The challenges of translation: the Convention and debates on the future of Europe from the perspective of European third sectors.

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General introduction to TSEP Working Paper series

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This paper is part of the **TSEP Working Paper series**, and is based upon work conducted by the authors within the Third Sector European Policy (TSEP) network. The primary, overarching objective of the network is to describe and analyse the trajectory of 'horizontal' (industry cross-cutting) European policy towards the 'third sector', understood as a 'multi-level process' (see Appendix for a Glossary of terms).

Individual members of the network share an expertise on the third sector in their countries, but come from diverse disciplinary backgrounds (including political science, sociology, and policy studies). Countries included are the Czech Republic, France, Germany, the Netherlands, Italy, Spain, Sweden, Switzerland and the UK. The sample includes:

• Major geographical regions of the EU/larger as well as smaller countries
• Different types of national constitutional structures and welfare systems
• 7 established Member States, one new Member, and Switzerland

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Executive Summary

This paper focuses on the third sector's involvement in debates about the future shape of the European Union between 2002 and 2004, with an emphasis on the processes known as the Convention, its Forum and the broader 'Futurum' initiative. In contrast to other literature in this area, we take the perspective of third sector policy stakeholders across Europe as well as in Brussels, charting their experiences of engagement and its effects on ways of conceiving of the sector, its agendas and ways of working. We also set out to analyse relationships that are articulated or emerging across levels, using the metaphor of 'translation' to stress that this process involves transformation in both directions. Were these actors and organisations caught up in a 'constitutional momentum' or 'hype' (Pollak, 2004)? What was the importance of their different conceptual, social, political and material resources for the activities of third sector communities? How were agendas 'translated' not only within a multi-layered European system, but also across conceptual cleavages or different traditions in particular countries? What alliances were made, how did they develop and with what effect for third sector policy activity more generally?

A Brussels level opportunity?

Suggestions that some representatives of 'civil society' might be directly included on the Convention itself were not fulfilled. Instead the third sector, NGOs and other interested organisations in Brussels had to wait to see how the Convention would work. In the meantime they continued to press their case for more systematic consultation. Though all their hopes for consultation and participation were not realised, a number of 'listening events' were arranged which relied heavily on traditions of third sector organisation in Brussels. The experience of the Convention on the Charter of Fundamental Rights and the Treaty Convention also encouraged leaders of several NGO umbrellas to create the 'Civil Society Contact Group' (CSCG) drawing together organisations working on social issues, environment, development and human rights. In March 2003 this group instituted a campaigning arm, Act4Europe. This was presented as an open 'network', which would inform NGOs and associations across Europe about the issues being debated in the Convention that the organisers thought were relevant, and encourage action by suggesting particular strategies. CSCG leaders hoped this would amplify lobbying carried out at local and national levels. Yet responses to the process of drawing up the Treaty varied greatly among the different third sector communities at national and sub-national levels.

Third sector experiences across Europe.

In many cases third sector policy communities chose not to get involved because of limited resources, or because they did not see the call for 'civil society' involvement on the European treaty as relevant for their own concerns. Unsurprisingly national 'scripts' or frameworks were reproduced through the demands that were made in relation to the Constitution. Yet it would have been difficult to correctly 'read off' third sector activities from existing national or regional situations and policy traditions. Governments responded to the process as a unique event, creating new forums, or ignoring existing ones. Other examples of national engagement often seem best explained by individual or collective policy entrepreneurship based on key people acting across levels or vertical fields. Sometimes involvement with the constitutional process included direct and specific attempts to alter the contents of the draft Treaty, at other times it seemed more 'demonstrative', and the audience might as well be national as international.

All these activities involved attempts to translate agendas, concepts and ways of working. Sometimes the relevant boundary was national-European, in other cases it was more between different forms of

organisation and between formal and informal means of participation. Despite the difficulty of these attempts, and the existence of significant national cleavages and conceptual differences, a degree of alignment was found around support for the Charter of Fundamental Rights, a set of social values and objectives and the idea of civil dialogue or participatory democracy. These were embedded in alliances with other networks including MEPs, socio-economic actors and politicians. Such alliances were particularly helpful in the more informal 'battle of amendments' in the final stages of the Convention.

Patterns and consequences

In building connections across and outside the third sector, it's actors tested a number of different strategies. Horizontal organisation in institutional terms was neither necessary nor sufficient for the sector to become involved in debates on the future of Europe. However the debates were a location for the development of a number of different attempts at building or exploring horizontality in conceptual terms. Taking this aspect seriously helps us steer a middle path between the unrealistic expectations that academics have often brought to studies of this process and the uncritical rhetoric of third sector organisations themselves. Where third sector groups saw political or cultural capital to be gained they made conscious choices to get involved and there is evidence that in some cases at least they were able to bring about an expression of their interest and of their presence.

At the Brussels level such efforts were shaped by the form of the Convention itself: creating and strengthening impulses to find consensus. While this model of participation was very different from the activist response of NGOs and trade unions to some other IGCs, it gained publicity for their ambitions and extended a limited call for involvement in the process (expressed by member states at Laeken, 2001) into a place at the table that was written into the eventual draft presented to the Council of Europe. Nonetheless, if variation was the keynote between countries, it also existed within European, national, even local, third sector communities. Though the Convention's own story of itself, and academic renderings, have produced visions of a unified 'civil society', within which third sector organisations may be submerged, our research indicates the continued diversity of European third sectors and divisions about how far to support the draft now being put to European peoples.

About the Authors

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Foreword

While studies of the third sector as an economic and social actor, and their significance within particular fields of policy has grown significantly in recent years, their links to broader policy processes are poorly understood. This paper is part of an effort to fill that gap, and is one in a series which seek to build our understanding of the nature of the third sector's relationship to the European policy process.

Putting together 'European public policy process' and the 'third sector' suggest an extraordinarily wide range of potential subject matter. Earlier papers in this series focused on the national situation in nine countries. This paper, however, has a different focus. It develops an analysis of a particular policy initiative, which in recent years has been processed at the national and European level and actually or potentially implicates the third sector in both - what the TSEP network has referred to as a 'core case' (see Appendix 1). It is important to note that the unit of analysis is the policy initiative relating to the third sector, the policy actors (*all* sectors) that cluster around it, and the institutional context that frames its development - and not the third sector itself, or individual third sector organisations. These 'core cases' necessarily involve actors from both domestic third sector policy communities or networks, and EU level actors and institutions, in jointly designing and/or implementing policy: in other words, in the EU policy analytic jargon, they involve 'multi level processes', although not necessarily multi-level governance (see Appendix 1).

In settling on 'core cases' for exploration, three considerations were taken into account. First, the cases were deliberately chosen to capture a reasonable amount of the diversity of the generic EU policy process. Reflecting the highly complex EU constitutional set up, the precise institutional configuration which the multi-level process involves varies considerably according to topical and issue area, so initiatives were chosen to pick up some of the main sources of variation in terms of *policy mode*, ranging across the Community Method, the Open Method of Co-ordination and other variants.

Second, we have also aspired to capture the extent to which the third sector is involved at *multiple stages* of the policy process; the link to the third sector literature here is that scholars have pointed to the third sector's 'polyvalence' and multiple functionality (see TSEP Working Paper 1).

Third, cases were chosen which seem to involve at least the theoretical opportunity for third sector engagement of a horizontal form. This could be either in the sense of involving policy actors in cross cutting domestic and/or European policy processes identified in step 1; or in the sense of engaging with third sector organisations from across a range of 'vertical' industries from within 'human' or 'social welfare' services (in US and UK language respectively), and even beyond it (such as environmental protection, or international development), or with needs and constituencies defined in terms of cross cutting issues. Table 1 lists the cases examined, and shows how each captures a different combination of policy mode, policy stage/third sector function, and meaning of 'horizontality'.

Table I: 'Closed cases' examined in TSEP

EU policy case	Policy mode/ year of initiation	Policy stage	Third sector 'function'	Sense in which policy case is 'horizontal'
European Statute of Association	Traditional Community method, 1984	Agenda setting	Sector advocacy (for customised legal instrument)	Legal mechanism potentially relevant for organisations wishing to undertake economic and social activities across Member State borders
National Action Plans for Employment: Orientation to 'civil society' and 'social economy' change over time (most recently Horizontal objective C in 2002, and Guideline 10 in 2003 respectively)	Policy coordination and benchmarking: Open Method of Coordination, 1997	Implementation and evaluation	Advocacy through demonstration, service delivery	Third sector organisations from range of industries can be involved in national employment strategies
National Action Plans for combating social exclusion: Objective 4 invites 'mobilisation of NGOs'	Policy coordination and benchmarking: Open Method of Coordination, Lisbon process, 2000	Implementation and evaluation	Advocacy through demonstration, service delivery, community building	Third sector actions, including social welfare services, culture, recreation and environmental protection, explicitly linked to social inclusion
Local social capital element of Structural funds, esp ESF*: Piloting (Article 6) and mainstreaming (Article 4.2) with special access to NGOs	Multi level Governance/Partnership, 1999 (pilot), 2000 (mainstreamed)	Design, Implementation and evaluation	Innovation, Service delivery, community building	Small community organisations often active across fields; some funded initiatives explicitly promoted as fostering 'horizontal' initiative; 'Social capital' concept not tied to particular industry
Convention on the Future of Europe/Constitutional process	Not identified as 'mode' in literature: Unique and unprecedented (2002)	Agenda setting	Sector advocacy (for constitutional recognition of socio-political role)	Constitutional design: draft (yet to be legitimised by national level processes) refers to the *generic* role 'representative associations' in 'the democratic life of the union'; the extent to which 'single market rules' apply as a general principle; specifies 'fundamental rights' cutting across fields; and refers to EESC's (in full?) role regarding 'civil society'

* European Social Fund

In addition, the process of preparing for, running and following through to the United Nations Year of Volunteering (2001) - as well as the medium term legacy it has bequeathed - has also been examined in all countries. This has been to explicitly bring an analytic spotlight on volunteering as an aspect of voluntarism, which is a key ingredient in at least some national and international third sector definitions; to form an impression of how UN and EU may compare as 'external shocks' (even if the connectedness of EU and domestic institutions of course implies that the EU is no longer purely 'external' to Member States); and to enable the inclusion of Switzerland in the multi-level core.

Appendix 2 to this paper provides more details on data sources. This paper is part of our first, tentative efforts to move towards a more systematic account of European third sectors' roles in contemporary policy processes, but we hope they will provide a platform for further work in the years to come.

Jeremy Kendall
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19th May 2005

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1. Introduction

This paper focuses on the third sector's involvement in debates about the future shape of the European Union between 2002 and 2004, with an emphasis on the processes known as the Convention, its Forum and the broader 'Futurum' initiative. The Convention was based in Brussels and consisted of representatives from European institutions, including the Parliament, and from national governments and parliaments. Its job was to draft a new constitutional treaty that would be submitted to an Inter-Governmental Conference of European ministers in 2004, who negotiated the final version (currently being presented to European publics as part of national decisions about its ratification). In addition the Convention set up an Internet Forum where interested organisations could register for information on its work and submit their views at a European level. A parallel series of debates were to be initiated on the 'future of Europe' under the title Futurum, informing people about the constitution and creating opportunities for them to express their views at national and local levels.

A significant proportion of an extensive literature on the constitutional process at the European level focuses on the involvement of 'civil society' (including the third sector). However this work tends to place most emphasis on the role of the Convention in eliciting such contributions, and their implications for European legitimacy (Weiler, 2002; Pettit, 2004), socialisation (Warleigh, 2001) or the creation of a European public sphere or 'demos' (Walker, 2004) (what one might call a literature of opportunities missed). A more sceptical strand suggests calls for the inclusion of civil society have only ever been 'rhetoric' on the part of European institutions (De Schutter, 2002; Lombardo, 2004). In contrast, in this paper we take the perspective of European third sector policy stakeholders, charting the possibilities that even limited consultation offered in their eyes, their experiences of engagement, and possible influences on ways of conceiving of the sector, its agendas and ways of working.

We also stress the 'multi-level' dimension of this political process. Where other literature on the Convention has tended to look only at one level, whether that is Brussels (Magnette, 2003; Barragon, 2004; and Lombardo, 2004 - who uses a questionnaire to capture the experiences of some representatives of umbrella bodies) or the nation (see Cook, 2004), we set out to analyse relationships that are articulated or emerging across levels. The literature on Europeanisation suggests various models to describe the ways in which agendas from one location may influence others. Sometimes the metaphor of 'up-' and 'down-loading' is used to capture the ways in which 'scripts' and assumptions may be transferred. More recently there have been calls for a 'translation' perspective (see papers in Featherstone and Radaelli, 2003, especially the chapter by Ulrika Mörth, and Jacobsson, Laegreid et al., 2004). This insists, firstly that events at different levels and in different countries may influence each other dynamically over time. Secondly, it suggests that the practical expression of European models is always likely to involve significant reformulation by local and national stakeholders. That means such models are unlikely to be 'uploaded', let alone 'downloaded,' even if consensus has been achieved by use of shared language. Thirdly, it argues that the conceptual boundaries drawn between local, national and European policy activities may mask the development of shared agendas on substantive issues. Existing understanding may be supplemented by the alignment of languages and rhetorics at different levels, creating opportunities for learning and acting at a distance.

We therefore start from the possibility that the Convention, as a multi-level process developing over many months, proved an opportunity for some kind of Europeanisation of third sector policy across the Union. Were these actors and organisations caught up in a 'constitutional momentum' or 'hype' (Pollak, 2004)? What was the importance of their different conceptual, social, political and material resources in shaping the activities of third sector communities? How were agendas 'translated' not only within a multi-layered European system, but also across conceptual cleavages or different traditions in particular countries? (See Kendall and Anheier (1999) for a discussion of these sources of variation.) What alliances were made, how did they develop and with what effect for third sector policy activity more generally?

We base this preliminary exploration of the constitutional debates on empirical research from seven member states and the Czech Republic, which was an accession country for most of the period. The breadth of the topic for this paper necessarily restricts the detail that we can bring to any single national situation. Nevertheless the paper is informed by original data gathered between 2003 and 2004 at the national level. This is supplemented by additional research on the Convention process and the activities of European 'umbrella' groupings for third sector and civil society interests in Brussels. This included detailed semi- or un-structured interviews with a range of actors from third sector

organisations and groupings about their feelings about the Convention process and the kinds of activities - if any - that they undertook to influence its results. In addition, much useful information was available on the Internet in the form of position papers and campaign literature (for example Act4Europe newsletters), the minutes of the Convention itself and written contributions to it.[1] The TSEP network therefore provided a valuable context in which to study the Convention as a multi-level event and to explore changing ideas over time.

2. Background to the Treaty deliberations

The architecture of the Constitutional process emerged gradually as a result of bargaining between national governments and pressures from various other sources. Throughout there were calls to involve 'civil society' to improve the visibility and legitimacy of the proposed new Treaty. Non-governmental organisations (NGOs) had developed a tradition of lobbying and activism around Treaty negotiations in the past, which sometimes had a confrontational flavour (for example in Amsterdam 1997). They argued that the people of Europe had a right to influence proceedings, but the Inter-Governmental Conference (IGC) in Nice 2001 was seen as another example of last minute horse-trading between governments. In the Laeken Declaration (2001) European Heads of State seemed to accept that a more inclusive model was desirable for the next constitutional process. This would include a deliberative 'Convention', and a Forum alongside it.[2]

> In order for the debate to be broadly based and involve all citizens, a Forum will be opened for organisations representing civil society (the social partners, the business world, non-governmental organisations, academia etc)… Their contributions will serve as input into the debate (European Council 2001).

However the specific arrangements were left to be decided. The idea of a deliberative body that would agree a preliminary draft was available from the Charter of Fundamental Rights (CFR), which had been drawn up by a specially appointed Convention between 1999 and 2000 (Dinan, 2004). Brussels based NGO networks had been active in trying to influence this process through formal contributions and direct lobbying, with some successes (Deloche-Gaudez, 2001). At the time they had also demanded more meaningful consultation in other policy processes. For example, the Social

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[1] For further information on the methodology and scope of the TSEP network please see Appendix 2.
[2] This was also presented as a step towards addressing the 'democratic deficit' in Europe that been identified and attracted attention in the media around the fall of the Santer Commission in 1999.

Platform's submission included a call for more 'participatory democracy' and insisted that formalised NGO consultation should be a 'right' not a favour. These groups were pleased when the Belgian government pressed the adoption of this format for the new Treaty as well (Magnette and Nicolaidis, 2004: 2-6) and eventually persuaded other member states to accept it. The final shape of this Convention is summarised below (Box 1). Its composition meant that this 'case' involved significant input from member states, particularly their governments, and from Parliamentarians at different levels, but very little from the Commission or other European institutions. The role of the Economic and Social Committee at European level was unclear.

Box 1: The Convention on the future of Europe

A deliberative body designed to debate options for the draft Treaty to be put to an IGC.
- Praesidium consisting of Giscard d'Estaing as Chair, and Vice Chairs Giuliano Amato and Jean-Luc Deheane, with representatives of European and national parliaments and the Commission from groups below.
- 15 government representatives from members states and 13 from candidate countries
- 30 representatives of parliaments in member states and 26 from candidate countries
- 16 Members of the European Parliament
- 2 representatives from the Commission
- 13 observers (including social partners and members of the European consultative bodies: the Economic and Social Committee (EESC) and Committee of the Regions)

Suggestions that some representatives of 'civil society' might be directly included on the Convention itself were not fulfilled (Curtin, 2003: 61). Instead the third sector, NGOs and other interested organisations had to wait to see how the Convention would work and what a Forum might offer them. In the meantime they continued to press their case for more systematic consultation. Interviews with umbrella groups based in Brussels reveal how far they invest hopes in the specific contents of the European Treaties and their amendments. While tempering these hopes with a healthy dose of scepticism about the prospects for their complete implementation, groups use them to press their agendas, asking the European institutions to apply general principles systematically in the details of policy-making.[3] An example of this thinking is illustrated in the following interview, where IGCs serve as 'punctuation points' in a history of the EU from the third sector perspective, and ways of quickly referring to broad agendas for social inclusion and social and environmental sustainability (Box 2).

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[3] This logic was revealed more recently on the subject of foreign development aid. Eurostep (an umbrella group including Oxfam and Action Aid) and BOND (the UK network of development NGOs) complained when Berlusconi suggested at the Naples IGC that foreign policy should 'not affect' trade, development and humanitarian affairs. Activists complained of a contradiction between this position and the draft Constitution's commitment to consistency between foreign policy and these areas (see Cronin, 2003).

Box 2: Extract from interview with Brussel's based umbrella group, December 2002

Interviewer: So this is the [lobbying agenda] you've been putting down to national level.
Interviewee: Yes. Well we sort of say that it's about, using shorthand, Lisbon and Gothenburg. It's about poverty and education. What are the objectives? Within that we talk about full employment, we talk about eradication of poverty, we're talking about the Charter of Fundamental Rights and we've been a bit fuzzy… There's a need for gender equality. To have a title on gender equality. And there's a need for, it's a little bit like a stronger role in the world. And then you know in number 5 we will then talk about double responsibility, we talk about legal personalities etc etc
Interviewer: So things like services of general interest?
Interviewee: Yeah, all that.
Interviewer: That's part of it. Which one of those would you include that under?
Interviewee: We'd include it under Lisbon.

In addition, some NGOs saw the Treaty negotiations as a chance to defend, and perhaps extend, the formal structures for consultation which they use to influence policy design and implementation. They not only hoped that the Treaty might include the 'rights' to consultation that they had been asking for in Brussels, but that the process itself would allow them to demonstrate the value and importance of such involvement in the political sphere.

As the Convention opened, there were some good reasons for optimism. Its new President revealed that the aim was to be a coherent draft, not a set of options, which would carry weight with national politicians and publics because of the number of different groups who contributed to a consensus. The Convention would facilitate 'dialogue with citizens and civil society' (see minutes of the Convention proceedings, CONV 4/02: 6) and mechanisms to enable 'civil society to react to some of our future proposals' (ibid: 18). Vice President Dehaene (who had been the Belgian national representative on the Convention on the Charter for Fundamental Rights) was made responsible for this kind of consultation. Moreover, all the members of the Convention were repeatedly encouraged by the Secretariat to be actively committed to 'listening, and engaging in an active dialogue with civil society' (CONV 8/02: 4) and to stimulate national and regional level debates. Thus Convention members were asked to act as conduits for national concerns, even as they were requested to leave behind national allegiances in the cause of consensus.

We should note the vagueness in the conceptual and linguistic framing of these initiatives. The term 'civil society' has been more common in academic debate than in the policy discourse of any single European country. Our comparative research suggests that when it is used in relation to political processes it is often interpreted very broadly, including every thing outside the state, including market actors, and thus may not resonate strongly with NGOs or 'third sector' groups who see themselves

foremost as service providers and/or advocacy networks. In the past the Commission has used a definition suggested by the European Economic and Social Committee (EESC Opinion, 1999) but the Convention did not provide a detailed description of what they meant by the term in this case and appeared to value its 'catch-all' quality. (See Box 3 for a brief summary of the EESC's contested role in relation to civil society; also TSEP, 2005.)

Box 3: The European Economic and Social Committee

> *THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE*
>
> ***Composition:*** The Committee was founded in the Treaty of Rome and includes nominees from member states. Many of these are representatives of business or trade union organisations, but there are also members from the third sector, academia, the small trade sector and other interests. Its members are able to select the 'Group' in which they will be based. Group I represents business in the main, Group II employees and Group III is something of a catch all 'Other' category.
>
> ***Role and identity*:** The Committee produces 'opinions' on issues in European policy, sometimes at the request of Directorates, sometimes at their own initiative. In 1999 they produced an opinion on the role of 'organised civil society' in the Union and have consistently used this phrase to refer to their members and contribution. On the other hand they have had to acknowledge some of the claims of independent Brussels NGOs and associational groupings who have been defensive about the language of civil society and sought to challenge the Committee on the grounds of representativity.
>
> ***Relations with 'civil society':*** In the early months of the constitutional process, the Committee positioned itself as a 'bridge' to civil society by running briefings for Brussels based groups on events inside the Convention. Though this was resisted, the Committee members who acted as observers on the Convention have been useful sources of information for NGOs. More recently the Committee has been trying to develop relatively informal but regular and structured relationships with organisations and networks based in Brussels, and restyled itself as a 'house'.

On the other hand, the 'collective noun' of civil society has been part of the recent rhetoric employed by European third sector networks. The Praesidium clearly acted with an awareness of their activities when it also referred to the ability of civil society to organise 'into contact groups'. The Praesidium commented 'A good example at the European level is the 'social platform' grouping which has already been established precisely for this purpose. This applies not just in Brussels, but also across all Member States and candidate countries' (CONV 8/02: 5). The possibilities for involvement at all levels were still imagined through a Brussels' lens by the leaders of the Convention.

The Social Platform is an umbrella of European 'social NGOs' and was established by several major organisations and the Commission in the mid-1990s to provide a structured means of consultation (see Heritier, 1999; Cullen, 1999; 2002). While it has since expanded to include a broader range of NGOs than the original group defined by the former DG V (now the DG for Employment, Social

Affairs and Equal Opportunities) it has remained dependent on this Directorate for financial support until recently. However, the research conducted within TSEP indicates that models of horizontal organisation between associations vary widely across Europe and even this level of self-structuring on a 'horizontal basis' is unusual.

Once the Convention was underway, there was little evidence of any privileged place for the Social Platform. The EESC tried to establish itself as a verbal channel of communication by organising meetings between representatives of civil society groups and the Convention; as a result the Forum on the Future of Europe was set up as a website, where organisations could register to receive information on the Convention process and make submissions. In June 2002 they were further invited to make their views known in plenaries attended by (at least some) Convention members in person, after complaining about the lack of meaningful channels of communication.[4] In addition, 'citizens' were invited to make their views known directly via the Futurum website. In practice this space was quickly used as an additional site for organisations (for example the Social Platform provided the 7th contribution out of a total of 137 received by the end of the Convention). These settings for consultation on the constitution are summarised below (Box 4).

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[4] For example, in a newspaper article 'Convention under pressure to deliver on 'civil society' pledge, Mary McPhail expressed the disappointment of the sector at 'the lack of information and clarity surrounding the whole working of the Convention' and the Praesidium's refusal to meet with civil society directly as requested by letter in March (Banks, 2002a). A similar request had been made on their behalf by Green MEPs on the Convention in April, reported in the media as 'Giscard team urged to listen to EU citizens' (Banks, 2002b).

Box 4: Opportunities for the third sector in Convention process and their contributions

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Once the Convention had met in March 2002, Giscard d'Estaing proposed that it would work by reaching internal consensus on a single draft via three stages:

- a 'listening' stage between March and summer 2002
- a 'study' stage (with detailed discussion held within working groups) autumn 2002-February 2003
- a stage for formulating and debating a final draft February-July 2003

The sources for the 'listening' stage were:

- **plenary sessions** held in Brussels 24-25 June 2002 organised via eight 'contact groups' under headings Social Sector, Environment; Human Rights; Regional and Local Authority; Academic; Development and Culture
- the **Forum on the Future of Europe** network of organisations in the listening phase of the Convention, which closed July 2003 and was to some extent replaced by
- the **Futurum web portal** 2002-2004
- the Convention had called for 'debates' to be organised at national level and then received **reports on these from national representatives**.

Some indicators of 'third sector' contributions to these debates:

- 186 from 266 organisations registered in the Forum were categorised by the Commission as 'Other, Civil Society, NGO and Schools of Thought' and these submitted 390 from 473 contributions in total. The other groupings were 'Political or public authorities', 'Socio-economic interests' and 'Academic and think-tank'. The Social Platform was categorised in the 2nd of these.
- many groups attended the Plenaries, although they were mostly organisations based in Brussels, and time was short.
- the Futurum site lists 137 written contributions, including large numbers from environmental groups and Churches. There are two submissions from the Social Platform, one from the Permanent Forum of Civil Society and several from Caritas and Diakonie at the European level.

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3. Brussels 'civil society' involvement from the perspective of the third sector

Most of our informants agree that they had very mixed experiences in the so-called 'listening' phase of the Convention. They felt that the EESC meetings were disorganised, that it was hard to get space to speak, and that Convention members did not take them seriously. A similar set of issues comes up for the plenary events, with additional complaints about the lack of time for preparation and speaking,

the overlap between the topics covered by different hearings and the lack of guidance. Though the Forum site was well used, receiving more than eight times the number of contributions than were made to the Charter of Fundamental Rights debates (Deloche-Gaudez, 2001)[5], the Convention did not publish feedback on the submissions.

These failings have led Lombardo (2004) to dismiss the forum and plenaries as a 'rhetorical device designed to improve the legitimacy of the process'. On the other hand, third sector organisations in Brussels persisted in trying to get their views across and even claimed a number of 'successes' from the listening and study phases. These include the acceptance of the Charter of Fundamental Rights as part of the draft Treaty and lobbying to get an additional working group on 'Social Europe' (see Box 5). With both these claims it is extremely hard to assess the impact of the third sector directly.

Box 5: The Social Europe Working Group

At the start of the 'study' phase the Praesidium organised members of the Convention into ten 'working groups' to make detailed assessments of particular areas. None of the groups included discussion of 'social aspects' of Europe (e.g. social inclusion, welfare etc). NGOs and Socialist MEPs (among others) were quick to protest. Several NGOs claimed the late establishment of an eleventh working group as a victory. However, it is hard to assess the impact of their support and publicity as opposed to direct campaigning by MEPs and representatives of European trade unions. It is clear that NGOs actively built upon networks with socialist and green members of the European Parliament in this period, especially those who had a seat on the Convention. Such contacts were a valuable source of information about emerging opportunities or threats for a perceived shared agenda. NGOs could also be useful to those arguing inside the Convention who could point to their activities as a sign of wider public concern, using the same logic as in relations with DG Employment and Social Affairs (see Heritier, 1999).

Academic debates continue about how far members of the Convention may have been open to persuasion (i.e. lobbying) on particular issues at all, despite the deliberative format. Magnette and Nicolaidis (2004) suggest that many came with strong ideological agendas and were also quick to work in national groups for national interests. They have argued that most members of the Convention arrived intending to include the Charter of Fundamental Rights and that in these circumstances Britain and Denmark backed down, using this acquiescence to bargain for other issues. Yet these authors acknowledge that representatives from the new member states and those interested in a single issue may have had more space for movement in other areas. It also seems clear that the deliberative style of the Convention process was important in discouraging direct statements of

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[5] In this paper, Deloche-Gaudez records that a total of seventy combinations were made to the website set up for consultation on the Charter of Fundamental Rights, already too many for most members to read.

interest (Pollak, 2004: 3), creating space for principled internal arguments in which claims in the name of 'public opinion' or 'civil society in Europe' might carry weight.

In the light of these suggestions it is perhaps not surprising that actors and organisations claimed to have successfully lobbied the Convention on several issues during its 'study' and 'drafting' phases, where NGO networks in Brussels used their ability to follow developments, research alternatives and even propose new wordings for the emerging draft. The Convention's use of its own website created particular types of mediated interaction with these groups, in which the currency shifted from letters and statements to draft articles and amendments for the Treaty in progress.

4. Developing a horizontal voice across levels?

Third sector actors in Brussels did not only use their skills as lobbyists working on people inside the process, they also tried to increase their influence in a broader public debate. Already in the plenaries, the Social Platform claimed that they made the voices of their members heard by agreeing topics and speakers amongst themselves beforehand, then coordinating the session with a sympathetic MEP on the Convention, Klaus Haensch.[6] The leaders of several NGO umbrellas also resurrected the 'civil society contact group' (CSCG), which was first active around the Charter for Fundamental Rights, drawing together organisations working on social issues, environment, external development and human rights (with the European Trade Union Congress as observers) to discuss strategy. In March 2003 this group instituted a campaigning arm, Act4Europe. This was presented as an open 'network', which would inform NGOs and associations across Europe about the issues being debated in the Convention that the organisers thought were relevant, and encourage action by suggesting particular strategies. CSCG leaders hoped this would amplify lobbying carried out at local and national levels and help them become 'acknowledged as a group which represented lots of national organisations and who's really involved in the process, who knows what they are talking about' (Interview with organiser, June 2003). In the media they made the most of the new collective identity saying 'the CSCG represents thousands of non-governmental organisations throughout Europe and the European Trade Union Confederation' (Banks, 2002b).

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[6] Socialist MEPs in particular were established and comfortable allies: 'these are people we work with anyway', for example Klaus Haensch from Germany and Anne van Lancker from Belgian. Other sympathisers included Johannes Voggenhuber, a Green MEP from Austria, and Sylvia-Yvonne Kaufman, a German left wing environmentalist, who had also been on the Convention for the Charter of Fundamental Rights. Such parliamentary voices appear to have been among the most valuable of lobbying connections, just as they had been on the CFR (Deloche-Gaudez, 2001).

Both the CSCG and Act4Europe also involved groups finding some agreement on shared issues of concern. One of the more horizontal demands was for 'civil dialogue' to be included in the policy process across the EU institutions (that is, not just at DG Employment and Social Affairs where the concept was born).[7] By the early drafts this was achieved in principle, though the wording and scope was the subject of long debates and it was felt that the point had to be continually defended in and through the IGC. Other common concerns are set out in Box 6.

The different members of the umbrellas in the CSCG rapidly began to include the agreed common position on civil dialogue into specific position papers expressing their own concerns (including papers from Church groups and from the European Anti-Poverty Network). The Contact Group also encouraged collaboration on the 'objectives' and the 'values' of the Union and agreed to cooperate on questions such as anti-discrimination and sustainability, producing 'many voices with a common theme'. Its founders insisted that they did not want to have to hammer out a common position on every issue, but in some sense this strategy did reduce the expression of differences and mirrored the Convention's own philosophy. In some sense having been asked for 'civil society' they produced it in institutional form, to order.

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[7] This had already been developed in the context of the campaigns on the Charter of Fundamental Rights when the Social Platform among others had insisted that formalised NGO consultation is a right not a favour and define 'participatory democracy'. See Kendall and Anheier (1999) for a more detailed discussion of the history of the civil dialogue concept.

Box 6: A 'common agenda' for civil society lobbying

Steered by the Civil Society Contact Group and articulated through the Act4Europe campaign, the Brussels-based NGOs and NGO umbrellas started to hammer out a shared set of issues, on which they could all lobby from autumn 2002. The selection here is based on Act4Europe literature.

Civil Dialogue and Participatory Democracy*:* Inclusion of article on participatory democracy, possible mention of 'organised civil society' under this and mention of 'dialogue'. Desire principles of such dialogue to be 'mainstreamed' into Part III and to be 'guaranteed and structured' with specific provisions.

Fundamental Rights*:* Integration of Charter into Part II of Treaty. Desire to keep it as agreed in initial form. Reference to these in values section in Part I.

Values of the Union*:* Elements such as pluralism, tolerance, justice, equality, solidarity and non-discrimination to be made full 'values' in Part I of the Treaty. Inclusion of further values, equality for all, equality between men and women, social justice etc.

Objectives for Union*:* Wanted objectives to include justice, peace, equality and solidarity and commitment to eradicating poverty. Concerned about 'fit' between external and internal policy objectives and about scope of foreign policy/security and possible conflicts with developmental agenda. Want greater unity of EU foreign policy to achieve these. Also called for principle of 'partnership' to be given place in Constitution, including equality of partners, ownership of development strategies and participation to encourage integration of all sections in society including CSOs.

Called for sustainable development and social dimensions to be given stronger place on EU agenda. 'The economy should be a tool for the promotion of social integration and the protection of the environment'. Suggests Treaty should confront contradictions between economic, transport, agricultural and social objectives.

Policies of Union*:* Commitment to cohesion and coordination between economic, employment and social policies, addition of employment to areas of shared competence and addition social inclusion and pensions to areas supporting coordination or complementary action. Environment to be integrated into all EU policies. Qualified majority voting and co-decision to apply to article on non-discrimination. Would have liked more time to debate Part III.

Governance*:* Want 'accountable, democratic and transparent decision making process' in all EU institutions, with more co-decision making with Parliament on policies including social and external action.

The organisers of the Act4Europe campaign put great weight on being able to channel and represent voices from the national and regional levels. However, funding from George Soros and 'an American foundation' seems to have tilted their activities towards accession countries in particular[8] and the campaign had a mixed reception from national level NGOs and voluntary associations across Europe as we shall see below. This is perhaps not surprising given the language used, as 'civil dialogue' is

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[8] For example, the campaign could claim most success in Estonia.

not a concept that has an obvious equivalent for other governments. The Group had earlier agreed not to use the (perhaps more intuitive) term 'participatory democracy'.[9] In many ways the idea of civil dialogue was embedded in the particular history of the Social Platform, its aspiration to find a legal basis in order to secure Commission funding and the experience of the social dialogue with employers and employees in Europe. The member states' willingness (at least in theory) to open up the Treaty deliberations was here converted into a detailed prescription for 'accountable, democratic and transparent decision making processes' in all EU institutions in the future, which was not included in the original Laeken Declaration.[10] In this way the rhetoric of the Convention as a process was pressed into dual service and extended into a demand for legislative presence guaranteed by the actual Treaty.

5. The view from local and national third sector policy communities

The formation of the Act4Europe campaign expressed the interest of the European level 'third sector' community in getting voices from the national level heard in the Convention process and their desire to act to 'inform' national groups about what was happening. However their ability to do this was limited by the resources it took to spread information and the problem of finding contacts in the member and accession states. The campaign appears to have looked for 'partners' who looked like themselves: umbrella organisations with horizontal agendas. However this was not always easy, given the great variation in the identities, configurations, and patterns of institutionalisation of third sector policy communities across Europe.[11] Many organisations did not understand the Convention process, nor see it as particularly relevant. In a situation where resources were (typically) tight, why should they concentrate a lot of effort on understanding a complex process taking place a long way away? Elsewhere, third sector groups were already engaged in lobbying their governments and sometimes Brussels, through their own channels as their preferred route to influence the draft Treaty.

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[9] This compares with the references to participatory democracy made by the EESC since 1999 and variation in the submissions to the Convention for the Charter of Fundamental Rights by civil society organisations. In these the Social Platform wanted 'NGO consultation as right not favour'; a joint NGO submission called for definition of 'participatory democracy' at local and EU levels; the European Citizens Advice Service asked for the right of citizens to make their voice heard; and the Services of General Interest Committee asked for means of active participation through democratisation of knowledge of decision making. For the Treaty the language of civil dialogue was also more emphatically used by the free welfare organisations, churches, Platform and cooperatives than it had been before.

[10] For example this document makes no mention of civil society in its section on democratic legitimacy and transparency (only 'citizens', and that rarely), and the term is restricted to the paragraph quoted above on the drafting process.

[11] This variety is demonstrated in the TSEP working papers on national third sectors and European policy, available on our website www.lse.ac.uk/tsep.

As we noted above, Convention members had also been asked to make every effort to explain their work at the national level and channel the views of civil society back to Brussels. In March 2002, the Praesidium asked national representatives to report on the national debates 'so that as much information as possible should be available when the Convention meets in June to focus specifically on the views of civil society' (CONV 49/02). When they came, these reports were relatively brief (two to four pages) and tended to emphasise what had been done (the kinds of forums or exchanges arranged) much more than what had been said. Most reports arrived on 18 and 20[t] June, just four days before the plenaries with civil society, and the Dutch report arrived almost a week later (CONV 108/02, 110/02, 11/02, 136/02, 138/02, 139/02, 148/02 and 169/02). Governments varied widely in the kinds of opportunities they made, or took, to hear from third sector organisations as a particular category within civil society. Similarly third sector responses or initiatives differed, in part according to existing habits of working; awareness of European policy more generally; and links and connections between different groupings (often an entrepreneurial individual at the 'node' of a number of different communities). To capture the variation in local and national engagement in the debates on the future of the European Union we will sketch developments in each of the TSEP countries in turn, before drawing out some more general patterns and consequences.

A European process downloaded? The case of the Netherlands

In the Netherlands, third sector or social economy groups have shown relatively little interest in European issues. Throughout 2002 and 2003 the country was also preoccupied by domestic political instability. In these circumstances, calls for 'third sector' involvement appear to have had little visibility. An early event was organised by the Social Economic Council (SER), the Dutch equivalent of the European Economic and Social Committee, which held a debate between Dutch Convention members and 'third sector representatives' on 9 January 2002. This mirrored the efforts of the Brussels-based EESC to act as a mediator for civil society interests. However the Dutch Committee's involvement does not seem to have been sustained, or to have resulted in any concrete agenda building.

Other events were associated with the pro-European voices of the European Movement. The Dutch branch, the EBN, arranged a series of hearings for the third sector (*maatschappelijk middenveld*) in April and September 2002.[12] Once again these appear to have been stimulated by a desire to mirror the procedures of the Convention in Brussels. The 'democratic deficit' was discussed, but also the need for subsidiarity, and people did not feel the need to forge a common third sector or civil society

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[12] http://www.europese-beweging.nl/actueel/actueel.htm

platform as was happening concurrently in Brussels through such events.[13] Most of the groups attending were in fact members of the European Movement, though some were also other third sector organisations. Thus attempts to 'download' European models directly into a national situation where the Convention did not appear salient to policy actors, including the third sector, appear to have been largely unproductive.

Multilevel 'business as usual' in France and Germany?

More active early engagement was apparent in both France and Germany, where national models and habits of third sector policy activity appear to have strongly determined reactions to the Convention and multi-level connections were quickly brought into operation.

In France considerable activity was associated with the representative bodies for associational life (*la vie associatif)* and the social economy world (*l'économie sociale)*. As early as November 2001 the French government asked its advisory body, the National Council of Associative Life (CNVA), to give an opinion on the role of associations in building Europe. The independent Council of Social Economy Enterprises and Groupings (CEGES) was already active in lobbying in Brussels for the social economy through individuals and organisations like the European Standing Conference of Cooperatives, Mutual Societies, Associations and Foundations (CEP-CMAF) and the European Council for Voluntary Organisations (CEDAG).[14] These groups were motivated by their interest in pursuing recognition of the 'plurality of forms of entrepreneurial organisation' in the Union's priorities and strategic objectives (i.e. alongside references to economic activity generally) and safeguarding aspects of the social welfare system. They were able to exert influence not only through organisational links in Brussels but also via 'nodal' actors such as Anne David for CEGES and CEP-CMAF and Jean Michel Bloch-Lainé who works for UNIOPPS and on the EESC. They expressed appreciation for the openness of the Convention in publishing its documents and hearing proposals from associations. In addition, they sought to build transnational alliances with social economy umbrellas in Spain (CEPES), Italy (LEGACOOP) and Greece (Panko).

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[13] There was no press release following the meeting and no clear statement on the third sector as such. A book published in 2004 coming out of this conference, on third sector views on the Convention, makes only brief reference to the representation of civil society as an issue, in the Preface, and otherwise contains varied contributions from different organisations focussing on the details of their individual agendas.

[14] Though this is a 'European' umbrella organisation and member of the Social Platform, with members from eleven countries, more than half (14 from 27) of its members are French groupings. CEDAG has a small office and permanent representation in Brussels (on a part-time basis). Information accessed on http://www.cedag-eu.org/structure/membres.php, March 2005.

The social economy sector was also important for its stress on democratic decision making processes 'which in addition to giving weight to actual members' involvement and voice, represents a structural procedure to control the actual pursuit of the organisation's goals' (Borzaga and Defourny, 2001: 9). This was repeatedly emphasised in the proposals put forward by French social economy groups. Thus CEGES advocated the participation of social economy in *social* dialogue (not 'just' civil dialogue) at European level, stronger participative democracy and a greater role for citizens in the enlarged European Union. CNVA published a paper in March 2002 calling for 'recognition of the specific role of associations' in the Treaty's objectives and also 'acknowledgement of the specificities of not-for-profit service providers'.

Both groups called for the Charter of Fundamental Rights to be included in the new Treaty. Thus though activity in France was strongly influenced by associations active in the social economy they also adopted the questions of rights and values, including participation rights, as part of a broader agenda. However, such groups also expressed wariness about losing their identity within the ensemble of civil society and resisted being grouped together in the non-profit or NGO sector. They emphasised identity issues in lobbying directed towards their own government (a CEGES delegation met Prime Minister Raffarin and they lobbied the Interministerial Delegation to the Social Economy), towards Convention members directly (including Pascale Andreani, the PM's European Affairs Advisor) and via CEDAG and CEP-CMAF, apparently making little distinction between the different levels. Again sympathetic MPs and other political contacts helped them establish direct lines of communication to the Convention. The French report on 'the national debate' supported the idea that these contributions were important by specifically mentioning the participation of 'associations' as well as socio-economic interests in several different events and forums organised across the country.[15] In its (limited) description of the content of the public agenda in France, this document also mentioned the adoption of the Charter of Fundamental Rights and the 'fight against social exclusion' as key issues, areas where the third sector had been heavily involved.

In Germany, third sector stakeholders were also very active following their own traditions of corporatist engagement with local and national government. Here however there was more evidence of a creative adaptation out of a clash between European and national models (Borzel, 1999; Cowles et al, 2001). The government took a proactive stance, setting up numerous initiatives for the

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[15] These groups were cautious about joining one side or the other in the French campaign preceding the referendum on ratification in 2005. The social economy umbrellas tended to avoid open partisanship at this time, keeping a distance from the government 'Yes' campaign as well as the activities of advocacy NGOs, especially ATTAC for a 'No' vote. However some Catholic welfare organisations, including Emmaus and ATD Quatre Monde did campaign for ratification.

participation of citizens and civil society in debates on the Treaty draft. Like those at the Brussels level these appeared primarily intended to improve the legitimacy of the eventual Constitution.

From late 2001 the German Federal Foreign Office disseminated information on the Forum and Convention and ran internet chats and campaigns with local authorities to engage 'citizens'. NGOs were more likely to be involved as 'experts' together with academics, unions etc, but other associations were included. The Bundestag also ran plenary debates and open sessions for 'civil society' (*Zivilgesellscaft)* including a hearing in June 2002 which heard from representatives of the umbrella organisations of German industry, employers, trade unions, local authorities, churches, sports associations, environmental and development organisations (NGOs) and pro-European groups. Again this mirrored the diversity of groups taking part in the Brussels hearings, but the location in Parliament appears to have enhanced productive relations with Parliamentary Convention members, notably the Social Democrat Jurgen Meyer in the Bundestag and Erwin Teufel (PM of Baden-Wurttemberg) in the Bundesrat. The German government reported that 'democratisation' was a key theme of the German debate.

In addition to these national opportunities to state their views, many German groups took the opportunity to participate in the Brussels-based internet Forum and Plenary hearings.[16] These included rather minor organisations (for example. the association for the maintenance of Bavarian dialect) but also the big players like the German welfare associations (*Wohlfahrtsverbände)*, German Sports Association and churches. Direct lobbying was directed at the government's Convention representatives, Mr Elmar Brok and Mr Klaus Haensch, and formal and informal meetings were held with the President Giscard d'Estaing. These activities were facilitated by the existence of offices for Caritas and Diakonie's 'European' branches in Brussels, and the EU office of the Bundesarbeitsgemeinschaft der Freien Wohlfahrtsplege (BAGFW - the Free Welfare Associations' umbrella body).

In all these activities, however, there was very little novel cooperation between organisations. The more horizontal topics of interest tended to be domestically familiar social welfare domain concerns. The issue of 'subsidiarity' in the constitution was a central principle for German welfare associations, and pursued by a number of NGOs. Some intra country 'horizontal' activity was identified with the

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[16] For examples see the proposal of Der Paritatische Wohlfahrts-Verband (February 2002) which stressed services of general interest and principle of subsidiarity; and the recommendations of the Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege (BAGFW) (June 2002) in favour of the European social model, dialogue with European civil society similar to social dialogue with Commission, regular consultation and increased recognition of the special role of welfare associations.

peak institutions of the 'social welfare' associations in Germany, who tempered their call for the institutionalisation of European civil dialogue with a reference to their special claim as accepted in the Maastricht Treaty (Declaration 23) on cooperation with the welfare providers. In another example the *Paritatische Wohlfahrtsverband* (Association of non-affiliated charities) called for special heed to the significance of non-profit oriented economic structures, but linked this to calls for subsidiarity rather than making common cause with wider social economy interests as expressed in France. The agendas of these groups at national and European levels therefore reflected entrenched domestic traditions and claims to 'distinctiveness' and in part represented their continued efforts to 'upload' these to the European level. So French representatives on the Commission attempted to keep the language of associations in the document, and to express the 'socio-economic' character of such organisations, while German representatives found the term 'associations' vague and confusing, and preferred to argue that they were dealing with purely social activities (reflecting long established 'national scripts' (Kendall and Anheier, 1999)).

Despite these examples of domestic agenda reproduction, many NGOs in Germany as well as France included a demand for recognition for the Charter of Fundamental Rights in the Treaty and repeatedly revealed both their familiarity with Brussels' agendas and comfort with operating at different levels within the Union. Though they always acted separately, organisations within the French and German third sectors thus used some rather similar strategies to engage with the process of the Convention: the importance of resources for this activity should not be underestimated. The largely independent activities of these groups preserved a number of different voices even when common ideas were expressed. They also show that we cannot assume that civil society engagement in Brussels was dominated by European networks and umbrellas like the Social Platform (c.f. Lombardo 2004). This may have been very partially true in the 'listening' phase, but certainly does not hold when one looks at lobbying behind the scenes and through the studying and drafting phases of the Convention's work.

Resisting unenthusiastic governments in Sweden, Italy and the UK: variation multiplies

In other countries, the constitutional process does seem to have instituted changes within third sector policy communities, whether in terms of agendas, identities or strategies. In several cases links between Brussels-based groups and domestic third sector organisations appear to have been activated in the context of the Convention and provided a stimulus in existing third sector policy communities, though we should not assume that this process was unidirectional. In comparison with the French and German cases, therefore, a combination of weakness and willingness to shift local agendas created a situation of adaptation and development.

Sweden provides an interesting contrast with the Netherlands. There was strong awareness of European models, but this was located within third sector organisations themselves and fared very differently given the different salience of the Convention more generally. In Sweden the term 'civil society' *(civila samhället)* has had some currency in academic circles, though this has now declined, but popular mass movements *(folkrörelser)* and social action associations *(sociala rörelser)* have long been associated with issues of governance and democracy ('high politics' not policy or low politics) at local and national levels.

The Swedish government quickly committed itself to involving the general public in debates on the future of Europe, appointing a special commission (the EU 2004 Commission) in April 2001 to act as a catalyst for such debates, before the Convention even existed as a body in Brussels. The Swedish group consisted of representatives of all seven parliamentary parties, explicitly mentioned the need to cooperate with 'non-governmental organisations, popular mass movements, adult education organisations, libraries, networks etc' and arranged conferences for these groups at national and regional levels.

However, within Swedish popular mass movements there has been dissatisfaction with these government-sponsored initiatives reflecting 'deep democratic' expectations. They complained that the events were aimed at information dissemination and awareness-raising, rather than a proper dialogue and exchange of views. Late in 2002 several groups set up the Popular Mass Movement Network for the future of Europe which demanded more open dialogue and stronger participatory democracy at national and European levels. This move reflected the fact that parts of the sector, especially the cooperative movement, were well informed about events in Brussels thanks to the activities of prominent individuals (as in France), for example Jan Olsson of the EESC and Swedish Cooperative Institute who was one of the Network's founding members. They argued that the debate in Sweden should not be administered through parliament or other public authorities, but should start and end with the popular mass movements. However, they appear to have been disappointed in their ambitions to meet with the government and press this agenda.

Otherwise, it was mainly big charities with their own offices in Brussels and international presence, like Save the Children, who were actively following debates on the Treaty. In November 2003, after the Convention's listening phase was over, the EU 2004 Commission did run an event at the Forum for Mass Movements, together with SV (an association for education, training and culture), with forty organisations representing the third sector. This resulted in an open letter to the Prime Minister asking for a forum for regular meetings between the government and organisations in the third sector

(*organisationer inom tredje sektorn*) at national level akin to the regular consultation demanded in the implementation of what is now Article 47 of the proposed Treaty[17] to give expression to European civil dialogue. They also asked for more resources for third sector work on democracy and participation. This replicated a link made in other contexts between the constitutional process and longer or more sustained infrastructures for participation in normal governance, but appears to have gained specific weight from Swedish discourse on the mass movements and democracy in the later twentieth century. However despite this national adaptation of a demand grounded in the Treaty itself, we have found little evidence of sustained attempts to influence the Convention directly by Swedish third sector groups. Instead the story seems to be one of domestic friction between popular mass movements and the government, with some associated identity building but little concrete success.

Italy offers a similar example of the use of European language and events to attempt to raise or sustain the profile of third sector groups in the domestic setting. The collective noun 'civil society' (*societa' civile*) is often used with a political significance and has gained some currency in Italy, whereas the widespread definition 'non-profit sector' (*settore no profit*) assumes a more specific connotation, identifying organised actors providing services of public utility. The events surrounding the Forum on the Future of Europe appear to have provided a welcome opportunity for the sector to express a political role that had been gradually developing in the 1980s and 1990s, but had suffered recent setbacks since the right-wing government came to power in 2001. Despite this, the government set up an Observatory on the European Convention with a forum for contributions[18] with a special chapter on non-profit groups, in which third sector umbrella groups were active participants. They also organised their own seminars and conferences aimed at raising public awareness and engaging civil society groups. In the course of these events the sector claimed to be representing civil society, appropriating the term and legitimating the sector as a privileged channel of communication with citizens.

Numerous alliances were formed within the sector in this period, which was seen by some as an opportunity to strengthen collective identity and demand recognition at national and European levels, just as in Sweden.[19] However, they were perhaps more proactive in taking on the detail of issues for

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[17] Article 46 of the draft proposed by the Convention in June 2003.

[18] The Observatory's tasks included 'acting as a liaison between the Italian representatives to the Convention and the numerous initiatives for debate regarding the future of Europe under way in Italy and promoting initiatives for national consultation (conference, seminars, training courses etc) on the subjects addressed by the Convention, with the involvement of Italian representatives of national and European institutions and of the civil society'.

[19] As a document of the Forum for the Third Sector states: 'It is precisely with the aim of reinforcing a process already in the making [the construction of intra-sectoral alliances] that we have chosen to build [for the purpose

the European level, calling for the reform of the EESC to include more organised civil society beyond representatives of employers and workers, as well as formal civil dialogue. The Italian NGOs' Association (a network of 164 organisations involved in international solidarity activities) took part in similar ways, and also included the demand for civil dialogue in relation to external development policies.

Policy issues were also raised by the Italian branch of the European Anti-Poverty Network, CILAP, which devoted significant resources to seminars and conferences between October 2002 and April 2003, during which it stressed the need for civil society to participate in consultations on the new Treaty and be more involved generally in framing policies on programming, implementing, monitoring and evaluating measures to tackle poverty and social exclusion. Another important link to European level policy issues was in the person of Luca Jahier, coordinator of the Christian development network ACLI, who is based in Brussels as a member of the EESC. He took responsibility for the 'Coordination of the EU Charter of Rights and European Convention' for the Forum Permanente del Terzo Settore in this period. It is not clear whether this, or the importance of the Italian Presidency, influenced the decision of the European Social Platform to hold a national conference on European Social Policy, which explicitly links to the third sector (entitled *Towards Europe for All. The Participation of Civil Society Organisations in the Process of Building a New Europe*) in Rome in November 2003.[20] At the end of this event, the Social Platform made a joint statement with Italian NGOs urging transparency within the coming IGC, a guarantee for the values and objectives that had been included in the current text and for the Charter of Fundamental Rights, the inclusion of 'appropriate instruments towards the accomplishment of a Social Europe' and assurance that 'the concept of participatory and parity democracy be fully integrated' in the Constitution.

In the UK, the British government regularly reiterated its commitment to encouraging 'the widest possible debate in the UK' and sought views on the future of Europe through regional visits, seminars, radio phone-ins and interviews. None of these events were directly aimed at third sector

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of the Convention process] a strong alliance with the Coordination of Italian NGOs and the Table for Peace, two important networks present in our country; with them we have already been building for some time now a relationship of reciprocal recognition' (http://www.forumterzosettore.it/Cerca/la_sala_stampa.asp?ID=53).

[20] This meeting was attended by one of the TSEP network, but we know little about the reasons for it happening. It seems possible that the Italian government was keen to have an event as part of the presidency. One of the keynote speakers was Nigel Tarling, a former employee of the Commission in the old DG XXIII Social Enterprise Unit, who was partly responsible for writing the 1997 Communication on Promoting the Role of Voluntary Organisations and Foundations in Europe. Though well-informed on the sector he, thus, was perhaps not the obvious choice to present on the position of civil society organisations in the contemporary Convention.

groups, NGOs, or organised civil society as it would be understood in Brussels. The term 'civil society' is mainly of academic interest in the UK, but was used by the government as a vaguely positive term to include all that was non-governmental.[21] This was recognised in a paper from the House of Commons, which criticised the government for missing the opportunity to have open discussions on the Constitution akin to the French debates for civil society (2003: 13). Indeed the European select committees of both the Commons and the Lords in Parliament expressed concern in 2002-3 about the vagueness and lack of definition surrounding key terms such as 'representative associations' and 'civil society' (Commons European Select Committee, 2002; House of Lords Select Committee, 2003). The government, however, expressed itself satisfied with what had been arranged.

As elsewhere, large NGOs in Britain became involved with debates in Brussels on an individual basis from early on in the process. However, rather late in the day the horizontal umbrella, the National Council for Voluntary Organisations began to network with other British and Brussels based groups. NCVO presented this as a realisation that here was an opportunity to do something 'together as a sector' and appears to have been encouraged by news of the Brussels based (Act4Europe) campaign to create a domestic expression of similar concerns. This gained importance as the British government was seen as a major threat to the Convention draft and public opinion was widely thought to be negative. Like Act4Europe, NCVO sought a common core in the debate on the role and value of 'civil society' thereby appropriating a term that the organisation and its members have otherwise resisted. It also created an alliance with the network for British Overseas NGOs for Development (BOND) which was expressed in meetings (September 2003), a joint position paper entitled 'Civil society statement on the IGC' and in an informal steering group.[22] The paper called for the IGC to 'implement the spirit of the new draft article on participatory democracy through a regular, open and transparent dialogue with representative organisations of civil society… an EU Constitution based on rights and values [and] coherence between policy objectives and implementations'.

Interviews for the TSEP project reveal mixed responses to NCVO's entrepreneurship. Some praised it as a signal to government that 'the voluntary sector can get together on issues pertaining to its interests', while others saw it as marginal and symbolic only. All recognise that NCVO became

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[21] For example see Constitutional Treaty for the EU White Paper (2003) and Evidence from the Minister for Europe on the Brussels European Council (February 2004) which expressed satisfaction that 'during the Convention on the Future of Europe and the IGC, the Government has carried out consultations with civil society organisations and members of the public, including regional events, ministerial visits, speeches and seminars'.
[22] This alliance was facilitated by at least two factors: firstly BOND was historically born from within NCVO (Kendall, 2005); and secondly, the two organisations are physically located in the same building.

involved too late, in the second half of 2003, missing many opportunities around the Convention but the alliance has persisted. At meetings only the largest NGOs were actively involved (for example Amnesty International, Royal National Institute for the Blind) and many found it hard to keep up with European jargon and events. Nonetheless these events does seem to have raised awareness of the Convention itself and of Brussels-based third sector activity (for example Giampi Alhadeff of the Civil Society Contact Group was invited to address the NCVO political conference in November 2003) and this seems to have fed into a Voluntary Sector Manifesto campaign by BOND and NCVO in the run up to the 2004 European elections.

These cases reveal a very different relationship between issues and strategies developed in the context of a process in Brussels and events at national level. We observe more adaptation, through a combination of necessity (such as unsympathetic or unresponsive governments) and design.

Limited response to government efforts in Spain and the Czech Republic

The final two cases are Spain and the Czech Republic. Again one might argue that third sector communities produced very different results in these cases: in Spain there were some attempts at 'horizontal' action for the sector, though 'social action' NGOs were not included, while in the Czech Republic third sector organisations initiated very little. However, both situations seem to illustrate how important the national context could be and how detached third sector groups may feel from European debates.

In <u>Spain</u> the sector took limited action mostly due to lack of resources or decisions to allocate them elsewhere. For example, very few organisations responded to a long and detailed survey sponsored by the government and sent out to the third sector. As elsewhere only the most well-resourced NGOs played a significant role, and their main interest lay in vertical agendas. Only the Committee for Disabled People, a group that was already represented in the Spanish Economic and Social Council and in the social economy umbrella CEPES (*Confederación Empresarial Española de la Economía Social*) and some of their federations who are members of the national networks, PSANGO (*Plataforma de ONGs de Acción Social*) and EAPN-ES, took part in the 'civic debate' on the future of Europe promoted by the government (through its *Consejo para el Debate sobre el Futuro de la Unión Europe*). However parts of civil society did organise a working group on the Convention in November 2002, spearheaded by overseas Development NGOs. Social action NGOs do not appear to have been invited or sought to participate: strong existing conceptual divisions between welfare providers (or social action NGOs) and other civil society groups appear to have hampered the

possibilities for more cohesive action. This pattern was repeated at regional level where, for example, the Catalan parliament encouraged a debate to explore proposals from Catalan citizens on Europe's future, but only two development NGOs participated and no social action groups. It is striking that the government did not consult with the sector through existing channels but sought to create completely new bodies. Here, as in Brussels and perhaps the UK, social welfare groups with the strongest links with government departments working on social policy were at a disadvantage or rather not able to exploit some of their usual resources.

As with the UK, the Act4Europe campaign appears to have tried hard to target groups in Spain, aware that these two governments posed a significant threat to the constitution as a whole and its social aspects in particular. However the groups remained independent. The Spanish working group reported that there was not a particularly close relationship with Act4Europe and argued that the centralisation of the Brussels-campaign did not favour participation. The Spanish Platform appears to have had a more negative view of the Convention as a process and the final draft Treaty than the CSCG, reflecting Spanish and Catalan doubts. These groups also mentioned the tension at the European Social Forum in 2003, where many NGOs expressed strongly negative views about the Constitution.

In the Czech Republic the sector did not create a common platform for discussions on the future of Europe and when it got involved it did so only by taking part in initiatives organised by government institutions. The Czech Senate set up a National Forum which was meant to be 'the umbrella of the European debate to involve the partners of social dialogue, regional and interest self-governments, professional and academic institutions, churches and other components of civil society'[23] while the Ministry of Foreign Affairs held a national conference specifically for, and with, NGOs. Compared with other countries, and perhaps the Convention itself, the government therefore made a significant effort to engage the sector. However, discussions had a very academic character at these events and did not create a favourable climate for real dialogue with third sector organisations. Again the Civil Society Contact Group in Brussels tried actively to find contacts, expressing its special concern with accession countries. However, there was little response to this request, reflecting lack of interest in the field and limited resources, though it was also somewhat surprising given the efforts at a national level to promote the identity and role of NGOs in the last decade, which have often been expressed in the language of the 'civic sector'. Where NGOs did express views these tended to be highly individual and polarised between those for and against joining the Union.

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[23] The government report on the debate suggests that although a particular group of NGOs, especially those involved in Human Rights, were invited to the first forum on grounds of their expertise, other NGOs could apply to join the Forum at any time.

6. Discussion

The clearest message from the material here is one of great variation in the ways in which third sectors approached the constitutional process. Based on our findings we might expect only to multiply our examples if we studied other member states and former accession countries. Yet by attending to the careful connections through which alliances and activities were fostered, we can draw out elements that help understand this variation and draw tentative hypotheses for further research about the sector's political engagement, resources, agendas and networks.

Over both time and space third sector involvement with the Convention itself was uneven. Unsurprisingly, after a slow start, a Brussels-based policy community was most caught up in the process that was unfolding on its doorstep, and perhaps most altered by it. For other groupings the Convention was absorbed into third sector policy agendas that had very different profiles: yet it would have been hard to simply 'read off' the level or form of engagement from existing national or regional situations and policy traditions. Awareness of official or unofficial activities with and within the sector in Brussels stimulated interest in countries with diverse third sector communities, such as Sweden, the UK and Italy. This interest had its own momentum, which, as in Brussels, seemed to pick up after the official processes of consultation had finished.

Based on data from national actors and networks, the key issue for many was resources: it was hard for small, often poorly funded organisations to justify following a complicated and fast-moving process in Brussels for uncertain gains. Yet we need to ask more questions about the kinds of resources that were most significant. Interest across the sector was more likely when it had been involved in issues of 'governance' at the national level in the past, for example in Sweden, creating a set of conceptual and personal links that were useful in the Convention case. Where Parliaments led a process of consultation, as in Germany, 'civil society' forums appeared more likely, and some third sector actors took the opportunity of making their voices heard. Where Foreign Offices were responsible, as in the Netherlands, Czech Republic and UK, there seems to have been less formal activity. This may be because many third sector groups have historical links with other Government departments, which work on social policy. It may also explain why alliances with development groups were a common factor when groups working in welfare and voluntary action did get involved, for example in Italy and the UK.[24]

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[24] We should also note this interesting connection at the Brussels level where development NGOs have been involved for a long time in a liaison committee with the Commission (Kendall and Anheier, 1999).

European governments varied significantly in the kinds of opportunities they created and how they responded to initiatives taken by the third sector. Again these factors had rather little relation to existing structures and habits of working. Individual member states often chose to bypass existing means of consultation and communication, reproducing the Convention's own rhetoric of the unique moment. Instead several new forums were created, where the third sector might be specifically targeted, or a vague appeal to 'civil society' in its broadest sense was made through the Internet. The exception to this appears to be France where well-established organisations made good use of traditional contacts throughout their national political institutions.

However, other resources were also important. Examples of national engagement were often best explained by 'policy entrepreneurship' by key figures and groups who were able to make links across levels or vertical fields. Thus 'nodal points' were created by individuals based in the EESC, such as Jahier and Olsson, or lobbyists, like Alhadeff (active in the Social Platform, CSCG and latterly CONCORD (for external development), and with strong links to trade unions) or Davide (in several social economy umbrellas). Third sector engagement was *not* restricted solely to the European umbrellas that participated in the Brussels-based events set up by the Commission and collective entrepreneurship was also demonstrated by established organisations at the national level, such as the free welfare associations in Germany, the European versions of Caritas, Diakonie and social economy/associational groupings working across several countries but not across the Union.

Unfortunately organising the paper around different locations means we have lost some of the richness of the connections that led to different third sector actors influencing each other and in some cases becoming aligned. These processes themselves cost something in terms of the time, money and specificity that might be traded. Almost all our respondents testified to the difficulty of making even the most horizontal issues to European groups seem important to organisations that were not familiar with the Brussels 'scene'. This was well expressed by the Polish NGO coordinator in Brussels.

> Then there is that transposition into another language, into another environment, into another way of explaining things, and fitting it into a different national context. I mean, it's not just a question of language, but translating it into… a lot of things that are of interest here to the Brussels based NGOs are pie in the sky for NGOs in Poland. (Polish NGO Coordinator in Brussels, on the Convention, interviewed June 2003).

The challenge of translation was perhaps especially true for the language of 'civil society' itself. Research in the TSEP network suggests that this collective noun has rather limited currency across Europe and is most often connected with academics not practitioners. In the sense used by the Convention the term already had a very broad potential content: further vague or careless usage at the national level meant many third sector organisations did not recognise themselves in the call for 'civil society' to get involved, even when it did reach them.

Yet one of the impressive things about our data is how far translation did take place despite the difficulty. In Italy, European and national agendas for the sector were merged in the context of a longer process of recognition and institution building. In Sweden it was third sector groups themselves that tried to 'download' formal European models (in comparison with the Netherlands) though these were redefined as resources for a national debate about the role of the popular mass movements. In the UK one of the sectoral umbrellas learned to identify itself with informal activities in Brussels and use the opportunity to express their own sense of a horizontal purpose, while accepting 'European' concerns about the UK's ability to wreck the Treaty. National issues were expressed even more strongly in the confident activities of the French social economy and German free welfare organisations as they attempted to translate their concerns up and into the European draft. These had clear and specific agendas about recognition for particular organisational forms and values, yet supported the call for the ratification of the Charter of Fundamental Rights along with the Swedish popular mass movements, Italian NGOs, British voluntary sector and Brussels civil society organisations. It is not surprising that national 'scripts' or frameworks were reproduced through the demands made in relation to the Constitution, and indeed this is sometimes what the Convention wanted to hear. But the way in which groups across Europe aligned themselves with the Charter and with the call for civil dialogue or participatory democracy spoke to the effectiveness of network-building by organisations and individuals. It also expressed the achievement of Brussels-based groups in creating identification in the European institutions between their existence, the concept of 'organised civil society' and the issues of democracy and legitimacy in the Union over more than a decade.

In some sense the very comprehensiveness of the draft Treaty meant that these kinds of associations could be built into it through language. Though the social economy groups, welfare associations and voluntary sector did not achieve specific mentions in the draft Treaty, the final version did include references to 'a *social* market economy, aiming at full employment and social progress, with a high level of protection' (CONV 820/03, emphasis added). Many groups focussed on the precise wording of the lists of 'values' and 'objectives' in the Union's preamble, looking to them to find an expression

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of their particular mission. The eventual Article 47 has been celebrated in a range of settings as a step towards encouraging more participation, mentioning 'representative associations' *and* 'civil society' as having rights to 'open, transparent and regular dialogue' with the institutions of the Union (CONV 820/03).[25] It is not yet clear whether the ample set of values and objectives might be used to defend, alter or extend the competencies and policies of the Commission and other institutions or what Article 46 might mean for European policy making in practice, even if the Treaty were to be ratified in its current form. Yet even this uncertain win involved lobbying hard against amendments from the British representative who sought to dilute the Article on participatory democracy in the eyes of the Brussels community by adding a reference to the regions, or Joschka Fischer, the German Foreign Minister, who wanted to include the 'social partners'. Such battles of the amendments (often proposing changes of just one or two words in different European tongues) expose the importance of vocabulary. NGOs continue to express disappointment in the lack of mention of poverty, worries about the place of foreign policy in relation to the stated objectives of the EU, and broader criticisms of the Treaty as 'neo-liberal'. These dissatisfactions were expressed at the European Social Forums of 2002 and 2003 where opposition to the Treaty from socialist and anti-globalisation groups began to coalesce.

Other examples of alignment were achieved through more direct alliances. We have noted several examples of new platforms and networks being built between various groupings of associations, in Sweden, Italy, Spain and the UK. Often these were expressed through key individuals who themselves bridged different levels, but in the UK - where there was already a significant horizontal policy infrastructure - contact was made between a national platform and the trans-national campaign. On the other hand, within countries, what we call 'horizontality' was neither a necessary (Germany) nor sufficient (UK) condition for responding to calls for views from 'civil society', despite the stress laid on this aspect in Brussels.

The European level third sector community built on experiences of earlier campaigns to resurrect and reinvigorate alliances across different sectors (development, human rights, social action etc) and organisational forms (NGOs, associations, social economy groups). These came together in a broader horizontal coalition than the Social Platform, which they called the Civil Society Contact Group,

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[25] For examples of NGOs laying claim to this as their achievement see Act4Europe literature, and interview with leader of one of the NGO families, July 2004, 'You know we won article 46' [Article 47 in the final version following Council's amendments] though their calls for a specific mention of NGOs to gloss 'representative organisations and civil society' failed. Likewise calls for 'structured' and 'autonomous' civil dialogue that were pressed by NGOs, were put in as amendments from Conventioneers, but did not make it into the final draft. The real impact of the article remains to be seen, and of course its fate is bound up with the Treaty itself.

echoing the language used by the Convention itself. It might also be said to have mirrored the Convention in its search for common denominators, or consensus over difference. Members invested considerable energy into forming shared agendas at a relatively high level of generality (democracy, equality, the existence of fundamental rights) and on more specific, though still flexible issues like sustainability (social and environmental), social protection and individual values and objectives. Yet even within the Social Platform there were cleavages over the article on special dialogue with churches (eventually Article 51) and the specificity with which the article on civil dialogue ought to be expressed. That coalition-building went ahead anyway is perhaps more testimony to the sector's sense of its own weakness (often expressed in comparison with big business) than its strength, although it is also the result of over a decade's capacity building.

Yet in the later lobbying stages of the Convention, where civil society involvement was more informal, the ability of members of the Contact Group to reach into different networks through their diverse identities proved useful for the sector. A coalition of broadly socialist and environmental actors was particularly effective in opening up the process of amendments to associations. They also helped create a situation in which observers from the Economic and Social Committee could be allies on particular issues, despite that body's ambitions to act as a more formal conduit for civil society consultation, which were opposed by many people in the Brussels' networks. Though the existence of the Committee was confirmed in the draft Treaty, attempts by its members to specify a role as 'the focus for dialogue between civil society organisations and the Union' were unsuccessful despite commanding support in a number of different amendments. The final version of the article made no mention of criteria for participation in the civil dialogue, pleasing many Brussels-based groups though not all third sector actors across Europe. It may be that the reference to 'structured and regular dialogue' was a nod towards the efforts of some Convention members, especially Spanish ones, to use the Treaty to support more institutionalised forms of consultation, and the role of the EESC in the future is still a subject of contention in Brussels and in countries like Spain and Italy. However, the Brussels umbrellas have expressed satisfaction with the combination of the close links that they have developed with the EESC in practice and specific mentions for civil society in other contexts in the text. They also emphasise that the process of the Convention allowed them to actively demonstrate the value of a more open kind of participation, that could be strengthened in the future through reference to the formal text.

7. Conclusions

It seems important to acknowledge some small sense of satisfaction among Brussels-based networks with the experience of the Convention, and their willingness to support its ratification now, against opposition from many other NGOs. While they have criticised the draft on issues of 'content' including poverty, social and foreign policy, they have praised the Convention's work in promoting civil society involvement in the 'process' and mostly tried to defend the text since the Convention finished. However we should also note the low expectations with which many started. Throughout the process the Brussels groups revealed a readiness to make do with incremental gains in terms of shifts in rhetoric, within which their own claim to have had an impact is one theme.[26]

Our account tries to steer a middle ground between the unrealistic expectations that academics have often brought to studies of this process and the uncritical accounts of third sector organisations themselves. If we accept that some of the claims made about 'civil society' involvement are part of a battle for visibility, we should be more able to resist dismissing it as 'mere rhetoric, window dressing' by the European institutions like Lombardo (2004: 7) does, or stopping our analysis at Magnette and Nikolaidis' (2004) insistence on the dominance of bargaining over deliberation. This does not mean accepting the sector's more inflated claims for influence at face value; rather we take them seriously as part of a particular kind of strategy. Where third sector groups saw political or cultural capital to be gained they made conscious choices to get involved.

At the Brussels level these efforts were shaped by the form of the Convention itself: creating and strengthening impulses to shape consensus out of diversity. While this model of participation was very different from the activist response of NGOs and trade unions to some other IGCs, it gained publicity for their ambitions and extended a limited call for involvement in the process (expressed by member states at Laeken 2001) into a place at the table that was written into the eventual treaty draft. Even these small networks could claim to be able to mobilise support or opposition to the Convention, relying heavily on the activities of key individuals working across boundaries defined by nation, affiliation and agenda.

In their close, but bumpy, relationship with the Convention process, and their efforts to publish their views through the Forum and Futurum websites, elements of European third sectors made constitution-writing a site where their importance could be shown and witnessed (to paraphrase

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[26] See for example of this kind of storyline, Giamperio Alhadeff and Simon Wilson (2002) 'European civil society coming of age' in Global Policy Forum and Dr Nicolas Berger (2004) Participatory Democarcy: organised civil society and the 'new dialogue', The Federal Trust Online Paper 09/04

Barry, 2001: 32). Replacing street demonstrations, these political demonstrations were both 'visible and successfully managed the form of their visibility' (ibid: 193) through instruments including the internet, the plenary meeting, published statements and amendments. The fact that Convention members also invested in these demonstrations to increase their own legitimacy does not necessarily take away from their value for the organised third sector. Yet it is somewhat ironic that the Brussels-based networks were so eager to claim the importance of visible participation in the formal procedures of the Convention, while acknowledging their sense of greater achievement in the informal game of lobbying in the last two stages of its work.

National level third sector policy communities appear to have had some similar hopes for the constitutional debates. In France, Germany and perhaps Italy these were expressed in ambitions to see themselves translated in the final European document. In Italy, Sweden and the UK such ambitions were principally part of advocacy at the national level, using variously transposed European themes. Yet they tended to build more narrow coalitions than were attempted in Brussels. As we have seen there were highly significant differences between the hopes of third sector communities in France, Germany and Italy and further cleavages were expressed between groups in the same country, notably Spain and Sweden. Though the Convention's own story of itself, and academic renderings, have produced accounts that submerge third sector organisations in visions of a unified 'civil society' (even one which fails), our research indicates the continued diversity of European third sectors and divisions about how far to support the draft now being put to European peoples. This was the fundamental flaw in the implicit bargain between European level Convention writers and part of civil society: that participation would be swapped for legitimacy. Notwithstanding the limits to participation in both informal and formal parts of the constitution-writing, it was unlikely that this bargain could ever have been sustained, as European civil societies and third sectors remain too diverse to be a mere instrument of the Convention at a distance or to act as 'delegates' for harmonisation in Europe (Barry, 2001: 73).

Yet, despite these caveats, from the perspective of European third sectors themselves the experience of debating the constitution in 2002-2004 did increase, or amplify, awareness of European political structures as relevant for the third sector policy community in its particular national context. Cases of a European process being 'downloaded' and simply lost were rare. French and German activities might be said to have been attempts to 'upload' domestic issues and ways of working to the European level, but in many cases this was written into the infrastructure anyway. Elsewhere, both content and process expressed dynamic mixes of national and 'European', transnational and local, languages and ways of working, in which translation occurred in a number of different directions.

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Appendix 1: Working Glossary
Version of 23 June 2005

Case refers to the TSEP unit of analysis in relation to public policy as a multi-level process: there are 'closed cases', being particular policy events/programmes chosen to capture a range of policy modes and stages in the policy process of relevance to the third sector in Europe; or 'open cases', which are more thematic and diffuse in character. The former include the European Statute of Association; Global grants for social capital; the Convention/Constitution; National Actions Plans for social exclusion and employment; and the United Nations Year of Volunteering; the latter include Services of General Interest; and the European Structural Funds and the third sector at the sub-national level.

Coalition refers to alliances of policy actors, who can be individuals or organisations, who come together to pursue shared values, concretely expressed in policy change or policy perpetuation goals. Understanding the functioning and roles of such coalitions in national, EU or multi-level contexts requires accounting for the nature of their values and goals; the economic, political and cultural resources they are able to mobilise, and the political opportunity structure within which they operate. In the TSEP network, research effort has been directed at describing and analysing coalitions formed and perpetuated by full or part time *specialist third sector-specific policy actors*.

Collective noun refers to the language used by domestic or EU level actors to group organisations sectorally at a level higher than *vertical policy fields*, and involving some implicit or explicit reference to ownership and control not reducible to either the market or the state. In some countries the collective noun and associated expressions involves a relatively stable or dominant language supported by formal or informal institutions and practices, while in others there is a more open field, with competing concepts and formulations, often fluidly co-existing and interacting with one another. Examples in Europe at the EU and national levels of expressions sometimes used in this way (and sometimes also used in other ways) include associations, [social] [action] NGOs, non-profit sector, nonprofits, organised civil society, popular movements, social economy, social enterprise, solidarity economy, third system, voluntary [and community] sector.

Community method has been described by the Commission as 'a procedure leading to decisions or Act, involving balanced participation [at the EU institutional level] between Council, the European Parliament and the Commission'. It was the 'classical' or 'traditional' method of processing EU policy in the second half of the twentieth century, but in the twenty-first is increasingly supplemented or displaced by the *Open Method of Co-ordination* which rebalances control away from the EU institutional level, towards Member State level actors.

Cross-cutting is used as shorthand for third sector relevant cross-cutting, and refers to concepts/beliefs or policies/practices/actions which are not confined to within *vertical policy fields*, but which are (a) either held to be relevant or applied discretely but according to common principles within two or more vertical policy fields, especially in the social welfare domain; or (b) which are held to be relevant/applied as a matter of 'generic' policy. Policy development in relation to these processes typically involves *specialist third sector-specific policy actors* within and outside the State, forming relatively loosely coupled 'policy networks' and/or a more formally institutionalised and recognised 'policy community' nominally involving a core of shared values and beliefs expressed in political rhetoric and/or the technical codified discourse associated with specialist policy instruments. The result can be the creation and perpetuation of a policy space jointly recognised by these experts as constituting the subject matter of third sector policy (using some collective noun) which is not reducible to the policy contents of a particular vertical field.

Domain Used to specify the level of policy between vertical policy field and the macro system of policy and politics. In relation to the third sector, the domain which TSEP has demonstrated is of most (but not universal) relevance is the *social welfare domain*.

European problem set refers to the cluster of high salience European policy issues or problems with which the third sector has most consistently been linked by policy actors at European, national and sub-national levels. Included here are *governance*; *social exclusion*; and unemployment. Third sector organisations may be seen as 'partners' whose contributions can and should be mobilised as part of the process of problem management, or problem solving.

Governance has multiple and contested meanings; but at its broadest, it can be used to refer to institutionally ordered arrangements for shaping the processing of policy at the key stages of agenda setting, decision making, implementation and evaluation. It tends to be linked to steering or strategic - as opposed to tactical - processes; patterned as opposed to unstructured relationships and interactions; and to be associated with such values as accountability, transparency, and effectiveness. The ways in which the third sector is linked to governance varies significantly across contexts, but often considered in scope are issues both in relation to internal governance - the design and application of appropriate legal structures and micro-constitutional models in the light of third sector specificities such as voluntarism and non-profit-distribution; and issues in relation to external governance, including how the third sector can and should fit as an actor at each of the policy stages, wherein it is one policy actor amongst many.

Horizontal policy is synonymous with *cross cutting* policy. Note that there are 'pure' cases of horizontality, whereby policies or concepts are related to the entire third sector as defined in the relevant collective nouns. But we *also* include as 'horizontal' narrower-in-scope concepts or policies which cut across some but not all *vertical fields*. In particular, overarching social welfare regime policies and practices, social inclusion policies and community development policies can be considered in scope, even if not extending outside the *social welfare domain*, to the extent that they necessarily suggest, involve or imply, participation by the third sector and its stakeholders.[1]

Industry-specific policies that are relevant to a particular *vertical field* only.

Mainstreaming is shorthand for *public policy* mainstreaming and refers to a situation in which the mainstreamed policy issue or problem (here, the third sector) is not only supported by technical institutions, but has high political and social visibility, and is seen by systemically powerful actors as of high generic public policy salience.

Multi-level process refers to how the European, national and subnational levels of public policy are inter-related. The extent to which this constitutes third sector policies is examined in the TSEP network by policy *cases*. Note that this is not synonymous with multi-level *governance* - which is typically used as a framing concept to claim that substantive power is situated at more than one level. The extent to which multi-level processes involve a reconfiguration towards multi level governance is treated as an open question for research.

Open Method of Coordination is based on mutual agreement of policy objectives by Member States; the development of common guidelines, indicators, and targets; benchmarking of performance and exchange of good practices, formulation of national action plans; and peer review and joint monitoring of implementation in an iterative multi-year cycle. It increasingly supplements and even displaces the *Community Method*.

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[1] Note that other writers use this term differently, often including *intra-vertical* policy field *multi-sector* initiatives as horizontal, while we do not consider *per se* as the core subject matter of our network. However, indirectly such policies may lead indirectly to our notion of horizontality, through spillover effects or *ex post* political construction of policy, as noted elsewhere.

Path dependency Refers to how historical policy decisions create a 'policy legacy', which can have long term consequences for the possibilities of current and future policies

Policy is used in TSEP as shorthand for *public policy*.

Policy entrepreneurship refers to actions taken either to deliberately change, or to deliberately protect, public policies - here, third sector specific policies. Such efforts typically involve the formation of *coalitions* between individuals or organisations, or both and are heavily constrained by national political opportunity structures. In the TSEP network, research effort has been directed at describing and analysing the entrepreneurship of full or part time *specialist third sector-specific policy actors*. Most horizontal third sector policy entrepreneurship takes place at the national level or below, but there are some individuals and organisations that specialise at the EU level, and some who operate on multiple levels.

Policy field is shorthand for *vertical policy field*.

Policy mode is a helpful way of recognising and analysing the different types of broad policy approaches that jointly constitute the highly complex EU public policy process. Examples of distinctive modes are the *community method* (relevant to the third sector in the European Statute of Association case) and the *open method of co-ordination* (relevant to the third sector in the case of National Action Plans for *social exclusion* and employment).

Policy learning refers to the impetus for policy change which occurs when actors adopt strategies, or various forms of policy belief, in the light of experience; or policy changes due to new information and analysis, generated by *policy entrepreneurs*, perhaps operating as part of *coalitions*.

Public policy comprises two elements. Unless otherwise qualified, 'policy' refers to intended courses of action which are explicitly and proactively articulated by actors with significant levels of political authority, and reflected in patterned policy discourse, events and institutions. If past policy decisions continue to be relevant because (due to *path dependency*) they shape current administration practices, resource allocation and the distribution of power, but they are *not* actively sustained and pushed as a categorical, proactive policy, they can be described as 'latent', that is implicit, policy. 'Public' refers to institutions and events involving 'that dimension of human activity which is regarded as requiring governmental or social regulation or intervention, or at least common action' (Parsons, 1995).

Social exclusion has been defined by the European commission as 'referring to the multiple and changing factors resulting in people being excluded from the normal exchanges, practices and rights of modern society. Poverty is one of the most obvious factors, but social exclusion also refers to housing, education, health and access to services'.

Social welfare domain This corresponds to the 'welfare state regime' policy space. It is a 'meso level' concept nested within, and developmentally bound up with, the prevailing generic national political and public policy system, while being broader than a single *vertical field*. Within it are the family of 'human services' or 'social [welfare] services' whose vertical components include ICNPO groups 4 ('personal' social services, or social care, and income maintenance), group 6 (development and housing, including employment & training), part of group 7 (advocacy, to the extent it is geared towards social welfare; and excluding political parties); group 3 (health) and group 2 (education and research). Many of these services are (jointly) implicated in tackling *social exclusion*. Note that this formulation is not limited to 'service provision' in the sense of ownership and management of establishments (as with provision of care homes, social housing) but inclusive also of social welfare oriented activities in addition to/separate from direct services, including social welfare oriented self-help and community based activities, advocacy

(campaigning on social policy issues, and individual clients' rights etc), involvement in social welfare and social policy design, monitoring etc.

Specialist third sector-specific policy actors are the carriers of purposive *third sector specific policy* who claim to hold relevant expertise and knowledge. They may be full time specialist individuals or organisations, but such actors are often part time, fulfilling this role separately and/or in conjunction with other contributions to the policy system (particularly in the social welfare domain). They operate within and outside the State, forming relatively loosely coupled 'policy networks' and/or a more formally institutionalised and recognised 'policy community', or 'policy communities'. At a minimum they share a language involving third sector collective nouns (otherwise they cannot be specialists); they may nominally claim to share a core of values and beliefs in relation to the third sector, expressed in political rhetoric and/or the technical codified discourse associated with the relevant specialist policy instruments. The result can be the creation and perpetuation of a policy space jointly recognised by these experts as constituting the subject matter of third sector policy (using some collective noun) which is not reducible to the policy contents of any particular vertical field[2].

Spill over effects Policy effects and actions designed to apply in one domain or field which have consequences once adopted - and thus implicitly or explicitly, shape policies in other domains or fields.

Third sector at the highest level of generality refers to organisations situated between the market and the state in terms of ownership and control. TSEP needed more specificity to initiate research into this construct as an object of policy: It was therefore provisionally taken to include those organisations which are self-governing and constitutionally independent of the state; do not involve the distribution of profits to shareholders; and benefit to a significant degree from voluntarism. This was an initial orienting working definition of the third sector - but in application, this has had to be sensitive to national conditions, since our unit of analysis has been the actual existing horizontal policy community or communities with its associated constructs. In other words, the specific 'indigenous' conceptualisation (or conceptualisations) deployed in practice was a question to be determined empirically, not *a priori* imposed. By referring to more than one collective noun, and the relative salience of each from the perspective of policy network or community members, we are also able to reflect differences within countries, where boundary disputes and the contest between competing definitions is itself part of the policy process (since notions putting the accent on 'civil society', 'voluntarism', and 'social economy' for example, typically co-exist).

Third sector [specific] policy is usually used either as shorthand for *horizontal* third sector policy; or to refer to the sum of horizontal cross cutting policies, policies which are partly horizontal and partly vertical. As used in this network, it is by definition concerned *only* with public policy that is horizontal to at least a certain extent. It thus can contain both 'deliberate' policy designed or constructed for the third sector, and policies which are more accidental, *ex post* constructed as third sector policies, and therefore seen as relevant by actors who style themselves as third sector stakeholders. Third sector specific policies are sustained by policy networks and/or policy communities, where the latter are characterised by specialisation, involving claims-making in relation to expertise. In these specialist networks and/or communities, the third sector is often - but not always - coupled to problems and issues associated with the social welfare domain,

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[2] Policies may not be cross cutting *initially* if developed independently within vertical policy fields; but *become* cross cutting if *ex post* 'joined up' by significant policy actors coordinating across or (if powerful) able to authoritatively transcend vertical policy fields. These policies can then be viewed after, and only after, the formative, politically constructive event of 'joining up' by policy actors as jointly constituting a shared 'horizontal' policy; otherwise they are considered not to exist as 'horizontal', or only 'latent'.

particularly social exclusion and unemployment. The agendas of these policy networks or communities tend to include reference to the third sector's policy environment in terms of legal structures and wider governance arrangements; institutional processes for mediating third sector-public sector/State relations; arrangements for involvement across policy stages and policy modes; and the promotion of voluntarism, including volunteering.

Third sector stakeholders include actors who consciously have a significant role in third sector policy. It includes third sector organisations themselves, but also other actors including politicians, public officials, academics, the media, trade unions and (for-profit) business.

Vertical policy field Policies that are developed and apply essentially *within* a particular field or domain: here, horizontal institutions may differentiate between organisations but in the background or incidentally, rather than as the focal point of policy activity. To define 'field' boundaries, we follow the standard industrial classification adapted to account for the specificities of the third sector, as represented in the International Classification of Nonprofit Organisations (ICNPO). Policies which relate to a particular Group or subgroup of the ICNPO are considered 'vertical'; while those which relate to two or more fields may be considered horizontal, either 'narrower' or 'broader' according to the range of fields in scope. Empirically in Europe, relevant policies are often (but not always) closely linked to the *social welfare domain*.

Further Reading

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Appendix 2: Data Sources

Across all closed cases, at the <u>national level</u> some 174 primary data points were assembled so on average there were just under 30 sources of primary evidence per case. (The number varied significantly by case, reflecting, inter alia, variation in ease of access to informants (different processes are more or less open), intensity of actual policy activity, and the resources of the policy champion (see below).) Most of these data points were bi-lateral meetings with policy actors - either third sector bodies, policy makers within the public sector, or academics and other experts. Potentially relevant sources were identified using country-level Partners' familiarity both with the general third sector policy community or networks in their country, and by 'snowballing' from actors identified in earlier meetings. Relevant events and fora were also attended and observed, as deemed relevant by Partners. The evidence gathering at this level proceeded in stages. First initial descriptive information was collated. Second, basic common lines of questioning were pursued across all cases, as put forward by the TSEP co-ordinators. The conceptual background to these lines of questioning was an understanding of the policy process as likely to involve country-specific path dependencies, competing priorities between policy actors, and contested terminology and boundaries, but also the potential for policy learning and policy entrepreneurship (see Appendix 1). National researchers were therefore asked to identify the extent to which the case reproduced or deviated from established national patterns in terms of actors and processes, and why; and to explicate and explore any evidence in relation to either catalysed policy entrepreneurship, or learning processes.

Third, responsibility for cases were devolved to a 'policy champion' or champions, who took responsibility for developing and refining the line of enquiry and questioning, in the light of initial findings; the analytic policy literature specific to the case; and acting as lead author for subsequent papers. More details of this aspect are provided in the body of this paper.

At the <u>EU (Brussels) level</u>, our sources (relevant for all cases other than the UN IYV) have been an evolving mixture of (transcribed) textual data, meetings and observation, with some 70 data records assembled. The work on Brussels-based policy was assisted by the openness of many institutions, which has made it possible to meet many important informants and access a wide range of written sources such as policy documents, minutes and reports. Meetings were arranged with people who have taken formal and informal positions of leadership, or have long experience in this area within the Commission and other European institutions, in activist communities and among academic and professional commentators. These were only lightly structured, but were used to elicit in-depth accounts and commentary on the 'core' specific policy initiatives, as well as more general reflections on third sector policy activity over time. The researchers have also observed and participated in relevant events where possible.

Third Sector European Policy Working Paper Series

The background and motivation for the network's research efforts is set out in the first TSEP Working Paper. After this, a first group of critically examines the third sector's policy environment at the national level; a second set explores how a small number of specially selected European policy cases are processed at both the national and EU level; in addition, the more general topics of 'services of general interest' and ESF sub-national policy implementation are an additional focus of ongoing research in some countries under TSEP auspices.

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Background to the Centre for Civil Society

The Centre for Civil Society (CCS) is a leading, international organisation for research, analysis, debate and learning about civil society. It is based within the Department of Social Policy at the London School of Economics. Established initially as the Centre for Voluntary Organisation, the Centre has for over 20 years pioneered the study of the voluntary sector in the UK, development NGOs and civil society organisations throughout the world. The CCS is distinguished by its interdisciplinary and reflective approach to understanding whether and how civil society contributes to processes of social, political and policy change and continuity. Its core staff, research associates and visiting fellows cover a range of disciplines, including social policy, anthropology, political science, development studies, law, sociology, international relations and economics.

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Through research, teaching and policy analysis, the Centre adds to knowledge about the types, roles and contributions of civil society and social economic institutions in Britain, Europe and other parts of the world. The Centre's four major objectives are to:
- Improve understanding of civil society and social economy institutions;
- Inform policy-making at local, regional, national and international levels;
- Provide academic and professional education; and
- Create a vibrant intellectual community for the study of civil society/the social economy.

Research

Research is one of the Centre's core activities. It maintains a highly active and diversified research programme, ranging from basic theoretical approaches and empirical work to organisational and policy studies to historical analysis. Many research projects are inter-disciplinary and comparative. Examples of current and planned research projects include:
- Mapping civil society;
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- The European Union and the voluntary sector;
- Civil society and value changes in Britain;
- History of housing associations;
- Foundations in Europe;
- Studying small, local organisations; and
- NGOs and development.

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