution was indispensable for modern capitalist society.

Agency law explores the variations and uses in definitions and practices associated with the principal-agent relationship. A prominent definition is

agency is the relationship that exists between two persons when one, called the *agent*, is considered in law to represent the other, called the *principal*, in such a way as to be able to affect the principal's legal position in respect of strangers to the relationship by the making of contracts or the disposition of property.<sup>6</sup>

Legal scholarship examines and categorises the legal relationships that arise as a consequence of the relation of the parties, principal and agent. Two key factors in that relationship pertain to the nature of consent between the parties and the authority of the agent.

Harvey's *Agency Law Primer* categorises the creation of agencies and the scope of the agent's authority in the following types or forms of agency in reference to the condition of authority wrought from the relationship. Where there is agency by agreement or agency by statute, the agent can be said to be empowered with actual authority. Ratification of the act of an agent by the principal would also bestow actual authority. Agency by estoppel occurs where the agent deals with the third party with apparent authority. Agency may be said to occur even where the agent has exceeded actual authority but where there is a usual authority and in agencies by the operation of law the agent is said to have exercised presumed authority.<sup>7</sup>

Elucidating the relationship between principal and agent in business provides an instructive avenue for exploring the concept of agency. The principles and approach explored in *Principals and Agents: the Structure of Business*, although focused on "business", can be and are applied to a broader spectrum of situations with relevance to the social and political spheres.<sup>8</sup>

## 1. Voter - Representative

In contemporary political science this idea has been translated into the question of how voters do or can keep moral or legal control over their representative. Political science examines the normative understanding of accountability inherent in the model of representation. Research pursuing a principal –agent approach may consider how best to give elected officials the right incentive to serve constituents<sup>18</sup> or argue that the standard for evaluating government actions is whether they respond to the public's wishes.<sup>19</sup> Representation by "promising" (as in the representative's "promising" to the electorate and being responsible or answerable to the electorate) is a limited explanation. According to Mansbridge, practice and empirical study of representation has outstripped the normative guidance that political theorists proffer.<sup>20</sup> Empirical political studies searching to answer the question of how well the political system meets democratic norms often reduce the issues of representation to one criterion: Does the elected legislator pursue policies that conform to the preference(s) of voters?<sup>21</sup> The practice of representation is now seen as more complex. The "actors" in the political process that influence and determine decisions are not only the elected political representatives but include the bureaucracy, and encompass a pluralistic arrangement of associations, institutions and organisations and interests, and particularly the media, all of whom act within and upon political processes. The voter-representative relationship then needs to be cast more broadly if it is to include the citizen agency concept as part of governance in the modern state.

## 2. Citizen – Constitution/State - Citizen

Questions of constitutional law may address interpretations of the relationship between the state and the individual posed as a principal-agent relationship to examine the rights of a third party against the state, i.e., what are the constitutionally grounded norms by which parties must conduct themselves and what measures can be taken against those individuals to vindicate the rights of the third party? The issue here, though, is not merely seen as one of a two-party relationship between the state and the individual but a three party relationship amongst two individuals and the state. The

paradox of public and private power in constitutional law is that representatives of the state—i.e., functionaries, or agencies as instruments of government—are constitutionally constrained, yet the exercise of state power is derived from the electoral process.<sup>22</sup> Private autonomy through publicly agreed means and forms exercises power to constrain and protect private autonomy. Legal theory debates the need for criteria to distinguish between acts by officials or others that establish legal norms and acts of officials or others that transgress legal norms, and the scope of government and liability. Law, as in constitutional law, is often treated as the source of authority, that is the principal, which commands or directs individuals, yet these commands and directions are directed not only to but also from individuals. This view, in a sense, presupposes an anthropomorphised construct which is the “state” as principal in relation to which the government official is the agent. Instead,

insofar as the constitutional text grounds conclusions about ‘commands’ by particular individuals - whether ‘lawmakers’, ‘government officials’, or ‘private individuals’ - in the course of their activity-whether ‘lawmaking’ or ‘law-enforcing’ or otherwise – those conclusions are intimately bound up with constitutional values about the relationship between or among them.<sup>23</sup>

### 3. Tiered regimes

Coglianesse and Nicolaidis build on the conceptual framework developed in Pratt and Zeckhauser to develop a concept for addressing tiered regimes in governance employing the principles inherent in agent-principal relations. In asking how the principal-agent conceptual framework can be applied to “tiered” institutional relationships of governance operating at different levels, for example the federal state, or international organisations like the WTO, they must first determine the loci of authority, the basis of legitimacy. In addressing tiering they start from the premise that the principal is the actor who holds political legitimacy and is entrusted with the original authority to act in a given sphere; they refer to the relevant legal delineation of powers for attributions of competence. This is a form of organisational theory that employs the principles of the principal-agent relationship that are found in the structures of control and information monitoring needed to align divergent motivations.<sup>24</sup> The terms devolution, decentralisation, delegation, federalism and subsidiarity share a common concern with

the proper allocation of authority in tiered regimes. Four mechanisms, the agency ties, which serve to allocate legitimacy and control, can be examined as delineation, monitoring, sharing and reversibility in the accompaniment of transfers of policy authority in tiered regimes. The degree to which power is transferred is connected to the mechanisms for modifying, abandoning or constraining the transfer. Allocation mechanisms can be thought of as a complementary and interconnected component of the overall degree of decentralisation in a given tiered regime. Facets of subsidiarity include the limits and constraints put on the delegation of authority from one jurisdictional level to another; the requirements to decentralise the implementation and enforcement of tasks formulated at the higher level; and the formulation, monitoring and enforcing of the delegation of jurisdictional authority horizontally.<sup>25</sup>

Whether in business or in politics the agent-principal structure is often viewed as a simple two party or two dimensional relationship but problems in the real world involve many principals and many agents interacting in social, commercial and political situations and complex and overlapping activities. These multiple relationships present multiple dimensions and increase the challenge of analysing agency relationships conceptually as well as in real applications.

## B. Agency Ties: Mechanisms of Control

Can the insights drawn from the principal-agent framework prove useful to an analysis of mechanisms governing control and legitimacy in circumstances of governance and regulation? White's metaphor for agency ties—A context for ties that casts shadows over commitment—is significant. He observes that agency is rarely a single relation; rather it is a complex set of roles and mutual expectations embedded in markets and hierarchies, and as he points out, there is a need to look at the fabric of these relationships, not at single threads.<sup>26</sup> An examination of agency ties as controls goes beyond the confines of economics and the concerns of efficiency to look at the functional requirements of organisations; it stresses the dynamic nature of agency

relations. If we assume that the basic dilemma of the principal-agent relationship – the alignment of divergent motivations – is valid, then we can begin to see how it can be translatable to a larger understanding cast beyond the rudimentary concept of representation to encompass sociological order.

Agency studies highlight the importance of strategic control, that is, control connected with the formulation of the agent's tasks and overall objectives. This can also be considered in relation to the issues raised in the "co-operators dilemma" with respect to aligning individual aspirations with the group in the face of clear personal incentives to avoid co-operation and act in a manner which is not in the common interest of the group as a whole. The test of institutional effectiveness is whether the incentives and accountability measures have been successful in guiding discretionary decision making in a manner that assures compliance with the overall goals of the institution or the system it represents. The specificity of this formulation constitutes the initial constraint on the agent's margin for manoeuvre as the level of detail defines the "marching orders". The scope of the agent's delegated authority can be more or less specifically delineated by prevailing norms and/or specific legal acts.

For example, at one level, the nature of this tie can be considered in reference to the concept of voting and representation and, typically, "promising". In representation by promising, the power relation in the principal-agent format runs linearly from voter to representative. This forward looking concept of power and intentionality such as used by Dahl, is central to this stream of study<sup>27</sup>. It demonstrates a simple version of the principal-agent model where the relation is conceived as one in which a static principal tries to direct the representative agent. Mansbridge argues that traditional approaches using the "singular criterion" of promising in analysis of the process of representation are limited and advocates criteria that are plural, deliberatively-oriented and systemic. The different faces of representation identified by Mansbridge are "anticipatory", "introspective", and "surrogate" representation. These newly identified forms of representation involve criteria for judging deliberation and are backed by the larger Habermasian norm that deliberations aimed at understanding the best policies and the best representative choices must be conducted in an atmosphere in which power is

reduced to the minimum. All three forms of representation also involve criteria aimed at judging the entire representative system. That system includes interest groups, the media, and active citizens.<sup>28</sup>

Strategic control can also be said to be set by reference to the constitutional state and principles of justice. People have goals, pursuit of those goals depends, in part, on the possibility of engaging in social interaction with others who also have goals, thus people negotiate principles of justice which are publicly endorsed and people are then bound to live by. This approach captures a concept of justice as fairness – an equal right to liberty and fair equality of opportunity, each of which is necessary to securing individual liberty. But constitutional limitations enable as well as constrain; as Bodin recognised, there is a mutually reinforcing relationship between sovereignty and constitutional constraints.<sup>29</sup> Constitutions give one generation the right to give away or enshrine freedoms. Elster observed that the paradox of democracy is that “each generation wants to be free to bind its successors, while not being bound by its predecessors.”<sup>30</sup>

Agency theories examine mechanisms of operational control, i.e., control connected to the ongoing implementation of the task delegated to the agent. In a parliamentary democracy, this may be legislative and regulatory on an internal basis, while – in principle – externally the public media ensure information is available to constituents on the workings of government. Operational controls and monitoring techniques may be balanced against the first strategic aspect of control, in that the principal can afford to be flexible at the broad strategic level if he can devise reliable models of monitoring and altering his agent’s action. Or, principals may more readily delegate tasks to an agent if they can subsequently monitor the implementation of the commonly agreed objectives. Operational monitoring can take place through subsidiary actions carried out in rule making, the bureaucracy, judiciary, police and in parallel with the public sphere of media, associations and organisations that also serve in public opinion formation. All of these considerations reinforce the critical function of information in the scrutiny of ongoing activity and of agents’ performance.

The principal can also control the actions of the agent by reducing the agent's autonomy to the point where the principal shares in the activities of the agent. Where the means of control allow the principal to become a party to the agent's operations, and conversely where the agent has a say in shaping its mandate, the question is the degree to which the principal and agent actually share their respective functions or participate in each others deliberations and actions. The issue of power sharing is crucial in governance contexts. Limits on the autonomy of elected representatives as agents may be sought by establishing requirements for referendum, for ombudsmen, for administrative agencies or the delegation of responsibilities to private agencies or organisations. Many aspects of delegation or returning to self-regulation can be seen as instances of reducing the autonomy of the state by the principal/electors. On the other hand, demands for avenues of participatory democracy can also be instituted to "share" decision-making functions through boards, commissions, and alternative dispute resolution techniques. Different levels of government have been dabbling in forms of alternative service delivery since the 1980s; some of these represent experiments in power sharing. These experiments, in changing the practice of governance, raise many questions: How do we work out the most effective distribution of policy making, program design and delivery, and accountability powers among affected ministers, agencies, officials and clients? When public service delivery occurs outside traditional boundaries of government departments what does this mean in terms of our understanding of government, the public service, lines of authority, or ministerial responsibility?<sup>31</sup>

A final insight of note is the question of the mechanism by which the agency ties can be suspended or severed. At base, the key element in representative democracies is the vote. Elections confer or remove the right of representation. Accountability tests of agencies, organs and institutions of the state can also be seen as a means of severing or suspending the agents' activities through imposing requirements for judicial review, and or Cabinet/ministerial responsibilities and powers to overturn or reverse decisions.

There remains, in the political domain as in the commercial, the potential for "reversal of control", the phenomenon where the principal comes under the control of the

agent after the latter becomes a “specialised purveyor”. As an agent accumulates specialised skills and knowledge there is a movement towards role reversal; the principal comes under the control of the agent; and, strategic and operational control separate. The threat of or sense of a reversal of control may be indicative of the plight of contemporary democracies that rely on a large complex and specialised amalgam of institutions that comprise the apparatus of the state. The threat, real or perceived, of reversal of control may be evident in that the principals, as citizens, no longer can rely on the measures of strategic control to sufficiently balance the needs to be met through operational monitoring. These circumstances can be considered in relation to the crisis of confidence that afflicts modern democratic regimes and may have relevance to citizens’ views of governance and the rise of “critical citizens”.<sup>32</sup>

The “reversal of control” phenomenon may also be seen in reference to issues of accountability with respect to regulatory agencies. Regulatory agencies as agents of government, through the acquisition and practices of specialised knowledge, take on policy direction and “control” in a manner not directly intended. Much of the study of regulatory processes focuses on the nature of independence and scope of policy direction that should be accorded to delegated authorities. Actions that seek to enforce accountability or articulate an appropriate role for ministerial ‘interference’, in effect, are attempts to temper the tendency toward reversal of control.<sup>33</sup> Similarly, issues in public administration and the role of the public service, such as the accountability of senior public servants vis-à-vis the bureaucracy and the Minister, can also be viewed as part of the principal-agent hierarchy exhibiting the perils of control. The relationship of the Deputy Minister as an agent wielding specialised knowledge to the Minister is an example that invokes allegations of reversal of control.

Context indeed casts a shadow over commitment if one is to understand the citizen as principal. If we examine the principal-agent relationship in democratic governance not just as the relationship between the voter and the elected representative, but as part of the system of multiple relationships that constitute democratic governance, we must also contend with the changing nature of democratic processes and the “crisis of confidence” that has been said to permeate democratic

governance world-wide. Models of governments have changed, as have voter expectations and avenues for expression. Contemporary debates on accountability and citizen participation have restructured the way governments do business legislatively, administratively and judicially. Reforms have been undertaken in how governments go about formulating policy and legislation, in how it is administered through the bureaucracy and administrative agencies, and in the practice and procedures of the courts and its affiliated institutions.

Kettle characterises the 1970s-1980s as a period in which "citizens demanded a reinvention of the way their governments operated and of the relationship between governments and citizens."<sup>34</sup> But the demands for reforms and improvements in the processes of government to enable broader citizen participation, perhaps a nostalgia for the activism of the 1960s, was soon also the crusade of those that sought to reassert control over the large, complex and intrusive nature of the contemporary state. The agenda then was set for smaller, more effective governments. New processes like reengineering service systems, contracting out and performance management became common watchwords of government action as governments attempted to adjust. There was an interest in making government operations transparent and an emphasis on customer service. Undertaking to transform the way government functions internally and with its external "clientele" leads to further questions, one of which may be posed as whether reinventing government redefines the relationship between government and citizens. The bulk of the literature on "reinventing government", however, tends to be concerned with efficiency questions, the size and cost of government or limited new instruments for participatory action by citizens.<sup>35</sup> Perhaps there is also a need to reconsider how we look at the relationship between government and its citizens.

Development of the principal-agency concept is subsidiary of classical to liberal democratic theory based on the notion of the rule of law and the constitutional state. Although the principal-agent approach, in recognising the importance of information and the challenge of aligning motivations, is an improvement in economic models of behaviour, the principal-agent approach remains caught in liberal democratic theory that reduces the citizen to voter. Mainstream liberal democratic theory entertains a static

equilibrium model like the economic model with which it is intrinsically tied. The constitution and, therefore, rule of law is accepted as the necessary constraint on individual liberty to enable pursuit of individual goals and interests. Institutional arrangements are assumed to serve aggregated individual preferences. From a set constitution or recognised legal structure, the state carries out its mandate, and constituents are largely treated as objects whose political activity is reduced to that of “voting”.

This model of agency gives little attention to how political opinion and public will formation takes place; how and why rational actors, as citizens, form, revise and give voice to political views while participating in associations and informal public forums; or how these views get translated into institutionalised decision making. The concept of social capital has been used in attempts to account for some of these concerns and is employed as an adjustment to the basic model that centres human action and society relative to markets. The rudiments of the principal-agent relationship in conjunction with an understanding of social capital can be translated into the context of modern democratic societies by reframing the concept of citizen agency. These issues are expanded upon in the following section.

### III. The Role of Social Capital

Inclusive and participatory governance processes have the potential of reframing the dominant citizen/representative relationship of modern democratic systems into one where citizen-agents are actively involved in decision-making and governance. This section attempts to build on the idealised notion of citizen agency, described above, by using a conceptualisation of social capital to understand the interaction between the two concepts: citizen agency and social capital.

The idea of “social capital” has generated a rich and diverse literature<sup>36</sup>; in undertaking a theoretical synthesis, Woolcock proposed a general definition of social capital as “information, trust and norms of reciprocity inhering in one’s social networks” that he derived from the major contributors to social capital theory.<sup>37</sup> While the sociological origins of social capital cast it as an asset which inhered in the structure of relations between and among persons,<sup>38</sup> recent conceptualisations have placed social capital within civil society as an asset which accrues to communities – ranging from the local to the national.

The interpretation advanced here follows this latter tack. While social capital manifests itself in the relationships between and among people, its social nature often requires a cultural context (e.g., a community) in order for those relationships to develop. In communities in which the scale does not permit everyone to know everyone else, the level of social capital in individual relationships between people will be a function of the general level of social capital throughout the community. Thus, community social capital is not the aggregate of individual social capital but instead is predicated on a community member’s understanding of the social norms which prevail in that locale. If there are strong community constraints against defecting from social norms, community social capital will be high. In turn, trust and co-operation between unfamiliar individuals will be more likely in such a setting.

While social interactions have their genesis in the space between the market and the state – where neither financial considerations nor legal obligations function as the primary motivator for their occurrence – social capital has been framed as a potential facilitator of transactions that can improve the efficiency of society by facilitating co-ordinated actions and therefore contribute both to economic outcomes<sup>39</sup> and to government effectiveness. On the latter, Putnam compares stability, efficiency and effectiveness across regional governments in Italy, and explores the link between these performance measures and the civiness of the community.<sup>40</sup> Civiness, for Putnam, is marked by an active and public spirited citizenry, vibrant networks of civil engagement, egalitarian political relations, a social fabric of trust and co-operation and many diverse organisations and associations – i.e., high levels of social capital. Yet civiness is but

one of several conceptualisations of social capital, which range from the causes of its accumulation to its consequences. Some other concepts that underlie social capital are discussed below:

**Trust:** Trust between individuals and groups is an essential element in social capital. Economists from Adam Smith to Kenneth Arrow have identified trust as a required component of economic transactions; it is often cited as a key facilitator of co-operation which, through its successful action, engenders continued trust. In small communities where trust is based on a knowledge of an individual person, the prediction underlying trust is straightforward: "I can trust you because I know you." But if a person's character is not known, what social-structural conditions give rise to social trust? Citing Coleman, Putnam<sup>41</sup> identifies norms of reciprocity and networks of civic engagement (see below) as the sources of social trust. Norms evolve as a way of lowering transaction costs and facilitating co-operation, with the most important type of norm being based on reciprocity.

One of the leading works on trust is Fukuyama's book *Trust: Social Virtues and the Creation of Prosperity*.<sup>42</sup> In it, the central thesis is that the level of trust inherent in a given society conditions its prosperity and degree of democracy, as well as its ability to compete globally. Trust is the key measure of social capital, and the author presents an argument similar to Putnam's: that it is accumulated through norms of reciprocity and successful co-operation in networks of civic engagement. Fukuyama's trust is related to industrial structure and the origin of those organisations that are essential to competitiveness and economic well-being. In four low-trust societies (southern Italy, France, South Korea and China [PRC]), familistic structures constitute the basic unit of economic activity, leading to difficulty in creating large organisations. Alternatively, high-trust societies (e.g., Japan and Germany) are able to create large-scale firms. The author claims that trends in the United States illustrate a society degenerating into a low-trust state. Fukuyama's basic argument is that to achieve economic success it is necessary to establish large, democratic, and capitalistic organisations, especially corporations.<sup>43</sup> *Trust* is summarised in an article<sup>44</sup> in which Fukuyama argues that social

capital is not necessary for growth, but its absence tempts governments to intervene in the economy – action which typically imperils competitiveness.

**Co-operation:** Trust facilitates co-operation through norms of reciprocity. But in a context where the parties to a transaction do not know each other and have no knowledge upon which to base their trust, will a co-operative outcome result? Failure to co-operate does not require that one act irrationally. In the well-known prisoner's dilemma, co-operation is impossible because there is no communication between players and no opportunity to make threats or commitments. In the tragedy of the commons, self-interested behaviour leads to a destruction of common property. Public goods are under-produced leading to general welfare losses. And in the logic of collective action, opportunities slip away as no one risks losing through leading. In each of these contexts, every party would be better off if they co-operated. However, without a credible commitment, the rational strategy is to defect.

However, these theories tend to under-predict co-operative behaviour that quite often emerges in real life settings. Why? Because real life rarely works like a prisoner's dilemma or other theoretical game; in a community setting, interactions are iterative and the capacity for reciprocity and threats can often produce the conditions necessary for co-operation. Axelrod<sup>45</sup> has investigated the conditions under which co-operation will emerge in a world where people seek to maximise their own interests and no authority can be exercised by the state.<sup>46</sup> Strategic reciprocity is one of the most powerful forces that leads to co-operation, while fear of retaliation also is a strong constraint on defecting. In a setting of indefinite iterations of the game, a defector would face punishment in successive rounds, thus making threats and reciprocity more viable.

**Institutions and Rules for Reducing Transaction Costs:** Where players in a prisoner's dilemma (or other situation that yields a rational strategy of defection) engage in indefinitely repeated games, with a limited number of players and with full information about a player's past behaviour, co-operation should emerge. But co-operative outcomes are quite common in the real world even when these ideal conditions don't hold. Again one might ask why. Institutional arrangements reduce the costs of

monitoring and enforcing agreements, making co-operation easier to achieve and more likely to hold. Elinor Ostrom<sup>47</sup> has noted that some institutions designed to manage common-property resources have succeeded in overcoming the logic of collective action. This is accomplished through development of a core set of accepted features: clearly defined boundaries, rule-making by the affected parties, graduated sanctions for violators, and low cost conflict resolution mechanisms. In the case of small scale common property resources, "when individuals have lived in such situations for a substantial time and have developed shared norms and patterns of reciprocity, they possess social capital with which they can build institutional arrangements for resolving [common pool resource] dilemmas."<sup>48</sup>

**Networks:** Networks of interpersonal communication and exchange – both formal and informal, horizontal, hierarchical or mixed – exist in all forms of organisation. The traditional sociological view of social networks is of social organisations (families, communities, groups, institutions) embedded in networks of social relations, which Granovetter<sup>49</sup> argues serve to build trust and discourage defection. This "embeddedness" approach means that the amount of co-operation and defection in a social organisation will depend on the amount and density of its social networks.

Horizontal networks of civic interaction, according to Putnam, increase the potential costs to a defector (and thus increase co-operation), foster norms of reciprocity, communicate information about a person's trustworthiness, and provide a template for successful collaboration.<sup>50</sup> Horizontal networks are the crux of co-operation for Putnam: "[t]he denser such networks in a community, the more likely that its citizens will be able to co-operate for mutual benefit."<sup>51</sup> Vertical, hierarchical networks, on the other hand, do not serve to build trust and co-operation, due to power and information imbalances. Membership rates in horizontal organisations should be associated with good government, and membership rates in hierarchical organisations should be negatively correlated with good government.

An alternative view of the influence of networks on governmental and economic performance is proposed by Olson, who argues that small groups simply engage in rent

seeking behaviour to the detriment of society generally. And in any stable society, the density of such groups thickens over time, dampening innovation and economic growth and holding government policy hostage to special interests.<sup>52</sup>

**Virtual Networks:** Networks have existed throughout history, but networks which act to co-ordinate the actions of a number of small autonomous groups that are ideologically integrated have taken on new life with the evolution of new communications technologies which make distance and remoteness less of an impediment, and diminish the handicap of smallness. Rorfeldt explores how the information revolution favours the rise of these "organisational networks" – often at the expense of hierarchical networks.<sup>53</sup> Issue-oriented multi-organisational networks of NGOs are likely to be the main beneficiaries of the communications revolution as they use faxes, e-mail and the web to co-ordinate, consult and communicate and in the process undermine the stranglehold on power exerted by hierarchical networks. The rise of these virtual networks carries with it profound implications for the evolution of civil society.<sup>54</sup>

**Civil Society:** Civil society refers to the class of institutions located between the family, the market and the state, the forums in and through which there is an attempt to harmonise, where necessary, "the conflicting demands of individual interests and social good."<sup>55</sup> The concept of civil society has a long history in social and political thought. Its roots begin with early Greek philosophers, and can be traced through the writings of democratic theorists such as John Locke, Alexis de Tocqueville, and John Stuart Mill, to social and political analysts and commentators in today's policymaking arena. While the term "civil society" is gaining more prominent recognition as a framework for viewing community life and social interactions, it remains loosely defined and conceptually abstract.

In its broadest sense, civil society highlights the proliferation of formal and informal associations, organisations, and networks that exist outside of the state and the business sector. These groups are characterised by citizen participation and the free exchange of ideas, values, and beliefs. They form the core of civic activity, and are the

domain of citizen interaction. While civil society represents a distinct and separate sphere of activity, it is deeply interactive with the state and the market.

**Civic Virtue:** The idea of civic virtue as the key determinant in the success or failure of political institutions has also been around since the Greek *polis*, which emphasised community and the obligations of citizenship. This view was, for the most part, vanquished by Anglo-American liberalism (e.g., Hobbes and Locke), which stressed individualism and individual rights. In recent years, however, this dominant theme has undergone some revision, with the re-discovery of civic humanism (with social capital an important outgrowth of that revival).

Putnam's report on a study of regional governments in Italy was designed to investigate what the necessary conditions are for creating strong, responsive and effective representative institutions.<sup>56</sup> In it, a successful democratic institution is defined as being both responsive and effective: sensitive to the demands of the citizenry and effective in using limited resources to address those demands. Putnam first asked which governments were successful and then asked what conditions made them successful, based on the comparison of a number of indicators of institutional performance.

Putnam attempts to explain differences in performance through an examination of the link between performance and the "civic community". Putnam identifies the civic community as marked by an active and public spirited citizenry, vibrant networks of civil engagement, egalitarian political relations, a social fabric of trust and co-operation and many diverse organisations and associations.

Here we focus on these governance implications of social capital. The primary question is whether social capital can contribute to more effective decision-making processes based on citizen agency. Sub-questions which follow from this are: does social capital contribute to compliance with social objectives, and can inclusive and participatory processes based on citizen agency help to build social capital?

## A. Collective Decision Making Processes

Advocates of greater public involvement in governance processes range from political commentators who argue in favour of such mechanisms as a means of stemming the tide of citizen disillusionment,<sup>57</sup> strengthening democracy<sup>58</sup> and improving policy making,<sup>59</sup> to the traditional civil society amalgams of NGOs, neighbourhood and community associations, new social movements, and advocacy groups for the disenfranchised which see public involvement as a contribution to policy which more accurately reflects the will of those hitherto excluded from power.<sup>60</sup> Dahl calls effective participation not an enhancement but one of the criteria necessary for the existence of a democratic process.<sup>61</sup>

Most of these proponents of inclusive processes designed to offer enhanced public participation opportunities have come to see the recourse to representative legislatures and the growth of administrative and expert authority as barriers to the participation of the ordinary citizen. Elected representation raises the principal-agent problems identified above<sup>62</sup>, and the specialised knowledge and language of expert-driven systems tends to exclude outsiders and characterises the public interest as narrow-minded amateur intervention based on myopic private interests.<sup>63</sup> Even where legislative instruments such as Freedom of Information statutes, Auditors General, Conflict of Interest rules and Ombudsman offices exist, representative and administrative systems can attempt to limit the intrusiveness of these laws into their activities.<sup>64</sup>

In addition to these forces advocating participatory decision making,<sup>65</sup> regulatory politics reveals an underlying tension between the transparency that is required in a democratic system and the constraints required for closure in science. As administrative power has expanded, making explicit the scientific reasoning behind those decisions has simultaneously been demanded. Yet in policy making, questions are sometimes asked of science that science is not in a position to answer.<sup>66</sup> If pure science is perceived as being no longer sufficient for solving social problems, and if policy makers are being asked to resolve a number of trans-scientific issues,<sup>67</sup> vesting greater decision-making authority in administrative structures might no longer appear to be a viable route.<sup>68</sup>

If the citizenry have become more disillusioned with centralised political systems and unaccountable administrative structures, an increased interest in public participation in decision-making as a *third way* is not surprising. This “new” way has a long tradition however, with its modern roots in the town hall meeting which originated in New England in the 17th century and the initiative, referendum and recall movement advocated by progressives and populists in the early 20th century.<sup>69</sup>

## B. Social Capital: The Capacity for Communicative Action?

What does the experience with inclusive and participatory decision making tell us about the relationship between public consultation processes and the ability of a community's (whether an isolated coastal village or an entire province) stock of social capital to contribute to that community's capacity to carry out communicative action? Can social capital contribute to more effective citizen agency in decision-making processes? Does social capital make movement towards citizen agency more likely or possible?

Although it is too soon to evaluate recent experience with inclusive and participatory decision making processes, there is a growing body of evidence as to the efficacy of traditional self governing institutions and management regimes for open access common property resources. Ostrom has described the general design principles that characterise successful self governing regimes<sup>70</sup> and found that most long-lasting common property management regimes also involve clear mechanisms for monitoring and enforcing compliance. One can point also to some specific experiences, e.g., in B.C.'s Clayoquot Sound, which appear to link social capital at the community level with effective participatory decision making and implementation.

### C. Adherence to Objectives, Compliance

Does social capital contribute to compliance with social objectives? In civic areas, collective life carries with it an expectation that one's fellow citizens will follow the rules – both statutory and unwritten. Knowing that others will do so means that *you* are more likely to comply. However, in uncivic areas, the expectation is that everyone will violate the rules to their own advantage. So everyone ends up cheating, and confirming everyone's cynical expectations. Without the collective norm of reciprocity inherent in civic areas, uncivic places clamour for stern law enforcement to maintain public order.

Hobbes proposed that if we concede authority to the Leviathan to enforce cooperation, civic life can flower. But coercive enforcement is inefficient and expensive, and more unpleasant than if trust were maintained by the citizenry themselves. And if the state has coercive force, there is no guarantee that those who run the state will not use that power in their own interest at the expense of the rest of society. In an environment where the citizen expects "bad government", the Hobbesian solution is improbable.

Beyond the broader governance benefits cited above, Elinor Ostrom has noted that some institutions designed to manage common-property resources have also succeeded in overcoming the logic of collective action and other problems of inherent non-cooperation in ongoing implementation.<sup>71</sup> This is accomplished through clearly defined boundaries, rule-making by the affected parties, graduated sanctions for violators, and low cost conflict resolution mechanisms. This "new institutionalism" does raise a chicken and egg problem, however: uncivic places are unable to create the institution, for the same reason that they need it in the first place. But Ostrom also reports that, in reference to small scale common property resources, "when individuals have lived in such situations for a substantial time and have developed shared norms and patterns of reciprocity, they possess social capital with which they can build institutional arrangements for resolving [common property resource] dilemmas."<sup>72</sup>

#### D. Citizen-Agency Impacts on the Stock of Social Capital

Can inclusive and participatory processes based on citizen agency help to build social capital, thus creating a virtuous cycle between the two? At the start of the 1960s, public participation in Canadian governance was limited to issues where standing had been attained (in administrative or judicial matters), periodic voting, and token efforts by governments to consult (e.g., Royal Commissions) and keep the citizenry informed. However, that decade saw the rise of new social movements, which emerged to champion progressive causes. These social movements differed from earlier left movements of the populist and progressive eras in that they were more ambivalent about the ability or willingness of the liberal state to support their cause.<sup>73</sup> This ambivalence led to efforts to increase the rights and opportunities for public participation in public decision-making, and to take advantage of those new avenues of access.

This rise in new social movements poses a difficulty for the assessment of social capital's place in the citizen-agency domain. Putnam presents evidence of a decline in social capital over the post-1960s period drawn from participation levels in civic activities. Indicators which Putnam uses include voter turnout, membership in societies, newspaper readership, volunteerism, neighbourliness, trust, union membership, PTA activities and religious affiliations.<sup>74</sup> His critics, however, cite the rise in interest-based political activity over the same period in contesting his claim that civic activity has been declining in America.<sup>75</sup>

Putnam's view of civiness, however, centres on voluntary associations which are social in nature (e.g., choral societies and sports clubs) but have the unintended, tangential effect of building trust and networks, i.e., building social capital. Explicit efforts to organise political interests in "tertiary associations" (as in the case of new social movements) are less valuable for building social capital, in Putnam's view, because they require less personal involvement, are less likely to expose members to differing viewpoints, and are oriented towards a particular political objective rather than a general social one.<sup>76</sup>

On the question of the role of inclusive processes of deliberation and their effect on social capital, a great deal of commentary has been undertaken in recent years that argues that the experiments in multi-stakeholder consultative processes in B.C. in recent years have failed.<sup>77</sup> This branch of analysis concludes, among other things, that because multi-stakeholder shared decision making processes failed to devolve real decision making authority away from traditional power structures, the resulting decisions are the same as would have resulted in the absence of the consultative process. What this perspective does not explore is the effect of deliberative processes on those key elements of social capital: networks, norms, trust and information. It also fails to take into account the change in the political environment and, more importantly, the change in the way people see an issue that results from the act of talking about the constraints and conflicts that gave rise to the process in the first place. By bringing to the fore the hard choices that had to be made in order to make sustainability (not only ecological, but human system sustainability as well) possible, and laying out the compromises and decisions that those choices required, the value in these processes was ultimately in their capacity to illustrate to the participants (and the wider community) that avoiding the issue – and each other – was not an option.

#### IV. Implications for public administration

##### A. Conceptual Framework for a Public Policy Perspective

This section sketches a conceptual framework around the principal–agent relationship in public administration. Building on the concept of citizen as principal, the state as agency of mediation, and the administrative agency/regulatory tribunal as agent, traditional approaches to accountability, public participation, representation and public interest can be examined in reference to the focal point of agency theory—the alignment of incentives and the capacity for compliance.

The discussion here is set against a particular backdrop, or set of assumptions, which it would be well to spell out. The dramatic extent and shattering implications of the change in the context for discussion of all the relationships reviewed below is not sufficiently appreciated. In the “congested global village”<sup>78</sup> there are stronger reasons than ever for belief in the sorts of cognitive limits on administrative decision-making explored, for example, by Simon.<sup>79</sup>

First, because we are living in an integrated global economy of a scale which presses against the limits of the natural systems of the biosphere (carrying capacity), we have an inescapable structure of spillovers and interdependencies as a consequence of human action. We have a polycentric world, in the language of the complex adaptive systems theorists.<sup>80</sup> These linkages are not simply occasional ‘externalities’ to be noted by the economist and passed by; they are the essential feature of the system with which we must deal. We have to worry about serious congestion almost everywhere in the system, and this means that natural and social resources, though unpriced, are scarce, and potentially limiting.

But because we have also a global village increasingly linked in cyberspace, we have important conflicts and interdependencies in preferences, and increasing recognition of an essential, important endogeneity in preferences in addition.

In such a situation, the possibilities for conscious co-ordination or effective management of human activities through scientific computation are slim. The simplest problems are literally intractable. This observation is of course not new; it was a cornerstone in the work of Friedrich Hayek, among others. Hayek argued the necessity to decentralise the problem, in possibly two ways. The first was to invoke market mechanisms, so that decisions would be made by individuals in response to the information carried in price signals, and processes of price adjustment would provide the appropriate co-ordination. A second approach was to decompose the problem into a large number of problems of independent sub-optimisation by smaller groups acting in their own immediate interest, with processes of iterative adjustment moving the system as a whole toward an overall optimum coming closer to meeting the collection of

individual preferences as well as possible within the system constraints or limits on possibilities.

In the presence of the unpriced interdependencies arising out of congestion problems, however, and with increasing tacit recognition of our reliance on natural, social or cultural capital whose services and whose stocks both fall outside the formal price system, market mechanisms fail to capture many of the key considerations central in decisions about regulating human activity.

Moreover, although we know that when there is a degree of congruence between the groups whose interests shape decisions and the groups whose circumstances or welfare are affected by those decisions, the decomposition processes mentioned above may be very effective (leading towards successful self-organisation), this is not necessarily the case when such congruence is lacking.

So it seems that neither unmanaged markets without central guidance, nor processes of self-organisation unassisted by explicit communication can be counted on to provide sufficient co-ordination of human activities in the complex adaptive systems in which we live. And perhaps it then goes without saying that monitoring on the basis of simple indicators the conduct of even quite primitive tasks and assessing the achievement of the goals associated with them is conceptually impossible, not just hard. Pursuit of an instrumental rationality based on scientific understanding is equally problematic. There is a complex characterisation of preferences or welfare in this world, as well as complex dynamic systems to describe possibilities or potential for meeting those preferences. There is no science that can tell us how to grasp that potential responsibly. Perhaps reassuringly, perhaps surprisingly, there is an inescapable role for citizens in this complex scheme, and for communications among them.

In the public administration or public policy perspective, the link to the concept of 'citizen agency' might be examined from two distinct angles, each reflected in an extensive literature. The first facet concerns itself with citizens seeking to establish themselves as principals, endowed with agency, in those aspects of governance

processes which address the formulation of social or collective purposes. Here the emphasis is on democratic processes assuring participation and inclusion, reflecting citizen agency in the conception and formulation of conventions and rules to guide social action, particularly in the face of inherent uncertainty. The central importance of social capital as a crucial determinant of the effectiveness of such collective decision processes—particularly in the reconciliation of conflicting perspectives on risk, equity and welfare—has been mentioned above. One interpretation of an evolution in thinking about concepts of rationality in these processes of policy formation – an interpretation that takes us toward communicative rationality and communicative action – is sketched in Dobell.<sup>81</sup>

The second aspect relates to citizens seeking to ensure their own autonomy and flexibility in the interpretation and implementation of such agreed conventions, rules and policies. The emphasis in this case is on notions of subsidiarity and discretion, reflecting citizen agency or citizen responsibility in achieving ongoing compliance in complex systems. Central questions involve new approaches to regulatory negotiation, alternative dispute resolution or 'bureaucratic covenants'. But again the question of social capital arises as a key topic, this time as a possible mechanism for ensuring the continuing alignment of incentives of individual players with overarching goals. Whether or when community scrutiny or peer pressures might serve better than economic instruments as mechanisms for devolved governance suffering from problems of principal-agent disjunctions is an important research question. Or, more generally, the strength of relationships built on aligning motivations through webs of commitment rather than aligning incentives through explicit (market-based or hierarchical) self-interest is a central question. Much of the case for community-based management rests on the former rationale.<sup>82</sup>

Diagrams<sup>83</sup> 1 and 2 sketch two alternative ways to visualise the difference between these two perspectives and to locate the particular question of agency within distinct aspects of governance processes. Of course all such pictures over-simplify a complex and disorderly reality which is much less segmented and less sequential than such representations imply. To that extent they distort attempts to interpret the

dynamics of collective decisions. But for purposes of a literature survey and conceptual framework, attempting to order and organise selections from vast and rapidly growing literatures in distinct domains, some such simplifying schema is probably inevitable. At a minimum it highlights the ways in which different contributions to the debate address different stages and different transitions in the dynamics of ongoing, overlapping processes in policy formation and implementation.

Diagram 1 portrays governance processes as reflecting citizen preferences both in formulating the commitments and conventions by which human actions should be organised and co-ordinated, and at the same time in establishing the constraints within which individual action must be carried out if agreed social purposes are to be achieved. Relevant to the first is the growing literature on citizen engagement and empowerment, on direct or participatory democracy, on deliberative democracy and communicative action,<sup>84</sup> discursive democracy,<sup>85</sup> social inclusion, deliberative and inclusive processes and civic science. Most important, perhaps, is the link to the exploding literature on social capital surveyed above.<sup>86</sup> From this perspective, social capital can be viewed as an investment in means for enabling participation and supporting effective mechanisms for dispute resolution and collective decision-making within the inclusive framework which is central to notions of citizen agency.

With respect to this first aspect, focussed on inclusion, the literature is largely new and highly fragmented; a survey article must focus primarily on the development of a conceptual framework, but with attention also to contemporary discussion of measurement problems and empirical challenges. Within the conceptual framework proposed here one might explore how structures of community based management and more inclusive processes of shared decision-making may contribute to or support a greater sense of agency, greater perceived legitimacy, and greater confidence in assurances of inclusion than either market mechanisms or the existing formal institutions of parliamentary democracy.

With respect to the second aspect, focussed on compliance, closer examination and assessment of the historical record of developing ideas about participation and

representation in regulatory processes is possible. Administrative tribunals, through the regulatory function, institutionalise the dispute resolution process and the relation of interests in conflict. Participation and representation within those processes have changed significantly with changing ideas of governance. Some of the practical implications of an agency approach to governance can be teased out of a historical review and evolutionary perspective. Literature concerned with governance at international and national levels<sup>87</sup> as well as literature specifically addressing evolving approaches to regulation is relevant here.

This concern with the translation of international commitments into consonant action on the ground has also been emphasised in the 1998 report of the federal Commissioner for Environment and Sustainable Development. A central emerging question is the matter of building capacity for compliance, and the 'common but differentiated approach' to commitments.<sup>88</sup>

Relevant to the search for a new approach to achieving compliance with agreed social purpose as codified in legislation or regulation is the literature on regulatory efficiency, results-oriented regulation and economic instruments; with questions of subsidiarity and network management; with compliance and discretion;<sup>89</sup> with self-regulation or responsive regulation;<sup>90</sup> and with the concept of civic regulation.<sup>91</sup> A close link to the contemporary literature in political science on policy implementation<sup>92</sup> can be made.

The idea of 'voluntary compliance' may be an oxymoron rather than a reconciliation of polar positions. To the extent that it focuses on compliance it rests on aligning individual incentives through formal institutions and rights (of hierarchy or market) and relying on chains of explicit accountability to keep self-interest in line with social purpose. To the extent that it rests on voluntary action (and not simply threat of coercion in the background), it presumes on a subjective aligning of motivations through webs of commitments, and the discipline of conscience or peer pressure to preclude self-interested deviation from social norms even in the absence of formal monitoring.

In Diagram 1, a new 'agency approach' is contrasted with a traditional existing approach, both in respect of the formulation of social purposes and rules, and in respect of their realisation. On the former, we can take the traditional approach as described, for example, by Lindblom and Woodhouse<sup>93</sup> as driven by market influence and elite accommodation within processes of parliamentary democracy that now seem to enjoy less legitimacy and command less confidence than in the past.<sup>94</sup> An agency approach, as sketched above, seeks to broaden the extent of participation in democratic processes, and deepen the degree of deliberation and education (informed debate) brought to such broader processes of shared decision.

On the latter, in respect of implementation and regulation, the traditional approach is seen as 'top down', rigid, intolerant of any exercise of individual discretion, and fixed upon formal procedural compliance and non-discretionary enforcement procedures. An agency approach is envisaged, by contrast, as promoting an adaptive, responsive culture of compliance able to rely upon the exercise of individual discretion to cope with differing circumstances and evolving systems.

Thus, for purposes of this project, a traditional approach to governance involves thinking of the citizen as the object of regulation based on rules flowing from elite modes of governance. An alternative agency approach to governance sees the citizen as an active participant engaged in inclusive deliberative processes from which emerge both commitments to social action and guidelines shaping the exercise of individual discretion by citizens acting as moral agents in discretionary action to comply with those guidelines, with their interpretation of the guidelines shaped by a personal moral code more than by formal accountability and enforcement provisions. With respect to both the nature of the democratic process and the nature of the compliance regime there are growing substantial literatures, as noted above. Some is briefly noted in the next section.

## B. The Commitment - Compliance Cycle

Diagram 2 outlines an alternative, richer model of the way in which co-ordination of social action involves a continuing cycle and cascade of decisions and information flows at various stages from abstract context to concrete individual compliance and judicial review. It elaborates the sequence of transitions in the dynamics of governance processes, moving from very general context through more specific formulations of social commitments, and on toward specific constraints limiting individual action in a social setting. Again, however, a traditional approach can be identified in contrast with newer, more speculative, agency approaches both to the formulation of social rules and the enforcement of individual compliance with those rules. In the translation from a shared culture (as a general, unwritten social understanding of relationships)<sup>95</sup> to covenants (setting out in written form an agreement on shared collective commitment) to conventions or legislation or regulation (which provide an explicit framework of principles serving as a pattern or model for ongoing concrete contracting), the agency approach would seek to broaden participation and provide assurance of voice in the process. Such an approach creates for the citizen the confidence that the structures and institutions of government are in fact serving as an agent or agency through which the collective judgement of citizens on collective action can be exercised.<sup>96</sup>

In the later phase, seeking to assure compliance, one may contrast a traditional regulatory and contracting approach emphasising formal accountability mechanisms and strict enforcement regimes, with an agency approach working more informally through individual moral codes, and informal monitoring and enforcement through peer pressure rather than explicit sanctions.<sup>97</sup>

We may use this picture to organise a very brief tour of some literature relevant to the struggle of the citizen to establish agency.

Cutting into the endless story at 6 o'clock, we observe action on the ground, with observable consequences for the state of the system and the welfare of the inhabitants.

A massive upsurge of interest in the question of reporting on progress toward sustainability is reflected in many recent papers and projects revisiting the social indicators movement of the sixties, asking how we might effectively report on our circumstances, examining deviations from targets or intentions, in terms of indicators that matter to people, in community health, and so on. The key concern in this literature is to tell the stories – stories of the community, or individuals – in ways that people recognise, and which take account of the intangibles such as social cohesion, natural capital or cultural context that are missed by price systems and accounting initiatives. So we see pilot projects such as GPI Atlantic, for example, attempting to broaden conventional indicators like GNP towards something more like an indicator of human welfare.<sup>98</sup>

Moving clockwise in the diagram, we see the efforts to identify the gaps between intention and realisation, goal and reality, and to consider appropriate directions of correction and feedback to the system. Courts and other calculations assess the degree of consonance of outcome with interpretations of mandate. Here is where concern for implementation gaps (or, more significantly, compliance gaps) washes over to create a context for change. A growing literature on democratising policy analysis attempts to spell out proper roles for citizens in such evaluation and diagnostic activity.<sup>99</sup> Pressures for change flow into a variety of cultures and virtual communities which begin to shape them into commitments to effort, expressed initially perhaps as quite general covenants. With an agency emphasis, much of this process takes the form of consensus-building and communicative action rather than scientific analysis, with strategic compromise and coalition-building around instrumentally rational goals.

As we see undertakings hardening into formal conventions and explicit compliance regimes, we see the setting shifting towards a more formal institutional structure. Unstructured communicative action moves toward institutionalised decisions in a more constrained and formal framework. The action moves from lifeworld into system<sup>100</sup>. But – the point to be emphasised – this is now to be system as agent, as instrumental, for purposes spelled out by the citizens behaving as principals through all the process up to this point.

Can much of the concern for the idea of 'agency' be traced to the apprehension that we have let this formalised system slip from an instrumental role (as agent) to a place as overarching constraint, dominant determinant, by default, of social purpose (shaping its principals to its own ends)? Certainly one sees the corporate entity created by humans for specific instrumental purposes (spelled out formally in charters and similar mandates) endowed with the constitutionally protected rights of individuals and granted powers to the point that the consonance of corporate purposes with human welfare can be seriously questioned (and the idea of public action to revoke corporate charters is greeted with astonishment or derision).<sup>101</sup>

As we move from 12 o'clock to 3 o'clock in Diagram 3 we begin to encounter the problems of collective action, and see the problems of negotiation designed to deal with the co-operator's dilemma. We also begin to move from an international arena where much of the current literature on this general topic of negotiating multi-party agreements is located toward questions of national sovereignty and sub-national implementation (see the 'Rio way' as another attempt to articulate principles aimed in some fashion at citizen agency), and more strongly still into the domain of alternative service delivery and management of complex networks, where negotiations spell out binding individual contracts and mandates to express the will of the principals, to be pursued by a variety of organisational agents in a bewildering array of organisational forms. Here now come along the problems of inter-agency or inter-organisational co-ordination, and problems of promoting compliance in an ASD context.

From 3 o'clock to 6 o'clock we see the issues of performance measurement and monitoring, ideas about accountability and results-oriented management emerge vigorously. Here is where the horror stories about compliance failures come to the fore, where the controversies about peer pressures or 'shaming' as opposed to formal incentive systems for purposes of aligning motivations arise. Here we begin to see the difficulty that allocation problems that seemed relatively easy to solve at the level of abstract principle, when addressed by disinterested global epistemic communities, do not appear so simple when concrete issues of implementation and resource allocation are faced by directly interested communities on the ground.

In any event, it is around this point that the citizen, acting as agent to realise group purposes through the exercise of individual discretion in the face of the changing and uncertain evolution of a large complex system revealing astonishing variety, begins to assess the shortfall of realisation behind intent, the failures in cooperation, and begins to don again the mantle of activist principal driving forward the formation of new commitments to further action in the face of new information and renewed motivation. (It is also at this point that concerns about the receding role of the courts in both Canada and the United States in supporting citizen action may also be contributing to a general sense of citizen impotence rather than agency. But that is a different story.)

Thus, in this action-oriented segment of the policy cycle, from 12 o'clock to 6 o'clock in Diagram 3, the agency approach emphasises mobilisation of individual motives and reliance on personal moral codes, rather than the explicit directives and formal monitoring found in traditional regulation, or the explicit contracting found in market instruments or alternative service delivery (ASD).

At the risk of mixing too many metaphors too simplistically, one might view this cycle as illustrating some key distinctions to be made in the exercise of citizen agency. On the left side, from 6 o'clock to 12 is the policy formation process, involving transition from individual citizen concern at the bottom to the formulation of system response at the top. On the right side is the implementation process, involving transition from system commitment at the top to individual realization on the ground. The top half of the diagram, from 9 to 3 is the "system", in Habermasian terms, taking emerging social concerns through to articulation of social rules to guide individual behaviour. The bottom half of the diagram is the "lifeworld", where occurs the transition from individual discretion in interpreting the rules, through actual circumstance, to observation of results and consequence, and individual or group action to achieve enforcement and corrective adjustments, and to initiation of new action to meet continuing or newly-framed emerging concerns with the observed shortfall of realized outcome below intentions or aspirations. As always, the transition from the churning within informal institutions and consultation processes to the more ordered formal apparatus of government decision and action presents a number of puzzles as to legitimacy of the process. On the left side, one is

dealing with the broader institutions of politics and society—the *polis*; on the right, the more formally and hierarchically structured public and private households of *oikia*, possibly devolved in tiered systems and relying on inter-organizational coordination.

To achieve good governance through citizen agency, then, the abstract social understanding and commitment which is the culmination of activity in the *polis* must, through consent, be reflected in the individual commitment and individual action which is achieved in public and private households (*oikia*) through various organizational forms and concrete instruments. The process starts with abstract talk, but for action moves into the public household sphere and ultimately back into private households and the lifeworld where action rests on individual consent, warranted because legitimacy has been achieved through prior communicative action. Whereas markets and firms offer a nexus for transactions or contracting, civil society offers the locus for informal relationships and unwritten norms, while social capital generates the mesh of norms and relationships which support the credibility of commitments and give rise to confidence in the reciprocity on which cooperation and a sense of agency rest.

### C. Tensions

In this very large picture of public administration, then, we see several on-going tensions, around each of which exist extensive literatures, all of which might bear on the idea of an agency approach to regulation or public administration more broadly.

First, the structures we are dealing with are all mechanisms for mediating the ongoing interaction and adaptation of (endogenous) preferences (social goals, values) with potential (feasibility, constraints, system characteristics). Within that ongoing process we can see preferences and principles expressed at an aggregate level, in an overall ethical framework, realised through individual action guided by personal moral codes and commitments. Within that process, in turn, we have to explore how structures which begin from the guidelines established by citizen-principals acting through governments might be translated into the actions of myriad agents who ultimately must

serve an almost infinite variety of individual clients in a responsive and responsible manner. The tension which must be resolved, then, is that which faces a public service which in aggregate must be responsible and accountable in a forward-looking manner, to governments representing all the citizenry, for overall system performance in a changing and uncertain global environment, and at the same time, in its individual agencies and through the exercise of individual administrative discretion, be responsive and accountable (in an ex post audit environment) to individual clients in caseloads or constituencies which are small subsets of the aggregate citizenry. At the aggregate scale, it is statistical lives that matter, and perhaps the 'guardian syndrome' or values that apply. At the storefront or street level, it is identifiable individual lives at issue, and perhaps the values of the 'trader' to which we must appeal in order to assure appropriate responsiveness, flexibility and requisite variety.<sup>102</sup>

In this setting there are many recipes volunteered to reconcile the tensions. As already noted, a vast literature on 'voluntary compliance' suggests, in effect, that government can establish the 'what?' of collective action by specifying objectives, performance indicators, measurement systems, and reporting requirements, while delegating the responsibility for the 'how?' to the actors on the ground, perhaps motivated directly by the specific incentives of self-interest flowing from property rights in existing or government-manufactured markets. But of course, as noted above, the effectiveness of such an approach rests crucially on two considerations—the technical question of the feasibility of valid measurement, and the social question of the credibility or acceptance of the assurances of scrutiny and compliance in carrying out the social purpose through the exercise of administrative discretion which may demand adherence to social constraints antithetical to individual self-interest.

For these reasons one may be sceptical about some arguments for citizen agency as self-regulation. Governments may adopt such an approach because there is confidence in the social cohesion which exists and the social capital which can be brought to bear to assure credible, conscientious realisation of agreed goals. Or governments, particularly in the face of fiscal constraints and pressures for minimal government, may adopt such an approach not because it is expected to work, but to

provide symbolic protection. In this sense, the new era may mirror the Victorian era, which offered a gloss of civility and prudishness around questionable personal conduct, by offering now a patina of assurance around corporate social responsibility or government conduct. In each case, symbolism is all: high standards are espoused, but in the knowledge that they will not be attained or enforced to the point of bearing on conduct. Dissembling becomes the order of the day.

This is where the fundamental importance of the information available to the citizen must be emphasised if an agency approach to regulation or governance is to have any credibility. Adequate information in the hands of the citizen as well as the customer is as crucial for effective implementation as it is for effective markets.

Denial of rights to information, whether through legal action, bureaucratic resistance to scrutiny,<sup>103</sup> trade regulation,<sup>104</sup> or regulatory entities captured by corporate clienteles seeking to preserve a highly asymmetric imbalance in market information,<sup>105</sup> must be seen as the greatest threat of all. If an informed consumer is indeed the most effective economic instrument open to a concerned public, assurance of the necessary information in all elements of the market is the fundamental ammunition in the exercise of that instrument.

Two further observations are crucial but not captured in the present diagrams or the above discussion. The first is to note that economic institutions and market mechanisms also offer an essential alternative approach to organising and co-ordinating individual action, though in a more limited sphere having to do with resource allocation and formal economic activity. The role of governance processes in establishing a social framework around market activity, and the role of economic relationships in shaping governance activity are crucial questions to be addressed. The second is to note that personal and social relationships also become central considerations in the agency approach, which might in some sense be interpreted precisely as emerging from growing recognition that the sphere of human interaction adequately embraced or comprehended by formal economic institutions and the scope of information carried by price mechanisms are both too limited to take into account essential personal and social

interactions crucial to appropriate co-ordination of human action in a complex society in a full world. It is this set of non-market considerations which the notion of social capital attempts to capture, and which brings together the burgeoning interest in the concept of social capital with the exploration of the concept of citizen agency.

As we examine these questions of governance in terms of organisational structure and information flow, it is important to note that alternative institutional arrangements offer themselves in the corporate sector, civil society and personal groupings such as families themselves. Corporations are chartered for public purposes; voluntary organisations serve similar purposes in other settings; extended families or informal groupings may undertake common projects; and governments are not distinct or distant from society—they also are organisations through which we may elect to meet common needs or respond to shared interests. Thus, whether one considers societies organised primarily as tribes, hierarchies, markets or networks,<sup>106</sup> and more particularly in examining interactions among all forms co-existing in a single society, the same basic dilemmas and tensions among notions of agency, autonomy, discretion, responsibility and accountability remain as questions that must be addressed. Whether in corporate governance and the pursuit of shareholder value, governance in the voluntary sector and the pursuit of community value, or governance in civil society and investment in social capital, the enduring challenges recur. Examining the concept of agency along the lines proposed in this review helps to sharpen understanding of these challenges and dilemmas in the context of contemporary thinking about social norms and collective action, by focussing on organisational relationships as highly discretionary, with many common elements across disparate forms, not cast in terms of ideologically-driven choices among caricature structures of distinct moral standing.

#### D. Applications in Administrative Settings: Conclusions

The famous Friedrich-Finer debate in the public administration literature of sixty years ago explored, in effect, what came to be understood as the objective and subjective approaches to administrative responsibility and accountability. Within

hierarchical structures, Finer advanced the proposition that assurances of accountability and appropriate realisation of administrative purposes must rest on formal and explicit structures of reporting, accountability and performance assessment, while Friedrich argued the case that only a subjective sense of responsibility, inculcated through education and moral training, could assure that overall organisational purposes would be met through appropriate exercise of administrative discretion.

As we see the range of organisational forms taken into account in contemplating public action expand, we might see this debate as broadened also. The Finer approach, resting on performance assessment and incentives created by systems of performance measurement and results-oriented management, can be broadened to accommodate the idea of self-interest expressed through market mechanisms, and the whole approach of aligning incentives through institutional structures and clear property rights. The Friedrich approach, emphasising subjective forces and informal peer pressures, can be extended to the less explicit structures of networks, civil society and virtual or epistemic communities of various kinds, with the whole approach premised on aligning commitments through social relationships.

Thus the scope of the setting is broadened from hierarchy or state alone, to include also markets and networks as alternative organisational forms. And the principal-agent relationship is more broadly cast within these alternative organisational structures as one of implementation and realisation of organisational purpose, with the key issues being monitoring and motivation, or more technically the challenge of performance measurement. This challenge is on the one hand technical: how well can the results or outcomes ultimately of concern be linked to observable, measurable aspects of performance which can be effectively monitored? A vast array of writing on this topic can be boiled down to the observation that in many cases effective monitoring will be impossible, and the alternative must be to delegate or devolve responsibilities without formal accountability mechanisms resting on performance reporting.<sup>107</sup> In that case, the challenge on the other hand is one of credibility: effective implementation rests on trust, tested perhaps by some accepted legitimate mechanisms for scrutiny of ongoing activity.

In the ideal, the notion of citizen engagement has sometimes been proposed as embracing both commitment (alignment of motivation and goals, shared values) and 'ownership' (in the sense of a felt stake in the consequences). Shareholders in a corporation, for example, are engaged: they sign on to the charter and purpose of the organisation, and expect explicit return as a reflection of a formal property right. Here visible incentives are aligned through formal institutional structures, and particularly through clear assignment of property rights.

But citizens also sign on to an implicit social charter and social purpose. And they expect to share in the returns which flow from citizenship, in the returns to co-operative pursuit of the common good by players confident of that generalised reciprocity which casts the bright shadow of the future over the incentives of short term self interest, and leads onward to co-operative behaviour.

Thus in the end, perhaps the difference between Finer and Friedrich, between 'command and control' in hierarchy and agency in networks is really 'only' a matter of time horizon and the scope of perceived self-interest, or the definition of the group whose welfare matters. Incentives may be directly felt or clearly signalled by market mechanisms, or they may be created through shared commitment to generalised reciprocity. Social cohesion may create the necessary belief in a long-term enlightened self-interest which rests on assuring that the gains from co-operation are realised by the group even when congestion problems and interdependencies in complex systems cloud the signals of conventional markets and regimes of formal property rights.

## V. Conclusion

"Agency", then, is simply the capacity to be effectively engaged. Social capital is a feature of a society that enables or permits individuals to exercise agency. In a society with adequate social capital, individuals may come closer to the ideal of communicative

action in the formation of public purpose, and to the ideal of discretionary authority in the realisation of that purpose in the uncertain ecosystems we all inhabit.

In the 'full world', with complexity, uncertainty, and congestion rampant, it is not possible to create fully secure, certain, stable private property rights that will be compatible with reasonable social governance and adaptive management. It is not possible to achieve stable understandings around an unchanging distribution of private rights in an uncertain world where both individuals and corporations must operate with a 'social license' which requires their actions to be compatible with a broader public good.<sup>108</sup> The stable rules can only be the higher order procedures for adjusting rights and the understandings of the distribution of rights as new information and new perceptions of the public interest emerge. It is the legitimacy of the process, not the outcomes themselves, on which acceptance must rest. On all of this, it seems clear, judgements are subjective, not scientific; deliberative, not instrumental, procedures seem fundamental.

In this sense, perhaps, it can be argued that an agency approach to governance generally, or to regulation more particularly, is intimately bound up with optimism about learning and the prospects for communicative action based on better understanding and on reconciliation of conflicting frames more than on resolution of conflicting claims. But optimism or no, the strongest lesson to emerge from all this interesting speculation is that much, much more concrete case-by-case empirical examination is needed to determine what works, where, and why, in the specific circumstances found on the ground.

Interestingly, paradoxically, citizen agency inheres not in the agent of agency theory, but in the principal. Citizens possess agency precisely when they cease to play the role of agent in coerced pursuit of somebody else's agenda, set for them, and become free to reconcile their own ends with their understanding of over-riding social purpose, according to their own moral codes.

In very brief summary, this discussion suggests that an agency approach to governance and regulation would be directed toward

- enhancing the felt sense of participation and influence of the individual in the discourses of the *polis* where public perceptions and concerns are thrashed out and community purpose is established, 'policy' is formulated, and 'groundrules' established for its pursuit;
- preserving and buttressing the scope for autonomy and discretion of the individual in the public and private households which carry out the organisation of activity and allocation of resources to achieve individual and community purposes;
- assuring that overall the system is responsive to that sense of community purpose, even beyond its obligations of responsiveness to individuals as clients and customers.

It might be argued that in an earlier world, there was greater congruence between the lifeworld and the system, which was less formal and less distant than now, with the present dramatic separation (institutionally and geographically as well as psychically) between ownership and management, between decision and impact. Agency costs (residual losses) rise dramatically in governance as in business with each such dilution.<sup>109</sup> An agency approach to governance might be thought of as attempting to restore some of the congruence of concerns of that earlier world where economy, society and natural setting were all the subject of decisions taken together<sup>110</sup>.

## Endnotes

- <sup>1</sup> See Social Learning Group. 2000. William C. Clark, Jill Jäger, Josee van Eijndhoven and Nancy M. Dickson, ed., *Learning to Manage Global Environmental Risks: A Comparative History of Social Responses to Climate Change, Ozone Depletion and Acid Rain* (Cambridge, MA: MIT Press).
- <sup>2</sup> Oliver E. Williamson, *The Mechanisms of Governance* (Oxford: Oxford University Press, 1996) at 171-179.
- <sup>3</sup> G.H.L. Fridman, *Law of Agency*, 6th ed. (London: Butterworth, 1990) at 3.
- <sup>4</sup> Max Weber, *on Law in Economy and Society*, 3rd ed. (Cambridge: Harvard University Press, 1969) at 122.
- <sup>5</sup> *Supra* note 3 at 9.
- <sup>6</sup> *Ibid.* at 9.
- <sup>7</sup> Cameron Harvey, *Agency Law Primer* (Carswell, 1993).
- <sup>8</sup> John W. Pratt & Richard J. Zeckhauser, *Principals and Agents: The Structure of Business*, 2nd ed. (Boston: Harvard Business School Press, 1991).
- <sup>9</sup> *Ibid.* at ix.
- <sup>10</sup> *Ibid.* at 2. See also Oliver Williamson, *supra* note 2.
- <sup>11</sup> *Ibid.* at 3.
- <sup>12</sup> Robert D. Austin, *Measuring and Managing Performance in Organisations* (New York: Dorset House, 1996).
- <sup>13</sup> White has said "Agency is more than a tie, it is a context for ties that cast shadow over commitment" (Harrison C. White, "Agency as Control" in Pratt & Zeckhauser, *supra* note 8 at 189). It is interesting to note the similar language employed in the discussion of "cooperator's dilemmas": e.g., "[The] ability to elicit cooperation ... stems from the enlarged shadow of the future in the repeated [iterated prisoner's dilemma] games" [Robert Axelrod, *The Evolution of Cooperation* (New York: Basic Books, 1984)].
- <sup>14</sup> Cary Coglianese & Kalypso Nicolaidis, "Securing Subsidiarity: Legitimacy and the Allocation of Governing Authority", Working papers (Kennedy School of Government, Harvard University, 1997).
- <sup>15</sup> *Encyclopedia of the Social Sciences*, "Agency", by Karl N. Llewellyn at 483.
- <sup>16</sup> *Coglianese & Nicolaidis, supra* note 14. Interestingly, it is also a core problem in the literature on regulatory "capture". See Richard F. Babcock, *The Zoning Game* (Madison, Wisconsin: University of Wisconsin Press, 1966). and George J. Stigler, *The Citizen and the State: Essays on Regulation* (Chicago: University of Chicago Press, 1975).

- <sup>17</sup> Kenneth Arrow, "The Economics of Agency" in *Pratt & Zeckhauser, supra* note 8 at 37-54. This interesting pre-figuring of the link to the idea of social capital reflects the possibility of relying on commitment rather than specific incentives.
- <sup>18</sup> William T. Bianco, *Trust: Representatives and Constituents* (Ann Arbor: University of Michigan Press, 1994).
- <sup>19</sup> Hanna Fenichel Pitkin, ed., *The Concept of Representation* (Berkeley: University of California Press, 1972).
- <sup>20</sup> Jane Mansbridge, "The Many Faces of Representation", Working papers (Kennedy School of Government, Harvard University, 1998).
- <sup>21</sup> Edmund Burke, [1792] 1871, "Speech to the Electors of Bristol, 3 Nov. 1774" in *The Works of the Right Honourable Edmund Burke*, vol. 4 (Boston: Little Brown).
- <sup>22</sup> Larry W. Beeferman, *Images of the Citizen and the State* (Lunham: University Press of America, 1996).
- <sup>23</sup> *Ibid.* at 479-80.
- <sup>24</sup> *Coglianesse & Nicolaidis, supra* note 14.
- <sup>25</sup> *Ibid.*
- <sup>26</sup> Harrison C. White, "Agency as Control" in *Pratt & Zeckhauser, supra* note 8.
- <sup>27</sup> Robert Dahl, "The Concept of Power" 2 *Behavioural Science* 201-215
- <sup>28</sup> *Mansbridge, supra* note 20.
- <sup>29</sup> See Holmes, *Passions and Constraints: On the theory of Liberal Democracy* (Chicago and London: University of Chicago Press, 1995) at 110-201, or Simone Chambers, *Reasonable Democracy* (London: Cornell University Press, 1996) at 176-77.
- <sup>30</sup> Jon Elster, *Ulysses and the Sirens: Studies in Rationality and Irrationality* (Cambridge: Cambridge University Press, 1983) at 93.
- <sup>31</sup> John W. Langford, "Power Sharing in the Alternate Service Delivery World", in Robin Ford & David Zussman ed. *Alternative Service Delivery: Sharing Governance in Canada* (Toronto: KPMG and IPAC, 1997).
- <sup>32</sup> Pippa Norris ed., *Critical Citizens: Global Support for Democratic Government* (Oxford: Oxford University Press, 1999).
- <sup>33</sup> In the other dimension, the problem of 'capture' of regulatory agencies by the entities they are intended to regulate (not serve) has been widely discussed (see, e.g., *Stigler supra* note 16.) Hartle suggests that this concern is hardly relevant in the Canadian regulatory scene, precisely because of Cabinet powers to override the decisions of its regulatory agencies (see Douglas G. Hartle, 1979. *Public Policy Decision Making and Regulation* (Toronto: Butterworth for the Institute for Research on Public Policy, 1979) at 124.
- <sup>34</sup> Donald Kettle, "Global Reinvention: Basic Issues, Questions Ahead" in *Transforming Governments in the 21<sup>st</sup> Century*, Conference paper (Kennedy School of Government, Harvard University, January 1999).

- <sup>35</sup> H.V. Kroeker, ed., *Sovereign People or Sovereign Governments* (Institute for Research on Public Policy Montreal, 1981); David Osborne & Ted Gaebler, *Reinventing Government* (Reading, Mass: Addison Wesley Publishing Company, 1992); Leslie Seidle, ed., *Rethinking Government: Reform or Reinvention?* (Institute for Research on Public Policy Montreal, 1993).
- <sup>36</sup> For one review of the concept, of which there are many, see Justin Longo, *Multiple Meanings and a Myriad of Terms in the Space Between the Market and the State*. CPSS Working Paper. (Victoria: Centre for Public Sector Studies, 1999). Online: <<http://web.uvic.ca/cps/npsri>>
- <sup>37</sup> Michael Woolcock, "Social Capital and Economic Development: Toward a Theoretical Synthesis and Policy Framework" (1998) 27(2) *Theory and Society* 151-153. Note the important qualification of reciprocity here, which explicitly distinguishes norm reciprocity from strategic reciprocity. Strategic reciprocity (e.g., "tit-for-tat" strategy) is one of the most powerful forces that leads to co-operation. In an iterative prisoner's dilemma, a defector would face punishment in successive rounds, thus making threats and reciprocity more viable. Norm reciprocity, based on social constraints, does not retaliate so quickly against defectors but perhaps has a longer memory.
- <sup>38</sup> See e.g. James S. Coleman, *Foundations of Social Theory* (Cambridge, MA: Harvard University Press, 1990), who is often credited with developing the modern theoretical concept of social capital. Coleman defines social capital as "having two characteristics in common: They all consist of some aspect of social structure, and they facilitate certain actions of individuals who are within the structure. Like other forms of capital, social capital is productive, making possible the achievement of certain ends that would not be attainable in its absence... Unlike other forms of capital, social capital inheres in the structure of relations between persons and among persons." at 302.
- <sup>39</sup> See e.g. Glenn C. Loury, "Why Should We Care About Group Inequality?" (1987) 5(1) *Social Philosophy and Policy* 249-271, and Stephen Knack & Philip Keefer, "Does Social Capital Have an Economic Payoff? A Cross-Country Investigation" (1997) 112(4) *Quarterly Journal of Economics* 1251-1288.
- <sup>40</sup> Robert D. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton: Princeton University Press, 1993). Putnam describes a successful democratic institution as being both responsive and effective: sensitive to the demands of the citizenry and effective in using limited resources to address those demands.
- <sup>41</sup> *Ibid.*
- <sup>42</sup> Francis Fukuyama, *Trust: The Social Virtues and the Creation of Prosperity* (New York: The Free Press, 1995).
- <sup>43</sup> A plausible alternative view might be that small firms are the means by which new entrants to the labour force enter the economic and social mainstream of society every year. By creating work opportunities for new residents and the young, small business plays a crucial role in civil society. By its very nature, small business provides the networks, norms, trust and interaction that are crucial for building social capital; large corporations, though economically efficient, lower social capital because of their abstraction from community norms and networks.
- <sup>44</sup> Francis Fukuyama, "Social Capital and the Global Economy" (1995) 74(5) *Foreign Affairs* 89-103.
- <sup>45</sup> Robert Axelrod, *The Evolution of Cooperation* (New York: Basic Books, 1985).

- <sup>46</sup> Theoretical inquiry has revealed that a winning strategy for an iterative prisoner's dilemma is "tit-for-tat": co-operate in the first round, and respond to all plays by your counterpart in future rounds. Even in a single play prisoner's dilemma (a situation that, in the modern world, happens quite often), co-operation based on altruism often emerges. It does not seem rational, for example, to leave a tip at a restaurant in a city one is leaving with no intention of returning [Robert H. Frank, *Passions Within Reason: The Strategic Role of the Emotions* (New York: Norton, 1988)]. While perhaps not rational, it is commonplace.
- <sup>47</sup> Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (New York: Cambridge University Press, 1990).
- <sup>48</sup> *Ibid.* at 184.
- <sup>49</sup> Mark S. Granovetter, "Economic Action and Social Structure: The Problem of Embeddedness" (1985) 91(3) *American Journal of Sociology* 481-510.
- <sup>50</sup> *Putnam, op. cit.* Examples of the types of networks of civic engagement that Putnam refers to are neighbourhood associations, choral societies, co-operatives, sports clubs and mass-based parties.
- <sup>51</sup> *Ibid.* at 173.
- <sup>52</sup> Mancur Olson, *The Rise and Decline of Nations: Economic Growth, Stagflation and Social Rigidities* (New Haven: Yale University Press, 1982). An emerging view of networks alternative to that of Olson is to conceptualise them as potentially beneficial policy networks. A policy network is a socially constructed relationship between different governmental and private and semi-private organisations that coalesces around some aspect of the policy making process in order to protect their common interests and better attain their individual objectives. Until recently, policy networks had a negative connotation similar to Olson's: interest groupings that threatened the efficiency, effectiveness and democratic legitimacy of governing systems. The current popularity of policy networks, however, sees them instead for the potential benefit that networks can play in achieving broad societal objectives – so long as the network properly represents the broad public interest and is not simply a form of interest advocacy. Within a policy implementation network, multiple actors all possess some capability for action, but each is dependent upon others to strengthen the policy intent and to ensure its successful implementation. Implementers seeking to manage a network for positive implementation have a number of options available for achieving success. One approach is to work toward inducing voluntary compliance by emphasising a commonality of purpose in implementing the policy objectives. See Walter J.M. Kickert, Erik-Hans Klijn & Joop F.M. Koppenjan, eds., *Managing Complex Networks: Strategies for the Public Sector* (London: Sage, 1997).
- <sup>53</sup> David Ronfeldt, "Institutions, Markets and Networks: A Framework About the Evolution of Societies" (Dec. 1993) RAND paper DRU at 590-ff
- <sup>54</sup> David Ronfeldt & Cathryn L. Thorup, "NGOs, Civil Society Networks, and the Future of North America" in Rod Dobell and Michael Neufeld, eds., *Trans-Border Citizens: Networks and New Institutions in North America* (Lantzville, B.C.: Oolichan Books, 1994).
- <sup>55</sup> Adam Seligman, *The Idea of Civil Society* (Princeton: Princeton University Press, 1993) at x, quoted in *Woolcock, supra* note 37 at fn.6.
- <sup>56</sup> *Putnam, 1993, op. cit.*

- <sup>57</sup> E.g., Sidney Verba & Norman H. Nie, *Participation in America: Political Democracy and Social Equality* (New York: Harper & Row, 1972).
- <sup>58</sup> E.g., Benjamin R. Barber, *Strong Democracy: Participatory Democracy for a New Age* (Berkeley: University of California Press, 1984).
- <sup>59</sup> E.g., O. Renn et al., *Fairness and Competence in Citizen Participation: Evaluating Models for Environmental Discourse* (Dordrecht: Kluwer, 1995).
- <sup>60</sup> E.g., Terrence E. Cook & Patrick M. Morgan, "An Introduction to Participatory Democracy" in Terrence E. Cook and Patrick M. Morgan, eds., *Participatory Democracy*. San Francisco: Canfield Press, 1971) 1-40
- <sup>61</sup> Robert A. Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989).
- <sup>62</sup> See section 1.1.1, above.
- <sup>63</sup> The NIMBY (not in my backyard) syndrome is frequently cited as a manifestation of this, where the interests of people in a localised area run counter to the broader public interest. On the other hand, for example, as it has been shown that people perceive risk differently than do experts [see e.g., Daniel J. Fiorino, *Making Environmental Policy*. Berkeley: University of California Press, 1995)], then what may appear to the central authority to be narrow, unenlightened, self-interest might instead be perfectly logical interest-based opposition based on an informal risk assessment on the part of the residents.
- <sup>64</sup> For criticisms of these tendencies, see, e.g., OIPC, *Office of the Information and Privacy Commissioner's Annual Report 1996-97* (Victoria: Office of the Information and Privacy Commissioner of British Columbia, 1997) and ICC, *Annual Report Information Commissioner 1997-1998* (Ottawa: Information Commissioner of Canada, 1998).
- <sup>65</sup> Another avenue for expanding participatory avenues for the citizenry, to a lesser extent, has been through the courts which have, in a limited but increasing number of cases, attempted to offset the growing legal, political and administrative power of governments with legal remedies that serve to make these processes more open, accountable and fair. See John Evans, Hudson Noel Janisch & David J. Mullan, *Administrative Law*, 4th ed. (Toronto: Emend Montgomery, 1995).
- <sup>66</sup> Sheila Jasanoff, "Pluralism and Convergence in International Science Policy" in *Science and Sustainability: Selected Papers on IIASA's 20th Anniversary* (Laxenburg, Austria: IIASA, 1992) 157-180.
- <sup>67</sup> Alvin M. Weinberg, "Science and Trans-Science" (1972) 10 *Minerva* 209-222.
- <sup>68</sup> Jasanoff, *supra* note 66.
- <sup>69</sup> Nelson M. Rosenbaum, "Citizen Involvement" in *Land Use Governance: Issues and Methods* (Washington, D.C.: The Urban Institute, 1976).
- <sup>70</sup> These include: clearly defined boundaries, rule-making by the affected parties, graduated sanctions for violators, and effective conflict resolution mechanisms. *Ostrom, op. cit.*
- <sup>71</sup> *Ostrom, supra* note 47.
- <sup>72</sup> *Ibid.* at 184.

- <sup>73</sup> Michael W. McCann & Helena Silverstein "Social Movements and the American State: Legal Mobilization as a Strategy for Democratization" in Gregory Albo, David Langille and Leo Panitch, eds., *A Different Kind of State? Popular Power and Democratic Administration* (Toronto: Oxford University Press, 1993).
- <sup>74</sup> Robert D. Putnam, "Bowling Alone: America's Declining Social Capital" (1995) 6(1) *Journal of Democracy* 65-78.
- <sup>75</sup> See e.g., Nicholas Lemann, "Kicking in Groups" in *The Atlantic Monthly* (Apr. 1996) 277, and Alejandro Portes & Patricia Landolt, "The Downside of Social Capital" (May-Jun. 1996) 26 *The American Prospect* at 11-21.
- <sup>76</sup> Robert D. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton: Princeton University Press, 1993).
- <sup>77</sup> See e.g., Jeremy Wilson, *Talk and Log: Wilderness Politics in British Columbia, 1965-96* (Vancouver: UBC Press, 1998).
- <sup>78</sup> Rod Dobell, "Complexity, Connectedness and Civil Purpose: Public Administration in the Congested Global Village" (1997) 40(2) *Canadian Public Administration* 346-370 and references cited there.
- <sup>79</sup> Herbert A. Simon, *The Sciences of the Artificial*, 2nd ed. (Cambridge, Mass: MIT Press, 1981).
- <sup>80</sup> Stuart Kauffman, *At home in the universe: The search for laws of self-organization and complexity* (New York: Oxford University Press, 1995).
- <sup>81</sup> Rod Dobell, "Evaluation and entitlements: Hartle's search for rationality in government" in *A tribute to Douglas G. Hartle* (Toronto: Canadian Tax Foundation, 1999).
- <sup>82</sup> Evelyn Pinkerton & Martin Weinstein, *Fisheries that work* (Vancouver: David Suzuki Foundation, 1995).
- <sup>83</sup> All diagrams are appended at the end of the paper.
- <sup>84</sup> Jurgen Habermas, *Between Facts and Norms: Contributions to a discourse theory of law and democracy*, trans. William Rehg (Cambridge: MIT Press, 1989).
- <sup>85</sup> John S. Dryzek, *Discursive democracy* (New York: Cambridge University Press, 1990).
- <sup>86</sup> See section 2.
- <sup>87</sup> Abram Chayes & Antonia Chayes, *The new sovereignty* (Cambridge, Mass: Harvard University Press, 1995), and Douglas M. Johnston, *infra*.
- <sup>88</sup> Douglas M. Johnston, *Consent and commitment in the world community* (Irvington-on-Hudson: Transnational Publishers, 1997) at xxxviii.
- <sup>89</sup> Rod Dobell, "Compliance and constraint: Economic instruments in context" in Chris Tollefson, ed., *The wealth of forests* (Vancouver: UBC Press, 1988).
- <sup>90</sup> Ian Ayres & John Braithwaite, *Responsive regulation* (New York: Oxford University Press, 1995).

- <sup>91</sup> Prince, Michael, "Civic regulation: regulating citizenship, morality, social order and the welfare state", in B. Doern, M. Hill, M. Prince & K. Schultz, eds., *Changing the rules* (Toronto: University of Toronto Press, 1999).
- <sup>92</sup> Rod Dobell, "Implementation" in *Clark et al.*, *supra* note 1.
- <sup>93</sup> Charles E. Lindblom & M. Woodhouse, *The policy-making process*, 3rd ed. (1993).
- <sup>94</sup> Neil Nevitte, *The Decline of Deference: Canadian value change in cross national perspective* (Peterborough, Ont: Broadview Press, 1996).
- <sup>95</sup> Edward T. Hall & Mildred Reed Hall, *Understanding cultural differences* (Yarmouth: Intercultural Press, 1990).
- <sup>96</sup> In an odd sense, this approach contrasts the language of citizen agency with the idea of the citizen as the principal in a principal-agent relationship in which government and the public service are the agents for realising the social purposes established by citizen-principals engaged in a deliberative democracy.
- <sup>97</sup> In this sense, perhaps, much of the current interest in an agency approach might be seen as revisiting much of the literature of the Friedrich-Finer controversy debate in public administration, as discussed below.
- <sup>98</sup> R.A. Hodge, *Assessing Progress Toward Sustainability: Development of a Systematic Framework and Reporting Structure*. School of Urban Planning, Faculty of Engineering (Montreal: McGill University, 1995).
- <sup>99</sup> Peter de Leon, *Democracy and the Policy Sciences*. (Albany: State University NY Press, 1997), and Richard B. Norgaard, *Development betrayed: The end of Progress and a coevolutionary revisioning of the future* (London: Routledge, 1994).
- <sup>100</sup> *Habermas*, *supra* note 85.
- <sup>101</sup> *Rod Dobell*, "Compliance and constraint", *supra* note 89.
- <sup>102</sup> Jane Jacobs, *Systems of Survival: A Dialogue on the Moral Foundations of Commerce and Politics* (New York: Vintage Books, 1992). See Diagram 3.
- <sup>103</sup> See references to OIPC, 1996 and ICC, 1998 at note 62.
- <sup>104</sup> Based on an unfortunate distinction between information on product characteristics – said to be essential to instrumentally rational evidence-based sound science – and information on characteristics of the production process – said to be of interest only as irrational grounds for emotional mass anxieties
- <sup>105</sup> USDA regulations prohibiting labelling of organic or genetically modified foods?
- <sup>106</sup> Ronfeldt, *op. cit*; Williamson, *op. cit.*; See also Francis Fukuyama, *The Great Disruption* (New York: The Free Press, 1999).
- <sup>107</sup> *Robert Austin*, *supra*.note 11. We are indebted to Christopher Corbett for this reference.
- <sup>108</sup> Daniel W. Bromley, *Environment and Economy: Property Rights and Public Policy* (Cambridge, USA: Blackwell, 1991).
- <sup>109</sup> See *Williamson*, *op. cit.* 171-179

<sup>110</sup> One implication is that we might need a considerably more sceptical examination of the rhetoric around 'alternative service delivery' and 'reinventing government', or 'New Public Management' more generally. To the extent that it relies on the possibilities for more precise performance measurement or more credible substitutes for that, opportunities are likely to be less easily found than often thought, and most might be well suited for pursuit independently by private institutions. To the extent that it relies on self-regulation and trust, more work may be needed to establish the necessary credibility, trust and sense of legitimacy needed to make the system work.

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