

**Collaboration and Countervailing Power:  
Making Participatory Governance Work**

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## **Collaboration and Countervailing Power<sup>1</sup>**

In many challenging policy arenas, such as environmental protection, labor standards, racial and gender discrimination, public education, and even basic safety, politics and government have taken a decidedly collaborative and participatory turn. Proponents and observers of these new governance forms (Weber 2000; Sabel, Fung, and Karkkainen 2000; Sturm 2001; Freeman 1997; Cohen and Sabel 1997; Dorf and Sabel 1998; Fung and Wright 2001) point out their advantages over more familiar adversarial interest group politics and technocratic insular public administration. These alleged benefits include innovation in the methods of public problem solving, greater reach and subtlety of public action, informational advantages, legitimacy, equity, public deliberation, and civic education.

This optimism has been met with sometimes vitriolic skepticism from both practitioners—environmental activists, labor leaders, civil rights lawyers, educational leaders, and community activists—and academic analysts. Much of this criticism is rooted in the inevitable uncertainty surrounding any novel governance arrangements. The ultimate success of such experiments cannot be known with any confidence until they have matured. The optimists respond that there would be no progress at all if each step required conclusive validation even before it could be taken. While these optimists

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speculate about the ways that obvious challenges might be overcome, the “nattering nabobs of negativism,” as Spiro Agnew once called them, focus on the countless potential pitfalls that may turn worthy ideals into political nightmares. For collaborative governance, such dangers include the erosion of state authority, administrative incompetence, apathy and absence of citizen participation, and local political inequality and domination. These debates have fruitfully moved each side to track emergent governance arrangements closely, compare them critically against the received forms and methods, and to marshal evidence into claims and counter claims. One hopes that the social science of governance will not fall too far behind this lively practice.

The sections that follow contribute to this debate by clarifying a dimension of analysis and difference that has been largely ignored, or at least misunderstood, in the skirmishes between proponents of collaborative governance and their detractors. I will call that dimension “countervailing power.” It is a too-simple notion that refers to the presences of powerful actors in most decision-making venues, and to the possibilities that those actors may be challenged and even defeated from time to time by the weak and less organized. Countervailing power conjures images of organizations of patients facing down Health Maintenance Organizations, “citizens [circling] their wagons against the onslaught of some power elite” or “the activities of blacks, women, and environmentalists... against the Reagan administration” (McFarland 1992: 58). In adversarial arenas, the forms of countervailing power (“adversarial countervailing power”) are quite familiar. They appear as interest groups, public interest litigators, social movements, or perhaps cross-cutting networks of professionals and officials (Helco 1978).

Students and practitioners of collaborative governance, however, have largely failed to attend to the problem of countervailing power. This may seem sensible. If a thick overlap of common interest underwrites collaboration in the first place, then differences of power may be far less important for the fairness or effectiveness for collaborative decision-making than they are for adversarial politics. I contend, however, that deep differences of interest pervade many of those policy areas for which collaborative governance has seemed most promising. Furthermore, the absence of countervailing power in these encounters has jeopardized many of the potential benefits of collaboration, and so belies the claims of their proponents. Greater countervailing power, then, would render the outcomes of collaborative governance more fair and effective in many of these situations. Unfortunately, however, forms of countervailing power are frequently adapted for adversarial purposes and not easily transformed to support collaborative governance. Proponents of collaboration, therefore, should understand the relevance of the dimension of politics that their adversarial critics emphasize—the problem of countervailing power. For their part, however, critics who are interested in effective governance might do well to recognize the limits of adversarial decision-making and explore whether and how countervailing power might be deployed in collaborative arenas.

Both proponents and critics of collaborative governance have suffered from naïve pluralisms regarding the role of countervailing power. In disregarding power differentials in collaborative arenas, many proponents have presumed that all interests will be able to exercise a roughly equal voice in collaboration, or at least that differences of power can be sufficiently bracketed for the purposes of collaboration. Collaboration's critics have

often made the opposite, but equally flawed, presumption. Because the circumstances of collaboration are often characterized by severe differences in the prior organization or collective action barriers facing groups and interests, these critics suppose that countervailing power seldom emerges and so collaboration collapses into cooptation. Actual experiences with collaborative governance demonstrate that both claims are overdrawn.

This examination proceeds in six parts. Part I describes the two central concepts that ground this analysis. It lays out the features of participatory collaboration as a distinct mode of governance, the forms and functions of countervailing power, and then juxtaposes these two concepts against one another to develop a schema for four types of governance arrangements. Part II contains five claims about the relationship between collaboration and countervailing power. The most important of these is that collaboration will not yield desirable governance outcomes in the absence of sufficient countervailing power. Part III offers evidence to support these claims by drawing upon experiences of both adversarial and collaborative governance arrangements in four policy areas: civic environmentalism, workplace discrimination, public education, and public safety. Part IV uses these data to explore how the absence of countervailing power accounts for disappointing outcomes and to clarify the contributions of countervailing power to successful collaboration. Part V examines the challenges to developing collaborative countervailing power. I argue that the most obvious sources of countervailing power are unlikely to produce it. Part VI speculates about the shapes and sources of distinctively collaborative forms of countervailing power.

## **I. Participatory Collaboration and the Problem of Countervailing Power**

### *A. Two Governance Modes: Top-Down Adversarial and Participatory-Collaborative*

One background premise of this investigation is that the well-known, adversarial, style of politics and governance can be usefully distinguished from a more novel, collaborative, mode. Though collaborative politics exhibit plenty of conflict and adversarialism frequently generates cooperation, the two governance categories—adversarialism and collaboration—nevertheless differ in their institutional designs, internal dynamics, and policy consequences.

Beginning with the familiar, consider a highly stylized characterization of adversarial governance derived from interest group accounts of politics (Lowi 1979; Stewart 1975; Freeman 1997). The image is a pluralist one in which organized interests contest for power to create or dissolve binding laws or administrative rules. For our purposes, its two central components are adversarialism and top-down governance:

1. **Adversarialism:** Interest groups compete to influence government decisions. Interest groups seek to maximize their interests by winning important decisions. These decisions determine administrative and legal programs and rules. Rules result from bargaining among interests.
2. **Top-Down Governance:** Once the rules have been set by bargaining among interests, agencies implement these rules upon stakeholders and the general

public. But interest groups themselves have no direct responsibility for devising solutions or implementing the rules.

Many scholars (Dahl 19xx; Lowi 1979; Stewart 1975; see generally Petracca 1992; and Baumgartner and Leech 1998) have developed defenses and criticisms of adversarial governance on both normative and descriptive grounds. For example, adversarialism emphasizes the differences between groups rather than their commonalities, and so generates *excess conflict*. This conflict reduces the *legitimacy* of the rulemaking process on one hand, and the *creativity* of governance on the other (Freeman 1997: 18). Because interests face different barriers to collective action (Olson 1965; Offe and Wiesenthal 1985; Lowi 1979; Wilson 1980), some interests dominate others and can *capture* the “subgovernments” or “policy sub-systems” that are most vital to them. Because those who formulate the rules and programs are often far from those who must live under them, top-down governance solutions often suffer from *lack of relevant information, local knowledge, and long feedback loops*. Similarly, the long chain-of-command connecting decision to implementation exacerbates the familiar *principal-agent problems* that plague the public sector. Finally, top-down governance methods have been thought to generate fixed rules that are inappropriate for governance contexts of high local diversity, volatility, and scientific uncertainty (Cohen and Sabel 1997).

Partially in response to these failures, practitioners and scholars have offered collaborative governance as an alternative to adversarial interest group politics. The “field” of collaboration contains many flavors of non-adversarial governance, including regulatory negotiation, alternative dispute resolution, stakeholder negotiation, and more

grassroots community problem-solving (Briggs 2002). The collaborative arrangements analyzed below instantiate a distinctive flavor of collaborative governance, that I call “participatory collaboration” that has four features. It focuses on public problem-solving, is partially decentralized, invites citizen participation, and occurs in a continuous and institutionalized way.

First, unlike the adversarial mode, the institutions of participatory collaboration are designed to encourage parties and interests to develop mutually satisfactory solutions to public problems that they face together. They do not, in other words, seek to embed lasting rules in public law that will favor their own interests through time. Instead, they work together to formulate agreeable plans of action to address common concerns. This work often occurs through joint planning, brainstorming, deliberation, and policy implementation. In this mode, public officials are neither neutral arbiters nor sole implementers. They convene other citizens and groups, but often participate in substantive policy development and join with private parties in the implementation of public decisions. In this way, participatory collaboration “transcends traditional public and private roles in governance” (Freeman 1997: 22).

Second, unlike the top-down aspect of much adversarial governance, participatory collaboration often occurs in a partially decentralized fashion (Fung and Wright 2001). In the environmental arena, for example, problem-solving occurs at the level of the individual firm or ecosystem, rather through rules issued from administrative agencies in Washington or state capitals. Though the procedures and conditions for decentralized problem-solving are frequently established in a more centralized and encompassing way, collaboration in the development of solutions is devolved. This devolution in part

responds to the criticisms that top-down adversarial governance methods often lack crucial local information and knowledge and face difficult principal-agent problems.

Third, unlike both top-down adversarialism and many stakeholder forms of collaboration, participatory collaboration invites the participation of ordinary citizens—as residents, workers, or simply interested individuals—into the process of governance. In this way, it is directly democratic (Cohen and Sabel 1997; Fung 2001). Mill wrote that the quality of governance arrangements should be judged first by the extent to which they foster good and capable citizens and second according to the degree to which they utilize these abilities to advance good public ends (Mill: 35). Both of these rationales—the educative and the productive—favor direct citizen participation in some arenas of public policy. In particular, citizens should participate when collaborative institutions can foster in them important skills and knowledge and when the particular information, abilities, and dispositions possessed by citizens can contribute to the governance challenge in question. On these two grounds, the range of policy question for which direct citizen participation is appropriate is wider than commonly thought.

Finally, participatory collaborative governance is institutionalized and ongoing. Many forms of collaboration—for example local businesses and community groups cooperating to advance urban economic development—are informal and ongoing. Others—such as stakeholder negotiations within an agency to establish a particular rule or negotiations over where to site a locally undesirable land use—are institutionalized but single-shot. Participatory collaboration, as a form of governance, is both continuous and institutionalized. Therefore, it requires concrete changes in the formal procedures of public agencies, reallocations of public authority across levels of government and lines

separating government from governed, and shifts in the roles of officials, interest organizations, and citizens themselves.

*B. The Problem of Countervailing Power*

Both collaborative and adversarial modes of governance suffer from the characteristic danger that some interests and parties may be improperly subordinated for the sake of more powerful interests and groups. In adversarial arenas, this problem has been well explored theoretically and empirically by students of collective action, interest group politics (Olson 1965; Schattschneider 1960; Schlozman 1984; Jackman 19xx; Lowi 1979; Wilson 1980), and social movements (McAdam, Tarrow, Tilly 2001). These scholars have found that concentrated interests—especially business occupational groups—are able to overcome their collective action barriers more easily than diffuse interests, and so *countervailing* power is difficult to muster (Schlozmann 1984; Baumgartner and Leech 1998). Though they dispute its causes and forms, both interest group (Berry 1999) and social movement scholars have, however, found that countervailing power does emerge frequently to contest more easily organized interests. The power of the environmental movement, organized labor, consumer groups, and the civil rights movement all weigh against the simple versions of the familiar dismal logic of collective action.

In most of these arenas, the predominant forms of countervailing power are well adapted to the requirements and rules of the top-down, adversarial institutions that govern relevant policy arenas. They have developed capacities to prevail in political conflicts rather than to engineer cooperative solutions with their adversaries. They are also more

practiced at formulating top-down policy programs than at developing bottom-up solutions to these public problems. From the world of political science, most of the literature on the behavior interest, or simply “pressure,” groups details their strategies—persuasion, provision of information, writing legislation, or strategic alliance—to influence the making and implementation of laws. From sociology, the study of social movements emphasizes their adversarial characteristics. The organizing concept of one recent seminal treatment is “contention” (McAdam, Tarrow, Tilly 2001). Social movements derive their power in large measure from their capacity to disrupt the social order through protest and other tactics (Piven and Cloward 1977). Many participants of successful social movements share cognitive “frames”—informal social theories of diagnosis, prognostication, and action—that explain the circumstances of their injustice and oppression (Benford and Snow 2000).

These forms and purposes of adversarial countervailing power are familiar to any student of politics. This analysis addresses a much more open set of questions concerning the the relevance, shape, functions, and effects of countervailing power in collaborative rather than adversarial arenas. Perhaps because the topic of collaborative governance is relatively new and because those who study collaboration may be less disposed to ponder the difficulties of conflict, there has been very little empirical investigation of these questions. Another difficulty may be that there aren’t many forms of collaborative countervailing power to study yet. In areas where collaborative governance is novel, organizations, interest groups, and individuals may not have yet recognized the importance of countervailing power or enjoyed opportunities to develop appropriate organizations and strategies.

Still, collaborative governance without countervailing power is likely to fail for at least three overlapping reasons. First, in areas where countervailing power is well organized in adversarial forms—for example the environmental and labor movements—these organizations are likely to oppose institutional movements from adversarial to collaborative forms of governance. Their capacities and approaches are well adapted to adversarialism, and the shift to collaboration may be seen as risky, costly, and demobilizing. Second, the institutions of collaboration result themselves from endogenous political processes. Where countervailing power is weak or nonexistent, the rules of collaboration are likely to favor entrenched, previously organized, or concentrated interests. They may do so by limiting or setting the agenda of issues that is open to collaboration, restricting the range of participants to a select few, and reducing the influence of collaboration to mere advice that can be heeded or ignored. Third, even with fair institutional rules for collaboration, concentrated or entrenched interests will more ably advance their interests over those of others unless countervailing forms of power mitigate these general advantages. With collaborative forms of regulation, for example, firms and industry groups usually enjoy advantages over workers and consumers. When collaborative reforms aim to open service agencies—schools or police department—to broader participation, street-level bureaucrats who are trained, full-time professionals can protect their prerogatives even as they ostensibly collaborate with parents, residents, and other lay participants.

C. Four Governance Regimes

Dichotomizing these two concepts—top-down-adversarial versus participatory-collaborative institutions and presence of countervailing power—and juxtaposing them against one another yields a simple four-fold schema that maps both concrete public policy reforms and the debate between proponents and critics of collaboration. Consider this space in figure 1 below:

**Figure 1: Four Governance Regimes**

		Presence of Countervailing Power	
		Low	High
Governance Institutions	Top-Down Adversarialism	I. (i) Captured subgovernment, or [(ii) Insulated civic republican administration and “juridical democracy”]	II. (i) Adversarial Pluralism
	Participatory Collaboration	III. (i) Co-optation, (ii) Deregulation, or (iii) Altruistic collaboration	IV. (i) Empowered Participatory Governance

The upper right hand corner—marked “II”—characterizes the familiar contested areas of public policy in which diffused, general, interests are mobilized as countervailing power in order to defend their interests adversarial political arenas. Environmental politics of the 1970s and 1980s typifies this region, as does racial politics since the civil rights movement, and labor politics for most of this century.

The upper left hand corner (“I”) describes top-down governance arrangements in which broadly held or subordinated interests are not mobilized. These parameters can yield two very different kinds of outcomes. If, as most of the group literature argues, concentrated interests will be able to advance their interests in government, the result will be that those groups with the deepest interests in particular parts of policy will capture the relevant agencies, or form mutually beneficial alliances with relevant administrators and lawmakers. This situation is, as Richard Stewart puts it, “Madison’s nightmare:”

Rather than offsetting each other through mechanisms of countervailing power, as Madison envisaged, these groups have instead divided power among themselves. This parceling of power has been accomplished through congressional delegations of authority to functionally specialized bureaucracies. Each of these new power centers is dominated by the officials of the agencies in question and the small number of legislators and private groups interested in the agency’s decisions. (Stewart 1990: 342).

An alternative to this interest group liberalism, offered as a solution to this problem and a proposal rather than a description of governance, is a vision in which agency officials and legislators operate at some remove from these pressure groups. If they can be insulated from the push and pull of interests, they would be more able to deliberate with one another to discern policies that favor general interests, apply knowledge and expertise, and so advance the common good over particular interests. One venerable such proposal is Theodore Lowi’s “juridical democracy” and a more recent

version from legal scholars is “civic republicanism” (Lowi 1979; Sunstein 1990). This vision of expert governance remains attractive, not least to policy professionals tired of compromising with the exigencies of practical politics. If it could be realized, this insular administration would be top-down, but not adversarial as such. In it, parties would embrace general perspectives aiming toward the common good. However, insulating public decision-makers from the pull of concentrated interests has been elusive. The wall separating Madison’s civic republican dream from his nightmare of actually-existing interest group liberalism is paper-thin in practice.

Frustration with governance under these top-down institutions has led some policy-makers, practitioners, and academics to reject adversarial governance methods in favor of participatory collaboration. Yet, as with the more familiar forms of top-down governance, power matters. In particular, the presence or absence of countervailing power will produce very different outcomes given the very same collaborative governance institutions.

Critics of collaboration, for example, have highlighted the possibilities depicted in the lower left hand region (“III”) of figure 1. As laid out above, a shift of governance from the top-down adversarial to participatory collaborative form involves the delegation of power from higher to lower levels of government and to a broader array of participants. From the perspective of those at the top, whether they are leaders of interest groups or officials, it amounts to a reduction of control and authority. When countervailing power is well-organized for adversarial contests but not well organized to collaborate (a shift from II to III), the outcomes for the interests they defend can suffer as a result. When there are no local environmentalists, federal program to reduce pollution

through local negotiation between firms and community residents may amount to abdication of federal oversight over that program. Writ large, the shift from top-down to collaborative governance, when there is no countervailing power or capacity, can amount to a state-shrinking, deregulatory maneuver.

Finally, consider governance and politics in lower right hand region (“IV”) of figure 1. Like the region III above, the institutions here confer power to decentralized units of government, open decision making to a broad array of interests that includes ordinary citizens, and aim at solving concrete public problems rather than imposing external rules or issuing commands. Unlike III, however, otherwise subordinated or diffuse interests are well organized and backed by countervailing forms of power that enable them to engage in collaborations on more equal terms. Elsewhere, I’ve described operations in this space as “Empowered Participatory Governance” (Fung and Wright 2001).

As we shall see, much of the debate between proponents and critics of collaboration concerns the likelihood of particular policy arrangements occupying one or other of these regions. For example, proponents of collaboration criticize the results of top-down adversarialism (region II) as being too ham-handed, rigid, insensitive to local information, unresponsive to changing conditions, and ultimately illegitimate. For these reasons, they favor reforms that move policy into a more collaborative mode (bottom row). Critics of collaboration often presume that such shifts will yield forms of collaboration that are demobilized and so lack countervailing power (region III). For the reasons given above, collaboration without power can generate unattractive outcomes for

diffuse or subordinate interests—outcomes that are even less attractive than the defects of region II governance. Collaboration’s proponents imagine a politics in which interests are fairly represented and treated, but do so without explaining how the countervailing power necessary to underwrite this fairness can emerge or sustain itself. As we shall see, many instances of collaborative governance lack substantial countervailing power.

## **II. Five Claims**

The rest of this article substantiates five claims regarding these conceptions of participatory collaborative governance and countervailing power.

The first claim is that participatory collaboration has emerged as a prominent alternative to top-down adversarial modes of governance in important policy arenas. This claim will seem obvious to practitioners in this field. However, participatory collaboration is sufficiently novel in theory and practice that readers unfamiliar with contemporary developments may doubt the existence or prevalence of this phenomenon, and so must be persuaded that it merits attention at all. The examples in the next section, therefore, will describe how participatory collaboration has emerged as an alternative to more familiar adversarial governance arrangements in the areas of environmental regulation, racial and gender discrimination, public education, and policing. Insofar as each of these policy arenas constitutes a “field” of expertise and organizational wisdom, participatory collaboration coexists uncomfortably alongside more hierarchical and adversarial approaches. In these policy fields, there is no consensus about whether one or

other contemporary approach – adversarial or collaborative, insulated from public pressure or mobilized with countervailing power – will advance fairness, effectiveness, accountability, or responsiveness better than the others. The contemporary moment is characterized by substantial experimentation among these different organizational approaches. Initially, my aim will not to settle this debate on one side or another, but simply to establish that these approaches contend with one another in practice.

The second claim is that the participatory collaboration will not yield the benefits that its proponents claim for it without the substantial presence of countervailing power. In many fields, participatory collaboration has emerged in attempts to address the defects of top-down adversarial governance in many public policy areas. One critic of adversarialism in the national context writes that,

The legal commands adopted by centralized agencies are necessarily crude, dysfunctional in many applications, and rapidly obselecent... these characteristics are the inescapable result of centralization. Bureaucrats in Washington simply cannot gather and process the vast amount of information needed to tailor regulations to the nation's many variations in circumstances and the constant changes in relevant conditions. In order to reduce decisionmaking costs, national officials adopt uniform regulations that are inevitably procrustean in application. The same problems that have plagued the Soviet effort at central management of the economy hamper American efforts to plan selected aspects of the economy through centralized regulations. (Stewart 1990: 343).

Under participatory collaboration, by contrast, policy and public action can be tailored to suit variations in local circumstances, respond to dynamic changes, and incorporate local knowledge. In addition, because participatory collaboration creates more direct channels of voice and engagement, its results may better reflect the preferences and interests of those subject to public policies. Those policies may therefore be more legitimate and benefit from the contributions and cooperation of participants as they unfold in time.

These benefits, however, are likely to result only from genuinely collaborative processes that are inclusive, fair, and free from domination. Formal institutions of participatory collaboration are usually characterized by large asymmetries in prior organization, knowledge, intensity of interest, and capabilities. These asymmetries create temptations for advantaged parties to exclude and subject others, and so fair collaboration is frequently difficult to achieve. The presence of countervailing power—for example parent organizations to check school administrators or environmental groups to balance industrial or development interests—can level some of these differences and so create the conditions for fair collaboration.

This assertion that countervailing power is necessary to reap the benefits of collaboration might suggest that the most promising policy areas for the development of participatory-collaborative institutions would be those adversarial areas in which substantial countervailing power already exists. This suggestion may indeed be correct, but the inference is too quick. My third claim is that the sources and forms of countervailing power that are appropriate in collaborative contexts are quite different from those found in adversarial contexts. Adversarial interest organizations have developed competencies, methods of organizational maintenance, and mobilization

strategies that depend upon conflict and victory in conflict. Participatory collaboration requires organizations with very different skills, sources of support, and bases of solidarity.

Fourth, these two broad varieties of countervailing power—collaborative and adversarial—are not easily fungible. In particular, countervailing power that has been organized for adversarial contests cannot easily be redeployed for collaborative purposes. As we shall see below, powerful organizations that supply crucial countervailing power in adversarial arenas are frequently ineffective in collaborative ones. In part due to their comparative advantages, those organizations often oppose reform programs to move governance from top-down adversarial to participatory-collaborative modes. Mark Sagoff observes, for example, that,

The single issue strategies of many lobbying groups routinely “gridlock” policy in the Iron Triangle. For these groups, conflict provides the principle method to deal with issues and mobilize support. Deliberating with others undermines the group’s mission, which is to press its purpose or concerns as far as it can in a zero-sum game with its political adversaries... When an interest group joins with its enemies to solve a problem, it loses the purity of its position; it ceases to be a cause and becomes a committee. (Sagoff 1999: 161)

Fifth, the problem of countervailing power is not easily solved through clever public policies and institutional designs. Typically, even well-designed collaborative procedures, rules, and regulations will not yield substantial collaborative countervailing

power. Countervailing sources usually arise from the polity, outside the boundaries of the institutions themselves, and their presence is contingent upon capricious factors such as those that give rise to interest groups, social movements, and lower barriers to collective action generally. Appropriate institutional designs can facilitate the rise and entry of countervailing voices. However, explanations of their presence and strength is separate from, though linked to, questions about the shape of collaborative institutions themselves.

### **III. Applications**

#### *A. Civic Environmentalism*

The contrast between adversarial and collaborative modes of governance has developed most clearly in the arena of environmental regulation and problem solving. The contemporary era of environmental regulation dates from the late 1960s and 1970s. Marked by the creation of the Environmental Protection Agency and the passage of the Clean Air (1963), Clean Water (1977), and National Environmental Policy (1969) Acts, the expansion of state activity into this area was in many ways an extension of New Deal notions of centralized regulation (Sunstein 1990). Unlike that earlier era, contemporary environmental regulation has been the subject of intense interest groups struggles at the national level (Stewart 1975; Ackerman and Hassler 1981; Lowi 1979). In part due to the massive countervailing strength and transformative power of the environmental social movement and its organizations, almost all observers agree that the top-down adversarial strategy of environmental regulation has been enormously successful in increasing air quality and reducing pollution from industrial sources (Sunstein 1990: 78).

Notwithstanding these successes, critics point to a number of fundamental limitations in this traditional approach to environmentalism. Traditional environmental governance, critics argue, is dominated by industrial and environmental special interests and so ignores the public good, wrought with excessive conflict, unresponsive to local needs and priorities, insensitive to emergent concerns such as those of racial minorities, and incapable of dealing with the “unfinished business” of non-point source pollution, pollution prevention, ecosystem integrity (Kemmis 1990; John 1994; Shutkin 2000; Sabel, Karkkainen, and Fung 2000). Some of these critics believe that a style of environmentalism that is at once more local, participatory, focused on problem-solving, and collaborative—what they call civic environmentalism—can address many of these difficulties by (John 1994; Shutkin 2000; Landy 1999; Sirianni and Friedland 2001). Civic environmentalism covers a wide range of activities including watershed management and restoration, forest management, urban planning and redevelopment, agricultural pollution, and community driven industrial regulation (Weber 1999; O’Rourke 20XX). Two prominent experiences—one from forest management and the other from the protection of endangered species—highlight the disputes between civic environmentalists and skeptics of this novel approach (Steinzor 2000).

The first comes from the forests in the Sierra-Nevada country of California.<sup>2</sup> After decades, familiar struggles between environmentalists and timber harvesting interests had played itself out to bitter, sometimes violent, conflict in the logging town of Quincy there. These conflicts were compounded by resource management policies of fire

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<sup>2</sup> This account is drawn from Sagoff 1999; Duane 1998.

suppression that actually exacerbated the possibilities of devastating conflagration. After a large fire destroyed a nearby spotted-owl habitat, one resident activist commented that “It wasn’t loggers versus owls that was the unresolved issue... it was the owls versus fire” (Sagoff 1999: 167).

A small but diverse group of about twenty individuals—environmentalists, timber businessmen, and local officials—began to meet at a local library to explore solutions to this triple dilemma of environmental protection, economic development, and dangers from forest fires. An expanded version of this group became known as the Quincy Library Group. Over several months, the group developed a forest management plan for some 2.5 million acres around the town that attempted to satisfy all of the involved interests. For the environmentalists, the plan put one million roadless acres of forest, much of that old-growth, into a protected status. Within the unprotected areas, limited logging would be allowed, but new practices would be required. Instead of clear-cutting several dozen acres at a time, loggers would use “group selection” techniques of much smaller, one or two acre, clear-cuts. The plan would allow loggers to harvest forty to sixty thousand acres of dead leaning trees, young ones, deadwood on the ground, while protecting larger trees. To control the threat of fires, the plan provided for loggers to harvest in targeted areas to create fuel breaks, now called “Defensible Fuel Profile Zones.” These provisions aimed to use logging to simulate non-human processes of forest thinning and eventually return the forest to a condition similar to its pre-settlement state (Sagoff 1999: 167-8; Duane 1997: 786-9).

The group submitted their plan to the agency in charge of managing these lands: the U.S. Forest Service. The Forest Service declined to implement their plan for several

years. Some attribute the agency's reluctance to the influence of national interest groups who opposed the plan. Others point to flaws and uncertainties in the plan itself. Finally, representatives of the forest service were not themselves full participants in the planning process. Frustrated by the lack of progress in administrative channels, the Quincy Library Group escalated to the Congressional level. They sought assistance from their Representative, Wally Herger (R-CA), who developed a piece of legislation from the plan. In 1997, the House passed the bill by a 429-1 margin (Sagoff 1999).

Meanwhile, however, national environmental organizations coalesced to oppose the Quincy Library Group. This formidable coalition eventually included the Sierra Club, the Wilderness Society, the Natural Resources Defense Council, and the Audubon Society. The Quincy Library Group proposal thus became a set battle between the proponents of local, participatory collaborative problem solving and the nationally organized adversarial countervailing power of the large environmental interest groups. Indeed, a local chapter of the Audubon society actually supported the Quincy Library Group proposal. Its members saw the actions of the national organization as patronizing, ignorant of local conditions, and insensitive to place-based attachments (Sagoff 1999).

Opponents objected to the plan both on its own merits and for the precedent it would set. Some of the groups, such as the Sierra Club, also opposed the plan because they favored a halt to logging in national forests altogether. Others, including forest service officials, opposed the plan because they saw professional, neutral management rather than local collaboration as the best route to sound, scientific, publicly interested, forest management. The Quincy Library Group plan proposed untested and perhaps unreliable measures for both logging and fire prevention.

A much more important consideration, shared by all of the national organizations, concerned the scale of decision-making. For them, the entire nation has an interest in each national forest. Delegating the management of forests to local groups would amount to an undemocratic usurpation of authority that would subvert the national public interest in forests. Daniel Beard, Senior Vice President of the National Audubon Society, feared that the Quincy proposal

truncates law in a manner that could have worse long-term implications for public forest management. QLG-like bills would allow a relatively small group of citizens to dictate public forest management, rather than agency officials receiving input from the public at large. Forest Service employees often make poor decisions and may not process the public input in a manner we approve of, but they are more likely on the whole to act in the public's best interest than local management coalitions, which don't have the national scientific backing of an agency, and which include people whose personal interests may not be the best interests of the public forest. (Leahy 1997)

Similarly, Sierra Club President Michael McCloskey drew upon the Quincy Library Experience to develop a more general case against collaboration in environmental management:

another problem presents itself where national interests would be addressed by community collaboratives. This arises in cases similar to that of the Quincy

Library Group, which did address certain issues of national interest (e.g., issues of wilderness and endangered species). In such cases, who is to represent these national interests? Spokespersons for the relevant national groups might be appointed, but it would not be convenient or economically feasible for them to attend frequent meetings in far-off places. Surrogates might also be chosen from among local sympathizers, but how can they be legitimated as representatives in fact? The national groups might not agree that they will faithfully represent their interests. In many cases, only a limited portion of the interested parties will reside in the locality involved. (McCloskey 2000: 431)

This argument makes sense at a high level of generality. National interests in forests should be advanced through a democratic process that includes constituents and interests throughout the nation. This is what our electoral and interest group system is supposed to do. At a higher level of resolution that includes specific details, however, the case is less compelling. Supporters of the Quincy Library Group argued that the national system of representation and administration had failed them both environmentally and economically. They could further contend that their plan would better advance national interests in environmental protection and economic development. And, as a matter of democratic process, the group sought sanction from the U.S. Congress.

Why did national environmental groups reject the possibility that local environmental collaborative problem solving groups might contribute to the national interest in environmental protection in this way? The principle problem is not one of national versus local decision-making. After all, all forest management has irreducibly

local components. Neither is it principally one of national interests versus local ones. The Quincy environmentalists had the same goals of forest and species protection as their national counterparts, and much more contextual knowledge and experience beyond them.

Rather, the problem was one of power and precedent. Rightly or not, national organizations felt that environmental interests were more likely to prevail at the national level rather than thousands of local ones. Again, Sierra Club President McCloskey writes that,

Industry thinks its odds are better in these [participatory collaborative] forums. It is ready to train its experts in mastering this process. It believes it can dominate them over time and relieve itself of the burden of tough national rules. It has ways to generate pressures in communities where it is strong, which it doesn't have at the national level. (McCloskey 1996)

From this perspective, Congressional adoption of the Quincy Library Group plan would set a dangerous precedent for participatory collaboration for the management of national forests. While this particular plan might work well in the case of Quincy and the surrounding Plumas, Lassen, and Tahoe National Forests, environmental interests are less organized or entirely absent in countless other locales. As precedent, the Quincy Plan would be dangerous precisely because of the absence of countervailing power in other sites where collaboration might be proposed.

Despite substantial mobilization and objection, the national environmental groups lost in Congress. They were, however, not without force. Senator Barbara Boxer originally supported the bill, but withdrew due to pressure. In 1998, however, the “Quincy Library Group Forest Recovery and Economic Stability Act” was incorporated into the omnibus appropriations for fiscal year 1999.

Figure 2 below maps these changes and debates in terms of the distinctions depicted in figure 1 above. The regime of forest policy determined through centralized interest group contests and then enforced by the U.S. Forest Service is squarely in the upper right-hand quadrant of adversarial governance backed by the mobilized countervailing power of the large environmental organizations. The large environmental organizations viewed the Quincy plan as precedent for a broader shift (marked by arrow “A”) to quadrant III governance: a regime of participatory collaboration in thousands of locales without substantial countervailing collaborative power in most of them. The Quincy Library Group, by contrast, viewed the change as moving from region II to region IV. The Quincy environmentalists saw themselves as well organized and quite capable of collaborating on fair terms with other local interests. Enthusiastic observers of the Quincy process saw it as a harbinger of a larger shift to civic environmental modes of governance more broadly (Sagoff 1999). From this perspective, local environmentalists would rise up to participate in decentralized environmental problem solving bodies around forests, watersheds, and industrial facilities if such opportunities existed (shift marked by arrow “B” in Figure 2.).

**Figure 2: Forest Management and The Quincy Library Plan**

		Presence of Countervailing Power	
		Low	High
Governance Institutions	Top-Down Adversarialism	I. Hypothetical: Professional ecosystem management insulated from political influence.	II. Pre-QLG Plan: Industry and Environmental Interests bargain for policy position.
	Participatory Collaboration	III. Devolution of environmental policy to stakeholder processes dominated by industry.	IV. Diffusion of robust civic environmental problem solving, exemplified by Quincy process.

Critics disagree about whether or not the national environmental groups were themselves parochial in failing to recognize the substantial power and potential of local environmental organizations (Sagoff 1999) or whether they are indeed generally correct and that groups like the one in Quincy are exceptional in their capability and organization (Steinzor 2000; Ratliff 1997). Single local initiatives like the Quincy Library plan are likely to arise where there is substantial countervailing power. As such, these initiatives do not test the question posed by McCloskey and other environmental skeptics of participatory collaboration: if collaboration were to become a more widespread mode of governance, would industry's odds become better? Would it dominate over time? To gain some purchase on this larger question, consider a national policy that has imposed a kind of participatory collaboration on hundreds of ecosystems throughout the country: habitat conservation planning in the Endangered Species Act.

Since its creation in 1973, the Endangered Species Act has been an extreme version of top-down public policy. The ESA effectively prohibits human development on the habitat of species designated as endangered. Intended to operate as a scientific process insulated from political manipulation (see below, Figure 3, Region 1), ESA's high economic and environmental stakes quickly drew interest group pressure from all sides (Figure 3, Arrow "A"). In time, the policy became sub-optimal for everyone. It triggered political contests in which too few species received too much formal protection and too little substantive defense. Listing processes became long pitched-battles and processes of implementation and enforcement were similarly contested. Consequently, very few species have recovered. Politically, the ESA has triggered violent protest from those whose property might fall under this harsh federal regulation.

When Bruce Babbitt became Interior Secretary under the Clinton administration, he saw the potential for resolving these practical and political tensions by shifting the governance of endangered species protection from a top-down, adversarial to a more participatory collaborative approach (Thomas 2001). This notion became policy when he sought to expand the use of the Habitat Conservation Planning provisions of the ESA. According to a little-used stipulation of the law, those subject to enforcement under the ESA could apply for a waiver from strict enforcement. To obtain this waiver, an applicant must develop a Habitat Conservation Plan that can contain plans for human development, but must also provide for measures to mitigate any harm to the species and provide for its regeneration. Since the early 1990s, the use of this provision has exploded. Today, almost 400 HCPs, covering tens of millions of acres, are in some stage of implementation.

The structure of HCPs is very promising from the point of view of proponent of participatory collaboration. HCPs liberate local actors from ill-fitting centrally determined constraints and press them to develop creative solutions in a potentially participatory way. The best of Habitat Conservation Plans deliver on these promises. They include diverse parties including local regulators, environmentalists, and ecologists. They often develop well thought-out long term Plans that include provisions for financing, ecological monitoring, and adaptive management. However, the quality of plan formulation, plans themselves, and very likely their implementation has been very uneven.<sup>3</sup> We actually have very little information about the quality of implementation because there has been, to date, only one study has attempted to evaluate the quality of HCP implementation. Karkkainen (2002) helpfully observes that HCPs fall into two categories: the first consists of larger, multi-jurisdictional HCPs that may be more inclusive, sophisticated, and successful while the second consists of smaller habitats and are usually negotiated bilaterally between federal regulators and landowners.

No one has studied the factors that make some HCPs more democratically inclusive and scientifically rigorous, while others fail. At the local level, the working hypothesis in line with the argument offered here is that areas with mobilized environmental interests will have more inclusive and comprehensive Habitat Conservation Plans. Nationally, environmental organizations have not for the most part mobilized to support Habitat Conservation Planning nor effectively lobbied for a vision of Habitat Conservation Planning that prioritizes environmental interests. Perhaps as a consequence of this political weakness or inattention, the Department of the Interior has

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<sup>3</sup> See Thomas (2001), Kareiva (1999), and Yaffee (1998); see Karkkainen (2002) for response.

been quite lackadaisical in propagating rules to make the process of Habitat Conservation Planning more participatory and demanding on one hand, and it has been quite negligent in monitoring actual Habitat Conservation Plans to assure that they effectively protect endangered species.

The move from strict ESA enforcement to Habitat Conservation Planning, then, illustrates a shift from a regulatory regime that has environmentally mobilized countervailing power in adversarial governance rules to one with collaboration but little supporting countervailing power (Figure 3, Arrow “B”). The price of collaboration without power is evident at both the national and local levels: weak oversight and procedural structure at the national center of regulation and lack of environmentalist capacity to utilize plasticity at the local level. The structure of HCPs remain promising. The actual outcomes—for species protection, accountability, and democratic participation—will continue to fall short of the expectations of its supporters unless environmental interests mobilize at both the national and local levels. Nationally, the regulatory regime will remain ineffective unless it includes substantial monitoring, information sharing, and enforcement mechanisms. The plans for particular ecosystems are unlikely to protect species well or be monitored and enforced unless local environmental constituencies mobilize and gain the capacities necessary to participate in sophisticated Habitat Conservation Planning processes.

**Figure 3. Endangered Species Protection**

		Presence of Countervailing Power	
		Low	High
Governance Institutions	Top-Down Adversarialism	I. Intention: Scientific species protection insulated from political influence.	II. Actual politics under Endangered Species Act.
	Participatory Collaboration	III. Actually-existing Habitat Conservation Planning	IV. Optimistic Counterfactual: Habitat Conservation Planning + National Environmental Mvt Pressure on Dept. of Interior + Grassroots environmentalists to use HCP Structure

*B. Second Generation Workplace Discrimination*

Though the problems and policies are a world away, similar governance shifts and disputes have characterized the field of workplace anti-discrimination. Like the Endangered Species Act, the traditional and familiar public strategies for ending employer racial and gender-based discrimination grew out of the hot social movements of the 1950s and 1960s. This “first generation” of anti-discrimination law resulted from adversarial struggles that pressed the state to deploy its resources against employers who egregiously violated norms of fairness and equity. The discrimination that these laws sought to stop was clear, intentional, and well established. The laws themselves were forceful, simple, and top-down in formulation and implementation. Some of these laws prohibited employers from forms of intentional discrimination such as exclusionary

testing and using irrelevant characteristics such as race and gender in hiring and promotion decisions. Others required employers to adopt affirmative measures to desegregate workplaces, provide back pay to those who have been discriminated against, and seek employees from excluded communities.

Like top-down regulations in the environmental arena, these measures have been extremely effective in stemming the most blatant kinds of racial and gender discrimination. Also like environmental regulation, however, critics claim that this governance strategy has its limitations. In particular, many contemporary forms of discrimination and harassment are subtler than first generation forms. They stem from complex patterns of individual interaction and organizational culture rather than explicit and deliberate bias. Susan Sturm, one of the closest analysts of this “second generation discrimination,” puts it this way:

Exclusion increasingly results not from an intentional effort to formally exclude, but rather as a byproduct of ongoing interactions shaped by the structures of day-to-day decisionmaking and workplace relationships. The glass ceiling remains a barrier for women and people of color largely because of patterns of interaction, informal norms, networking, training, mentoring, and evaluation...

Claims of hostile workplace environment, exclusionary subjective employment practices, and glass ceilings are, by their nature, complex. Their complexity lies in multiple conceptions and causes of harm, the interactive and contextual character of the injury, the blurriness of the boundaries between legitimate and wrongful

conduct... This complexity resists definition and resolution through across-the-board, relatively specific commands and an after-the-fact enforcement mechanism. (Sturm 2001: 469)

The inability of traditional top-down measures to meet these challenges has led to the proliferation of participatory-collaborative anti-discrimination measures. Rather than follow rigid legal prescriptions or prohibitions against clear discriminatory action, many employers have embarked on intensive problem-solving efforts to identify and root out subtle causes of discrimination and hostility in workplaces and to increase the diversity of workforces. These programs often involve not only human resource professionals and outside diversity consultants and training providers, but also directly engage employees of all kinds. Those workers, after all, know best the subtle patterns of human interaction, corporate culture, and workplace practice that generate hostile environments and discriminatory outcomes in their workplace. For example, Sturm describes how Deloitte and Touche created ongoing participatory task forces to investigate the gender gap in hiring and promotion. After many of the recommendations of these committees were incorporated into management practice throughout the company, the percentage of female senior managers and partners increased dramatically, and the company-wide turnover rate dropped for both men and women (Sturm 2001: 492-99).

In a similar experience, the Kodak Corporation embarked upon a multi-year, ongoing, effort to diversify its workforce following accusations of racial discrimination. Rather than simply denying these charges, corporate leadership partnered with the Greater Rochester NAACP to address them. They initiated a broad and inclusive process

of discussion throughout the company to establish the dimensions of the problem and develop solutions to address it.

The courts have induced many of these efforts. An emerging legal standard holds employers liable for the discriminatory and harassing actions of supervisors and workers unless employers themselves have taken affirmative steps to prevent and address such discrimination. Desires to avoid legal liability have pressed many employers, therefore, to adopt and experiment with a range of diversity and anti-discrimination programs. As in the Kodak case, traditional civil rights forces have also mobilized to press employers to strike agreements and sign memoranda of understanding to implement participatory collaborative anti-discrimination strategies. Finally, many employers embark upon these initiatives for internal reasons—for example when senior managers believe that diversity and anti-discrimination are requirements of ethical business practice or that such inclusive workplaces contribute to morale and productivity.

These participatory-collaborative strategies to solve workplace problems of diversity and discrimination have many advantages over conventional top-down, adversarial approaches. They utilize the highly contextual knowledge of workers in particular employment settings. They harness the affirmative energies of management and workforce in ways that commanding legislation could never do. They reach deeply into realms that are impenetrable for conventional regulation, yet central to second-generation discrimination: seemingly innocuous details of management policies and practices, corporate cultures, and the minutia of human interaction at work.

Despite these advantages, critics who are at home with the adversarial approach are less enthusiastic about shifting to a regime that encourages participatory-collaborative

solutions to harassment and discrimination. The central difficulty is the problem of bad actors. For every Kodak and Deloitte and Touche, there may be many more employers whose primary motivation is to avoid legal liability rather than seriously address second-generation discrimination. As an alternative to more adversarial and commanding legal forms, a regulatory and governance regime that emphasizes management-centered collaborative problem solving may create the space for such employers to avoid responsibility for harassing behavior. For example, the same emergent legal standard that creates incentives for companies like Kodak and Deloitte and Touche to adopt effective diversity policies may also create a safe harbor for less enthusiastic employers. Susan Bisom-Rapp, for example, argues that the contemporary jurisprudence around sexual harassment and racial discrimination creates a liability shield for employers who take two affirmative steps: creating a grievance procedure and offering diversity training programs (Bisom-Rapp 2001). These two measures, by themselves, do little to address second generation discrimination and pale in comparison to robust participatory collaboration.

The structure of concrete alternative approaches to discrimination, and the debates surrounding the wisdom of those alternatives, closely resembles developments in the environmental regulation discussed above. First generation, top-down regulatory strategies motivated by adversarial social movements made enormous progress against the problems they sought to address: explicit and egregious forms of racial and sexual discrimination. They have been, however, much less effective against the more subtle forms of second-generation discrimination. The emerging alternative of participatory collaboration between managers and employees offers an attractive solution (Arrow “A” in Figure 4 below). As with the Quincy Library Group, the benefits of this strategy are

manifest where conditions are favorable, as they were with the supportive managements at Kodak and Deloitte and Touche. The current governance regime is highly permissive, and so includes both those firms who develop impressive programs to address second generation discrimination and those who enact the bare minimum necessary to construct legal shields (Arrow “B” in Figure 4 below).

As a general strategy of regulation that governs not only enthusiastic firms but also recalcitrant ones, then, the wisdom of participatory collaboration is uncertain. Increased countervailing power to confront the reluctant employers would certainly be necessary to press them to move from minimal grievance and education procedures to innovative participatory collaboration around diversity and discrimination issues. Countervailing power might come in the form of judicial standards that require employers to adopt more pro-active, less minimal, anti-discrimination programs in order to reduce their liability or laws that press judges to enact such standards. They might also come in the form of social movement organizations, professional groups, and other intermediary associations that press employers to explore these novel approaches and help to implement them (Sturm 2001; Dorf and Sabel 1998). This unrealized possibility is depicted as region IV of the figure below.

**Figure 4. Racial and Gendered Employment Discrimination**

		Presence of Countervailing Power	
		Low	High
Governance Institutions	Top-Down Adversarialism	I. Pre Civil-Rights Private Ordering: Deliberate practices of racial and gender discrimination.	II. Long Civil Rights Era First Generation Anti-Discrimination: clear goals, standards, and enforcement methods
	Participatory Collaboration	III. Employer driven diversity initiatives.	IV. Legally required employer diversity initiatives + local diversity partnerships (e.g. Kodak-Rochester)

*C. Parental and Community Engagement in Public Education*

Though the issues lie more squarely in the public sector and are predominantly local, contending reforms in public education can also be fruitfully mapped along these dimensions of participatory collaboration and countervailing power. The long development of public education systems lie squarely in the bureaucratic ideal-type of organizations that are managed in top-down fashion and insulated from countervailing power and public influence generally: the upper left-hand region of figure 5 above (see, for example, Tyack 1974). In many school systems, closely interested groups such as teacher’s unions join professional educators and school boards in governing the schools system. These arrangements generate captured policy sub-systems (O’Connell 1991) depicted as (ii) in region I of Figure 5 below. Criticism of these policy subsystems

abound (Katz 1987; Nation at Risk), as do suggestions for how public education might be made more effective, fair, and accountable. Reforms proposal occupy all four quadrants of the policy matrix in Figure 5.

As with anti-discrimination in employment contexts, the most familiar strategies to address racial and economic disparities in public education follow the classic civil rights strategy of mobilizing countervailing power—either through grassroots support or litigious strategies—followed by top-down legal or policy mandates to establish fairness. These strategies are depicted in the upper-left hand corner of Figure 5. Such strategies include the court-ordered desegregations decisions (*Brown v. Board 195x*), federal education equity cases (*San Antonio v. Rodriguez 197x*), and then a host of court decisions rooted in the constitutions of individual states that attempt to level public education spending across rich and poor districts. Though legal decisions receive the bulk of media and scholarly attention, grassroots advocacy campaigns for school equity and access comprise another important set of adversarial, top-down, strategies. Community organizations such as the Texas IAF and Oakland Community Organizations, for example, frequently mobilize to support increasing public education investment in poor areas (Research for Action and Cross Cities Campaign 2002). In one recent innovative effort, a multi-racial coalition of Hispanics, African-Americans, and rural whites in Texas pressed the state legislature to increase high-education access. Under the so-called “10% plan,” students in the top 10% of every high school graduating class in Texas are admitted to the prestigious Austin Campus of the University of Texas. Lani Guinier and Gerald Torres write that the initiative succeed politically by “linking the fate of rural and poor whites to that of blacks and Mexican Americans.” As education policy, the

academic performance of students admitted under the 10% plan has exceeded comparable students admitted on the basis of college entrance exam scores (Guinier and Torres 2001: 73-4).

Though these active adversarial strategies have yielded important advances in the educational opportunities available to minority and poor children, they cannot reach into the organization and practices of schools themselves. Problems of education are not limited to resource deficiencies and invidious exclusions, but also include defects in school management, instruction, curriculum, governance, and community integration. As an alternative to top-down reform strategies, some reformers have urged flavors of participatory collaboration that aim to improve the organization and delivery “on the ground” by involving those most closely associated with students: their teachers and parents.

Most of these strategies focus on the practices of educators and is inattentive to those outside of school buildings—parents and community residents.<sup>4</sup> Since Dewey, many reformers have argued that the key to education reform lies in teachers themselves. On this view, good schools create a community of teachers and students who share a think and common commitment to learning and to each other (Bryk, Lee, and Holland 1993; Meier 1995 and 2000). Much more prominent than this romantic ambition, however, is the current standards and accountability movement. Accountability reforms common in many states and now in President Bush’s Elementary and Secondary Education Act—known as the “No Child Level Behind Act”—attempt to induce school level innovations by creating systems of rewards and punishment based upon students’

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<sup>4</sup> These views are marked in the lower left hand region of Figure 5 below.

performance on standardized tests. Some such accountability systems have been criticized for pressing teachers to “drill-and-kill,” “teach-to-the-test,” and use other regimented instructional methods that raise test scores without increasing student understanding and learning (McNeil and Valenzuela 2001). Others, however, argue that accountability based reforms like those in Texas, Arkansas, and many other states instead create incentives and provide supports for teachers and administrators in schools to examine their own operations and reorganize themselves to address instructional weaknesses, inequities, and other defects. More ambitiously, others hope that accountability reforms can introduce “data-driven discussions” among school personnel and encourage them to collaborate with one another in continuously improving their own pedagogy, curriculum materials, assessments, and knowledge of individual students (Liebman and Sabel 200x; Dana Center 19xx).

While juries of popular opinion and econometric evaluation deliberate about the merits of these reforms, a diverse range of less prominent efforts has advanced reforms that combine participatory collaboration with countervailing parental and community power (depicted in lower right hand quadrant of figure 5 below). Sometimes, these reforms are institutionalized into formal governance procedures. For example, in 1988 a broad ranging coalition of parent organizations, civic groups, and business organizations secured the passage of an Illinois law that dramatically increased the role of parents and community residents in the governance of Chicago schools. The law created some 560 Local School Councils—one for each elementary and high school in the city—to oversee crucial aspects of school operations such as hiring principals, formulating school improvement plans, and discretionary budget allocation. Each LSC is composed of the

school's principal and ten additional elected representatives—six parents, two community members, and two teachers. While these reforms were intended to create robust collaboration between parents and professional educators at both the school and central district office levels, the reality fell far short of this vision.

The Chicago experience illustrates many of the difficulties of empowered collaboration. Principals and school administrators sought to protect their professional prerogatives and spheres of insular control. Furthermore, leaders of the school system and in city hall were ambivalent regarding participatory collaboration. They entertained a mix of contradictory reform strategies that also included high stakes testing and strong administrative re-centralization. As a result, Local School Councils and their community-based supporters struggled with hostile central school administrators in a series of administrative street-fights over formal authority and informal control between 1995 and 2000. Shielded by the 1988 state law that created the Councils, central office administrators were unable to rid themselves of the countervailing power of LSCs. Though the experiment began as an effort at participatory collaboration with countervailing parental and community power, the Chicago experience degenerated in to adversarial hostilities after 1995. Despite these disappointments, the Chicago experience offers three lessons for participatory collaboration. First, it illustrates what formal governance arrangements conducive to participatory collaboration might look like, though top leadership sought to maximize its control and authority within that structure rather than to engage in collaborative governance. Second, city-wide assessment outcomes indicate that Chicago participatory governance structures yielded sharp improvements in student test scores, especially in the 1990-95 period preceding the

hostilities (Bryk 2002). Finally, though the particular leaders at the top of the Chicago Public Schools rejected collaboration between 1995 and 2000, not all administrators share this disposition. The current CPS leadership indicates a desire of conciliation and collaboration, and these attitudes may yet be translated into action.

The Chicago reforms were created through an adversarial social movement that won a central law that in turn created very decentralized opportunities for parent and community influence in Local School Councils. The faith that drove the original movement was that Chicago residents would be willing and able to participate in the complicated business of educational governance if only the opportunities were available to them. Community organizing projects in education reform frequently aim toward the same end of participatory collaboration, but begin from the opposite premise. For them, large institutional reforms like the Chicago Local School Councils cannot succeed without first developing the interests and abilities of individual parents, teachers, and principals. For many organizers, the central challenge is to mobilize and persuade parents and educators at individual schools to collaborate with one another for the sake of school improvement.

The Texas Interfaith Alliance Schools project offers one of the most successful examples of this flavor of collaborative school organizing (Levy and Murnane 1996; Shirley 1997 and 2002; Warren 2001). Closely associated with Ernie Cortes and the Texas Industrial Areas Foundation, the Alliance Schools Project consists of some ninety schools in the Southwest of Texas. In those schools, organizers have developed finely tuned strategies that link parents to teachers and parents in resource intensive efforts to improve schools on widely ranging dimensions that include instruction, school safety,

physical plant, educational mission, equity, and access to further educational opportunities. By most accounts from close observers, the Alliance Schools project is highly effective in fostering collaborations between parents and educators at individual schools that fundamentally transform the organizational cultures there and make possible deep and innovative reforms. The Alliance Schools also utilize more conventional adversarial strategies to press issues such as school finance equity and access in school districts and state politics. Its organizational philosophy—anti-bureaucratic and to a degree anti-institutional—dictates that the Alliance maintain distance and autonomy from official bodies such as school districts. This commitment may yield durable countervailing power and sustained collaboration in member schools, but limits the scale of the Alliance Schools project and prevents closer collaborative integration into official educational governance structures.

An educational reform initiative in Oakland combines the bottom-up school organizing of the Alliance Schools with Chicago-style institutional reforms. In 1999, the Oakland Unified School District joined with the Oakland Community Organization—an grassroots organizing entity affiliated with the Pacific Institute for Community Organizing—and the Bay Area Coalition for Equitable Schools (BayCES)—a non-governmental group with substantial education reform expertise. This tri-partite partnership launched an initiative that will create ten small schools in low income Latino, Asian-American, and African American neighborhoods. In each of these schools, BayCES will bring crucial expertise regarding instruction and curriculum while OCO will help develop community and parental engagement and support. For its part, the district hopes to improve the system both by beginning with these ten schools and by

learning lessons from their experience. This partnership is itself a city-wide collaborative governance effort that attempts to create high-performing small schools in which organized parents—school level countervailing power—collaborate with self-selected public school teachers and principals.

Thus far, professional participatory-collaborative school reform programs (figure 5, region III) have proceeded separately from efforts that emerge from community organizing (figure 5, region IV). Both aim toward the same goal of school improvement and both recognize that school-level transformation is a necessary to reach that goal. This apparent similarity of aims seems to belie the second claim of section II above—that countervailing power is necessary for constructive collaborative governance. Given general agreement regarding the need for school improvement, how does countervailing power—understood as organized parental and community mobilization and involvement—contribute to effective collaboration in educational governance?

First, professional reformers often lack the political wherewithal to implement their programs over the opposition of traditional or narrowly self-interested education insiders. They can remedy this political weakness by forming powerful alliances with mobilized parent and community organizations. In Chicago, for example, the external school reform movement, composed largely of parents and community organizations, pressed governance reforms upon unwilling, traditional, central office administrators, school board members, and the teachers unions. These difficulties are especially apparent when resources are at stake. In Oakland, the OCO helped win a bond measure that secured some \$300 million for disadvantaged schools.

Second, the particular diagnoses and goals of professional reformers frequently differ substantially from those of community-based education organizers. Educators and professional school reform organizations aim to create learning communities for themselves, urge authentic assessment, favor increased investment in professional development, focus on literacy and its instruction, and target school organization changes such as block scheduling, small classrooms, and schools-within-schools that create a more manageable, personal environment. By contrast, agendas of community organizing groups typically highlight school safety, resource distribution, tracking, high stakes testing and retention, teacher quality and responsiveness, quality of facilities, and superintendent selection (Chow et. al. 2001). These agendas can be easily reconciled and ultimately compliment one another. In the absence of countervailing power and voice, however, reform efforts led by professional educators will omit the issues that centrally concern community organizations and their constituents.

As with the experiences in environmental regulation and workplace discrimination, advocacy organizations accustomed to adversarial hostilities of school politics frequently resist forming partnerships with professionals, and find such collaborations difficult when they choose to engage in them. The Alliance Schools project, for example, has mastered collaboration at the school level, where it can engage on advantageous terms with professionals. At the level of urban school districts, where political advantages are more complicated and perhaps tilt the other direction, the Alliance has shied away from collaborative engagement. Similarly, the staff of the Oakland Community Organization is ambivalent about the strategy of pursuing both district-wide and school-level partnerships. While some emphasize the ways in which

these collaborative engagements will extend the organization's reach and impact, others fear that professional educators will intimidate community residents and so stifle their voices and undermine their political confidence. And the Alliance School and Oakland Community Organizations are among the most strategically innovative and politically sophisticated groups in this issue area. Those who have surveyed the field of community based education organizing generally have found that most adversarial organizations find the shift from confrontation to collaboration even more difficult. Norm Fruchter and his colleagues, for example, write that

direct action, issue-based organizing builds organizational power and leverage, but it is more difficult for external groups to fit this approach to the deliberative process of school transformation... it is extremely difficult to move from an external accountability organization to an inside group working collaboratively with the school. As [one school organizer] observes, "When we were working on the school restructuring committee at a local junior high school, [our leaders] ended up spending more time with teachers and the principal on the committee and became isolated from the larger group, the broader constituency of parents. (Institute for Education and Social Policy 2001).

**Figure 5: Governance in Public Education**

		Presence of Countervailing Power	
		Low	High
Governance Institutions	Top-Down Adversarialism	I. (i) classic education bureaucracy (ii) sub-government captures by narrow interests (unions, educators) (iii) some high stakes testing and accountability reforms	II. (i) Court ordered de-segregation. (ii) State school finance cases. (iii) Texas 10% plan.
	Participatory Collaboration	III. (i) some testing and accountability reforms (ii) professional site-based school reform efforts	IV. (i) Chicago Local School Councils (ii) Texas Interfaith Alliance (iii) Oakland small schools

*D. The New Policing*

In a path of development that follows public school systems, big city police organizations converged on the corporate model of hierarchical, professional, and politically insulated bureaucracy in the first part of the twentieth century (Fogelson 1977). As the profession developed and new communication technologies became available, the backbone of modern policing came to consist of three major strategies, each of which could be perfected and managed though increasingly sophisticated top-down methods (Figure 6, region I below). In preventative patrol, police cars roam neighborhood streets on the theory that visible presence will deter would-be offenders. In rapid response, those who witness a crime or suffer one call an emergency telephone number—typical “911”—to summon police assistance. In retroactive investigation,

police detectives and others solve crimes and attempt to apprehend their perpetrators after their occurrence.

These methods, combined with other criminal justice policies such as stricter sentencing and anti-drug offensives, have generated a wave of criticisms from within policing and outside of it. Skeptics charge that policing, sentencing, and incarceration practices fail dismally on two of their central objectives: keeping neighborhoods safe and treating individuals with respect and dignity. With some veracity, Roberto Unger described the American criminal justice system as a mechanism for deciding which members of the underclass to incarcerate. One might think this repression, as horrible as it is for particular individuals and society as whole, would at least yield the benefit of making neighborhoods, especially “underclass” neighborhoods, safer. But, for a variety of well-known reasons, modern policing has failed in this regard as well (Sparrow et. al. 1990).

These two branches of the problem have spurred separate reform movements. The more traditional progressive movements have (i) focused on large and small structural inequities in criminal justice policy and organization and (ii) used traditional methods of adversarial social mobilization to reform those institutions (Figure 6, region II below). Prisoner’s rights movements belong in this broad category, as do those who advocate for less investment in prison construction and more in education, and those who press for centralized community review boards to check abuses of police power. These adversarial movements tend to be rigid in how they frame political issues, mobilize political support, and in their policy demands. Techniques for this mobilization often involve constructing an image of the state, or that part of it involved in criminal justice, as incorrigible and

inherently repressive or racist. The demands are often for centralized, top-down, progressive policies. While these agendas are incredibly important, this double rigidity has two limitations. First, it makes no room for potential allies such as minority residents who inhabit crime-ridden and dangerous urban neighborhoods. Second, it simplifies a complex public policy problem for the sake of mobilization. Effective policies to reduce police abuse and rehabilitate convicts, not to mention develop low-income communities, require much more plasticity and creativity than many movement activists will admit.

A second response has been to introduce the mechanisms of participatory collaboration into policing. This professional reform wave is called community policing. Most frequently, it recommends enhancing the flexibility and training of police on the beat to increase their effectiveness identifying and rooting out sources of criminal behavior and social disorder. Freed from the constraints of bureaucratic policing and compelled to develop their own beat-level priorities and strategies, police may more effectively provide public safety, especially in low-income, minority neighborhoods. In the most participatory variants of community policing, for example in Chicago, residents join with police in deliberating about public safety problems and solving them together (Skogan and Hartnett 1997; Fung 2001). There is much debate about what, if any, difference community policing has made, especially compared to other strategies (such as the top-down, non-collaborative, style of contemporary New York policing). The accomplishments and limitations of community policing illustrate the problems of seeking collaboration without foundations of countervailing power.

Community policing reforms have, for the most part, been led by policing professionals and not community-based reformers or activists. For the most part, the

community policing programs lack substantial provisions for public participation. In some areas, they may provide limited gains in motivating police officers and liberating them to be more creative and to deploy knowledge that they have. In other areas, community policing amounts to little more than good public relations. In the cases where community policing has arguably advanced ends such as public safety, official accountability, or participation, there has been substantial social mobilization (Figure 6, region IV). For example, the participatory institutional design of Chicago community policing is a result of community organization pressure and invention. Another, very different, case of success is the Boston Ten Point Coalition partnership with the Boston Police Department (Berrien and Winship forthcoming).

Though strong community organizations moved the original institutional design of Chicago community policing in a participatory direction, the Mayor and police department eventually moved to exclude those organizations (Fung 2001). Like the Chicago School reform experience, police and politicians were uncomfortable with a mode of collaboration in which community organizations possessed substantial countervailing power and challenged their institutional and professional prerogatives (see Figure 6, region III). The quality of deliberation and problem-solving in neighborhood community beat meeting has likely suffered from this exclusion in two respects. Community organizations had provided substantial facilitation and training to residents, and so those capacities are in shorter supply. Furthermore, community organizers are less easily intimidated by police officers than many community residents. They thus checked police authority and domination in neighborhood discussions and helped to build the self-confidence of residents so that they themselves could provide this source of

countervailing power. Absent the contribution of community-based organizations, many residents are less likely to press their distinctive priorities or offer their own solutions to local problems. More generally, the absence of social movement involvement in city level reforms to policing means that police professionals determine the substantive focus of community policing. This, in turn, means that community policing is usually “about” public safety understood in fairly narrow terms, and that the solutions to it employ relatively conventional police methods.

**Figure 6: The New Policing**

		Presence of Countervailing Power	
		Low	High
Governance Institutions	Top-Down Adversarialism	I. (i) conventional 911 policing (ii) stricter sentencing and drug war policy. (iii) performance management: COMPSTAT	II. (i) community review boards (ii) prisoners and ex-offenders rights policies (iii) broad investment shifts from incarceration to education priorities (e.g. books not bars)
	Participatory Collaboration	III. (i) Professionally driven community policing (most) (ii) Drug courts and similar problem solving efforts (iii) Chicago Community Policing (second stage)	IV. (i) Chicago Community Policing (first stage) (ii) Boston ten-point coalition

#### **IV. Need for Collaborative Countervailing Power**

Reform movements and debates in each of the policy areas above shows how participatory collaborative governance reforms promise to address various limitations of the top-down, adversarial mode of governance. In none, however, has there a clear consensus in favor of participatory collaborative governance. As we have seen, the main objections revolve around fears that making governance less centralized and adversarial, and more local and collaborative, may increase asymmetries of power and information. Unlike the pluralist heaven in which multiple, evenly positioned interests jostle and contend for influence and control, interests and parties face each other with very different resources, capacities, and levels of organization in participatory-collaborative governance arenas. For example, development and industrial interests are often better organized than environmental ones, employers than workers, educators than parents, and police professionals than residents. Forms of countervailing power that level these asymmetries frequently underwrite successful instances participatory collaboration. This countervailing power operates both within particular collaborative governance structures and at the higher level of politics that determines their rules and institutional designs.

##### *A. Local Collaborative Countervailing Power*

The advantages of participatory collaboration depend in large measure on the quality of decision-making and problem solving at the very local level. In particular collaborations, countervailing power is important first of all to support less organized, more diffuse, and non-professional interests in the development of capacities necessary to

engage effectively in cooperative governance: mobilizing participation, mastering the basic knowledge and techniques of specific policy arenas, and mustering the wherewithal for sustained engagement not only in agenda-setting, but also in planning and implementation. Second, countervailing power often provides adversarial pressure that induces collaboration. In most of the policy areas where participatory-collaborative provides an alternative mode of governance, parties have mixed motives with respect to collaboration. Regulators and officials, for instance, may recognize the contribution to the public mission that activists or environmentalists can make, but also resist ceding the greater authority and control that enjoy in top-down governance. Countervailing power can thus also induce local actors to collaborate in good faith rather than protect their prerogatives or narrow interests.

For example, if the system of the collaborative structure of Habitat Conservation Planning generates better outcomes—greater species protection with sound human development—than the previous top-down, adversarial strategies of bright-line species protection, it will be because environmentalists, developers, and regulators within specific ecosystems consistently bring greater knowledge to bear, develop more effective and tailored management plans and mitigation measures, and muster more intensive monitoring and adaptive management in the course of implementing those plans. Because developers have intrinsic, concentrated, and deep financial interests in the public regulation of their properties, they will generally be well organized to participate in collaborative structures of habitat conservation. However, HCPs are not likely to protect species well unless environmentalists are similarly well organized. Particular HCPs will reflect the full range of interests involved when local environmentalists possess

formidable collaborative and adversarial capabilities. To press their interests in partnership, for example, they must develop the capacity to participate in quite technical ecological and regulatory discussions that span long periods of time. To induce reluctant developers to collaborate earnestly, local environmentalists might also benefit from the adversarial capabilities, for example direct action or litigation against stubborn developers.

Analogous asymmetries of capacity and power exist in all of the policy areas discussed above. In workplace discrimination and harassment, employers enjoy all of the advantages of concentrated interest, expertise, and resources compared to workers. When managers discern a common interest with female and minority workers and embrace proactive problem solving to diminish second-generation harassment, they become powerful allies. When they resist these initiatives, however, they become formidable opponents inside the firm and in legal and political arenas as well. Unless female and minority workers can organize themselves—perhaps with the assistance of professional associations, social movement organizations, or other third parties—they will frequently lack the competence and political strength to engage employers in meaningful collaborative problem-solving around diversity issues. With public schools and community policing, the asymmetries are greater still. Police officers and educators are full time professionals who typically exercise almost unquestioned control over their respective public organizations. Their organizational advantages over ordinary residents include full-time commitment to the activities of policing or public safety, special knowledge and training, and professional status. As with employment discrimination, police officers and principals who believe and embrace strategies of community

collaboration become indispensable allies in precincts and schools buildings. More typically, however, even where participatory-collaborative governance structures have been imposed from above, professional educators and police resist empowered forms of citizen participation and collaboration as encroachments upon professional prerogative or simply distractions from demanding technical work. Countervailing power in the form of parent and community organizations can respond to this tendency in two ways.

Developing the capacities to collaborate—to engage effectively in problem-solving around public safety issues or support school-home-community educational strategies—helps to persuade professionals that parents and residents can contribute meaningfully to the public mission of their organizations. Furthermore, these professionals will be more likely to accept such engagements when parent and resident organizations have the political strength to press them.

### *B. Institutional Collaborative Countervailing Power*

Countervailing power operates not only at the local level of particular collaborations, but also at the more general level of establishing the rules and procedures that govern those interactions. As with its local forms, the strength of collaborative countervailing power at this level of institutional design affects the capacities and bargaining positions of interests at the local level, and hence the fairness and effectiveness of outcomes there. Crucial contributions of countervailing power in encouraging fair cooperation at this framework level include enlarging access for countervailing interests at the local level, establishing means of support and capacity

development for them, establishing incentives for local collaboration, and adjusting non-collaborative default outcomes.

First, supra-local countervailing forces often increase the possibilities for fair collaboration by prying open decision making forums so that weak and subaltern interests can participate where they could be otherwise excluded. The social movement organizations who helped to design the Chicago school governance reforms, for example, created elected positions for parents and community members on the governance councils of each school. Community groups also insisted that frequent neighborhood meetings open to all residents was a central feature of the Chicago community policing reform. From the environmental arena, proposed reforms to Habitat Conservation Planning legislation would direct the Department of the Interior to strengthen its public participation requirements. In a much older example, the National Labor Relations Act creates a structure of collective bargaining in which worker organizations, provided they demonstrate that they are representative, participate in decisions over working conditions (Barenberg 1993).

Second, countervailing organizations sometimes press for institutional measures to strengthen the collaborative capacities of their local counterparts. For example, both the Chicago community policing and school governance reforms initially provided generous funding to mobilize residents and parents to participate in the new collaborative structures. Furthermore, they also provided resources to help train these non-professional participants in difficult fields of public safety and school affairs.

Third, the institutions that structure participatory collaboration create numerous incentives that encourage or discourage good faith collaboration as opposed to evasion,

conflict, manipulation, or domination. Countervailing forces can press for framework rules that create stronger incentives to collaborate. As described above, for example, legal standards around employer liability for harassment encourage firms to create grievance procedures and provide diversity education. National organizations committed to collaborative solutions to second-generation discrimination might strengthen these legal incentives further still by reducing liability for employers who engage with internal or third party organizations who represent minorities or women, or for those who can demonstrate that their programs are especially effective (Sturm 2001; Dorf and Sabel 1998).

Often the most powerful incentive to collaboration arises from the costs of not collaborating. In many policy areas, the regulatory regime encourages parties to collaborate by making the alternative—called the best alternative to a negotiated agreement (BATNA) in the negotiation field—unattractive. Regulation can thus establish a non-collaborative default outcome, and countervailing forces can encourage collaboration by worsening this default. For example, developers pursue Habitat Conservation Plans in large measure to avoid the uncertainties and high costs of conventional enforcement of the Endangered Species Act. Those provisions, which exemplify top-down adversarial governance, make possible the more novel participatory collaborative approach of Habitat Conservation Planning. Without the countervailing environmental power to maintain the harsh penalties of the Endangered Species Act and to tailor those penalties to encourage constructive local protection efforts, the prospects for inclusive and environmentally effective participatory collaboration are dim indeed.

## **V. Difficulty of Developing Collaborative Countervailing Power**

The presence of strong local countervailing power was exceptional in the examples of participatory collaborative governance described above. For some HCPs, especially the large, multi-jurisdictional ecosystems in which stakes were high, environmentalists were well organized to participate (Karkkainen 2002). In most of them, however, the quality of participation and of the plans was unsatisfactory (Yaffee 1998; Kareiva 1999). Critics contend that the most forests lack cohesive organizations such as the Quincy Library Group. Unlike the Kodak Corporation, most employers resist external pressures for diversity from groups like the NAACP rather than embracing them in partnership. And many communities lack groups with the foresight and skill of the Greater Rochester NAACP. Even in those districts where policies provide meaningful opportunities for parental and community voice in school governance—as in Chicago and Oakland—there is a dearth of parent organizations. Finally, though the popularity of community policing reforms has proliferated throughout American police departments, the reforms typically focus on changes in police operations and lack robust provisions for community involvement. Even in Chicago, with its distinctively community-centered version of community-policing, tensions between sworn, full-time officers and community groups have led to the marginalization of countervailing organizations such as the Chicago Alliance for Neighborhood Safety. These experiences illustrate systemic patterns of demobilization that belie optimistic accounts of how participatory collaboration might overcome substantial and entrenched disparities in resources and organization. Consider now the difficulties of three such accounts.

*A. Collaboration Without Countervailing Power (Dorf and Sabel)*

Many treatments of collaboration ignore configurations of power and interests or presume that they will not hobble participation and problem solving. Some observers focus on the common interests shared by parties—for example police and residents in reducing violent crime—while minimizing their differences—for example the interest of residents in having their police officers spend more time in the streets. Others presume, more realistically, a pluralist distribution of interests in which there are deep interest conflicts and power differentials. In the pluralist account of collaborative governance, however, shifting coalitions, informational deficits, and dynamic conditions dismantle stable factions and asymmetric balances of power. They make possible fair and inclusive collaboration without the need for deliberately redressing prior inequalities or exclusions. In particular, the absence of countervailing power poses no special problem for participatory collaborative governance because shifting alliances and conditions prevent the concentration and entrenchment of traditionally advantaged interests.

Though their view is complicated, I read Dorf and Sabel (1998) as holding a version of this position. They contend that their particular brand of participatory collaboration—democratic experimentalism—can advance these objectives across a broad range of highly unequal and unjust political conditions, presumably in the absence of countervailing organizations to contest those conditions. They write:

this [the criticism from inequality] suggests a ruthlessly one-sided politics in which the haves perpetuate their advantages by extracting an unfair share of

public goods, granting in return only the minimal concessions that permit the subsistence of the have-nots... But we know that politics is vastly more complex, and the prospects of the have-nots far more open in historical perspective than this idea of the mechanical reproduction of complex inequality allows. What is left out—and explains much of the political openness we know—is the possibility of alliances between a faction of the haves with the have-nots against another faction of the elite, and the possibility, in moments of crisis and confusion, of uncertainty among haves and have-nots alike as to how to define their advantage, separately or together. The two possibilities are connected, moreover, as the pursuit of new alliances can reveal novel solutions to complex problems, just as the exploration of novel solutions can give rise to new constellations of harmonious interests.

(Dorf and Sabel 1998: 409-410).

Maybe sometimes. But the examples above—from environment, workplace discrimination, public education, and criminal justice—suggest that lines of interest and identity are perhaps less plastic than the above view depicts across a broad range of issues and cases. Combined with the background of unequal power and resources, this fixity of identities and interests can jeopardize the capacity of collaborative governance arrangements—like democratic experimentalism—to advance the values that lead one to support such programs in the first place.

While the contention that collaboration without countervailing power will issue technical and democratic benefits fails in the general case, even for well-worked out versions of collaborative governance such as democratic experimentalism, the claim may

yet hold under more narrowly circumscribed conditions. Three conditions might each, one their own, be sufficient to make collaboration without countervailing power desirable.

First, strong common interests between weak and strong reduces the role and importance of social mobilization and progressive power. If it really is the case that most parties, including especially those who are usually poor and disenfranchised, are united in their desires to achieve a certain outcome—if we begin with “constellations of harmonious interests” rather than end with them—then there is much less need for social movement organizations to amplify the voices of those who lack power and to monitor plastic institutions to check possibilities of exclusion or domination. Examples of such happy contexts might be school systems in which the interests of parents, teachers, and professionals are aligned; professionals, for example, don’t zealously protect their professional prerogatives and their top priorities lay in the effective education of children and resource distributions across class and race lines are not objects of struggle. Sometimes, C.E.O.s like Ray Anderson of Interface “get religion” with respect to the need for environmental protection and the problem of global warming.

Second, equal, or roughly equal power, obviates much of the need for countervailing power to check the pathologies of asymmetric collaboration. If parties in institutional contexts that encourage plasticity are not separated by wide differentials of power or capability, then the dangers of domination at the levels of institutional design, agenda formation, and concrete decision is much reduced. Parties can fend for themselves without popular movements to support their claims. In such cases, the rigidities of identity and outlook may indeed hamper the free-ranging searches and revisions that

plastic institutions are designed to encourage. This condition of equal power might obtain when the prime actors in flexible governance are themselves empowered elites—such as regulators and firms—or when factions of elites reliably represent and support those who are disempowered in their interactions with other elites.

A third sufficient condition for desirable forms of collaboration without power could be called *symmetric plasticity*. Even in contexts of unequal power and divergent interests, plastic institutions may advance goals such as equity and effectiveness in governance when parties to deliberations really are unsure of what they want and willing to un-anchor their identities, preferences, and political demands in a symmetric and multilateral way. With old alliances, frequently built upon and reproducing inequalities of wealth and access, are indeed up for grabs, then perhaps the have-nots do indeed form alliances with the haves with sufficient frequency to advance justice. In the passage cited above, Dorf and Sabel imagine that symmetric plasticity obtains across a wide variety of political contexts. Such contexts, for the reasons illustrated though example above, seem uncommon.

### *B. Institutional Bootstrapping* (Cohen and Rogers; Fung)

When this pluralist description is too optimistic, some proponents of participatory collaboration suggest that institutional designs can help to generate appropriate forms of countervailing power. They observe that the background distribution of political organizations and capacities is partially a product of public policies and institutional designs. As Joshua Cohen and Joel Rogers write, secondary associations are in part artifices of social policy and law, not simply products of immutable natural or historical processes (Cohen and Rogers 1995). It is therefore appropriate that the institutions

structuring participatory collaboration create incentives and opportunities for disadvantaged interests to engage on fair terms. Appropriate institutions may allow disorganized interests to “bootstrap” themselves into organized forms of countervailing power.

For some time, my own view has been that the participatory governance institutions that take deliberation and grassroots participation seriously—can begin in contexts of low progressive power (region III.), but then “bootstrap” deeper kinds of mobilization and support (moving closer to region IV.). The idea is straightforward. On their own or at the urging of progressive reformers, policy makers have sometimes transformed administrative and regulatory organizations from rigid hierarchical bureaucracies to participatory-collaborative forms. The Chicago school and community policing reforms exemplify such transformations (they move from region I to III in Figure 7 below). These structures create incentives for participation, especially for the least well off. By participating, citizens can exercise voice and control over areas of public life that matter deeply to them. In the fullness of time, these structural incentives might mobilize citizens more broadly and produce community-based organizations (moving from region III. to IV.). This popular mobilization might then have two salutary effects. First, it would boost both the quality and quantity of direct citizen engagement in participatory-deliberative institutions. Second, these organizations and movements would stabilize and contribute to the democratic elaboration of these governance mechanisms as they evolved through time.

**Figure 7. Bootstrapping to Collaborative Countervailing Power**

		Presence of Countervailing Power	
		Low	High
<b>Governance Institutions</b>	Top-Down/ Adversarial	I.	II.
	Participatory- Collaborative	III.	IV.

Though participatory-deliberative institutions do successfully engage many citizens—often the least advantaged—in public activities from which they would otherwise be excluded, this bootstrapping view of mobilization seems less promising as a route to crucial countervailing power in light of the real experiences revealed above.

A state-centric version of this view depends on two implausible assumptions about policy-makers. The first is that they value citizen engagement and so will preserve the participatory features of these institutions. The second is that they will maintain the openness of these institutions in the face of inevitable criticism from citizens around issues of accountability and performance. These assumptions hold for some extraordinary administrators some of the time. One would like to think that they would form part of the core ethos of a kind of new democratic public administration professional. But they are often violated in practice, and so one cannot rely on professionals who create open institutions at one moment to continue to maintain accessibility and value popular control. Both the Chicago Police Department and Public Schools, for example, experienced moments of extraordinary openness in this regard, but professionals soon

became disenchanted by subsequent criticism and loss of control. So, I have come to think that the parsimonious bootstrapping account, in which democratic institutional transformation leads to popular mobilization that then sustains and extends the democratic character of the public institutions, describes a much more narrow set of circumstances than I previously imagined.

A political analysis of the sources of collaborative governance policies is even less sanguine. On this view, policies and politics are mutually constitutive. Appropriate institutions can indeed favor dispersed and otherwise disadvantaged interests. However, already powerful and concentrated interests also shape policy and oppose policy measures that enhance voice or organizational possibilities for their opponents. Section III above, for example, described how developers sought to limit the reach and flexibility of Habitat Conservation Planning regulation with their insistence upon a “no surprises” policy. Changes in the law surrounding employment discrimination were not inspired by the most aggressive firms such as Kodak or the champions of minority and women’s rights at work, but rather by the bulk of far less ambitious firms who have embraced diversity education and training programs (Bisom-Rapp 2001).

None of this reasoning denies that appropriately designed institutions and policies will contribute to the development of countervailing power in collaborative governance arrangements. However, such policies often harm the interests of entrenched private parties or even public officials and policy-makers themselves. Therefore, policies favorable to disadvantaged and dispersed interests are likely to emerge only where substantial countervailing power already exists. The bootstrapping maneuver is limited because it requires a threshold of prior organization and influence.

*C. Redeploying Adversarial Countervailing Power: Fungible Forms?*

Substantial countervailing organizations contest policy in environment, civil rights, labor, and many other areas. Though most of these organizations have developed in adversarial governance contexts, they would seem to be the most promising source of collaborative countervailing power. Might their resources be redeployed to support disadvantaged interests in participatory-collaborative forms of governance?

Unfortunately, three general barriers prevent the conversation of adversarial countervailing power to collaborative forms. Compared to adversarial organizations, collaborative organizations typically operate at incompatible scales, require distinctive competencies, and build upon very different cognitive frames and sources of solidarity.

The first mismatch concerns political scale. In top-down, adversarial governance systems, groups are organized to engage at centralized points of decision-making. By contrast, as described in section IV above, collaborative countervailing organizations must operate at very local levels and at larger scales of political decision. This difference of operational scale grows naturally from the distinctive logics of top-down and participatory governance. In the former, groups primarily aim to influence high-level policy and legislation and consider the challenges of administration to be secondary. The contemporary environmental movement perhaps best illustrates this pattern. Those groups are well organized—through Washington offices, lobbying capabilities, networks of allies and contacts, and campaign strategies—to influence national regulations around air and water quality, land management, endangered species protection, and the like. When civic environmentalists argue that local participation, information, and engagement

will make environmental policy more just and effective, national organizations are simply not organized to support, much less lead, these local efforts. The costs of becoming civic environmentalists would be enormous for these organizations—they would have to reinvent themselves completely. William Ratliff describes this historical path dependency:

On the national level, environmentalists have already paid the start-up costs of founding and mobilizing powerful interest groups, yet devolution would force the environmental movement to pay many of these costs all over again because comprehensive local advocacy would require the formation of equivalent interest groups in every state. (1997: 71).

Predictably, then, many of the leaders and proponents of adversarial countervailing organizations view the rise of civic environmentalism as irrelevant at best and dangerously distracting at worst (McCloskey 2000; Steinzor 2001). Unless local civic environmentalist can muster other sources of collaborative countervailing power, their critics may be right.

Similar challenges of scale mismatch also characterize local issues such as education and public safety. In community policing, for example, adversarial countervailing organizations frequently demand changes to the structure or policies of entire police departments. Following a top-down governance logic, activist organizations have demanded the creation of community review boards, racial diversification, and sensitivity training. Community policing that takes participatory problem-solving

seriously, by contrast, requires neighborhood-level mobilization and capacity in addition to city-wide changes (Fung 2001; Skogan and Hartnett 1997). Similarly, adversarial education reform organizations have focused on top-down strategies such as equitable financing, standardized accountability measures, and certification requirements. Beyond these and other centralized measures, participatory-collaborative educational governance demands increased sophistication and engagement at the level of individual schools.

A second mismatch concerns organizational competencies. Adversarial countervailing organizations aim to influence peak policy and legislative decisions, and their competencies flow from this aim. Some pursue narrow strategies of communication, information provision, and persuasion. Others, such as social movement organizations, attempt to mobilize broad popular support and pressure. Whereas these strategies require a variety of capacities that sway policy makers, participatory collaboration requires competencies of problem-solving and implementation. Habitat conservation planning and the Quincy Library plan for forest management raised thorny political challenges, but these collaborative governance experiences required participants to have deep local knowledge, ecological expertise, and analytic capacities. Similarly, problems of second-generation discrimination are complex and specific to particular firms. The challenge for participants in those governance efforts is to invent and implement solutions rather than to muster the force to press pre-formed positions into public policy. Similarly, adversarial education and police reform organizations are skilled at pressuring or persuading top administrators, municipal legislators, and city halls. Participatory collaboration, however, requires organizations that can facilitate close problem-solving with individual principals, teachers, and police officers on the beat. As with the problem of scale mismatch,

adversarial countervailing organizations would have to acquire entirely new kinds of organizational competencies in order to function effectively in collaborative governance arrangements.

Third, differences in constructions of political meaning and psychological sources of solidarity also prevent adversarial countervailing organizations from redeploying their powers to support collaboration. Recent work in the sociology of social movements has stressed the importance of cognitive factors such as the construction of meaning and issue framing in processes of political mobilization (Snow and Benford 1986). Social movements overcome apathy and barriers to collective action in part by constructing “shared understandings of some condition or situation they define as in need of change” (Benford and Snow 2000). In the case of adversarial countervailing movements and organizations, these understandings involve narratives of inequity and disrespect—“injustice frames” (Gamson 19XX)—that generate common diagnoses (diagnostic framing), approaches to solutions (prognostic framing), and reasons for action (motivational framing) (Snow and Benford 1986). Many adversarial groups and their constituencies embrace cognitive frames that do not lend themselves to collaborative problem-solving approaches. These frames can unambiguously assign culpability (e.g. an authoritarian city government and police department), depict Manichean protagonists and antagonists (e.g. brutal police officers and defenseless youth), and prescribe simple and direct policy solutions.

Participatory collaboration, by contrast, depends requires much less rigid diagnostic, prognostic, and therefore motivational cognitive frames. Decentralized governance activities around public safety, education, ecosystem management, and

second generation discrimination aim in large measure to discover and test hypotheses about the complex causes of public problems and create, on-the-fly, locally tailored solutions to those problems. Rigid diagnoses and prognostications inhibit this flexible problem solving. Furthermore, participatory collaboration frequently depends upon sustained and deep cooperation between diverse parties such as police officers and minority residents, parents and educators, workers and managers, and environmentalists and developers. “Injustice frames” that demonize or recriminate adversaries again obstructs such joint action. In order to provide countervailing power for collaborative governance, many adversarial organizations would be required to dramatically transform the cognitive frames through which they understand the political world, articulate solutions to the urgent problems in it, and mobilize support for themselves and for social change more broadly. Unsurprisingly, many adversarial organizations resist such revolutionary transformations. They not only erode bases of solidarity and support, but also call into question the deep purposes of leaders and very reasons that those organizations exist.

## **VI. Sources of Collaborative Countervailing Power**

In most participatory-collaborative governance arrangements, then, countervailing power will not grow easily from either supportive public policies or existing adversarial organizations. Are there more likely sources of collaborative countervailing power? Here we must be more speculative. Contemporary forms of participatory collaboration are fairly young, and so most practitioners and scholars in this area have focused on institutional analysis rather than upon the political and social conditions that are

necessary for these institutions to operate fairly and effectively. Tentatively, then, consider three potential paths to the generation of collaborative countervailing power: local adversarial organizations, political parties, and larger social movement organizations.

Though neither ubiquitous nor dominant, the strongest forms of collaborative countervailing power in the experiences described in section III above came from locally organized adversarial entities. For example, indigenously local rather than nationally affiliated environmental groups engaged developers and industrial interests in the forest management and habitat conservation programs. In cases of participatory collaboration in public services—education and policing—coalitions of neighborhood groups and their city-level umbrella organizations provided some countervailing force against city government. Generally, locally organized entities can shift more easily from adversarial to collaborative modes of participation. Unlike their national counterparts, they do not suffer from scale-mismatch; most are already organized for action at the levels of government and society most appropriate for decentralized problem-solving. In part because they act at this scale, adversarial groups frequently also possess some of the organizational competencies necessary to participate in collaborative governance. For example, they have deep local knowledge of the particular environmental, educational, and economic challenges in their communities. Many already engage in direct service provision, and so are familiar with the details and difficulties of implementing programs. When local groups make demands upon public or private entities, these demands often relate to inclusion and representation in governance and problem-solving. They frequently demand to be allowed to collaborate rather than pressing for specific policy

solutions. Cress and Snow (2000) report, for example, that one of the major demands of homelessness prevention social movement organizations is to be represented on the boards and bodies that make and implement local policies in this area.

Perhaps the cognitive issues of framing and psychological sources of solidarity and motivation present the greatest obstacle to participating in collaborative governance for local adversarial organizations. Like their national counterparts, local frames of political understanding frequently rely upon unambiguous narratives of injustice and culpability. Such frames lead participants to be suspicious of proposals for collaboration. Nevertheless, some of the most innovative and successful local organizing entities have developed alternative frames that capaciously include both adversarial and collaborative strategies. For example, Mark Warren describes how the Texas Industrial Areas Foundation moved beyond Alinskyite understandings and strategies to develop a less myopic approach to organizing that stressed common values and allowed for constructive engagement (Alinsky 1989; Warren 2001). This approach grounded the participatory-collaborative school organizing strategy of the Interfaith Alliance described above. Similarly, the Oakland Community Organizations have used tactics of disruption and protest to secure increased funding for schools in poor neighborhoods and simultaneously engaged in partnership with the educational administration to participate in the governance of some of those schools. Though not without difficulty, they have developed political frames and narratives that understand both kinds of tactics as stemming from a common approach to building constructive power and organizing defective social institutions.

As a general matter, however, local adversarial organizations are strong in some areas and weak in others. Broadly imposing structures of collaborative governance will, as we have seen in the case of habitat conservation planning, create opportunities for some of these groups, but may also produce many other venues in which, in the assessment of environmental leader Michael McCloskey, industry has better odds.

A second source of more reaching countervailing power may come from political leaders who view participatory collaboration as good politics as well as good policy. A politician or party might champion policies that open top-down agencies, create venues for popular voice and problem-solving, and so attempt to reap the democratic and technical benefits commonly attributed to participatory collaboration. In doing so, he or she may construct constituencies of beneficiaries from the policies, who in turn support the officials who championed them. Such a politician or party would irritate administrators and entrenched interests, but that would be the price of generating participatory-populist support. In a tepid version of this strategy, Chicago Mayor Richard M. Daley strongly supports the city's community policing program.

A fully-blown example of this path to countervailing power comes from outside the borders of the United States. In the city of Porto Alegre, Brazil, the Workers' Party campaigned on a platform to shift substantial powers from the city council to decentralized popular neighborhood councils throughout the city in 1988. They won a highly contested election on this platform. Since 1989, allocations of the capital portion of the city's budget have been determined through an annual series of open neighborhood meetings called Participatory Budgeting. Residents and their associations attend these meetings to express their spending priorities—for example over pavement, sewage,

public health, and education—and to monitor the progress of previous public projects. The final budget aggregates these neighborhood level priorities and distributes available funds across them. This novel scheme has been enormously popular. Proponents claim that it has dramatically reduced leakage from patronage spending and increased the quantity and quality of public works such as paved roads, water purification and distribution, and school buildings. The Participatory Budget has expanded popular support for the Workers Party and brought consecutive victories in every Mayoral election since 1989 (Baiocchi 2001; de Souza Santos 1998).

Perhaps more squarely within the boundaries of the American political imagination, a third path to collaborative countervailing power lies in the slow transformation of traditional adversarial organizations. The barriers outlined above (Section V.c) are formidable, but perhaps not insuperable, for some large interest groups and social movement organizations. The large labor unions, the NAACP, some women's organizations, and some environmental organizations have both national offices and local affiliates. The barriers of scale and competence will be lower for organizations with local affiliates who exercise the autonomy and possess the kinds of capabilities that are common in local adversarial organizations. As discussed above, the Rochester affiliate of the national NAACP led efforts to collaborate with the Kodak Corporation to address second-generation discrimination problems. The perennial conflicts over local autonomy versus national mission that occur in labor, environmental, and other movements has taken on a new dimension with the emergence of participatory collaboration as a mode of governance.

In these policy areas and others, the chorus of support in favor of participatory collaboration is growing. Its natural constituents are local organizations, such as the civic environmentalists in Quincy, California and the environmental justice movement, the more energetic locals and County Labor Councils in organized labor, and local civil rights and racial justice organizations (Guinier and Torres 2001). Pressed from below by these sources and perhaps also by the disappointments of their own approaches, leaders of national adversarial organizations may eventually accept the limitations of top-down governance strategies. When they do so, they may begin to make the difficult transformations of scale, competence, and political framing necessary for them to become effective actors in participatory collaborative governance schemes. In doing so, these organizations would have to adopt a structure that mirrors the institutional design of participatory collaboration itself. As described in section IV above, the strong central offices would seek much more to build the capacity of local groups, and their main countervailing lobbying functions would aim to establish favorable conditions and opportunities for local entities to engage in fair collaborative problem solving. Though most large adversarial organizations resist rather than embrace such a radical change in their internal structure, mission, and outlook, this third path remains in some measure the most promising one for sustained participatory collaborative governance.

## **VII. Conclusion**

In the pages above, I have tried to give both the proponents of participatory collaboration and its critics their due. Across a vast range of policy questions, both sides are united by a set of deep commitments to democratic government and social justice. They are divided principally regarding the means with which these general goals are best

realized. The gulf between them, however, is deeper than most strategic disagreements, for it concerns the very structure and institutions of governance and politics. Most of the work in political science and sociology is not terribly helpful in bridging that gulf. As has been oft noted but seldom addressed, the former focuses on formal avenues of participation and influence—voting and interest groups—usually in centralized venues while social movements scholars in the latter discipline focus squarely on informal methods such as protest and disruption (Cohen and Harris 2002; McAdam, Tarrow, Tilly 2001). Participatory collaboration lies between these two domains, and so has largely escaped the analytic gaze of social scientists. As a consequence, there are few conclusive findings regarding the operations, outcomes, or even prevalence of this emergent governance mode.

Proponents and critics have thus relied upon their intuitions to guide them regarding crucial points of disagreement such as the role and potential for collaborative countervailing power. Many proponents of participatory collaboration have ignored asymmetric power and so implicitly supposed that power can be bracketed away and is therefore unimportant in these venues. Others embrace a naïve pluralism that supposes that interests are all sufficiently well resourced and organized to participate in collaborative governance institutions and that none will be systematically excluded. Critics, many of whom have studied or worked in contexts of top-down adversarial governance, frequently make the opposite but equally naïve pluralist supposition. They recognize that collective action problems are extremely difficult to overcome and robust organizations hard to build. They see the impossibility of constructing of countervailing power in locales where it is weak or absent. They consequently reject participatory

collaborative governance from the fear that it will bring local domination and co-optation.

I have argued that the real prospects for participatory collaboration lie between these extremes. Critics should recognize first that, whatever their other failings, the emergent governance structures offer possibilities of solving complex problems that are unavailable to top-down methods. Conversely, proponents should acknowledge that many of these benefits fail to accrue in the absence of sufficient countervailing collaborative power. With these common understandings, both can begin to the hard work of understanding the roles, forms, and sources of political power in the distinctive structure and politics of collaborative governance. I have tried to identify the most important of those functions, the basic blocks that prevent adversarial organizations from providing countervailing force in collaborative contexts, and three possible sources of collaborative countervailing power.

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