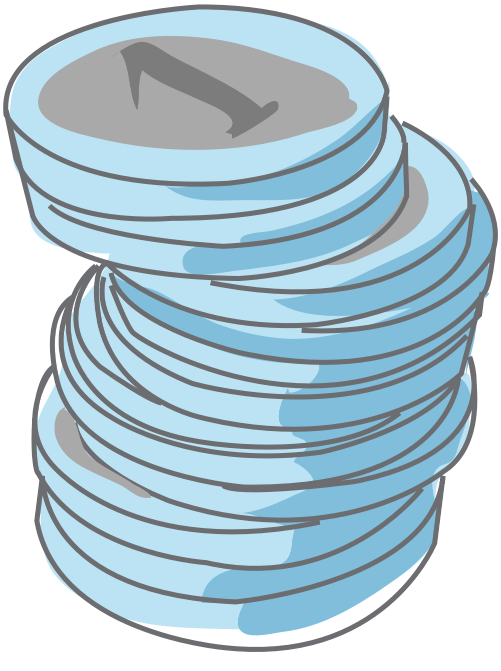
The Advocacy Initiative

Funding Dissent: Research into the Impact on Advocacy of State Funding of Voluntary & Community Organisations



RESEARCH COMISSIONED BY THE ADVOCACY INITIATIVE
& CONDUCTED BY BRIAN HARVEY SOCIAL RESEARCH

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The views expressed in this publication are those of the author's and do not necessarily represent those of The Advocacy Initiative.

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Executive summary

This research first explored links between advocacy and funding in Ireland by setting them in their international context. Across Europe, there is a long-standing post-Enlightenment narrative in the rise of civil society in contributing, through advocacy, to more democratic, participative, socially progressive societies. Tensions in the funding-advocacy link are most evident in Britain and Ireland, visible especially in the continued redefinition of charity law. There is evidence that the advocacy environment in Ireland has been made more difficult by our isolation from European social and political norms and values.

We can itemise the specific ways in which voluntary and community organisations contribute to government and public administration: they mobilise citizens, channel participation, provide the expertise and views that lead to improved policies, assist governments in buy-in to complex decisions, act as watchdogs of accountability, assemble ground truth that informs policies or provides early warning of new issues, promote a long-term perspective beyond the electoral cycle, enable minority views to be heard and play an important role in policy implementation. They are a nursery of leadership that renews the political class. In this 'rational model' of the policy cycle, they perform a role underestimated both by government and themselves, but one which is not yet well established in the discourse.

The advocacy-funding link in Ireland has become more urgent, mainly because of increased levels of state funding in recent years, but thrown into sharper relief by the preparedness of philanthropic organisations to fund advocacy activities. In examining this link, we find an inconsistent set of policies, developed in a peristaltic manner and unevenly applied. The link has had principally neutral, but also positive and negative impacts. Whilst some government funders promote, even encourage advocacy, others set down no-advocacy clauses (e.g. Service Level Agreements), though we know almost nothing of their application in practice. To make a forensic analysis, we need to model the entire funding chain (invitation - approval - contract - delivery - payment - retrospective) and examine the range of flanking policies, practices and funding levels, giving as much attention to informal communications and signals as to the formal. The incomplete nature of the documentary record emphasises the importance of the next stage of the research in obtaining ground truth on the testing of the link in the actual experiences of voluntary and community organisations.

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Terms of Reference

The Advocacy Initiative is concerned with evidence that voluntary organisations have experienced or been threatened with funding cuts as a result of advocacy activities that they have undertaken. The Initiative formed the view that the issue required more in-depth and systematic analysis so as to (1) determine whether, assuming this has taken place, resources and dialogue with and access to the state have been affected and in what way and (2) come to more precise conclusions as to the nature of this relationship. The research will be set in the broader context of:

- Models of how the advocacy-funding relationship should function in democratic societies.
- What is known of the advocacy-funding link in the narrative of the voluntary-statutory relationship in Ireland, reviewing the available literature.
- Definitions and understandings of the term 'advocacy'.
- Societal values which may determine the nature of advocacy in different political cultures.
- In some countries, state investment in advocacy may be considered a norm, whereas in others it may be circumscribed.

The purpose of this research is to:

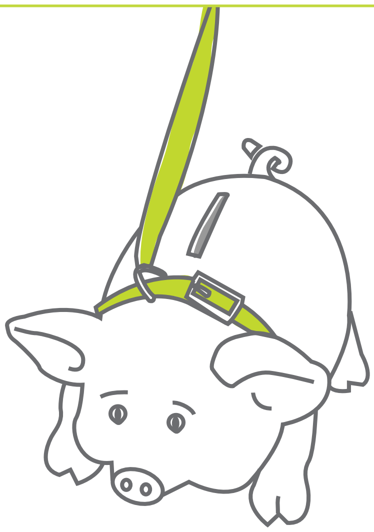
- Determine to what extent there is evidence of a direct relationship between advocacy and receipt of state funding (allowing for the possibility that this relationship could be negative, positive, or neutral).
- Describe state policy on funding advocacy across a spectrum of funding programmes and policy frameworks, specifically how the state funds advocacy and identify any major policy trends in this are over the last ten years.
- Characterise the mechanisms by which the state has sought to limit advocacy through the implementation of funding (formal and non-formal, pre-emptive and retrospective), providing specific examples and case studies of the various experiences.

In the second stage of this research, it is intended to determine, more precisely, the range of experiences and provide an assessment as to the extent resources have been negatively affected as a result of advocacy (as opposed to other factors such as general funding cuts, poor funding applications, failure to adequately implement programmes etc).

Acknowledgements

My thanks go to the members of the reference group who provided advice and comments which were very highly valued: Camille Loftus, Gerry Mangan, Senan Turnbull, Robin Hanan, and Diarmaid O'Corrbui. I also wish to thank the supervisor of the project, Anna Visser, for her help and assistance.

Brian Harvey



1 International Context

This first chapter will examine, drawing on a British and continental European context, the evolution of advocacy in democratic society (1.1); how NGO advocacy relates to the theory of modern government and public administration (1.2); and within these, what is known of the funding-advocacy link. Conclusions are drawn (1.3).

The term ‘advocacy’ is a recent addition to the lexicon of both social policy and the work of Non-Governmental Organisations (NGOs), voluntary and community organisations. An extensive search of both Irish and British literature found no such references until recently. Intriguingly, the British classic, Wyn Grant’s *Pressure Groups, Politics and Democracy* has no such reference in its first edition (1989), but does in its second (2000). The term ‘advocacy’ here is used, unless the context requires otherwise, synonymously with ‘campaigning’,‘ lobbying’, ‘policy work’, namely a ‘systematic course of purposeful action to persuade government or other authorities of the need for change in policy or practice in the public interest’.[1]

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[1] **Wilson, Des:** *Campaigning - the A to Z of public advocacy.* London, Hawkesmere, 1993; Combat Poverty Agency: *Working for change.* Dublin, author, 2008. There are some subtle overtones to each of these words. ‘Advocacy’ has the advantage of being a composite word that brings together ‘campaigning’, which is suggestive of direct action; ‘policy work’, which is bookish; and ‘lobbying’ which connotes lying in wait for legislators in the lobby or hallway of parliaments.

1.1 Historical context

Civil society advocacy organisations in the sense that we would recognise them today date to the Enlightenment, the classic being the campaign for the abolition of slavery.[2] The term 'civil society' was attributed to post-Enlightenment philosopher and writer Alexis de Tocqueville (1805-59), who saw it as a space where citizens could organise themselves freely to promote societal objectives, such as equality. Their role was explicitly recognised in France with the introduction in 1901 of the law on *associations*, which remains the basic text to this day.

It was in Germany where the relationship between the state and civil society organisations matured soonest. Weimar Republic post-war reconstruction was strongly influenced by large national advocacy associations concerned with social welfare, people with disabilities, war veterans and pensioners.[3] Across Europe, the interwar period saw the rapid development of varying combinations of voluntary social service providers, welfare organisations and advocacy groups. In western Europe, they played a key role, with governments, in the post-war welfare settlement (in France, *Les trente glorieuses années*, the 'thirty glorious years', where they even became part of the parliamentary structure, the Economic and Social Committee). Civil society organisations found themselves in an oppositional relationship with government not only in eastern and central Europe over 1945-89, but also to a lesser extent in western Europe from the late 1960s where they challenged governments over a diversity of issues, such as equality, the environment and social policy. In eastern and central Europe, post-1989 governments largely comprised dissident civil society leaders, who brought their approaches and values with them. An example was Iveta Radicová, who as Prime Minister of Slovakia argued that 'a strong civil society should play the primary role in a democracy'.[4] The 'civic rights and advocacy' part of the voluntary and community sector became quite significant, with total employment, including volunteer full-time equivalents, of 1.8% in Britain, 1.9% in France, 3.3% in the Netherlands, 3.5% in Austria, 3.4% in Germany, 4.2% in the European Union as a whole and a high 16.8% in Finland. In Ireland, to whose exceptionalism we shall later return, it is only 0.5%.[5]

Continental European countries differed from Ireland in that most had laws designed expressly to provide legal form and registration for voluntary organisations, modelled on the original French law. A detailed search of the profiles of the relationship between voluntary organisations and the state across continental Europe found no reports of the state using *funding* as an instrument for control on the advocacy role of the sector, but we must bear in mind the aphorism that 'absence of evidence is not evidence of absence'.[6] This is not to say that government - NGO relationships have always been comfortable. They were in turmoil across the continent during 1968 and there have been individual episodes from time to time in individual countries, the most striking example being the stand-off between the NGO sector and the returned communist government of Vladimir Meciar in Slovakia (1994-8), who dissolved 1,800 dissident organisations.[7]

The most explicit connection between dissent and funding was evident in Northern Ireland, where funding was withheld from groups considered close to paramilitaries ('political vetting').[8] Vetting was introduced by the Secretary of State on 27th June 1985: funding was withdrawn from 26 organisations, mainly community groups, creches, social economy organisations and cultural bodies. We know little more about the system, for no evidence was presented, nor hearings held, nor appeal permitted, nor are records available. It had egregious effects on the organisations concerned, damming their ability to raise money anywhere and sent a chill factor across the voluntary and community sector in Northern Ireland, leading to their self-vetting for fear of being closed in turn.

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[2] Hochshild, Adam: *Bury the chains - the British struggle to abolish slavery.* New York, McMillan, 2005.
[3] Alan Walker & Gerhard Naegele (eds): *The politics of old age in Europe.* Buckingham, Open University Press, 1999.
[4] Fila, Lukáš: *Slovakia's Havel.* **European Voice**, 26th May 2011.
[5] Salamon, Lester & Anheier, Helmut: *The emerging sector revisited - initial estimates.* Baltimore, Johns Hopkins University, 1998.
[6] LP Doyle (ed): *Funding Europe's solidarity.* Brussels, LP Doyle Associates, 1996; Randon, Anita & 6, Perri (1992): *Liberty, charity and politics - cross national research on campaigning/policy advocacy by non profit organizations: findings from 24 countries.* London, National Council for Voluntary Organizations; London School of Economics: *Third sector European working papers.* London, author, 2005; Johns Hopkins Comparative Non Profit Sector Project: *Defining the non-profit sector*, country profiles (series). Baltimore, author, 1993; Charities Aid Foundation: *The non-profit sector in...*(series). Kings Mill, author, 1997; Open Society Institute: Country papers on NGO sector in eastern and central Europe. Budapest, various authors, 2004 (unpublished).
[7] Mareková, Dana: *Watchdog NGOs in Slovakia.* Budapest, Open Society Institute, 2004, unpublished paper.
[8] Helsinki Watch: *Human rights in Northern Ireland.* New York, author, 1991.

On the whole, the continental relationship is a settled one. In Britain, by contrast, there is a continued battleground less around issues of funding and advocacy, but around the definition of what is 'charitable' and 'political'. The starting point is *Bowman vs. The Secular Society* (1917) which, presumably, continues to apply in Ireland. This ruled that an organisation 'for the attainment of a political object is *not* charitable since the court has no way of judging whether a proposed change in the law will or will not be for the public benefit.'

This did not prove problematic until the socially divisive 1980s, when many NGOs found themselves in an oppositional role with government. Oxfam was twice investigated by the Charity Commissioners, for acting politically by criticising apartheid in South Africa (where it had projects) and Pol Pot (for his programme of genocide in Cambodia). Although cleared, the investigations were time-consuming and disruptive. They led to new guidance being issued by the Charity Commissioners, specifying that (1) a charitable organisation may not be formed purely for a political purpose (2) it must not pursue or promote party political objectives but (3) may otherwise participate in political activities necessary for the pursuit of a charitable purpose.[9] Non-charitable organisations were, in any case, free to pursue any campaigning objectives, but could not claim charitable tax relief for doing so.[10]

In practice, this ruling was more severe than it appeared, for it also ruled them out from receiving most funding from governmental and philanthropic bodies, whose rules prescribed that they could only give to charities. An early 1990s study in Britain found that 5% of organisations were criticised or interrogated by the Charity Commissioners over the previous two years for their campaigning work, but they met no criticism from government, nor was evidence presented of funding being used to restrict campaigning. Arguably, though, with the system already well policed by the Commissioners, this was hardly necessary.[11]

In subsequent years, both British case law and guidance restricted the scope of advocacy. The Commissioners ruled that whereas the relief of poverty was a legitimate objective, 'seeking to influence or remedy those causes of poverty which lie in the social, economic and political structures of countries and communities' was impermissible. A subsequent interpretation de-legitimised charities for whom campaigning was a 'dominant activity', 'long term' or used more than a fifth of their income. Some new organisations have found it more difficult to register as charitable, especially in the area of animal welfare. In addition, campaigning activity has been restricted through other channels, especially by anti-terror legislation limiting the right to protest and the prevention of social advocacy on media.[12]

Compared to sovereign states, interstate organisations always had a more relaxed relationship with advocacy organisations. The Council of Europe (1949) developed formal structures for working with NGOs (consultative status, plenary forums, consultative committees). The European Communities, later the European Union, while such eschewing formal arrangements, developed a variety of mechanisms to work with advocacy organisations, such as the funding of networks and parliamentary inter-groups. The European Commission formally presented a white paper on promoting the role of voluntary organisations and foundations in Europe (1997), one which acknowledged the role which voluntary organisations played in active citizenship, democracy, social inclusion, representing civic interests to the public authorities and in promoting human rights and global development; the subsequent white paper on governance spoke of the role of associations in changing policy and society, with the need for those in authority to create 'structured channels for feedback, criticism and protest', the only instance in which a role of 'protest' has been acknowledged and endorsed.[13] The European Constitution, subsequently embodied in legal form in the Treaty of Lisbon, committed the Union to the principle of participatory democracy; opportunities for representative associations to make their views known and exchanged; and open, transparent and regular dialogue with representative associations and civil society.

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[9] *Charities must not be political organizations. But they are not precluded from political activity. A distinction must be made between political purposes and political activities. The courts have made it clear that a body whose stated purpose include the attainment of a political purpose cannot be charitable. A body whose purposes are charitable may nevertheless engage in activities which are directed at securing or opposing changes in the law or in government policy or decisions, whether in this country or abroad. A charity may respond to forthcoming elections whether local, national or to the European Parliament by analyzing and commenting on the proposals of political parties which relate to its purposes or in the way in which it is able to carry out its work [and] may bring to the attention of prospective candidates issues relating to its purposes or the way in which it is able to carry out its work and raise awareness about them generally, provided that the promotional material is educational, informative, reasoned and well founded. A charity must not seek to persuade members of the public to vote for or against a candidate or a political party (Charity Commissioners: Political activities and campaigning by charities.* Circular CC9, 1995).

[10] For a discussion on this, see Hebditch, Simon: *Campaigning* in Paul Palmer & Elizabeth Hoe (eds): **Voluntary matters - management and good practice in the voluntary sector.** London, Directory of Social Change, 1997.

[11] Healy, John: *Cause and effect - a survey of campaigning in the voluntary sector.* London, National Council for Voluntary Organizations, undated.

[12] These developments are narrated in detailed in Kennedy, Helena, QC: *Advisory group on campaigning and the voluntary sector.* London, Bates Wells & Braithwaite, 2007.

[13] European Commission: *On promoting the role of voluntary organizations and foundations in Europe.* Brussels, author, 1997; *European governance - a white paper.* Luxembourg, Office of Official Publications, 2001.

1.2 Role of NGOs in government & public administration

We have seen that NGOs and civil society organisations have, over time, played an important role in the evolution of European society. Here we look, in more detail, at their more specific role in government and public administration.

The role of NGOs is a well established one within democratic theory. Mainstream liberal theory, dating from the time of John Stuart Mill, upholds the right and desirability of a well-informed people and associations to make their views known, the government acting as arbitrator of the multiplicity of views presented, a process which Dahl called democratic pluralism.[14] New left theorists such as C Wright Mills contested the 'level playing field' axiom of Dahl, drawing attention to the domination of decision-making by élites and the need for countervailing power, such as citizen associations.[15] The social theorist Jürgen Habermas opened the notion of civil associations as essential to any democratic dialogue between governors and the governed.[16] The role of civil associations was developed by the re-invention of the theory of civil society by Havel, who affirmed the importance of space where citizens could organise freely from the state and if necessary challenge unjust government. His theory was enriched by Puttnam and others who coined the term 'social capital' to draw attention to the value of associations in creating trust, cohesion and solidarity in society in general and democracy in particular.[17]

Although these perspectives are broadly held, they are challenged by those who argue that the decisions of government should not be influenced by associations acting as intermediaries between citizen and the state. This is not just a totalitarian view, but one also held by elected representatives in democratic societies.[18] Critics on the left argue that civil society organisations will inevitably be compromised by neo-liberal governments and that there is no substitute for an effective, enlightened state.[19]

Overall, though, there is a well-established, dominant post-Enlightenment narrative of the onward march of civil associations, community development, participation and new social movements that lead us to 'the good society'.[20] The *Active Citizenship* programme in Ireland fitted well into this discourse.[21] In Britain, civic participation is reckoned to have strengthened greatly in recent years. The participation of 43% of people in voluntary organisations, NGOs and civic bodies contrasts with a long-term decline in participation in political parties (2% now), so NGOs present a justification that might be termed 'politics by other means', an essential element in a healthy, progressive, civilizing democracy. Similarly, Irish party political membership is in the 1% to 3% range.[22]

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[14] Dahl, Robert: *Preface to democratic theory.* 1956; 2nd edition, University of Chicago Press, 2006.

[15] C Wright Mills: *The power elite.* Oxford, Oxford University Press, 1956.

[16] Habermas, Jürgen: *The theory of communicative action.* Beacon Press, Boston, 1984.

[17] Václav Havel: *Letters to Olga.* New York, Knopf, 1988; *Disturbing the peace.* New York, Knopf, 1990; *Toward a civil society.* Prague & Brno, Lidove Novine, 1995; Puttnam, Robert; Leonardi, Robert & Nanetti, Rafaella: *Making democracy work - civic traditions in modern Italy.* 1996.

[18] The governments of both totalitarian left and right governments permitted associations, but their role was highly circumscribed and could not challenge the ruling party (e.g. NSDAP or CPSU). In Ireland, two ministers in particular challenged the role of what they considered to be unrepresentative associations posited against elected representatives (The Minister for Community, Rural and Gaeltacht Affairs, Eamon O Cuiv; and his minister of state, Noel Ahern).

[19] Rieff, David: *The false dawn of civil society.* **The Nation**, 22nd February 1999.

[20] Powell, Fred: *The politics of social work.* London, Sage, 2001; Hain, Peter: *Radical regeneration - protest, direct action and community politics.* London, Quartet, 1975.

[21] Task force on active citizenship: *Together we're better.* Dublin, author, 2007.

[22] Giddy, Pam *et al: Power to the people.* Joseph Rowntree Charitable Trust and Joseph Rowntree Reform Trust, London, 2006; O'Ferrall, Fergus: *Citizenship and public service - voluntary and statutory relationships in Irish healthcare.* Dublin, Adelaide Hospital Society, 2000. Comparative data on political party membership are notoriously scarce. European surveys gives a higher figure, 5%, of young people as members of political parties, compared to a range of 1% to 8% for other types of organizations, but without a breakdown for Ireland (Eurobarometer: *Main results of the Eurobarometer 2007 survey on youth.* Brussels, author, 2007). An older survey, Gaskin and Davis Smith, gives a similar range of European figures for political involvement, 1% to 9%, but with Ireland the lowest at 1%. When specifically asked about participation in advocacy work, whereas the European range was 1% to 19%, Ireland was again lowest at 1% (Gaskin, G & Smith, J Davis: *A new civic Europe? the extent and role of volunteering in Europe.* London, Volunteer Centre, 1995). The Task Force on Active Citizenship gives an Irish participation rate in political parties and groups of 2.4%, at the low end of the participation rate in voluntary organizations generally (Task Force on Active Citizenship: *Report.* Dublin, author, 2007). Political studies give an Irish level of adult participation of 3%, below the European norm and below the rate of participation in other organizational activity (March, Michael: *Politics and society* in John Coakley & Michael Gallagher (eds): **Politics in the Republic of Ireland**, 4th edition. Dublin, PSAI Press, 1999).

When it comes to the precise manner whereby voluntary organisations may contribute to the work of government and public administration, most of our information focuses on the campaigning techniques of NGOs and their subsequent impact on the political system, rather than the nature of their role in government.[23] Our principal authorities are Wilson, Grant, Simpson, Coxall and Murphy supplemented at European level by Rifkin, who rehearsed and analysed the arguments.[24] They constitute the 'rational' case for the participation of advocacy organisations in politics and public administration and are summarised under headings. They are not mutually exclusive and may overlap:

- *Participation and cohesion:* advocacy provides an important channel for citizens to participate in society, especially when membership of political parties is so unattractive and when other opportunities to participate in democratic decision-making are so limited. In enabling the participation of those most distant from the political system, they are important for social cohesion.
- *Improved policies:* advocacy organisations bring a broad range of information, options and solutions to government, improving the quality of the decisions subsequently taken and enabling government to avoid unintended and negative consequences.
- *Expertise:* government cannot be expected to have the range of staff and skills to define and administer policy on its own, but advocacy organisations do have these resources, which can be quite technical and important for improving the quality of decisions.
- *Long-term perspective:* advocacy organisations promote long-term analysis and solutions to problems that extend beyond the five-year electoral cycle of government.
- *Watchdog role:* they improve the surveillance and accountability of government.
- *Minorities:* advocacy is important for the protection of minority rights in majoritarian political systems. They enable views to be fed in that might otherwise be overlooked.
- *Ground truth and new issues:* advocacy organisations provide 'ground truth' to government about situations of which it would not otherwise be aware. Related to this, as they seek to get fresh issues on the political agenda, they can serve as an early warning to government of upcoming issues that must, sooner or later, be addressed.
- *Communication and buy-in:* NGOs are an important channel of communication from government to people and *vice versa*, including the achievement of buy-in or acquiescence in complex and difficult decisions.
- *Implementation:* advocacy organisations play an important role in the monitoring, implementation and enforcement of government decisions (laws, policies, procedures, protocols, strategies).

The balance of views of academic and political commentators is that such an engagement, although uneven and problematic, is, overall, benign.[25] Arguably, this engagement brings both societal benefits and substantial gains in the quality of decision-making and public administration, moreover at little or no direct cost to government at all. The 'rational' analysis has of course been challenged. Left analysts argue that advocacy organisations form their own élites so close to the governing class of politicians and civil servants as to eliminate any serious prospect of social change; while analysts of public administration point to the paralyzing effect of the multiplicity of voices which make government so complex as to lead to policy gridlock.[26]

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23 Hilton, Matthew; McKay, James; Crowson, Nicholas: *The politics of expertise - how NGOs shaped modern Britain.* Oxford, Oxford University Press, 2013 (forthcoming).

24 Wilson, Des: *Campaigning - the A-Z of public advocacy.* London, Hawkesmere, 1993; Grant, Wyn: *Pressure groups and British politics.* Basingstoke, MacMillan, 2000; Simpson, David: *Pressure groups.* Abingdon, Hodder & Stoughton, 1999; Coxall, Bill: *Pressure groups in British politics.* Harlow, Longman, 2001; Rifkin, Jeremy: *The European dream.* Cambridge, Policy Press, 2004.

25 Powell, Fred & Geoghegan, Martin: *The politics of community development - reclaiming civil society or reinventing governance?* Dublin, A&A Farmer, 2004.

26 Anthony King (ed): *Why is Britain becoming harder to govern?* London, BBC, 1976.

As for those in government, ministers have spoken of how the weight of pressure groups is so heavy as to make it more and more difficult to reach decisions in the general interest. The Governor of the Irish Central Bank once described the influence of interest groups as having disastrous consequences for public finances.[27] NGOs are politically unaccountable, so the argument goes, feudal lords who bend the wishes of governments to small and unrepresentative minorities acting secretively, the classic Irish case being the Maastricht protocol.[28] These arguments have subtle and unpredictable dividing lines: when once asked for their views as to the degree to which voluntary organisations were welcome contributors to policy making, senior Irish government civil servants were divided, some welcoming them, others resenting their role as critical commentators.[29]

We can see the roles and functions outlined above if we look in more detail at individual aspects of government policy. A good example is the role of the (now-disbanded) National Council for Ageing and Older People, which comprised health professionals, health board officials, academics and a narrow range of NGOs. The council's research and policy reports acted as a test-bed of ideas for service and fresh policy development where they could be pre-negotiated before being announced as policy, a process that ensured both buy-in by stakeholders, such as NGOs, and that there would be no nasty surprises when eventually launched (conversely, the absence of such a Council now increases the risk of unsuccessful implementation).[30]

There are a couple of shortfalls in the 'rational' analysis. First, the role of advocacy organisations as nurseries in a democracy is understated. NGO leaders sometimes go on to important roles in politics, bringing with them a range of personal and professional skills less present in more conventional routes into politics. Examples range from the 1968 events in western Europe (whose leaders entered politics subsequently through many diverse routes), to the 1989 civil society movement in eastern and central Europe (where a substantial body of the NGO leadership formed subsequent governments) and, most recently, where the President of the United States described his career as a 'community activist'.[31] Indeed, some traditional party politicians may find the nursery role threatening and this may explain their antipathy to some community organisations.

Second, an underlying assumption of the 'rational' model is that government values and wishes to utilize expertise from outside the immediate confines of the civil service. To the contrary, government may wish to neutralize or expel expertise in policy areas that it regards as controversial, undesirable, dissenting or inimical to its policies.[32] This is well illustrated by the long history of extinctions of state bodies, from the Congested Districts Board to the Combat Poverty Agency, Dúchas to the National Economic and Social Forum and Comhar, all of them with close connections to the non-governmental community.

Exclusion remains an important feature of the relationship in Ireland. Despite their expertise, the Free Legal Advice Centres (FLAC), have always been denied a place on the Civil Legal Aid Board, presumably for fear that they would argue for a model of civil legal aid contrary to government policy. In the field of older people, advocacy organisations have been marginalised or denied places on consultative bodies (e.g. Age Action Ireland, National Federation of Pensioners Associations). By contrast, FLAC was given a place on the Keane Committee which reviewed the issue of indebtedness, where, presumably, its expertise was more needed in a field that was less contentious. Governments show an ability to operate policies of inclusion and exclusion side-by-side, depending on the sphere and its sensitivity.

> “The role of advocacy organisations as nurseries in a democracy is understated.”

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27 Murphy, Gary: *Interest groups in the policy-making process.* John Coakley & Michael Gallagher (eds): **Politics in the Republic of Ireland.** London, Routledge & PSAI Press, 1999 (3rd edition).

28 O'Reilly, Emily: *Masterminds of the right.* Dublin, Attic Press, 1992. The Maastricht protocol was the attachment, to the Treaty of Maastricht, of an exemption of Ireland from any European legislation on abortion, achieved by the pro-life lobby through private negotiations with the Taoiseach and the Department of Justice.

29 Enterprise Trust: *Prospects for the establishment of an umbrella body for the voluntary sector in Ireland.* Dublin, author, 1992.

30 Acheson, Nick *et al: Social policy, ageing and voluntary action.* Dublin, Institute for Public Administration, 2008.

31 Obama, Barack: *The audacity of hope.* New York, Random House, 2006. A prominent example from 1968 is European Green leader Daniel Cohn-Bendit; while examples from 1989 include Václav Havel, Iveta Radičová and Lech Wałęsa.

32 Chamberlain, Lesley: *The philosophy steamer.* Atlantic, 2006.

Overall, though, voluntary and community organisations have subscribed to the inclusion model and sought to be ever more included in a consultative processes. Few have formally articulated that role, but an exception is the Irish National Organisation of the Unemployed (INOU):

> *There is no point in having a clear idea of what solutions are necessary if you can't find anyone to put them into effect. We pursued this by seeking representation on all committees and fora where decisions affecting unemployed people were made. Where no such places existed, we argued for them to be set up. This slow process has been aptly described as our 'long march through the institutions'.*[33]

The INOU was admitted to social partnership in 1995, soon followed by other voluntary and community organisations (*Partnership 2000*), although they always been subordinate to business, farmers and labour in the hierarchy of interests. This was explored by Murphy who traced the process whereby voluntary organisations, which had been a 'mere voice in the wilderness' became, through social partnership, 'serious players in the Irish political market'.[34] This had the effect of making policy development more complicated for government, necessarily involving it in making some accommodation with their wishes and in the structures that serviced social partnership. In doing so, Ireland moved closer to the well-established European model of social partnership.

A particular aspect in Ireland was that social partnership may have arisen less from a conviction that the participation of NGOs was desirable, but more from desperation as to the country's economic and social circumstances. The National Economic and Social Council explained the country's poor economic performance as a failure to achieve social consensus and give 'voice' to the marginalized: fresh institutions, involving social movements, were necessary for both economic and social progress.[35] In practice, Irish social partnership may have subsequently tamed, bureaucratized and even silenced the civil society participants, but that may not invalidate the underlying concept, nor the 'rational model' that underpins it.[36] Social partnership was a dominant narrative in the NGO experience in Ireland from the early 1990s to the breaking of the current economic and social crisis: arguably, social policy NGOs made gains quite out of proportion to their size.[37]   Even when some groups left one of the social partnership agreements (*Sustaining Progress*) they were, within years, seeking a route back.

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[33] Allen, Mike: *The bitter word - Ireland's job famine and its aftermath.* Dublin, Poolbeg, 1998.

[34] Murphy, Gary: *Interest groups in the policy-making process.* John Coakley & Michael Gallagher (eds): **Politics in the Republic of Ireland.** London, Routledge & PSAI Press, 1999 (3rd edition).

[35] Mjøset, Lars: *The Irish economy in comparative institutional perspective.* Dublin, National Economic and Social Council, 1992, report §93; Connolly, Eileen: *The institutionalization of anti-poverty and social exclusion policy in Irish social partnership.* Dublin, Combat Poverty Agency, 2007.

[36] Kirby, Peadar; & Murphy, Mary: *Toward a second republic - Irish politics after the Celtic tiger.* London, Pluto Press, 2011.

[37] Larragy, Joe: *Asymmetric engagement - the voluntary and community pillar in Irish social partnership.* Unpublished PhD thesis, University College Dublin, 2010.

1.3 Conclusions

This chapter has provided a historical context and a dominant (but challenged) narrative which sees the rise of advocacy voluntary and community organisations as a post-Enlightenment process that leads us not only to a 'good society' but an efficient, inclusive system of public administration. It is perceived to have brought substantial, enduring gains not only to the social well-being but the prosperity that is a defining feature of European model of development.[38] This chapter outlines the 'rational' model for the involvement of civil society, NGOs and voluntary and community organisations in government, politics and administration, while acknowledging that it is an uneven, imperfect process that can bring mixed results.

Two important issues, though, arise. First, it is clear that this process is, in different countries and in different epochs, a contested one. In searching for the advocacy-funding link, there is a danger that we will overlook the ways in which governments already set the ground rules for their engagement with civil society, in other words, at a much earlier stage in the process. These range from the legal basis for charitable activity (as is the case in England) to circumscribing the role of community groups in social partnership (the Poverty 3 programme in Scotland being a case study).[39] Rarely does government find itself resorting to such a crude instrument as funding to control unwelcome civil society organisations, the example of political vetting from Northern Ireland being the most explicit case in point.

A second issue is geographic exceptionalism. It is interesting to observe that the countries where the role of civil society, voluntary organisations and NGOs is most controversial and contested are Britain and Ireland.

By contrast to the British Isles, these relationship issues seem to be well settled and not contentious elsewhere. We must remember that in the typologies of European social sub-models, these are always characterized as apart from the mainstream, as the most 'atlantic' and 'neo-liberal' examples, indicating different values, emphases and economic values at work.[40] Ireland, in particular, was sheltered from the principal developments and values that shaped the European social model (1789, 1848, 1968) and post-war reconstruction (1945) in which social movements played such a critical role. The 1968 revolution brought with it less a change in politics than in political values, those which emphasised consultation, participation, rights, respect for diverse viewpoints, a role for the NGO community - attitudes which informed subsequent generations of public servants there. Irish social history may be as important for the key events that did not happen as much as those that did. This context is now examined in more detail in chapter 2.

> **“It is interesting to observe that countries where the role of civil society, voluntary organisations and NGOs is most controversial and contested are Britain and Ireland.”**

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[38] Rifkin, Jeremy: *The European Dream.* Cambridge, Policy Press, 2004.
[39] Breitenbach, Esther: *Participation in an anti-poverty project.* **Community Development Journal,** vol 32, §2, 1997.
[40] Esping-Andersen G: *The three worlds of welfare capitalism.* Princeton NJ, Princeton University Press. 1990.

2 Irish Context

The second chapter is a more detailed exploration of the Irish context. First, it looks at how ‘advocacy’ is defined (2.1), before looking at the broad parameters that shape the interface of the state and its relationships with voluntary and community organisations in the advocacy arena (2.2). Conclusions are drawn (2.3).

2.1 Defining advocacy in the Irish political environment

Campaigning is by no means a new concept for voluntary and community organisations in Ireland. The state was founded by a combination of political and campaigning groups covering a broad field from culture to feminism and rural development. While some were integrated in to the state-building project, others continued to be active even during the socially austere policies of the Free State. The emergence of 'caring and campaigning' voluntary organisations in Britain and Europe in the 1960s was matched by similar organisations in Ireland (e.g. AIM, Simon, Cherish). We know that 51% of NGOs are now engaged in advocacy activity, most finding it a positive and productive experience.[41]

The arrival of the specific term 'advocacy' in Ireland can be traced to the Commission on the Status of People with Disabilities, *A Strategy for Equality* (1996). The Forum for People with Disabilities subsequently sketched out strategies as to how an advocacy service for people with disabilities might be developed, *Advocacy - A Rights Issue*.[42] Comhairle, now the Citizen's Information Board, was subsequently tasked to develop these services, which were followed by advocacy services for other groups considered at high risk.

The term 'advocacy' underwent something of a transmogrification in this process. Whereas the Commission and the Forum had a mind a combination of individual and collective action, the services that subsequently evolved became highly individualised, akin to an affirmative social work services, with indicators focused on the numbers assisted rather than the welfare of people with disabilities as a whole or (in the legal sense) class gains arising therefrom. The subsequent HSE advocacy service for nursing home residents, for example, describes its aim as to 'provide access to joined-up, user-friendly, information and a customer focus consistent with an individual's needs'.[43] At the same time, the legitimization of the term 'advocacy' by the government was an important development, prompting a further semantic shift when voluntary organisations re-branded what had been 'campaigns' as 'advocacy services'.[44]

> **"The arrival of the specific term 'advocacy' in Ireland can be traced to the Commission on the Status of People with Disabilities, *A Strategy for Equality (1996)*"**

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[41] Murphy, Candy: *Mapping of social justice advocacy in Ireland - an examination of the breadth and depth of social justice advocacy within the non-profit sector in Ireland.* Dublin, Advocacy Initiative, 2012.

[42] Forum of People with Disabilities : *Advocacy - a rights issue.* Dublin, author, 2001.

[43] HSE: *National Advocacy Programme Alliance,* www.hse.ie/eng/services/ysys.SUI/NPAPA. Accessed 13th January 2013.

[44] E.g. the 'advocacy service' in Barnardos, led by a 'head of advocacy' in an 'advocacy department'.

2.2 Broad parameters of the advocacy relationship in Ireland

The Irish Constitution is relevant to this discussion at two points: first, the guarantees of freedom of association and expression (§40.6) and the provision for the representation of the interests of voluntary social service organisations in the Seanad (§18.7). Many voluntary organisations have registered to nominate senators and have done so. Although neither clause has been tested to defend the right of voluntary and community organisations to advocacy, opponents would have to explain restrictions on such rights when they are so embedded in the Constitution (and, one might add, in the Treaty of Lisbon).

The Irish state experienced considerable difficulty in setting down its relationship with voluntary and community organisations. The failure of the white paper *Social Security* (1949) - and the associated need for the state to work with voluntary organisations to deliver welfare services - meant that such a decision could be delayed. The new Free State had been marked by a steady erosion of the role of independent hospitals with voluntary boards: the government used funding as an instrument of consolidation and replaced their voluntary boards with party nominees.[45] Rarely, though, did the relationship between state and civil society break out into the open, perhaps the first instance being the funding of community projects under the first programme against poverty (the state simply shut down the agency which had funded them), the first recorded casualty in modern times of the advocacy-funding link.

Commitments to introduce a white paper that would define the relationship between the state and voluntary sector, including that of advocacy, were first given in 1976, but it took the government 24 years to agree the white paper, which eventually emerged as *Supporting Voluntary Activity* (2000). Not only did the white paper endorse the policy-making role of voluntary and community organisations, but it affirmed their right to speak, their independence and freedom of action and the role of voluntary and community organisations in promoting social inclusion, specifying that 'the state and the sector each recognise their mutual right to constructively critique one another's actions and policies' and acknowledged 'the role of the sector in inputting to policy making'. There would be units for the voluntary sector in each department. In the area of funding, the white paper announced the introduction of securer, multi-annual funding and an immediate boost to the sector in the form of funding for national networks and federations, training and research. The purpose of the funding of national networks and federations was vague ('support'). It was not core funding (although in practice it may have part-filled such a function), but rather to build general capacity.

Although the parties in government that had decided *Supporting Voluntary Activity* were re-elected in 2002, no one anticipated the policy or organisational upheaval that followed. The changes that took place had been nowhere flagged in advance, nor were they part of the *Programme for Government*. Although *Supporting Voluntary Activity* formally remained government policy, its key provisions were renounced (e.g. units in each government department), the funding scheme sharply reduced and in the case of research scrapped. The analysis of the problems of implementation of *Supporting Voluntary Activity* used the phrase that the voluntary-statutory interface had now become a 'highly contested political space'.[46] At some times, this contest became acrimonious: when 16 members of the community pillar voted against *Sustaining Progress*, their access to national social partnership structures was abruptly withdrawn.

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[45] O'Ferrall, Fergus: Citizenship and public service - voluntary and statutory relationships in Irish healthcare. Dublin, The Adelaide Hospital Society with Dundalgean Press, Dundalk, 2000.

[46] Report on implementation of the white paper Supporting voluntary activity. Dublin, CV12, 2003.

Indeed, further examples of that contested space were to follow, echoing the debate in Britain (Chapter 1). One of the few white paper commitments to be honoured was that of new charities legislation, but here the Charities Act 2009 had a new, unexplained provision to exclude, as a charitable activity, advocacy for human rights (unlike Britain). In a similar way, the broadcasting battleground in Britain of what is 'political' has been echoed in Ireland. The Broadcasting Commission of Ireland prohibited an advertisement by Trocaire in 1997, citing the Radio and Television Act, 1988, §10.3 which prohibit broadcasts 'directed toward a religious or political end' (an alternative version was later agreed).[47] Recently, the Broadcasting Authority of Ireland upheld a complaint against Newstalk for broadcasting an advertisement for the *Turn Off The Red Light* anti-trafficking campaign, ruling that the use of broadcast advertising to influence changes in law was prohibited by §43.1 of the Broadcasting Act, 2009.[48]

We are aware that a charity has been refused due to campaigning work came to light, although we do not know if this experience is widespread.

> *A purpose which is political cannot be regarded as being legally charitable. Charities must avoid seeking to influence to remedy those causes of poverty which lie in the social, economic and political structures of countries and communities; bringing pressure to bear on government to procure a change in policies or administrative practices; seeking to eliminate social, economic, political or other injustice.*

This was an interesting decision at a number of levels, both at a philosophical level (permitting charities to confront poverty, but not the causes of poverty), and at a practical level, prompting charities to define, or redefine, their purpose or purposes. The Irish Council for Civil Liberties, took up two legal forms: the ICCL Ltd (which campaigns) and the charitable Irish Civil Liberties Trust (which does not). Most charitable voluntary organisations have not done this, including some highly visible ones (e.g. Society of St Vincent de Paul, Barnados) and so far their campaigning work has not been challenged.

In an unrelated development, the Electoral (amendment) Act, 2001, limited donations to any organisations engaged in political activities (defined as 'promoting an outcome to policies or the functions of government or any public authority') to €126.97 per donation and an absolute limit of €6,348.69 per annum. Any individual donations above €126.97 must be registered with the Standards in Public Office (SIPO) Commission and donations from without the state or from non-citizens were prohibited. Any such donations must be registered in a 'political donations' account. There are no instances of an NGO finding itself in difficulty subsequently as a result of the Act and SIPO commented that it doubted whether it was the legislature's intention to encompass NGOs: nevertheless, the law remains on the statute book.

In the period post-*Supporting Voluntary Activity*, two important state policy documents impinged on the evolving role of voluntary-statutory relationships in the field of advocacy. *The Developmental Welfare State* (2005) argued that the focus of social policy should now be on the improvement of public services - but there was no mention of an advocacy role on the part of the voluntary and community organisations expected to contribute to this outcome.[49] The subsequent National Economic and Social Council Strategy *People, Productivity and Purpose* (2006) used the interesting phrase 'non-adversarial partnership'.[50] The Irish state had progressed to the point that it was prepared to invest in services provided by voluntary and community organisations, and, in *Supporting Voluntary Activity* in organisational support, but not in growing their advocacy capacity.[51]

The need to define this relationship grew as the balance of funding of the voluntary and community shifted. In one sense, a resolution could be delayed because, until the Celtic Tiger period, most organisations had very low budgets and raised whatever money they could locally, through a variety of means from street collections to table quizzes. Until the 1990s, most funding came from personal donations and few were dependent on government funding in the first place. By the new century, this relationship had been reversed. Government funding, as low as €271.8m in 1993, grew to €1,058m by 2001 and €2.307bn in 2011, expanding into new areas, such as voluntary housing, which became the preferred means of delivering all social housing.[52]

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[47] www.indymedia.ie, 8th March 2007.

[48] Broadcasting Authority of Ireland: *Complaint decisions*. Dublin, author, 2012.

[49] National Economic & Social Council: *The developmental welfare state*. Report #113. Dublin, author, 2005.

[50] National Economic and Social Council: *People, productivity & purpose*. Dublin, author, 2005, 231-2.

[51] A possible exception is the funding providing to voluntary and community organizations participating in social partnership, but this was couched in terms of secretarial and organizational, rather than advocacy assistance as such.

[52] The earlier two figures come from Acheson *et al: Two paths, one purpose - voluntary action in Ireland, north and south (Dublin, Institute of Public Administration, 2004). The third figure, which comes from Quinn, Patricia Irish nonprofits: what do we know?* (Dublin, INKEx, 2012) has the advantage of being up to date but the disadvantage that it includes grants from philanthropic bodies, so should be revised slightly downward accordingly.

The increase in government funding was not matched by a proportionate increase in non-governmental funding sources, which meant that dependence on the state grew, creating a risk of vulnerability to its conditions. Despite Celtic Tiger affluence, the proportion of personal giving declined and corporate and philanthropic giving, with some exceptions, failed to develop, reducing the scope for independent alternatives, though the more adept turned to professional fund-raisers.[53] At present, voluntary and community organisations derive their funding broadly as follows: 53% from the state, 25% from individual giving, 4% from fees and sales, 3% from foundations, 2% from the corporate sector, 1% from their members and 12% others.[54]

State funding is spread across a of government departments.[55] Generally such funding is provided for individual tasks, services or projects, less frequently for core funding and is rarely used explicitly to fund or part-fund advocacy. Interestingly, there does not appear to always be an expectation by voluntary organisations that it should. In their study of health board grants, Faughnan and Kelleher quoted one grantee:

> *To be realistic, you would not expect the state to provide the full funding, especially for campaigning and advocacy (p67).*[56]

The most constant source of funding for voluntary and community organisations has been, since the mid-20th century, grants under §65 of the Health Act, 1953. The health boards, which administered them, took a relatively broad and benign view of the §65 definition, but studies of the operation of the §65 grant found that the system was opaque, *ad hoc*, without criteria and determined by access to the appropriate officials. These limited resources were demand-led, spread thinly, with no strategic approach, the aim being to satisfy, even minimally, the broadest range of applicants.[57] Studies at the end stage of the health board period noted the emerging advocacy roles of health and social organisations but did not suggest any use of funding to restrict this growing role. Indeed, NGOs did not see the taking on of health board funding as incompatible with with their advocacy and campaigning role.[58] In practice, the state may have been funding advocacy indirectly, but this was not evident because of the focus of the supervisory régime.

Despite their modest contribution to the overall funding of Irish voluntary organisations, the principal development in advocacy work may be attributed to philanthropic bodies. Most of these (about 25) distributed money for the development and sustaining of social services, but a small number invested in advocacy as a particular means of work. The pioneer was the Joseph Rowntree Charitable Trust, which specifically solicited projects in the 'rights and justice' field and set out on a course of core funding outspoken, advocacy-focused rights organisations (e.g. Irish Council for Civil Liberties). Central to the trust's original approach was an analysis that the capacity of civil society organisations was so weak as to make effective advocacy impossible.[59] The building of a critical mass that would made advocacy work possible was the first task.

Happily for advocacy-focused organisations, the two trusts which subsequently funded this line of work were by far the financially largest, Atlantic Philanthropies and One Foundation. Both linked philanthropic work to the evolution of civil society, with advocacy as an important instrument for its development. From the early 2000s, they built advocacy work across a broad range that included women, refugees, Travellers, older people, children, human rights and some unpopular causes. Atlantic specifically funded what was termed an 'advocacy programme' for older people, Get Vocal!, but its fresh approach did not travel into government thinking on how to fund voluntary organisations.

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[53] Colgan, Anne (2002): *Fostering fundraising in Ireland.* The Ireland Funds, 2002.
[54] The Wheel: *A portrait of Ireland's non-profit sector.* Dublin, author, 2012.
[55] A lengthy listing and analysis was given in Acheson *et al: Two paths, one purpose - voluntary action in Ireland, north and south.* Dublin, Institute of Public Administration, 2004
[56] Faughnan, Pauline & Kelleher, Patricia: *The voluntary sector and the state - a study of organizations in one region.* Dublin, Conference of Major Religious Superiors, 1993.
[57] Faughnan & Kelleher, ibid.
[58] Faughnan, Pauline: *A healthy voluntary sector - rhetoric or reality?* in Joseph Robbins (ed) **Reflections on health - commemorating 50 years of the Department of Health.** Dublin, Department of Health, 1997; Faughnan & Kelleher, 66, *op cit.*
[59] Joseph Rowntree Charitable Trust: *Rights and justice work in Ireland.* York, author, 1993.

2.3 Conclusions

‘Advocacy’ has experienced a difficult birth in the Irish political, administrative and financial system. Ireland was able to postpone reaching a decision on its role because of its lack of a welfare state (and the concomitant need for a well-developed voluntary sector to deliver its services) and did not reach a view until 2000 with *Supporting Voluntary Activity*. The period immediately thereafter saw a sudden, unexpected re-drawing of the contours of the voluntary-statutory relationship, returning it to its traditional uncertainty. When the state did come to embrace ‘advocacy‘ in the form of the service provided for people with disabilities and nursing home patients, it took the de-politicized form of social work case work, albeit with the comfort that the term ‘advocacy’ had at least been legitimized.

To counter-balance the events that followed 2002, the voluntary and community sector benefitted from external intervention in the form of the Joseph Rowntree Charitable Trust and Atlantic Philanthropies. An enlightened Irish state might have built up the advocacy capacity of the voluntary and community sector and - if our ‘rational’ model of policy-making is correct - benefitted from the outcomes. The fact that it had not done so was again, an indicator of Irish exceptionalism. Instead, the task fell to these two external funders, both informed the insights gained by their civil society work abroad (e.g. South Africa, eastern and central Europe). Although the organisations that benefitted were small in number compared to the voluntary and community sector as a whole, they were key both to the sector as a whole and to its individual subsectors.

Elaine Byrne, in her mammoth study of corruption in Ireland, had some relevant observations to make on the political culture in which Irish voluntary organisations operate.[60] First, she characterised our political culture as authoritarian, deferential, fearful of offending the powerful, where a culture of ingrained powerlessness was normalized - clearly not a fertile seedbed for advocacy, nor for the state to support it. It is also possible that some voluntary or community organisations generate a negative reaction not because of what they say, but the way that they say it: they insufficiently observe the rules of this deferential culture, they are too ‘strident’. Second, she drew attention to the unusual degree to which decisions about the allocations of resources and funding were not made by the agents of the state, as is the norm elsewhere, but directly and personally by politicians, to reward favoured organisations, clients and constituents. Whilst this did not necessarily work for or against advocacy organisations, it certainly did little to promote a strategic role for civil society working with the state to improve the quality of public administration.

Overall, though, the voluntary and community sector had become proportionately more dependent on the state, meaning that the advocacy-funding link would become a more critical issue, the focus of the next chapter.

> “An enlightened Irish state might have built up the advocacy capacity of the voluntary and community sector and – if our ‘rational’ model of policy-making is correct – benefitted from the outcomes.”

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[60] Byrne, Elaine: *A crooked harp? Political corruption in Ireland, 1922-2010.* Manchester, Manchester University Press, 2012. The relevant texts are p238, 211, 217-8.

3 The Funding-Advocacy Link

Here, we search for evidence as to whether the state has used the advocacy-funding link positively, to encourage the voluntary and community sector to contribute to government and public administration, along the lines of the ‘rational model’; whether it has done so to restrict the advocacy role; or whether the state has been largely neutral. First, we look at the context of the advocacy-funding link in Ireland (3.1), the particular case of Service Level Agreements (3.2) and then come to conclusions (3.3).

3.1 Context in Ireland

Most students of the advocacy-funding link have focused on its negative application, in other words as a restraint of voluntary and community sector advocacy. At one level, the negative application may appear to be overstated. In its recent mapping study of advocacy, the Advocacy Initiative found that only 4% of those who did not undertake advocacy work indicated that this was due to constraints imposed by funders.[61]

If we search for examples of the state embracing the enlightened 'rational' model outlined in Chapter 1, evidence can be found, for example in the policy work expected of the Family Resource Centres run by the Family Support Agency.[62] Likewise, in the case of the Local & Community Development Programme (LCDP), 'actions to support the participation of disadvantaged groups in policy and decision making-processes' are specifically listed as eligible actions. Grants have been provided to voluntary organisations to contribute to NGO actions and events around United Nations events (e.g. climate change, human rights, gender equality). Organisations participating in social partnership, like other social partners, received a secretarial allowance, while funding has also been available, to participate in social inclusion fora. In the case of Irish Aid, civil society funding is expressly available to assist development NGOs to engage with government and influence policy, including issues such as human rights and accountability:

> *We encourage partnership between government and civil society that aims at empowering the poor and marginalized so they can have greater influence over public policy and budget allocations. Civil society and community organizations are uniquely placed to ensure that the voices of the poor are heard and that their representative organizations have a seat at the decision-making table. We support these organizations to undertake innovative programmes that can inform government policy and be expanded for national impact. We support organizations that defend the civil, political, social, economic, and cultural rights of men and women in countries around the world.*[63]

At the same time, the nature of this support is qualified, being limited in time, place and nature. Although the Irish Aid assistance for advocacy is expressed eloquently, it applies to NGOs *outside* Ireland. Much of the other support cited is *ad-hoc* and applicable to particular circumstances. Even where it is programmatic, such as the LCDP, goal 4 is limited to 10% of activity and coyly defined as 'to promote dialogue' and 'to identify issues and voice concerns'.[64]

Observers of voluntary and community action warn us that self-censorship may pose a greater determinant of the advocacy role than direct clashes with the state. Closeness to the state, for example through social partnership can result in asphyxia, to the point that voluntary organisations are funded for purposes limited to and indistinguishable from government's own objectives and their original advocacy role is neutered.[65] This relationship was explored by the TASC Democracy Commission:

> *The close relation that many organizations have with government and the fact that 60% of the sector's overall income comes from public funds have led to concerns that their independence in advocacy and agenda setting may become compromised. ...Anecdotal evidence suggests that dependence on state funding can result in voluntary groups effectively practising self-censorship so as to avoid any risk to funding.*[66]

Although this was not detailed further, another commentary on state restriction advocacy suggests that the process is a subtle one:

> *A further trend relates to the advocacy role of projects within partnership working – many perceive that this role is increasingly being implicitly circumscribed and directed more towards service provision and implementation, with their value perceived to be increasingly linked to that role.*

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[61] Murphy, Candy: *Mapping of social justice advocacy in Ireland - an examination of the breadth and depth of social justice advocacy within the non-profit sector in Ireland.* Dublin, Advocacy Initiative, 2012.

[62] 'Policy work' is the term used by the Family Support Agency and it is reported under this heading in the annual SPEAK programmatic report.

[63] Irish Aid: Influencing change, www.irishaid.ie, accessed 15th January 2013.

[64] Pobal: *Local and Community Development Programme: 2010 annual plan of programme goals.* Dublin, author, 2010.

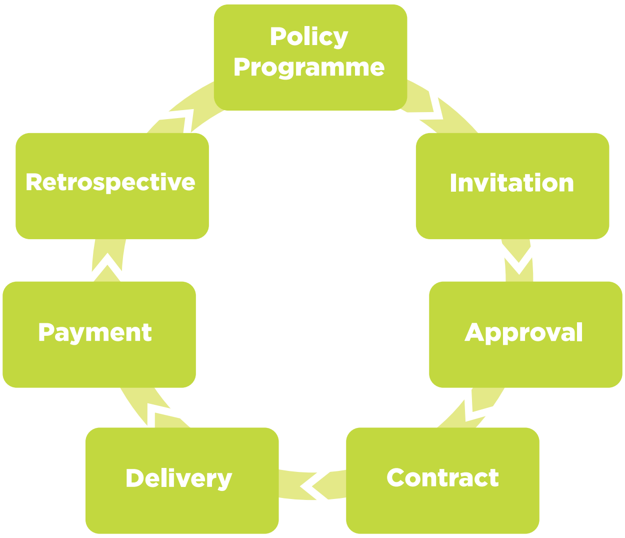
[65] Murphy & Kirby, 2011, *op cit;* Robert Whelan (ed): *Involuntary action - how voluntary is the voluntary sector?* London, Institute for Economic Affairs, 1999.

[66] Hughes, Ian et al: *Power to the people? Assessing democracy in Ireland.* Dublin, TASC & New Island, 2007.

> *There's more pressure from funders to provide services, not to engage in lobbying and activism. They see that community development is about service provision – it's a message from the government that's getting stronger all the time. The right to dissent has been eroded.*[67]

These commentaries suggest that we focus on the 'big picture' and the signals from government as to whether advocacy is encouraged or discouraged. There is abundant evidence for the latter since 2008, such as the closure of the Combat Poverty Agency, which had funded campaigning voluntary and community organisations; the substantial reduction in the budget of another funder, the Equality Authority (-43%); and an overall reduction in the funding in the order of -35%, with community development and local development hardest hit.[68] Observers were divided as to whether this uneven treatment represented a downgrading of 'social' at the expense of 'economic' development, or as evidence of intent to intimidate the voluntary and community sector as potential critics of austerity, or both.

Nevertheless, it behoves us to be forensic in identifying those points at which the funding/advocacy link may come under test. Here a model is put forward that proposes such an analysis:



These are:

- At the **policy**, departmental or programmatic level, where a broad decision may be taken to support, permit, limit or prohibit advocacy.
- At the point of **invitation** for grants, with guidelines prohibiting funding for advocacy.
- At **approval**, when advocacy is taken into account either formally or informally, with the organisation being aware of this or not.
- At the point of **contract**, when conditions appear that may not have been heralded in advance. As we will see below, this is evident in SLA's.
- During **delivery**, when questions may be raised about activities undertaken.
- At the point of **payment** which may be delayed or reduced if an organisation has undertaken activities not supposed to be funded.
- **Retrospectively**, when an organisation is advised that in its advocacy work it was using grants improperly, also serving as a warning as to future behaviour.

Diagram: *Points of spectrum where funding/advocacy issues may arise*

If we scrutinize government and statutory funds to search for restrictions on advocacy at point of invitation, we find a remarkable lack of views on the role of advocacy, especially in the case of the largest funder, the HSE.[69] No overall guidance appears to have been issued by the Department of Finance, indicate a position of neutrality on the issue on the part of the state. Only three funding programmes prohibited, at the point of invitation, advocacy work outright. The Development Education programme of Irish Aid, specifies in its programme guidelines:

> ***3.5 Ineligible Activities***
> *The following activities will not be eligible for funding:*
> *Campaigning and advocacy activities.*[70]

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[67] Airey, Siobhan: *Communities, voices and change - report on the policy work of CDPs, FRCs and partnerships.* Dublin, Combat Poverty Agency, 2006

[68] Irish Congress of Trade Unions: *Downsizing the voluntary and community sector.* Dublin, author, 2012.

[69] This covered all government departments; Irish Aid; Irish Youth Justice Service; Irish Abroad; the Probation Service; the Equality Authority; Pobal and the Family Support Agency. This research was conducted in December, at a time when few programmes were inviting funding.

[70] Irish Aid: *Development education: Annual grant, 2012. Guidance note.* Dublin, author, 2012. The organization Banulacht lost its prime funding as a result and closed.

There are two examples from the Department of Social Protection: the Community Services Programme excludes the funding of advocacy (§48(h)); while Tús guidelines state (§4.7.3) that 'advocacy and activities in support of political activities are not considered suitable' for work placements. Their term 'political' is left quite vague, but in a fourth example, Pobal, in its disability activation programme is more precise in specifying a '*particular* political viewpoint' (emphasis added).

This was the invitation stage and we now explore the link further down the funding chain:

- At the approval stage, where the Community Workers Cooperative twice alleged that its funding was not continued into a new funding programme because of its outspoken views.[71]
- At the contract stage, where SLA sent post-approval for signing inhibited advocacy (see next section).
- At the payments stage, where in the case of the Adelaide/Tallaght Hospital stand-off with the Department of Health (1988-98), there were delays in payments and under-funding, directly attributed to its outspokenness.[72]

In the course of delivery where we have several examples. In the first, threats of review of funding for Pavee Point following its support for the M50 motorway roundabout protest by the Roma Community.[73] In the second, the Dublin Inner City Partnership, closed down under unclear circumstances, possibly linked to the use by the organisation of the planning process for social purposes.[74]

Retrospectively, where a body received criticism for its earlier work. Here, the Centre for Public Inquiry (CPI) made allegations that there was corruption in the planning system. Once unproven allegations were made under parliamentary privilege that its chief executive had terrorist associations, it was closed. This was a somewhat different example in which the state applied pressure on a private funder to withdraw advocacy funding that had previously not been a matter of concern.[75]

Governmental attitudes toward the advocacy role of voluntary and community organisations has rarely been placed explicitly on the record. An exception was the discussion on the 35% cut in government funding for the National Women's Council in 2012. The Minister for Justice & Equality, Alan Shatter, told the Dail that he was required to achieve savings of €100m in his vote and that in setting priorities he had decided to favour organisations providing services over those providing advocacy or research activities, which meant difficult choices, in some cases the elimination of funding and the closure of projects.[76]

Such an explicit statement is unusual. The attitudes of individual politicians towards advocacy organisations cross a wide spectrum, many public representatives speaking positively, even admiringly, of the way in which they raise public issues. At the other extreme, Finance Minister, Charlie McCreevy did not welcome the advocacy or proximity of social justice organisations, speaking disparagingly of 'the poverty industry'.[77] Neither did his colleague in government, Michael McDowell, who cited the National Women's Council of Ireland and the Irish National Organisation of the Unemployed as evidence for the fact that 'there was hardly a major voluntary organisation in the country that didn't have its hand out for cash. This was because former Taoiseach, Bertie Ahern brought dissent into the semi-state world by subsidising interest groups to beat their own drums from public money'.[78] When the CPI was closed, senator Brian Hayes welcomed the decision, believing that it was a matter for the state to determine what should be investigated: 'I do not believe that any privately sponsored body established by a group of people has the right to determine what is right or wrong'.[79]

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[71] Dail Eireann, Debates, 26th January 2005, 120-3; 1st February 2005, 1250-1; 2nd February 2005, 1619-1620; Seanad Eireann, Debates, 8th February 2005, 399. *Reforming grant-giving in public administration: the Funding scheme to support national organizations in the voluntary and community sector, a case study.* Dublin EAPN Ireland and OPEN, 2012.

[72] O'Ferrall, Fergus: *Citizenship and public service - voluntary and statutory relationships in Irish healthcare.* Dublin, The Adelaide Hospital Society with Dundalgean Press, Dundalk, 2000

[73] **www.indymedia.ie**, 27th July 2007; *Veiled ministerial threat to Pavee Point unacceptable.* **An Phoblacht**, 2nd August 2007; **www.mamanpoulet.com**, 26th July, 2007.

[74] *Funding to inner-city development body stopped after auditor's findings.* **Irish Times**, 4th April 2010; *SIPTU and community sector fight for inner city partnership.* **Community & voluntary sector news**, spring 2011. Its technical assistance work to disadvantaged communities in the planning process was documented in ***Supporting voluntary activity*** *- good practice handbook.* Dublin, Combat Poverty Agency and Department of Community Rural and Gaeltacht Affairs, 2005 (unpublished). Several appeals where it assisted led to rejections of development plans by An Bord Pleanala.

[75] This episode is summarized at **http://en.wikipedia.org/wiki/Centre_for_Public_Inquiry.** See also Seanad Eireann, Debates, 8th December 2005, 342.

[76] Dail Eireann, *Debates*, 7th February 2012, 254-5.

[77] Roche, William: *Social partnership - from Lemass to Cowen.* **Economic & Social Review**, vol 40, §2, summer 2009.

[78] Cullen, Paul: *McDowell says a new party will soon emerge to fill political vacuum.* **Irish Times**, 27th February 2012.

[79] Seanad Eireann: Debates, 8th December 2005, 342.

3.2 Service level agreements

Health funding is a distinct sub-set of this discourse, an important one for it is the main source of state funding for voluntary and community organisations. The Health Act, 1953, §65, permitted the health services to provide grants for health and social purposes.[80] This became the main funder of voluntary and community groups and arguably, as §39 of the Health Act, 2003, still is. These grants had the disadvantage of having an opaque application and distribution system, but the advantage that the range of organisations was interpreted liberally, as were the purposes to which money could be put, provided that it was spent with probity. There is no documentary record that these grants restricted campaigning activities.[81]

The system of grant aid changed in the 1990s, when the Irish health services began to adopt some of the process of contracting for the delivery of services developed in Britain during the previous decade, the term used being 'service agreement'. The concept first emerged in the Department of Health's framework strategy *Shaping a Healthier Future* which announced that 'larger voluntary agencies will have service agreements with the health authorities which will link funding by the authorities to agreed levels of service to be provided by the agencies', an approach specifically aimed at the larger intellectual disability services then being divested by the department: smaller voluntary organisations were specifically excluded.[82] The process was advanced by *Enhancing The Partnership*, which set down a model service agreement, elaborated in *Widening The Partnership*.[83]

There were four striking features of this process. First, the commitment that agreements would apply only to large organisations was broken, for they came to be applied to all. Second, the balance of the service agreement changed: whereas the original model proposed six obligations on health boards and 11 on voluntary organisations, by 2004 the obligations on voluntary organisations had grown to 25, while obligations on the state were unchanged.
By 2012, the obligations on the voluntary organisation had lengthened to 43 and those on the HSE side made contingent on the performance of their 'partner'. Third, commitments that voluntary organisations would have an avenue to contribute to national health policy were not met; and fourth - and most critically for this discussion, a non-advocacy clause was introduced, whose precise origin is not known. Overall, these developments were indicative of highly insecure attitudes on the part of the authorities and the 'no-advocacy' clause is explored in more detail here.

The original text of *Enhancing the Partnership* (1994) was:

> *The health board agrees with the body that... It will respect the body's functions of innovation, advocacy, representation and research (p82).*

A sample of service level agreements in 2004 found that this phrase was replicated across individual health boards (e.g. Western) or not mentioned at all (e.g. Northern). This changed subsequently with the introduction of a standard clause thus:

> *§2.8 The [funded] organization must not use the grant for any of the following:*
> *b. campaigns whose primary purpose is to obtain changes in the law or related government policies, or campaigns who primary purpose is to persuade people to adopt a particular view on a question of law or public policy.*

In its most recent iteration (2012) is this:

> *§2.6 The organization must not use the grant for any of the following:*
> *to directly support or promote any political party or in connection with any activities that could reasonably be viewed as supporting or promoting a political party;*
> *campaigns who primary purpose is to obtain changes in the law or related government policies, or campaigns whose primary purpose is to persuade people to adopt a particular view on a question of law or public policy.*
> *This subsection is not intended to affect the organization's right to utilize other resources of funding to raise awareness of issues or to run campaigns on issues of public policy directly related to the organization's work or which is in conflict (as determined by the executive) with the stated policy of the executive.*

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[80] *A health board may, with the approval of the minister, give assistance to any body which provides or proposes to provide a service similar or ancillary to a service which the health authority may provide.*

[81] Faughnan, Pauline & Kelleher, Patricia: *The voluntary sector and the state - a study of organizations in one region.* Dublin, Conference of Major Religious Superiors, 1993; Donoghue, Freda: *Reflecting the relationships - an exploration of the relationships between the former Eastern Health Board and voluntary organizations in the eastern region.* Dublin, the Northern, South Western and East Coast area health boards, undated.

[82] Department of Health: *Shaping a healthier future.* Dublin, author, 1994.

[83] Department of Health: *Enhancing the partnership and Widening the partnership.* Dublin, author, undated.

The original phrase, one of respecting the advocacy role, was dropped, being replaced by the current lengthy, moreover linguistically inelegant, restrictive clause. Having said that, there is no known instance of the section being invoked or that it is designed to exclude the expertise of NGOs.

The experience of Britain, where contracting was devised, may give us some insight into the direction and consequences of these developments. Opinion is divided, the mainstream discourse being that most organisations have an independent fundraising capacity, which, if anything has made them more secure; that potential conflicts between 'services' and 'advocacy' are successfully managed by the re-designation of functions and staffing; that charities use non-charitable 'coalitions' to present their views; and that governments will back down if NGOs threaten to invoke their moral authority and appeal for public support.[84] But critics speak of smaller charities reluctant to speak out; others avoiding statutory funding so as to protect their independence; of instances of self-censorship; of sycophancy by NGOs to appeal for grants; of NGOs funded to advocate government agendas and priorities; and cite instances, always informal, of charities told that outspokenness would lead to a loss of funding.[85]

3.3 Conclusions

Following the advocacy-funding link in Ireland is made difficult by a inconsistent documentary trail. In the first instance, we must be aware, following the earlier chapters, that the funding relationship is not necessarily the place where the issue of civil society and government is most likely to be played out and that we should look carefully to other areas (e.g. charity law). Even when it is, there are numerous points of the funding process where the advocacy-funding link may come under strain, from the first stage of invitation to retrospectively after the grant is paid.

Examination of the grant-making process here reveals inconsistent practice by government. At one level, the lack of guidance on advocacy at point of invitation suggests an air of neutrality by the state. Examination of individual funding streams finds inconsistency, with some programmes supporting advocacy, but others not. We even have the strange case of contrary policies at work in the same government agency (Irish Aid, whose civil society programme is strongly supportive of advocacy, while its development aid programme prohibits it). How advocacy prohibitions in grant-giving (e.g. Department of Social Protection) came to be prompted is not known to us, especially granted that they are contrary to *Supporting Voluntary Activity*.   Inconsistency at government level is matched by a diversity of views of advocacy and funding expressed in the Oireachtas. There is no evidence, from party manifestos, of hostility toward the advocacy work of voluntary organisations, indifference being a greater problem.[86]

Examination of the evolution of service level agreements presents a number of questions. Whilst there is no evidence of no-advocacy clauses being invoked, we do not know the precise circumstances that led to their introduction, though insecurity and an obsessive need for control appear to be evident. The original concept, which respected the advocacy role of voluntary organisations, underwent a 180° paradigmatic shift to the point that it prohibits such a role, one moreover entirely contrary to the sentiments and the white paper text. Both this change and the subsequent consequences merit further examination.

Overall, though, it is an environment that falls far short of the heady affirmations of the right of the voluntary and community sector to speak out and critique the state expressed in *Supporting Voluntary Activity*, not to speak of the European vocation of protest.

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[84] Lamb, Brian: *The good campaigns guide.* London, NCVO, 1997.
[85] Seddon, Nick: *Who cares? How state funding and political activism change charity.* London, Civitas, 2007.
[86] The Wheel: Pre-election forum, 21st February 2011, presentation *The parties, the election and the voluntary and community sector,* www.wheel.ie.

4 Conclusions

Here, we return to answer the questions raised in the terms of reference, namely to interrogate the relationship between advocacy and the receipt of state funding (positive, negative or neutral); the evolution of state policy on funding; and to characterise the manner in which the state may have sought to govern advocacy.

First, an overall conclusion, albeit one challenged by critics of the left and neo-liberal right (e.g. McCreevy, McDowell, Hayes), is that there is an over-arching post-Enlightenment European narrative that advocacy voluntary organisations have been a substantial, growing contributor to the social good, bringing values of participation, social capital, social cohesion and become a shaper of social policy and the 'good society'. They also have a specific role to play in government and public administration, bringing expertise, broader perspectives, democratic dialogue, buy-in, assistance with implementation, ground truth, wider perspectives and, ultimately, much improved and better considered policies and decisions, a 'rational model'. Their value in contributing to policy decisions and public administration is probably underestimated both by government and the voluntary and community sector itself.

It is also sobering to observe that this narrative has rarely been articulated or expressed within government or public administration in Ireland.

A second overall conclusion is the case to make for Irish exceptionalism, which we share in some but not all respects with Britain. Not only is the rational model not widely embraced, but the advocacy role may be contested, as evidenced by continued struggles on the battlegrounds of charity law and related areas (e.g. broadcasting rules) and in the continued redrawing in both countries of state-voluntary relationships. In Ireland, the civic rights and advocacy part of the voluntary and community sector is unusually low, possibly a function of the country's isolation from the development of a welfare state and the democratic revolution of 1968. The episode over the evolution of service level agreements suggests an Irish state (or heath service) that is insecure and over-controlling.

If we look at the evolution of state policy on advocacy, we find that it has been through numerous stages and is also inconsistent. It went through a vacuum (1922-76), a period of definition (1976-2000), policy (2000) and then re-definition (2002+) which persists to the present and shows no sign of an early conclusion. The limited examination of no-advocacy and permission-for-advocacy guidelines showed inconsistency not only between but within departments. We are dealing with areas where the state paper trail and documentary record is limited.
Although there is evidence of state tolerance of advocacy, there is less evidence of the state being prepared to fund such a contribution. Where examples were found of the state explicitly supporting advocacy, the instances were quite limited by programme (e.g. FRCs), ad-hoc (Ireland's United Nations obligations) or circumscribed (LCDP). Intriguingly, the state's reluctance to fund advocacy is echoed on the voluntary side, which agreed that it was unreasonable to expect the state to pay for advocacy. Despite our 'rational model', voluntary and community organisations do not appear to have been forward in affirming the benefits of the state supporting and funding advocacy work in a systematic way. An interesting feature of Minister Shatter's remarks about advocacy being a lower priority is what happened afterwards: nothing, he went unchallenged.

Supporting voluntary activity was strongly supportive of an affirmative advocacy role underpinned by state funding. In reality, the lack of state guidance on funding conditions suggests that the state is agnostic or neutral on this point, with some programmes taking different views. The views of the minister were an unusual on-the-record articulation of official sentiment. An important learning point, derived from the examples cited, is that we need to look across the entire cycle of advocacy and funding, from invitation, to guidelines, to contracts and then retrospectively, as well as both formal and informal communications. It might be tempting to conclude, too, from the case studies, that these are a 'few isolated instances', but the appearance of no-advocacy clauses, as evident in the service level agreements and elsewhere, shows evidence of some form of systematization.

If we turn to the mechanisms by which the state may limit advocacy, we have learnt that not only must one look at multiple points on the funding cycle, but at the many areas that flank funding, such as charity law, approvals for charity numbers, the quality of social partnership, overall levels of government funding (currently in rapid descent), climate (the differential impact of funding cuts) and signals sent out by the authorities as to what areas of work are valued and welcome or not (services, rather than social policy development). These are the many elements that, overall, affect the cumulative willingness of voluntary organisations to campaign. To this we should add the nature of our political culture, characterised by Byrne as authoritarian, deferential and one of learned powerless - the failure of the sector to put up a challenge to the Minister's statement proving her case.

The final conclusion of this stage of the research is that we must narrow down the 'known unknowns'.[87] Although we have a broad picture of the elements that shape the advocacy-funding link, we lack detail as to the precise reasons why it has evolved the way it has. We know little of the attitudes, views and culture of those who fund voluntary and community organisations as to their views on advocacy work. We are challenged to find explanations for the varying patterns of neutrality, support for and antipathy toward voluntary and community advocacy, even within programmes themselves.

We need to understand the nature of Irish exceptionalism, if it is indeed the case and to link them to the explanations put forward by Byrne. We do not know the degree to which, at all, the 'rational model' is accepted within government or the public service, or, indeed, within the voluntary and community sector.

Crucially, we need ground truth and case work on the manner in which the advocacy-funding link has played out in countless individual cases in which voluntary and community organisations deal with the state year by year, day by day, across the funding chain. On the one hand, the small proportion (4%) of voluntary and community organisations that feel inhibited from advocacy because of state restrictions suggests that they should have little to fear from the Irish state and should probably advocate with more confidence. On the other hand, the brief instances cited in chapter 3, coupled with known examples of funding restrictions, combined with 'big picture' signals sent out by the state about voluntary and community advocacy, suggest an environment that is far from benign.

Stage 2 of this research proposes to come to closer quarters with the nature of these informal communications and to put on-record case studies where the funding-advocacy link have been tested. The most useful way to conclude is to quote the tantalizing words of Robert Whelan, when he attempted this exercise in Britain:

> *There are confidential meetings and confidential meetings. If a meeting is held under Chatham House rules, those attending can say that the meeting took place and report on what was said, although nothing can be attributed to a named person. If a meeting is private, then nothing said at it can be reported at all. If a meeting is held under Privy Council rules, then those attending must say, if asked, that they are unable to confirm if the meeting took place or not.*
>
> *Of all the meetings I have attended, under different levels of confidentiality, there is one that stands out in my mind for the paranoia, on the part of those attending, regarding the reporting of anything that was said. This meeting was concerned with the relationship between the state and the voluntary sector and representatives of different charities were speaking of problems they had experienced. The point was made, not once but over and over again, that if any of these comments were repeated outside the meeting, charities could lose their state funding and in some cases would close.*
>
> *I had been invited to the meeting because I had recently written a book called The Corrosion of Charity which argued that there were dangers for the voluntary sector if charities got too close to the government. The response to my book from charity representatives had been largely dismissive: there was no cause for concern, the partnership was fruitful and productive and no one but a hard-line ideologue could deny that charities benefited from state funding because it enabled them to do so much more good work.*
>
> *It therefore came as something of a surprise to hear people at this meeting recounting horror stories that were worse than anything I had used in the book. I still have reservations about repeating them ten years later, after the dire warnings, but to give a fairly mild and non-identifiable example: one organisation which received funding from a government department had to send an advance copy of its newsletter as a condition of the grant. A message was received in response to one such newsletter that, if it went out, there would be no more funding, as it contained criticism of a government Bill before parliament.*
>
> *It became clear to me that there were two separate discourses going on: one for the benefit of the general public, who must be kept happy in order to retain their donations, and another for meetings of charity professionals. The majority of the people he spoke to in the voluntary sector were very free in discussing their concerns about state interference, but would only speak under conditions of anonymity."*[88]

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[87] The former US Secretary of Defence Donald Rumsfeld explained at a press conference on 12th February 2002 that 'there are known knowns; there are things we know we know. We also know there are known unknowns; that is to say, we know there are some things we do not know. But there are also unknown unknowns – the ones we don't know we don't know.

[88] Seddon, Nick: *Who cares? How state funding and political activism change charity.* London, Civitas, 2007.

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