

WORKING PAPER 292

Deliberating Democracy:
Scenes from a Brazilian
Municipal Health Council

Andrea Cornwall
November 2007

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Summary

Brazil's participatory policy councils may have gained less international attention than Participatory Budgeting. Yet the thousands of sectoral participatory policy councils that have come into being since the early 1990s, with their hundreds of thousands of civil society representatives, are as significant a democratic innovation. As the literature on Brazilian health councils continues to grow, it has become evident that the promise of these new democratic spaces is proving less easy to fulfil than their architects might have imagined. Analysts have drawn attention to the gap between the ideals of deliberative governance and the realities of pervasive cultures of politics and the replication of embedded inequalities in conduct within these spaces. The tension between the assumptions about participation, accountability and democracy that are embedded in contemporary debates about participatory governance and deliberative democracy, and the understandings and practices of the actors who animate these institutions is under-explored in this literature, and forms the focus for this paper. Through an extended case study of an incident in the life of a municipal health council in a small municipality in the impoverished north-eastern Brazilian state of Pernambuco, it seeks to explore the meanings and practices associated with democracy in this context. To do so, it deploys a technique unfamiliar in much of the literature on governance: ethnographic 'thick description'. By evoking everyday meanings and practices of democracy in the council, the paper seeks to demonstrate the importance of locating the normative assumptions that are embedded in theories of deliberative democracy and participatory governance in lived experience in particular cultural, historical and political contexts.

Keywords: participatory governance; health systems; civil society; democracy; Brazil.

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Introduction

Brazil's participatory policy councils may have gained less international attention than Participatory Budgeting (*Orçamento Participativo*). Yet the thousands of sectoral participatory policy councils that have come into being since the early 1990s, with their hundreds of thousands of civil society representatives, are as significant a democratic innovation. Fruit of an intense struggle by the public health reform movement, the *movimento pela reforma sanitária*, Brazil's participatory health councils were given shape in the 'Citizens' Constitution' of 1988. Unlike the consultative bodies that exist in many countries to engage citizens in discussions about health problems, priorities and policies, Brazil's health councils are empowered by law to approve the budgets, accounts and spending plans of the executive, on which funding from the federal budget depends. As such, they are known as *conselhos deliberativos* – literally 'deliberative councils' – a label that says less about the normative dimensions of dialogue and decision-making within them, than that they have powers to make binding decisions about the allocation of resources with real consequences for health outcomes.

As the literature on Brazilian health councils continues to grow (Coelho 2004 and 2007; Coelho and Veríssimo 2004; Carvalho 1998; Tatagiba 2002; Rodrigues dos Santos 2000; Schönleitner 2004), it has become evident that the promise of these new institutions is proving less easy to fulfil than their architects might have imagined. Analyses draw attention to the difficulties of combating the tendencies of municipal governments to colonise these spaces by putting people from their clientage networks in the user representative seats (Schönleitner 2004) – what Brazilians call *prefeiturização*. Inequalities in expertise and voice between participants have been highlighted (Ávila Viana 1998; Dal Poz and Pinheiro 1998). Attention has been drawn in more recent work to the possibilities and limits of representation and inclusion in these new democratic spaces (Baocchi 2001; Cornwall 2004; Coelho and Nobre 2004). The density of linkages between civil and political society emerges from a number of accounts, especially in relation to the Workers' Party (*Partido de Trabalhadores*, PT), whose role in promoting popular participation in Brazil has been significant (Hayes 2004; Gurza Lavalle, Acharya and Houtzager 2005). Few studies, however, have explored the tension between the assumptions about participation, accountability and democracy that are embedded in contemporary debates about participatory governance and deliberative democracy, and the understandings and practices of the actors who animate these 'new democratic spaces' (Cornwall 2004).

This paper focuses on an extended case study of an incident in the life of a municipal health council in a small municipality in the impoverished north-eastern Brazilian state of Pernambuco. It deploys a technique unfamiliar in much of the literature on governance: ethnographic 'thick description' (Geertz 1973). It draws on lessons from research carried out in a series of short trips between February 2003 and May 2006, generally coinciding with opportunities to carry out participant observation in health council meetings, complemented by analysis of five years' worth of health council minutes, and interviews with over 50 local actors from government, political parties and local associations. By evoking everyday meanings and practices of democracy in the council, I hope to demonstrate the importance

of locating the normative assumptions that are embedded in theories of deliberative democracy and participatory governance in lived experience in particular cultural, historical and political contexts.

1 Power, politics and participatory governance

Brazil's participatory health councils would seem to offer much of that which is promised in accounts of deliberative democracy and participatory governance (Cohen and Sabel 1997; Bohman and Rehg 1997; Fung and Wright 2003; Gaventa 2004). Their composition follows a mandatory principle of parity: 50 per cent of councillors are *usúarios* (health service user representatives), 25 per cent are health workers and the remaining 25 per cent are health managers, including private sector providers commissioned to deliver services to the public. Regular monthly meetings bring this diversity of actors together to debate and approve health plans and budgets. As the release of federal monies depends on the council's approval of health plans and budgets, some measure of agreement, if not consensus, is required for health services to continue to function.

As such, health councils appear at first sight to constitute model 'empowered participatory governance' (EPG) (Fung and Wright 2003) institutions. They contain all the vital ingredients of Fung and Wright's EPG: they deal with concerns that are sufficiently localised and practical to make the most of the experiential knowledge of their citizen and health worker participants; they are instances of devolved public decision-making authority, with formal links that connect them to the executive; and they serve as stimulants for civil society engagement with public policy, offering a space for the inclusion of a diversity of civil society actors and interests. These participatory health councils would also seem to be ideal sites for the recognition of plural positions and of common 'inter-est' evoked in Arendt's (1958) account of deliberation, if not also the possibility of arriving at reasoned consensus that is the stuff of a more Habermasian vision of deliberative democracy (Habermas 1996; Bohman and Rehg 1997).

Fung and Wright suggest that in EPG, the practical focus of discussions 'creates a situation in which actors accustomed to competing with each other for power or resources might begin to cooperate and build more congenial relations' (2003: 26). They go on to outline the advantages of fostering bottom-up participation in which citizens bring their experience of public problems to the table. They suggest that 'direct participation of grassroots operators increases accountability and reduces the length of the chain of agency that accompanies political parties and their bureaucratic apparatus' (2003: 27). This, they contend, can loosen the grip of traditional political elites. They describe the dynamics of deliberation thus:

In deliberative decision-making, participants listen to each others' positions and generate group choices after due consideration ... these experiments generally seek to transform the mechanisms of state power into permanently mobilised deliberative democratic grassroots forms. Such transformation happens as often as not in close co-operation with state agents. (2003: 27, 32)

Among the background enabling conditions for EPG, Fung and Wright name ‘a rough equality of power, for the purposes of deliberative decision, between participants’ (2003: 24). In their analysis of the criticisms that have been levelled at their model, they cite the unequal positions of power of participants in these institutions as the ‘most serious potential weakness’ (2003: 33). They suggest, ‘these inequalities can stem from material differences and the class backgrounds of participants, from the knowledge and information gulfs that separate experts from laypersons, or from personal capacities for deliberation and persuasion associated with educational and occupational advantages’ (2003: 33–4). They go on to consider the factors that might turn deliberation into domination: the more frequent and effective participation of those with greater social and material advantage; the extent to which the more advantaged are able to ‘use tools at their disposal ... to advance collective decisions that unreasonably favour their interests’ (2003: 34); deliberate restriction of what can be debated or decided on by the powerful, to protect the status quo; and the discouragement of radicalism and militancy. They note, ‘after all, deliberation requires reasonableness, and so commitment to deliberative processes might be thought to require abstinence from vigorous methods of challenging power’ (2003: 35).

Analysis of processes of deliberation within the Brazilian health council that is the subject of this paper reveals are three elements that are under-theorised in Fung and Wright’s account and in the work of a number of other deliberative democratic theorists. All are directly concerned with politics and power.

The first is what is often referred to as ‘political culture’. Two understandings of ‘political culture’ might be distinguished. One refers to *cultural practices* that are associated with the political domain, such as particular forms of political conduct. This understanding leads us towards exploring *cultures of politics*, which are often plural, overlapping and in a dynamic process of flux over time and across different political spaces. The other understanding presents a more static, composite notion of Culture with a big ‘C’ – singular, generalising, encoding normative expectations attitudes and values in relation to a given political system. Culture with a big C becomes a backdrop to politics, rather than that which animates political practice. In keeping with my anthropological orientation, my approach in this paper is to focus on the cultural practices associated with democracy in this context, but in doing so to take account of representations of what might be regarded as emblematic elements of Brazilian political culture – in particular, pervasive clientelism and the lengthy shadow of authoritarianism.

The second is the importance of ‘vigorous methods of challenging power’ for democratic politics. This is an old chestnut in debates on deliberative democracy (see, for example, Mouffe 1999; Young 2000; Dryzek 2000; Avritzer 2002). But it gains a new twist when the focus shifts from abstract political theory to actual political practice. As the story I tell here suggests, directly contestatory conduct can play a crucial role in democratic deliberation precisely as a means of challenging the less-than-democratic behaviours of powerful actors within a deliberative arena. There are, as Avritzer (2002) has pointed out, other dimensions of contentious politics that are equally important for any theorisation of participatory governance, not least the new practices that social movements bring into institutionalised participatory spaces. The social and cultural dimensions of contestation are

especially significant for understanding deliberation in the Brazilian context because many of those who are most active in Brazil's new democratic spaces have trajectories in contentious politics. The project of democratizing the governance of health has been driven from within government – as well as outside it – by veterans of the health reform movement, the *movimento pela reforma sanitária*. This was the movement that provided the impetus for the creation of Brazil's participatory sectoral policy councils, enshrining this as a statutory obligation in the 1988 Constitution. In the story that I tell here, some of the most significant influences on the health council as an institution have come from actors who have their origins as activists in this movement. Other actors found their taste for politics in other movements – some in Catholic base communities inspired by liberation theology, some in Brazil's many and active labour unions, others in political parties of the Left in which popular participation and articulation with social movements have been key political strategies. The styles of politics these actors have acquired in the course of their engagement in these arenas are distinctively different from the cultures of reasoned argumentation that are evoked in accounts of deliberative democracy.

Clearly, there are issues here of political culture – in the sense of ideals, as well as practices. But there is also a broader set of conceptual issues that are raised when closer consideration is given to the role of contention in the conduct of deliberation. While Fung and Wright emphasise 'reasonableness' and 'abstinence from vigorous methods of challenging power', Mouffe proposes that it is passion that drives politics. For Mouffe, contestation is the lifeblood of democratic conduct precisely because it enables differences to surface rather than be suppressed. Rather than reasoned argumentation, Mouffe advocates agonistic pluralism, which is characterised by 'a vibrant clash of democratic political positions' (2000: 16). Certainly what this paper goes on to reveal is precisely this kind of 'vibrant clash', animated by passionate debate in which trenches rather than bridges characterise the positions that are taken up. But, and this is a point I will return to later in the paper, this is not to say that passions are not also stirred by and channelled into argumentation. Paying closer attention to the nature of contestation in this arena and locating it within cultures of politics in this context reveals a plethora of forms of discursive engagement, motivations and power effects that are, I argue, important to understanding what 'democracy' means in Brazil, but may also have some wider relevance to debates in political theory.

Lastly, there is a striking absence in Fung and Wright's account of EPG and from much writing on participatory governance of politics with a big 'P' – party politics. Yet political party affiliation and the cultures of politics learnt in party spaces can have a significant effect on the dynamics within participatory governance institutions. Party politics becomes, in some respects, the elephant in the room in accounts of deliberative democracy and participatory governance. In the literature from and on Brazil, what the Brazilians call *partidarização* – the 'party-isation' of spaces like the Participatory Budget or sectoral policy councils – is more than evident. Bairle (2003) and Baocchi's (2003) accounts of Porto Alegre's Participatory Budget gives a fascinating account of the party-political dynamics of engagement with the budgeting process. Yet while some bemoan the extent to which party politics has come to permeate these arenas – and there are undoubtedly some negative elements to this, including the reproduction of forms of conduct from within party spaces that can be inimical to inclusive participation – there is also

another side of the coin that must be recognised. Heller's (2001) comparative analysis of two of the most cited and celebrated participatory governance institutions – participatory budgeting in Porto Alegre and participatory planning in Kerala – makes clear that there is an *ideological* dimension to these institutions that is a vital ingredient in any account of their 'success'. It is no coincidence that participatory governance institutions in Brazil have attracted in significant numbers people associated with political parties who have a radical democratic political project at their heart.

Bringing big 'P' politics back into the picture in analysing institutions of participatory governance urges closer consideration of how party politics affects the little 'p' micro-political dynamics within these institutions. Of particular relevance to this case is the significance of shared political commitment that spans 'the state' and 'civil society' precisely via party networks and affiliations. This constitutes, in Heller's account, an important dimension of these democratic innovations. This political commitment is not only a broad concern with the social good, but an explicitly ideological preference for radical democracy. This ideological preference lends legitimacy to a culture of politics that constitutes a radical break with Brazil's authoritarian past. This favours a culture in which everyone has a right to express their opinion, join in the debate, object to any of the terms of the debate and negotiate for what they believe to be democratic, right and fair. These elements – the imprint of cultural practices emerging from political party spaces, the ideologies promoted by political parties, and the normative beliefs about democratic practice (if not its translation into democratic conduct) - need to be factored more strongly into both theorisation and analysis of participatory governance institutions.

In what follows, I offer a brief account of the municipality in which these scenes take place and the institutionalisation of its municipal health council. I go on to give a 'thick description' of three scenes that illustrate both the dynamics of participation within the council, and the visions and versions of democracy that came to be debated in the episodes that I describe here. I return in conclusion to the issues raised above, and to a discussion of the significance of these deliberations over democracy for understanding the nature of participatory governance in this context.

2 Setting the scene

The municipality in which this case study is located is in many respects a microcosm of north-eastern Brazil. With a population of around 150,000, its social profile reveals high levels of deprivation and inequality. Tourist-thronged beaches along its coastline are interspersed with impoverished fishing settlements; peri-urban industries are served by a ring of *favelas* (shanty settlements) that circle the municipality's main town; and its rural hinterland is torn by conflict between landless peasants and powerful sugar barons. The epidemiological profile of the municipality reflects this complexity, and includes both the infectious diseases and malnutrition associated with deep-rooted poverty and urban chronic degenerative complaints.

While the municipality does not have as dense an associational base as many southern Brazilian municipalities (Schönleitner 2004), it is estimated to have

130–150 ‘civil society organisations’. A large proportion of these organisations are neighbourhood associations, many of which were established in the 1990s. Others include social and health-oriented NGOs (non-governmental organisations) and CBOs (community-based organisations), social movements such as the Movement of Disabled People, a feminist NGO with regional and national connections, cultural organisations and a variety of Christian organisations, including organisations such as the Movement of Progressive Evangelists (Protestant), the Christian Workers’ Movement (Catholic), and the international NGOs Plan International and World Vision.

In a political context marked by clientelistic and authoritarian traditions, the municipality’s recent history has seen radical and reformist politicians rise to prominence. A progressive administration ushered in the post-military rule era in which national-level health reforms sought to remodel the Brazilian health system. Shortly after the birth of the Municipal Health Council, inaugurated in 1994 following federal legislation of 1990, a conservative administration (led by the *Partido Frente Liberal*, PFL) was elected to office. The health council met a similar fate to many of the 5,000 or more municipal health councils that now exist in Brazil: it was ‘*prefeiturizada*’, turned into a rubber-stamping mechanism for the local government, who packed it with their allies and clients. But social actors included those active in social movements during the dictatorship, and they joined forces in a popular front to wage a struggle in the municipality both for the realisation of the promise of *controle social* (literally ‘social control’, society holding the state to account) that was encoded in the 1988 Constitution, and for the democratisation of the health council.

A change of municipal government in 1997 saw these efforts bear fruit, as the incoming leftist *Partido Popular Socialista* (PPS) initiated a series of health reforms that included revitalising the council. This process began with a Municipal Health Conference in 1998, and the election of health councillors from among the municipality’s civic associations. Among them was the leader of a distinguished local feminist NGO. She was to become, in 2000, one of the first civil society health council chairs in Brazil. Over the years that followed, the council spent long and intensive hours rewriting its internal regulations, and seeking mechanisms to put in place a system of broad-based representation that could engage the diversity of the municipality’s social actors (Cordeiro, Cornwall and Delgado 2004).

At the 5th Municipal Health Conference, in 2003, almost 1,000 delegates came together to discuss and agree on priorities for health policy in the municipality. A new cohort of councillors was elected, with equal numbers of women and men, representation from across the municipality’s diverse regions and organisations, ranging in age from those in their 20s to others in their 60s. Almost half had no more than primary schooling; for some, becoming a health councillor was their first experience of engaging in municipal-level governance. Health worker representatives elected at the conference included community health agents, auxiliary nurses and a primary care doctor. They were joined by high-ranking officials: the Municipal Health Secretary, and the directors of primary care, public health and the municipality’s main hospital took up the seats allocated to government, along with a representative from one of the largest private hospitals.

It is against this backdrop that the story I tell in this paper begins.

3 Scene one

'It will be a disaster for democracy, he can't do it!' exclaimed Lourdinha, the municipal health council's administrator.¹ Marcos, a PT activist whose engagement with the health council dated back to its early years, had dropped by at the health council's tiny office. Like a number of former and current user and health worker representatives on the health council, he made a habit of regularly stopping off at the council's office to keep abreast of the latest developments. There was little that escaped the attention of Lourdinha, herself a PT activist. It was Lourdinha's initiative that the council should have ground rules for conduct in meetings – not to interrupt each other, to listen to all viewpoints without judging and so on – even if those rules were rarely observed. And her phone calls to remind and cajole members to attend meetings, her help with filling in forms or figuring out how to deal with a problem and the records she keeps neat and organised, were an under-remunerated but vital part of what kept the council going.

Unlike those who came just to chat, Marcos' visits were often an opportunity for a debate about a point of policy or procedure. An unemployed former salesman at the time, in his 50s, he sat on various municipal councils as a representative of the Movement of Christian Workers (*Movimento dos Trabalhadores Cristão*), and held a seat on the State Health Council in Recife. His style of politics was distinctively that of his party, the PT: there was nothing he loved more than to denounce something that he felt was not right and to heckle those who tried to defend it. Unlike some of his fellow user representatives, he had no desire to enter the municipal legislative chamber as an elected representative; his taste for politics was piqued in the debates that took place in the arena of the councils, and his vision of their capillary effects on democratisation captured his enthusiasm and energy. Deferred to by many of the councillors for his experience, the health council was a space in which Marcos was in his element.

Today's discussion revolved around a dilemma that the health council was up against. The two-year tenure of the user and health worker representatives on the council was almost at its end. Established procedure was for successors to be elected at a biannual municipal health conference, at which hundreds of delegates from across the municipality deliberate priorities for health policy for the next two years, as stipulated in the internal regulations of the council. These regulations had been put in place by the previous mandate-holders as a precaution against the manipulation of the election of councillors; they also stated that no changes could be made to the rules without discussion and approval at a municipal conference. There was, however, a hitch. A new municipal administration had recently come into office. They had as yet made no commitment to hold the municipal health conference that was due. Neither the resources nor the political will seemed to be available. Rather than pushing the new government hard to honour its obligation to hold a conference to elect the new councillors, the council had been in disarray, mired in the tensions, contests and allegiances that accompanied the new configuration of political actors in the municipality. The scene was set for trouble.

1 All the names of the protagonists in this story have been changed.

What provoked the unfolding battle over how the new intake of the council would be elected was something much more innocuous: a pamphlet, Resolution 333, that had been issued by the National Health Council over a year previously. Resolution 333 sought to offer guidance to assist the formation of health councils. It had recently come to the attention of the current health council chair, Antonio. A close colleague of Marcos in the Movement of Christian Workers, Antonio was also in his 50s. With primary-level education, no technical or professional background in health and hailing from a poor black family in one of the municipality's low-income barrios, Antonio was an unusual health council chair in a country where this position is generally given to the Municipal Secretary of Health. Active within the PT, he had run an unsuccessful campaign to be elected as a councillor in the municipal government. Antonio was a stickler for the rules. Resolution 333 sought to establish principles of institutional design that would help make health councils more functional and representative. The Municipal Health Council had been down this path some years before and had developed its own rules to protect and support representativity within the council. But these were not the same as those now suggested by Resolution 333. Interpretations of the status of Resolution 333 and specifically of whether it constituted command or suggestion was to become a sticking point in the debates that followed.

Antonio had produced Resolution 333 for the first time at the meeting of the council's executive, a week or so after the previous health council meeting. He had used it to mount a set of arguments about modifications he felt it necessary to make to the internal rules of the council to bring them in line with the Resolution. The first was to dispense with the need to elect councillors at the conference. Resolution 333, he told the executive, stated that it was mandatory to hold a conference every four years, and said nothing about councillors needing to be chosen at the conference. When Antonio reeled off all these points at the meeting, the other members of the executive had simply taken it all in: it was as if this was something that they had been instructed to do by the state, and they did not think of questioning it, or reading Resolution 333 for themselves, until much later.

The issue that was preoccupying Antonio was whether the council's representatives could legitimately remain in office beyond the end of their term to wait for the municipal government to hold a conference to elect their successors. If this was not legitimate, as he was to argue, then a mechanism had to be found for electing the new cohort of councillors. At a health council meeting some months earlier, Antonio had registered his opposition to the prolongation of the councillors' mandate until a conference could be arranged. As he pointed out, there would be a public outcry if politicians did such a thing. The council needed to do the right thing, he argued, and call a public assembly to choose the new councillors. He was voted down. Now he was prepared to invoke the need to abide by one set of rules by putting to the side another – the council's internal regulations – and drive through the assembly from his position as chair. He declared that he was not going to continue as chair for one day more than the end of his tenure, and he intended to hold the election the weekend before his tenure expired, whether the health council liked it or not.

Two significant changes to procedure were being mooted by Antonio, of which the substitution of a conference with an assembly was only one.² His second proposal was yet more controversial. It was to change the rules of representation. Current rules permitted twenty representatives of organised civil society to be elected to positions within the council, as representatives and substitutes. When the internal regulations of the council were amended during the previous tenure, the issue of representation was hotly debated. The council had come up with a formula that sought to combine breadth of geographical representation (five representatives and five substitutes to be from neighbourhood associations, chosen from the four regions) with interest-group and identity-based representation. Arguing that the current system weakened accountability – as when representatives missed a meeting, substitutes from other organisations, rather than their own, would step into their places – Antonio advocated limiting the election of representatives to ten organisations, who would then provide their own substitutes.

Lourdinha and Marcos mulled over the implications of Antonio's arguments. Marcos was in favour of making the change, on the grounds of accountability and continuity. But, Lourdinha pointed out, this would mean only larger organisations would find their way into the council. Smaller, less well known organisations would not stand a chance. She cited the example of a timid man in his early 40s who came from such an organisation, who currently occupied a place as representative. He wouldn't stand a chance in the elections if there were only ten places. Look, she said, at how he has come to be involved with the council, going from being a substitute to being a representative when the organisation that had the seat he now holds missed a string of meetings and was thrown off the council.

For both of them, what lay at the heart of all this was what Antonio's two proposals for changing procedure might do for democracy. As they argued with passion, they put forward and defended their own versions of democracy. These were not incompatible: both of them were, after all, activists within the same political party and shared many values and political beliefs. But their perspectives on what was needed to 'deepen' democracy were different. For Marcos, the changes Antonio was proposing would force civil society organisations to be more accountable for their responsibilities as representatives, rather than the current situation where some of these organisations come and go from the council and there are variable efforts made to consult with or be accountable to their constituencies. Holding the assembly was a pragmatic solution to a problem that would otherwise mean setting a dangerous precedent of prolongation of tenure.

Lourdinha's concern was that narrowing the pool of civil society organisations involved in the council could only be bad for democracy. What was needed,

2 The crucial difference between a public assembly and a conference is the rules of the game governing who has the right to vote in each: a public assembly would allow all present to vote, while at conferences only delegates elected at pre-conferences held in each of the municipality's four regions gain the right to vote and there are effectively three stages of election that candidates for the health council need to pass through: election by their organisation (although this can be simply by nomination or self-selection); election to be a delegate to the conference and then election to be a member of the health council as representative of their organisations.

Lourdinha felt, was to seek ever more heterogeneous representation of society: for this, it was essential both to hold a conference to elect representatives and to ensure that the current system of representation was retained. Such pluralism, she argued, would hold much better prospects of ensuring accountability. The fewer the organisations, the greater the risk that party politics would become even more dominant than it already was in the council's deliberations; diminishing the number of organisations represented would amplify the party political dimension to such a degree that it would be totally impossible for the council to operate in anything like an autonomous way. And if that happened, she argued, the council would end up getting caught up between the two political factions that currently dominated the political scene, products of the fission within the local Workers' Party (PT) – a power play that would suspend the council.

4 Scene two

In the week that followed Lourdinha and Marcos' discussion, alliances were sought and cemented as tensions rose. Cleavages in the Workers' Party began to shape the sides that were being taken. A few days before the meeting, a small group of health workers and service users sat together and read through the small print of Resolution 333, and then combed through the internal regulations to see if there was any contradiction. They found none. 'Tricking us? We're not tricked!', was the indignant response of one of the health workers, as it became evident that she and others had taken Antonio's account of Resolution 333 at face value. As the documents were read out, line by line, those around the table shifted from amazement to indignation: there's everything here! one exclaimed. 'What a coup they would have had if we'd just accepted what they said,' commented another: 'if you hadn't told me to look at the rules carefully, I would have believed it all!' Another member of the group argued, with passion:

These are our rules – and this is the rule book from the national health council. There is nothing in here [Resolution 333] that talks of what they [Antonio and his allies] are planning to do. If councillors don't check the rules when these kinds of suggestions are made, the health council will just become the council of the government. Our rules should be something living, not something dead: we need to make use of them.

This attempt to change the rules was a direct threat: 'a threat to all that we have constructed, all that we have established, all we have achieved'. But some were sceptical about what could actually be done to face off this threat. 'This council never makes recommendations or resolutions,' a long-standing member of the council commented, 'we just disagree and argue and don't come to any conclusions'; why would anything be different this time round? The basic problem, others pointed out, was Antonio's interpretation of the role of the chair as someone who has the right to direct and decide – rather than as a facilitator, as someone who fosters deliberation. Under Antonio's direction, they noted, the council behaves itself less like a place where people develop positions by consensus than like an arena that mimics the political arena where speeches are made, votes are cast, positions are taken and compacts are sealed.

Precisely this kind of political conduct was emerging in the build-up to the health council meeting. Allies were sought by those in search of the most articulate defenders of their positions to mount arguments on their behalf. Deals were forged between members of the new government and those who had been thorns in the side of the previous administration. Photocopies of the original federal legislation that put the councils in place in 1990 and the 1994 municipal law guiding implementation in the municipality were passed around this faction, and scarred with lines highlighting certain words and phrases. Old enmities began to bite as suspicions grew about the agendas that lay behind this challenge to the rules of representation. It is all too common in Brazil for municipal governments to stack the decks in such a way that user representatives can only agree with whatever the government wants to push past them. The fewer the organisations, the easier they might be to buy off, bully and manipulate.

Over the course of the previous administration, the health council had achieved a measure of institutional durability. The rule-makers had thoroughly wrapped their rules in procedures – notably the repeated and insistent condition that any changes could only be made subject to deliberation, that is *decision-making*, at the health conference – to make them difficult to flout or to break. This was now being put to the test.

5 Scene three

The day of the health council meeting arrived. As councillors filed in, glances were exchanged. The room swelled with familiar figures who had not been seen in the council for some months, as with the less familiar faces of people from the new administration. By 2.30pm, almost 50 people were crammed into narrow rows of white plastic seats, filling the room. As the meeting began, whispers and mutters began to ripple around the room. There was a crackle of tension in the air as the minutes from the previous meeting were read out. No one was really listening as the presentations that had been scheduled from the previous month's meeting began. Slowly, the time for the debate everyone had come for arrived.

Antonio took the floor with his opening gambit. By the time the meeting started, he had rehearsed his position so many times that it came out less as a proposition than as a statement of fact. As Claudia, the young primary health care worker who was barely 12 before she began making speeches at political rallies, reflected to him afterwards, the problem was not with what he was saying, but in *how* he said it. Intransigently, in the eyes of some, and with insistent principle, in the eyes of others, Antonio repeated that he would not stay on for one day more than his mandate and he was going to do his democratic duty and hold an assembly to elect a new cohort of health councillors.

With a nod from the Municipal Health Secretary, who had by that time arrived and established himself in the corner of the room, a union activist, Carlos, began to speak. Waving a highlighted copy of Law 142 of 1990, the legislation that had created the health councils, he read out a paragraph, then produced a sheaf of other documents, from which he took lines in support of his case. 'It is,' he said, 'a question of the law. We are in defiance of the law if we exceed the mandate of

this council's tenure and do not hold an election for new councillors. And there is nothing in the law about councillors needing to be elected at a conference.'

Drawing nods of approval from the government representatives who were to clap him on the back as they left the building some hours later, Carlos rested his case. Neither he nor a number of the most vocal speakers in this debate were elected health council representatives. His legitimacy to occupy so much of the space for the discussion was never in question, even though he had been expelled from the council some months before for non-attendance.

Mimicking conduct in the municipal assembly, debates in the health council often tend to consist of speeches given by a vocal few, with speakers being heckled and interrupted. Speakers need to be assertive enough to carry on speaking over the interruptions of others; some stumble and give up as they are shouted over, others rise to the challenge and persist. When things get particularly heated, many voices are raised at once in a fast-paced jumble of arguments and counter-arguments. From what I had observed, decisions in the council were rarely reached by consensus. Voting was used as a way of settling a matter if things became particularly heated, with the open recognition that the government position would always end up in the majority. A show of hands was just that: showing whose side you were on, and some would only show that they supported the government, fearful of losing contracts or falling out of favour. This did not discourage people from debate, however; indeed, those who were able to make and mount positions had an evident relish of the opportunity for a really good argument.

Here were the ingredients of deliberation, even if there was rather limited evidence of anyone shifting their views as a result or indeed of the transformation of uncrystallised interests into positions informed by the coolness of reason rather than the passion of partisanship. But the deliberators were in the minority. Most people attending the council spoke rarely; many remained entirely silent. One of the representatives, a black woman in her 60s from a local Catholic convent, had been described to me as the 'silent nun'. A substitute in the previous council and a representative in this one, she had never been heard to say a single word at the meetings. When she was challenged as to why she continued to come to the meetings if she never contributed her views, she reportedly insisted that she had no intention whatsoever of stepping down. The value of the contract her organisation had with the government was worth too much, it was surmised.

For all the high emotion that the debate was generating on this occasion, it was as ever a relatively small number of actors who were entering the fray. Sara, a feminist NGO worker in her 20s, tried to speak and was silenced; she tried again, 'I am written down to speak and I will speak.' But she was swiftly interrupted, and silenced again. Cristina, a feisty primary health care doctor in her late 40s, was someone who could be counted on to participate, someone who always had a strong view on the issues of the day and the personal power to insist that she be heard. Now she took the floor. Like Antonio, Cristina had contested the municipal government elections unsuccessfully as a PT candidate. But in this space, her allegiances lay elsewhere. She had been part of the previous administration, one of the health service managers who had sat on the council as the new internal rules had been written. When she left her position as a bureaucrat and returned to work as a doctor, she had continued to engage in the council, as a representative of health

workers. As active in demanding information from the government as in fierce arguments with Antonio, Cristina was an old hand in these kinds of debates. She waved *her* set of papers: Resolution 333 and the health council's internal regulations.

Like Carlos, Cristina's counter-argument focused on the documents she had before her. Her interpretation was bolstered by the status of these documents, as the latest word from the state and the council's own agreed-upon procedures. In rhetorical terms, her argument would have won the day. The force with which it was delivered, the cogency of what she had to say, and the substantive basis from which it was derived would all have appealed to the exercise of objective rationality. But there was much else besides reasoned argument informing this debate. There were webs of alliances and allegiances, spun along party-political or patronage lines. There were positions around which trenches had been dug so deep that there was no stepping over them into any kind of consensus. There were those who wished to flatter the new administration, and those whose concerns for their contracts may have been uppermost in their minds. And there were those who were old comrades and old enemies, who in the stand-off were only too willing to take sides.

It was then that Cecilia took the floor, to argue with an eloquence and indignation that few could match. She spoke of how these councils had been created as spaces in which people with different interests and experiences could come together in search of consensus that would serve the public good. She spoke of the significance of the municipal health conference as a 'democratic space', qualifying this as one in which all corners of society could gain a voice. She spoke of the importance of the efforts that had been made to ensure broad representation on the council. And she spoke of the importance for the municipality of having institutions like the health council that could make the promise of accountability a reality for the people of the municipality, by holding the government to account and orienting public policy so that it made a real difference to people's lives. 'These rules [the council's internal regulations] are a lesson in democracy,' she argued. She turned to Antonio, 'It pains me that you, someone from the left, wants us to depart from this.' And then the death blow, 'It is worse than the military government.' She ended with an appeal to the audience, 'It is not up to the chair to call an election just like that – this is no way to behave democratically. We need to take care that we don't lose what we have.' It was a powerful speech. Her detractors had to move quickly to undermine its potential effects.

Cecilia's colleague Lucia, as articulate in this arena as she was on the community radio station run by the feminist NGO for which she worked, jumped into the debate. Invoking her experience as a member of the State Health Council, she argued that the Municipal Law of 1994 gave supreme authority to the Municipal Health Council to decide matters like the most democratic way to elect their representatives. 'They made this law to orient us, not to determine what we should do,' she said, picking up her papers and reading an article from this law. 'If you examine the law well, you'll see their [the law-makers'] democratic orientation,' she charged, 'you'll see that they say it is legitimate for councillors to call a conference when they feel it is required.'

Carlos rose to the challenge. 'We *all* need to know the law,' he said. Once again, he invoked Law 142 of 1990, and waved his papers demonstratively, jabbing them in

the air as he spoke: coupling gesture with affirming the place of the council in the political order – ‘it’s the *vereadores* (elected municipal government councillors) who are the ones who make these laws,’ he contended, ‘not us.’ And, he argued, ‘Law 142 and Resolution 333 tell us that we must have conferences every four years, and that representatives can elect their own representatives: municipal law can’t break federal law, and we’re doing that by not having our conferences every four years. We can’t break Law 142 and Resolution 333. The Law is the Law.’ One of the council’s most active members, Maria, a representative of a neighbourhood association who had become involved with the council after a brush with the Brazilian health system that left her indignant, turned to me with a wink and whispered, ‘the problem is, there are so many laws here in Brazil, a lawyer can take their pick.’

For all the scepticism Brazilians have about the implementation of the many laws that lie unused in the statute book, there is a respect, awe even, for a well-crafted law. The realities of the gap between laws some describe as ‘beautiful’ and the less than pretty realities of their non-implementation are, however, all too well acknowledged. Yet it was around law as idea rather than these messier realities that the debate had come to turn. And there was more to come. Antonio informed the meeting that he had sought legal advice from the *Ministerio Público* (the Ombudsman’s office) and that the lawyers had said that the internal regulations should be changed if they flouted the law. The question here was *which* law. Debate shifted back to contesting whether the rules actually did flout the law, whether Law 142 of 1990 had been superseded by more recent legislation, or indeed was to be considered secondary to the law passed by the municipality in 1994 that had led to the creation of the council.

Maria confronted Antonio. As a member of the executive, she had sat through a meeting the previous week and was now feeling angry and let down. ‘We spent until 6pm for nothing,’ she complained, ‘I feel deceived, being called to a meeting of the executive and doing one thing, and now being asked to do another.’ She ended her intervention with a plea for consensus. This was seized upon by Cecilia, who came back into the debate with another passionate speech: ‘Maria said something very important, that is that we have different interests. We need to construct a conference so that we can seek this consensus ... It’s the moment that the council becomes close to the people ... Are we denying this to our people, the chance to democratically discuss issues of health? Don’t let this story of legality throw away this history, our commitment to democracy. We need to hear other people’s opinions, we need to do this in order to construct consensus, to be able to do this democratically we need a conference.’

Ricardo, a trade union activist who had recently taken up a post in the municipal government, picked up Cecilia’s argument and ran with it: ‘We’ve advanced in health so much in the last 20 years, and this advance has been through popular participation. Cecilia argues that we need a conference not just to elect councillors but to evaluate and propose public policies in health – this is the significance of the conference, we must do this.’ Seizing the moment to re-enter the conversation, Cristina began to speak again. ‘It’s very sad to see comrades like Carlos and Antonio, who helped construct our democracy, behaving like this.’ She pointed out that it was those very councillors who were present at the meeting who were the

ones who agreed the internal regulations at the previous health conference. ‘Do we want to break our own rules?’ she thundered. Carlos became conciliatory, ‘All I am trying to do is clarify what is here,’ he says, gesturing at his papers, ‘each regulation replaces the one before, and we need to respect these regulations. We need to do a conference properly. Let’s put new people in to organise the conference.’

Antonio then reassumed control over the discussion. He waved his copy of Law 142 of 1990. ‘I am leaving here very pleased because I can call this election,’ he said. ‘There’s nothing in this law that allows us to prolong our mandate. When I call the election, I will be calling it because it is my legal duty to do so. I am not against the conference. But the conference just *deliberates*, it is the council who *approves* what ought to be done.’ He turned to Cecilia, ‘Did you go to the training,’ he charged, ‘to learn what the role of a chair is? The role of a chair is to do what I am doing and to obey the law. The promoter of justice [from the *Ministerio Público*] was clear on that, I have an obligation to call an election. And I will do so.’

As if by cue, the Municipal Health Secretary then spoke about what a mess the previous administration had left things in, how they’d been struggling to deal with all this since taking office, how stretched resources were, how much he valued holding a health conference and how committed he was to having one in the future, but how for now this was not going to be possible as there were no resources. ‘We also need to think of the implications of prolonging the mandate,’ he argued, ‘of the *legal* implications,’ arguing that the council would have no legitimacy or representativeness if it exceeded its mandate. And he rounded his intervention off with a demurral: ‘We are not lawyers.’ No one sought to challenge him. Discussion fragmented; attempts at intervention from other advocates for the health conference dissolved in the fray.

Antonio then exploded. ‘As chair, I am allowed to call the council to vote. Am I allowed to call this election or not? Everyone is against me. I will be authoritarian. I will call an election. It’s the responsibility of this council and I will call it.’ Cristina was quick to challenge him; ‘It’s the whole council who determines things, not the chair, not the users, not the managers.’ While Carlos argued for taking legal advice, Lucia pointed out that resource constraints were not the issue: the question was not about money, she argued, it was about politics. And everyone knew what *that* meant. Antonio sought to quieten his detractors, suggesting that the public assembly have an educational component, where people learn about what being part of the council involves and debate what the role of a councillor ought to be prior to any votes being cast – perhaps the most deliberative practice to which the council had ever stretched. But there was no reconciling the differences of opinion.

The decision at the end was a familiar resolution to stand-offs such as these. It was to hold another meeting, in a week’s time. Cristina had been right. Deferring closure, the council broke up and people lingered in groups to chew over what had happened. As people filed by, I stood in the foyer of the building with one of the protagonists who had acted in support of Antonio, deep in debate about the nature of democratic representation. I was told that the glorification of the conference as a site for inclusive representation needed to be taken with a pinch of salt; ‘When the time comes to vote, everyone is exhausted, and they just push the health workers into one corner and the users into another and it is over very

quickly because everyone wants to go home.’ And, as if I hadn’t noticed, ‘It’s a party political game inside this council, it’s not about the rules, it is about who is working with whom.’ We moved outside to dissect the meeting and its implications with Antonio and his allies. Finally, as night fell, the group took their leave from each other and made their way home.

A week later, the council voted with only two objections to holding an assembly before the mandate of the current council came to an end. Eighty-three organisations registered as potential representatives of civil society; 33 of them were disqualified for lacking the appropriate credentials, some of them organisations that had never been seen in the council before who were suspected to have been put up to standing for election by the municipal government.³ The council’s user representatives were elected from amongst those contesting office; none amongst them were from the movements representing particular social groups – the black movement, the disabled people’s movement – who were once members of the council. Going down the list of new councillors to show me how many of them had party-political loyalties to the municipal administration, a long-standing participant in the council sighed with frustration: ‘This is what we now need to work with. But we won’t give up.’

6 Deliberating democracy

What do these tales have to tell us about the democratic potential of new democratic spaces such as the health council as sites for ‘empowered participatory governance’ (Fung and Wright 2003)? Grounding political theory in actual political practice offers insights into a number of the issues that are foregrounded in Fung and Wright’s (2003) auto-critique, providing a lens through which to critically examine the limits of their account of EPG. An anthropological look at the everyday dynamics within the council and the discourses mobilised by those who animate it, reveals questions of culture, power and politics that are critical to understanding the dynamics of democratic practice.

At the outset of this paper, I drew attention to three dimensions of participatory governance institution that appear to have been under-theorised in the literature in general, and Fung and Wright’s account of EPG in particular. These were: political culture/cultures of politics; the significance of contention and contestation; and party politics. As the scenes portrayed here show, all three are closely connected in the Brazilian context. What broader lessons might this case offer?

The first is the importance of situating any account of participatory governance institutions on a backdrop of existing political institutions and practices. Every space, Lefebvre argues, has its ‘generative past’ (1991: 111); and this past shapes expectations, relationships and conduct within any newly-created political space. No institu-

3 It was suggested to me that some such organisations are fronts created by *vereadores* for political purposes, or as a means for their ‘leaders’ to receive *subvenções* (financial support for their activities) from local government as political favours.

tional design can insulate these spaces from the play of party politics, nor from practices associated with prevailing cultures of politics in other political spaces. Those who enter these institutions bring with them expectations and experiences, relationships and agendas, that span other spaces – party meetings, sites of bureaucratic encounters, informal social networks (Cornwall 2002). Those who spent an afternoon arguing in the crumbling council building in Cabo's main street might have seen each other the previous night at the meeting of the Workers' Party (PT), or that morning in the health secretariat, or popped round to each others' houses in the days preceding the meeting to talk about what was going on and what they were going to do about it. Deliberation is a process, and this process may take place in different spaces, at different times and in different ways. What people bring into a participatory governance institution may be arguments and agendas that have their origins – and potentially also their resolution – in other spaces.

The mutual impingement of other political spaces and processes means that there is no 'pure' deliberative democratic space from which these influences can be expunged. This much might seem obvious. But the lack of attention paid by advocates of deliberative democracy to politics – both the small 'p' micro-political interactions within these spaces, and the big 'P'olitics of ideology and party-politics – shows a reluctance to fully engage with the implications of seeing participatory governance institutions not as free-standing, but as interconnected with a constellation of other political spaces.

The tangle of partisan alliances, compacts and bargains that emerge in the case of Cabo's health council shows just how difficult it is to extricate these institutions from the political landscape on which they are located. Similarities in styles of political conduct between the arenas of representative democratic politics and participatory governance are matched by networks that link these two arenas; common and competing ideological commitments and political projects span these spaces (cf. Fox 1996). 'State' and 'civil society' appear as densely entangled and mutually constitutive (Houtzager 2003; Chandhoke 2003). It would be difficult to imagine any institutional design prising apart these connections and entanglements.

The health council's 'generative past' combines a medley of cultural and political elements that inform the imaginaries, expectations and practices of democracy that are played out in its meetings. These range from a sense among Cabo's social actors of the history of social mobilisation in the region, whether in the context of a brutally oppressive plantation economy or the struggle for democracy, to experiences of episodes of progressive government interspersed with periods of administration marked by deeply conservative and clientelistic tendencies. A plurality of political cultures emerges. On the one hand, elements of the 'old' Brazil seem to be evident: authoritarianism, bargains and favours, and the kind of intimidation that comes out of being locked into reliance on patronage networks. These 'old ways' reinsert themselves in these 'new' spaces, as embedded cultural practices – dispositions, even, in Bourdieu's (1977) sense – which reproduce the status quo (Cornwall 2002). Yet, on the other hand, the visions of democracy that have animated struggles for democratisation in Brazil, are evidence of other traditions – from those learnt in the base communities of liberation theology Catholic organisers to feminist efforts to create alternative spaces for political engagement. The significance of these cultural dimensions for making sense of the dynamics of

democracy goes well beyond that which is suggested by accounts of ‘background culture’ in deliberative democratic theory (see, for example, Cohen 1996).

For all the familiarity of the political machinations at work in the scenes presented here, then, there is also evidence of a culture of politics that represents a radical break with the past. The eloquent speeches made by representatives of the feminist NGO and calls for consensus and for fairness made by actors from social movements and neighbourhood associations – whose very rationale for being part of the council was that it *ought to be* different from the arena of conventional politics – are testimony to a sea change in the way Brazilians experience and engage with politics (Dagnino 2005). From the conciliatory posture of the municipal government’s senior bureaucrats, to the prerogative exercised by a chairman whose own social position and lack of technical training might, in other contexts, undermine the very possibility of him entertaining the thought of entering such a position, there are indications that participatory governance institutions like the health council are making possible some very tangible changes in embedded power relations.

What we see going on here is that different people manifest different democratic tendencies at any given moment in the process. People make use of a range of rhetorical tactics to advance their arguments. Some are directly confrontational and combative, resonant with the pervasive culture of politics amongst Left activists in Brazil; some deploy reasoned argumentation and appeals to broader principles. The normative grounding of deliberative democratic theory privileges a focus on communicative interactions oriented at consensus and cooperative problem-solving (Habermas 1996; Cohen and Sabel 1997; Fung and Wright 2003). Yet the dynamics of deliberation in this snapshot from everyday life in the health council comes to resemble more closely the agonistic politics that Chantal Mouffe (2002) evokes in her account of the passions that drive politics. We see – in some moments, at least – the kind of recognition of a plurality of possible perspectives that characterise Arendt’s (1958) account of deliberation: perspectives that are never simply sublimated to a consensual common good, but remain permanently in negotiation. But we see very little of the kind of conduct that many associate with deliberative democracy: the dispassionate exchange of reasoned arguments, and shifts in position as people are convinced by the reasons given by others.

For all the hallmarks of the dynamics of agonism – with all its conflictive, emotional elements (Mouffe 2002) – there is something else going on here. The scene from the health council meeting described in this paper does feature the kind of passions, contests and differences that are foregrounded by Mouffe. But, it might be argued, these practices are in many respects *constitutive* of deliberation in this political cultural setting. Dryzek (2005) argues that it is possible to formulate an account of deliberative democracy that is more contestatory than the image of dispassionate reasoned debate. Such an account would not only be more robust in the face of differences, but also could extend beyond reasoned argument to incorporate other styles of communication, including, Dryzek suggests, rhetoric, testimony, performance, gossip and jokes. What is key, Dryzek argues, to any account of deliberative democracy is that such interchanges contribute to creating greater understanding between those who take part – whether in stimulating reflection, or making new connections that had not previously been made.

What we see in the health council's deliberations are deliberate attempts to provide reasoned arguments for positions, locating the specific in broader arguments of principle and calling upon others to reflect – key 'ingredients', according to Dryzek, of a deliberative process. These deliberations about democracy are not only an instantiation of the plural cultures of democracy that co-exist within this cultural context, they are constitutive of the practice of democracy itself. For the *enactment* of democracy in the health council consists as much in arguments over laws, rules and procedures as substantive deliberation over health policies, which are more rarely the source of controversy or even debate. This needs to be understood not just as quibbling about the rules, but redefining the very boundaries of the procedural and the political. After all, the very possibility of deliberating democracy in this way in this political context is something relatively new; authoritarian and technocratic governmentality once kept deliberations on public policy safely behind closed doors and it is only comparatively recently that ordinary Brazilians have had any access to influencing the decisions that affect their lives.

The intensity of argumentation about how elections should be held, about rules of representation, about which laws 'count' – these deliberations on democracy may be the bane of the health council's existence at times. But they are also its lifeblood. As a space in which the meaning of democracy itself is continually contested and renegotiated, the health council is a site for exchanges that are often conflictual, taking their form from styles of politics acquired in other political spaces. But while these contests have an agonistic edge to them, there is as I suggest here, a twist to the tale. Bringing these dynamics into view offers a reminder that new democratic spaces such as these are not merely spaces for rational deliberation on technical issues: they are political and at times highly politicised spaces, sites for political activism, and for the construction of alliances and articulations across a plurality of political spaces. They can neither be insulated from the play of party politics, nor would this be necessarily desirable: they work to deepen democracy *precisely because of* those contests and those connections. Seeing institutional design less as a set of fixed norms and procedures than a much more dynamic and interpretive process that is constantly in the making highlights the extent to which the role of contestation in shaping the evolving architecture of participatory institutions is in itself constitutive of democracy within this space. What this case suggests is that deliberative democratic theory might usefully pay closer attention to contention and contestation as attributes of a deliberative process that strengthen, rather than threaten, its democratic potential. The kind of 'abstinence from vigorous methods of challenging power' (Fung and Wright 2003: 35) that are advocated for deliberative democracy to flourish would not only rob the council of the passions that animate debates within it, but impoverish its contribution to deepening democracy.

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