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Lester M. Salamon, Director
Helmut K. Anheier, Associate Director

CARING SECTOR OR CARING SOCIETY?
DISCOVERING THE NONPROFIT SECTOR CROSS-NATIONALLY

Lester M. Salamon
The Johns Hopkins University

and

Helmut K. Anheier
Rutgers University
and
The Johns Hopkins University

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Comparative Nonprofit Sector Project
Institute for Policy Studies
The Johns Hopkins University
Baltimore, Maryland 21218
U.S.A.

CARING SECTOR OR CARING SOCIETY? DISCOVERING THE NONPROFIT SECTOR CROSS-NATIONALLY

Abstract

This essay challenges conventional U.S. rhetoric of voluntarism which equates the size and visibility of the nonprofit sector with the presence of a "caring tradition" in a society. We argue that large nonprofit sectors may actually signify the weakness rather than the strength of a caring tradition elsewhere in society. Based on cross-national analysis we find that the very concept of the nonprofit sector does not exist in many countries, but this does not seem to bear any relation to the extent of "caring" evident in the society. Rather, a variety of other factors seem to be involved, including the legal framework in use, the level of development and degree of social differentiation, and the extent of centralization of social and political control. These factors help explain under what condition and in what form the nonprofit sector may supplement "caring," and when it compensates for the lack of such a tradition.

CARING SECTOR OR CARING SOCIETY? DISCOVERING THE NONPROFIT SECTOR CROSS-NATIONALLY

The rhetoric of voluntarism would lead us to believe that the size and visibility of the nonprofit sector, and the level and breadth of private charitable giving, are crucial signs of the presence of a "caring tradition" in a society. In fact, however, something approaching the opposite may be closer to the truth. At the very least, it is important to recognize that the nonprofit sector is only one possible embodiment of a society's "caring tradition," and by no means necessarily the most significant one. In some places, the State has taken on the function of caring for those in need, while in still others business enterprises have assumed major caring responsibilities. Indeed, the presence of a strong voluntary sector may actually signify the absence, or weakness, of a caring tradition elsewhere in society or the resistance to alternative expressions of caring.

This, at any rate, is a thesis that finds considerable support in cross-national analysis of the character and role of the nonprofit sector. What such analysis shows is that the concept of the nonprofit sector does not even exist in coherent form in a great many countries, but this does not seem to bear any relation to the extent of "caring" evident in the society. Rather, a variety of other factors seem to be involved, including the legal framework in use, the level of development, the degree of social differentiation, and the extent of centralization of social and political control.

To illustrate these points, this paper examines the position of the nonprofit sector in the legal and institutional framework of the twelve countries examined as part of the Johns Hopkins Comparative Nonprofit Sector Project. These countries were chosen to represent a broad cross-section of national experiences with respect to level of development, culture, religion, geographic region, political structure, and reliance on nonprofit organizations, as opposed to the state, to meet human needs (Salamon and Anheier, 1992). The paper draws on the responses of a network of field associates to a project "field guide" seeking information on the terminology and concepts used in the twelve project countries to depict what in the United States is referred to as the "nonprofit sector."¹ By examining how the nonprofit sector is treated in these countries it should be possible to identify the factors that explain the existence or non-existence of a distinct nonprofit sphere, the kind of role that organizations in this sphere perform, and the relation this bears to the promotion of a "caring tradition."

To do this, the discussion here first describes the way the nonprofit sector is defined in the twelve countries included in our project, then identifies several factors that seem to account for the variations that are evident, and finally shows the more limited set of patterns of nonprofit differentiation that emerge from an application of these factors to the country experiences.

¹ A list of working papers drawing on these field guides is offered in Appendix A.

Twelve Realities in Search of a Concept

Cross-national research has long recognized fundamental differences in the scope and structure of the nonprofit sector and in the way it is constituted and defined from place to place (James, 1989; Anheier and Seibel, 1990). But the true nature of the conceptual challenge facing students of this field has only recently become clear. In point of fact, few societies have anything approaching a coherent notion of a distinct private nonprofit sector, and those that do often include entities that would be unrecognizable to American students of the subject. To a significant extent, therefore, the search for a nonprofit sector is thus a voyage of discovery in conceptual as well as empirical terms.

United States

Of all the countries examined here, the United States is probably the one with the clearest concept of a distinguishable nonprofit sector. As reflected in Table 1, it is also the developed country with possibly the lowest level of public social welfare provision as a share of gross national product, a situation that raises important questions about the relation between the presence of a nonprofit sector and the operation of an effective caring tradition.²

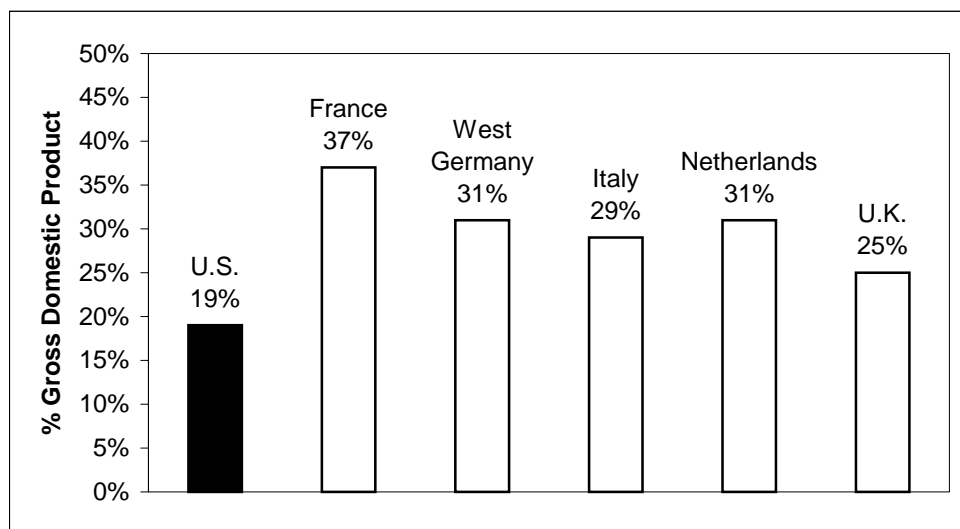
While far from simple or homogenous, the concept of the nonprofit sector at least has a coherent place in American law and usage. Indeed, there are those who believe that the "nonprofit sector" is a distinctively American concept, invented in response to America's distinctive tradition of individualism and hostility to statism, and its long-standing practice of organized action outside the confines of the state (de Tocqueville, [1835] 1945; Hall, 1992).

U.S. law thus recognizes a distinct sphere of private organizations serving public purposes and not organized principally to earn a profit. Such organizations are permitted to incorporate under state laws and to secure exemption from federal income taxes and most state and local taxes. No fewer than 26 different subsections of the tax law are available under which such tax-exempt status can be secured. Broadly, however, they fall into two groups -- one covering essentially member-serving organizations such as business associations, social clubs, and labor unions; and the other covering organizations that operate principally to serve the needs of the public more broadly. The latter group, defined by section 501(c)(3) of the tax code, form the core of what is generally regarded as the charitable nonprofit sector, and it not only enjoys exemption from federal income taxes, but also the privilege of receiving charitable gifts on which donors can claim a deduction on their own income taxes. Included here are organizations serving "religious, charitable, scientific, literary, or educational purposes," each of these a term of art derived from the English common law over some three hundred years of development. The term "charitable" in particular is quite broad in its interpretation, embracing organizations that promote the general welfare in any of a variety of ways, from providing child day care to promoting health, from guaranteeing free expression to

² It is important to note that the disparity between the U.S. and other countries in terms of public social expenditures is not made up by private giving, which represents only 2.2% of the U.S. gross national product, compared to slightly over 1% in the United Kingdom.

offering family counselling (Hopkins, 1987:55-71). While the legal treatment of different types of organizations is far from simple, the U.S. nonprofit sector is perhaps unique in the extent to which popular conceptions of the sector correspond with basic distinctions in the law.

Table 1. Government Social Welfare Spending as a Share of G.D.P., U.S. vs. W. Europe



Source: Salamon: 1992, p. 36.

United Kingdom

The U.K. shares with the United States a reasonably clear concept of a nonprofit sector ("voluntary sector" in U.K. usage), but the legal boundaries of this sector are nowhere near as neatly demarcated. No single body of tax or other law embraces this set of institutions. One reason for this is the fact that different legal systems exist in the U.K. -- one covering England and Wales, another Scotland, and a third Northern Ireland. Beyond this, however, the "common law" tradition, which puts a premium on flexibility and evolution rather than precise delineation of organizational types, has had a stronger hold in the U.K. than in the U.S., preventing even the kind of codification that the tax laws have achieved in the U.S. The result is a reasonably prominent notion of an organizational space outside the state and the market, but a far more complicated one than in the American setting.

The center of gravity of the U.K. nonprofit sector are so-called "public charities." These are organizations formally registered as "charities" by the U.K. Charity Commission and thereby accorded the protection of the Crown, the Courts, and the Charity Commission for their activities, including protection from taxation. The requirements for such classification have never been clearly and definitively specified, however. The listing provided in the Preamble to the Statute of Charitable Uses of 1601 has been a start, but it has been successively revised. Perhaps the most definitive ruling has been that in Pemsel's case in 1891, which approved four different classes of charities: those for relief of poverty, those for the advancement of education, those for the advancement of religion, and those for other purposes "beneficial to the community."

While they share a common set of basic purposes, charities can take any of a number of legal forms -- trusts, unincorporated associations, companies limited by guarantee. But other types of voluntary organizations not recognized as "charities" by the Charity Commission can also take the same legal forms. This includes such entities as "friendly societies," "industrial and benevolent societies," building societies, universities, private schools, and cooperatives. It has been estimated that at least half of the U.K. voluntary sector falls into these categories.

Defined in legal terms, therefore, the U.K. nonprofit sector is a bewilderingly confused set of institutions with poorly defined boundaries. For the most part, social science research has tended to focus on the registered charities (Posnett, 1987), but this overlooks a significant range of organizations. While the concept of a voluntary sector seems easy to identify in British usage, therefore, it is not easy to specify with any real precision.

The European Continent: Germany, France, and Italy

Despite their differences, both the U.S. and the U.K. share a basic notion of an organizational universe distinct from the state and the market. In the continental countries of Europe, by contrast, such a notion is far less developed. There the right to form private organizations is more tightly defined by law and the concept of a public-serving nonprofit sector complicated by the notion that the state is considered the truest embodiment of the public good.

Germany. In Germany, for example, a rather rigid and well-defined system exists for defining the status and rights of organizations. However, this system is not particularly designed to clarify the existence of a set of organizations that fit common notions of a private, nonprofit sector. To the contrary, they actually blur such a classification.

At the heart of the German system are two quite distinct systems of law, one of which (the civil law) applies to private individuals and organizations, and the other of which (the public law) applies to public institutions. Organizations must find a legal home in either the civil law or the public law. The problem, however, is that nonprofit organizations are private organizations that often serve essentially public purposes. They are thus civil-law in form and public-law in function, thus posing a challenge to the neat symmetry of the German legal order.

To cope with this challenge, a variety of special provisions have been made. In the first place, the civil law acknowledges the existence of a variety of types of civil law organizations that serve essentially public purposes. This includes: (1) so-called "ideal associations," or *Vereine*, which are essentially membership organizations serving other than commercial purposes (e.g., political and civic organizations, local voters' groups, sports clubs); (2) certain limited liability companies and other forms of corporations considered to have a public mission, such as hospitals; and (3) foundations. Under German tax law, these civil-law organizations are tax-exempt and eligible to receive tax deductible gifts to the extent that they are *gemeinnützige*, or public-benefit, organizations serving certain specified public purposes (e.g., public health, youth and youth welfare, life saving, prisoner's welfare).

These features of German usage are not far from the patterns evident in the U.S. and the U.K. The problem, however, is that not all of what would normally be considered part of the nonprofit sector in the U.S. and the U.K. falls under the civil law in Germany. A significant portion also falls under public law. Although theoretically reserved for public agencies, the public law category has been broadened to include a wide variety of organizations that are public in purpose but essentially private in structure, such as public television stations, the Bavarian Red Cross, the Jewish Welfare Agency, most universities, and even the Roman Catholic and Protestant churches. Germany has thus included within the domain of public-law corporations, which applies mainly to government agencies, many types of organizations that would be classified as private, nonprofit organizations in other societies. Yet not all public-law corporations fit this criterion.

In the German setting, therefore, no clear line can be drawn between public and private institutions in defining the nonprofit sector. By law, some are public and some private. What is more, particular types of organizations can end up on both sides of this amorphous line, depending on peculiar historical circumstances. Thus, some German charitable foundations are chartered under civil law and some under public law. Similarly, the Church, commonly regarded as a preeminent private institution, is covered by the public law in Germany. Nor does the tax structure clarify what the legal structure leaves confused. While German law permits tax exemptions for private donations to public-benefit organizations, this category includes government agencies, civil law organizations, and functionally independent public law organizations.

In short, although Germany contains a rather rigid and formal legal structure and quite a sizable and well-developed set of nonprofit organizations, including some of the largest private social-welfare organizations in the world -- the so-called "free welfare associations" -- no coherent concept of a nonprofit sector exists. Rather, this sector is thoroughly mixed up with both the governmental and private, for-profit spheres. The search for a nonprofit sector in Germany thus requires exceptional diligence and patience as well as a high tolerance for legal intricacy.

France. In France, the nonprofit sphere is somewhat more clearly specified, but it embraces a far wider range of organizations. The central organizing concept in the French setting is the concept of "solidarity," the need to join together to pursue common objectives. Although historically the State has been viewed as the highest expression of solidarity, since 1901 the law has acknowledged the legitimacy of a variety of other institutions that encourage the same goal. These organizations are embraced within what is known as *économie sociale*, or the social economy. Included here are three broad sets of organizations -- cooperatives, mutuals, and associations -- each with its own set of laws, its own structures, and its own pattern of development.

The cooperative sector includes member-oriented nonprofit organizations that are engaged in some form of commercial activity, such as agricultural and consumer cooperatives and cooperative banks. Mutual associations include insurance funds and related schemes to provide for family, health and other social emergencies and risks, usually as an additional coverage to the public social security system. In recent years, many mutuals have moved closer to the for-profit sector, particularly in the insurance brokerage area, and would likely not be regarded as nonprofit organizations under U.S. usage.

Finally, associations form the third part of the French social economy sector. Included here are some 600-700,000 declared associations regulated by the Law of 1901 as well as an unknown number of undeclared associations with no legal status. These associations perform a wide variety of social welfare and representational functions, particularly in the areas of sports, recreation, health and welfare. Also included are some 2,000 public utility associations, which, unlike other associations, may own real estate and receive tax-deductible gifts. These and other privileges are granted by the *Conseil d'Etat*, the highest administrative office in the Republic.

Italy. Italy in a way stands between the rather free-wheeling and open world of nonprofit action in the U.S. and the U.K. and the more tightly regulated and structured situation of Germany and France. On paper, Italy shares much of the formal structure of the French and German systems including the strong presence of cooperatives and mutuals, as well as key aspects of the legal system. But a long tradition of informality and the special position of the Catholic Church introduce a much more amorphous pattern in fact. Three rather distinct spheres thus exist in Italy: a public sphere, a secular private world, and the semi-autonomous realm of the Catholic Church, with its own body of law. Nonprofit organizations operate in each of these spheres, albeit without a great deal of clarity. Thus, some organizations, such as *Opore Pie* or Catholic social welfare agencies, began as private institutions under the auspices of the Catholic Church. Separate and partially contradictory legislative enactments since then "assigned" them to either the private, public or ecclesiastical sector.

Formally, organizations functioning for other-than-business purposes are supposed to secure formal legal status as incorporated entities under public or civil law. Very few such organizations become officially incorporated, however. Incorporation is time-consuming and requires a Presidential Decree. Incorporation is thus considered a privilege to be granted by the state, not a right inherent in the organization. Although it carries certain privileges and increases the potential array of business activities an organization can engage in, the high transaction costs keep most associations from seeking incorporation.

Most associations consequently remain in an unincorporated status, giving rise to *associazionismo*, a large world of informal associations through which citizens join together to pursue common interests in such fields as culture, sport, recreation, social welfare, and religion. The act of establishing an unincorporated association requires only the drafting of a charter to be lodged at a notary office. The great majority of Italy's secular nonprofit sector consists of such unincorporated associations and foundations while Catholic organizations enjoy a separate legal status under ecclesiastical law.

Recent policies in social services and banking intend to reduce the constraints many nonprofit organizations face as unincorporated associations. For example, in the field of social services, a 1991 law addressed the problems of the many unincorporated associations that operated as *voluntariato*, or voluntary philanthropic institutions, and made it easier for them to administer grants, own real estate and receive donations. While these provisions have begun to systematize the nonprofit sphere in Italy, for the most part this sphere continues to operate in a largely inadequate legal environment that forces founders of nonprofit organizations to remain personally liable or to

adopt legal forms typical for the business world that may be ill-suited for the type of activities carried out by nonprofits.

Japan

In Japan, the nonprofit sphere is, if anything, even more restricted than in the European setting. A rather fully developed "welfare state," Japan has no general law authorizing the formation of nonprofit organizations or granting them tax or other concessions. Although the status of *koeki hojin*, or charitable organization, is established under the Uniform Civil Code of 1896, such organizations are entitled to tax benefits only if they are specifically authorized under other legal provisions (in health, welfare, scientific research, and the like), and even then only if the responsible Ministry judges that the organization serves a valid public purpose as defined by the Ministry. As a result, next to *koeki hojin*, eight other major types of nonprofit organizations exist under laws establishing "nonprofit" social welfare corporations, private school corporations, religious organizations, health-related organizations, and research organizations. What is more, the narrow interpretation of public benefit has increased the requirements for the establishment of nonprofit organizations. The status of *koeki hojin* is granted by the state, and significant assets are required for incorporation. The amount required may vary from case to case, and in the absence of general procedural rules, registration forms the de facto equivalent of a state licensing system for nonprofit organizations. The one major exception to this are the numerous *jichikai* and *chonaikai*, informal and formal multi-purpose associations at the local level. But these organizations generally operate on a voluntary basis, with little legal structure or protection. For the most part, the nonprofit sector hardly functions as a distinguishable sector in Japan. Its borderlines are often unclear, with no strict distinction in place to set apart nonprofit organizations, on the one hand, and the public, forprofit and household sectors on the other. What exist, rather, are a variety of separate institutional types in particular policy spheres, each governed by the laws and practices of that sphere with little general policy or conceptualization.

Developing Countries

This general lack of a distinguishable nonprofit sector is also characteristic of the developing countries. Although a rich array of institutions often exists in these countries outside the formal boundaries of the state, these institutions are rarely considered to be part of a single entity called the nonprofit sector. Rather they represent the institutional manifestations of a variety of often discontinuous social and political developments stretching over centuries of history. In popular parlance, the closest one comes to the concept of a nonprofit sector in these countries is the range of organizations commonly associated with the term "nongovernmental organizations," or NGOs. But the range of entities masquerading under this label has evolved over time and is now quite broad, including the membership organizations represented at the League of Nations and later the U.N., Northern-based voluntary relief and development agencies operating in the developing world, indigenous umbrella groups providing technical assistance to local grass-roots organizations, and the local grass-roots organizations themselves.

India, in many respects, comes closest to a nonprofit sector in the sense in which the term is used in the West. Equipped with a British-inspired legal system that has generally facilitated the formation of nonprofit institutions, a set of Hindu, Buddhist, and Islamic religious traditions generally supportive of charitable activity, and popular political leaders in the Gandhian tradition who valued grass-roots organizing and action, India has provided fertile soil for the growth of nonprofit-type institutions. Indeed, a rich organizational tapestry exists on which can be read much of the history of this sub-continent. Included are Christian missionary and charitable organizations that entered the country under colonial rule, formal caste associations that formed early in the twentieth century, Gandhian organizations that emerged during the independence period at the village level, professional associations of various sorts, international NGOs, development-oriented technical assistance organizations, empowerment groups formed largely in the 1980s, indigenous foundations and corporate philanthropy programs, and grass-roots development organizations. Although these various organizational survivals hardly comprise a self-conscious sector, they nevertheless represent a significant "third sector" that exists with some meaningful degree of independence from the state and the corporate sector.

In most other parts of the developing world, the opportunities for nonprofit development are considerably more constrained. In Egypt, for example, six types of nonprofit organizations are in existence: associations and foundations, professional groups, business associations, foreign foundations, advocacy organizations, and religious organizations like the Islamic Brotherhood, Islamic charitable trusts, *wakf*, and the Christian Coptic charities. However, each of these is governed by a specific body of law that defines its rights and responsibilities. The broadest of these, Law 32 of 1964, allows for the establishment of a broad array of associations and foundations for social, cultural, religious, and charitable purposes, yet it imposes significant restrictions on the organizations, including the right to investigate the internal affairs of the association, to appoint board members, and to suspend and dissolve the organization if deemed necessary.

A similar situation exists in Brazil where a subset of associations and foundations is permitted to form "public-utility organizations," but only "under the discretionary jurisdiction of the President of the Republic, and the proper presentation of requests does not give the right to their approval. . ." (Federal Ministry of Justice, 1990:7). Faced with these restrictions, people wanting to form organizations often have had to do so on a purely informal basis, outside the prevailing laws. The result in Brazil is a profusion of informal or semi-formal organizations, an *associativismo* movement seeking to create a "civil society," often under the protective auspices of the Church. Even staid professional organizations have often found themselves functioning as hotbeds of civil-society protest as a consequence, politicizing what in other parts of the world are often dismissed as narrow, member-oriented institutions.

Similarly in Thailand, a complex set of registration requirements has led groups with any political or advocacy objectives to remain unregistered and to function as "forums," "units," or "working groups." What shows up on official records as formally constituted nonprofit organizations, therefore, tend to be "safe" commercial organizations such as chambers of commerce and import-export groups, cremation societies, and employers' organizations, thus obscuring the diverse institutional universe that exists in fact. Slowly, the autocratic stance of the Thai

government toward the nonprofit sector is giving way to a more cooperative relationship. Joint coordinating councils between government and the NGO community have been formed, and the current development plan acknowledges the role of nonprofit organizations in rural development particularly.

In Ghana, nonprofit organizations include local self-help groups, village associations, women's societies, agricultural development groups, hospitals, local community groups, missionary societies and traditional ethnic associations. As part of its colonial past, Ghana inherited the British legal system, and with it the laws on incorporation and charitable trusts. Because of restrictions to incorporate independently and separately in the colonies, the British system of charities and voluntary associations could not take hold in Ghana, although charitable organizations and missionary societies had been present in the country since the early nineteenth century. After independence, the government followed the common law tradition in introducing numerous acts and ordinances to regulate particular segments of the nonprofit sector. The successive legal development came to a halt in 1982, when the new military government required nonprofit organizations, in particular religious bodies, to re-apply for charitable status, which was now granted by the government. In recent years, the status of established nonprofit organizations has improved, as the country's economy and political system consolidated, and as international and local NGOs became part of development programs financed from abroad.

Hungary

Finally, in Hungary we find the situation of a country in the midst of a transition from a largely informal to a more formal nonprofit sector, but in a situation in which the borders between the state and the business sector are also very much in flux and where the concept of a for-profit sector is also very much a novelty. That a clear concept of a nonprofit sector has yet to emerge in Hungary or elsewhere in the former Soviet bloc should therefore come as no surprise. Indeed, the very concept of a voluntary sector encounters suspicion in this part of the world because of the use that was made of such institutions as instruments of social control under the Communist regime. As pressures emerged to allow the flowering of a true "civil society" in Hungary during the 1980s, laws on the formation of foundations and associations were liberalized, leading to a rapid upsurge of such organizations. In many cases, however, these bear very little relationship to their Western counterparts. In some cases, ministry officials fearful of being thrown from power transferred significant resources to supposedly independent "foundations" and then moved over to operate these foundations. In other instances, entrepreneurs utilized the foundation form as a way to avoid taxation. As a consequence, the nonprofit sector quickly acquired a hybrid status that continues to haunt its development as a truly distinctive sector of national life.

Searching for Patterns

Several conclusions flow from this Cook's tour of the world of nonprofit organizations in twelve countries. In the first place, it should be clear that the term "nonprofit sector" (or any comparable term) disguises as much as it reveals when applied cross-nationally. In point of fact,

few countries have a coherent notion of an identifiable nonprofit sector. What exists in fact is a wild assortment of institutional types that varies greatly in basic composition from place to place. Under these circumstances, efforts to make cross-national comparisons using local definitions of this sector are destined to be seriously misleading at best.

In the second place, however, while no single "nonprofit sector" exists throughout the world, there are still striking similarities in the types of institutions that do exist outside the confines of the state. An explorer from outer space charged with locating "third-sector"-type institutions in different societies throughout the world would thus have no trouble coming up with significant examples in virtually every country and region.

How are we to make sense of this mixture of diversity and commonality? What accounts for the presence or absence of a more or less distinct nonprofit sector in different societies? And how is this set of institutions likely to evolve in the years ahead?

Quite clearly, it is impossible to answer these questions fully here. But it may be possible to suggest at least some potentially fruitful lines of thought for future exploration. In particular, while the character and role of the nonprofit sector in any country is ultimately shaped by the entire pattern of social, economic, and political development of that country, at least three more general factors also seem to play a significant role: first, the legal structure that exists; second, the level of development; and third, the degree of centralization in political and social terms. Let us examine each of these in turn.

Legal System

The legal system in place in a country can significantly affect the organizational universe that exists by making it easier or more difficult to establish certain kinds of institutions. The fact that a nonprofit sector seems to have a more vibrant and coherent existence in the U.K. and the U.S. than on the European continent or in Japan may be traceable at least in part to this factor.

What differentiates these two sets of societies is the presence of a common-law legal system in the U.K. and the U.S. as opposed to a civil-law system in France, Germany, Italy, Hungary, and Japan. In civil law countries, the rights and obligations of individuals and organizations are explicitly spelled out in codified laws. If a particular type of institution is not explicitly provided for in the law in such countries, it does not have a legal right to exist. What is more, the State in such countries is assumed to act in the public, or common, good and is covered by public law. For an organization to function in a public capacity in such societies, it must therefore be given this right by a public institution. This can be done by creating a "public-law corporation," i.e., a quasi-private organization that nevertheless functions within the bounds of public law; by designating certain private institutions as "public utilities," or by specifying certain permissible activities the performance of which qualifies a private organization as a public-benefit entity.

In common law countries, by contrast, private institutions can claim the privilege of operating in the public interest as a matter of right. Instead of carefully codified laws on what

constitutes a permissible private action for the public good, common law countries have built up much more ambivalent systems of case law that define what the evolving sense of the community means by the public good. The result is a far more open field for the formation of nonprofit organizations claiming public-benefit status.

Level of Development

A second crucial factor that seems to affect the shape and character of the nonprofit sector in a society is the level of development it has achieved. "Development" is, of course, an ambiguous concept, embracing a wide assortment of possible dimensions. For our purposes here, however, several key features of development seem particularly important. The first is the degree of social differentiation that economic growth brings with it. As economic growth proceeds, the number and scope of social roles increases substantially, creating new and varied bases for social organization. Instead of a vast peasantry and a small landed elite, new occupations and professions emerge and hence new bases for forming organizations. The greater the degree of differentiation of social roles, therefore, the more highly defined the nonprofit sector is likely to be.

Of special importance in this regard is a second factor often associated with economic development: the rise of an urban middle class, particularly an educated urban middle class. In a real sense, the creation of nonprofit organizations is the work of the middle class. While it may be an overstatement to assert that "no middle class, no nonprofit sector," this equation has a certain degree of historical validity (Moore, 1967). At the very least, middle class professionals have played a prominent role in the emergence of third-sector organizations in much of the developing world, and the stronger the middle classes the stronger the nonprofit sector is likely to be. This point finds confirmation in the contrast between the relatively well-developed nonprofit sectors in Brazil and India as contrasted with countries such as Ghana and perhaps Egypt.

Finally, development is important to the emergence of the nonprofit sector because of its implications for communications. Organizations live on communications much as armies live on their bellies. As economic development opens new communications links, rural peasants and the urban poor gain new sources of information not tied to traditional powers-that-be. In the process, they become available for new forms of mobilization and organization. Even middle class professionals require effective communications to develop organizationally. The invention of the fax and other high-speed communications technology has thus been credited with contributing in important measure to the rapid democratization of Central and Eastern Europe in the latter 1980s, and with the spread of democratic regimes elsewhere in the world as well (Huntington, 1991).

These features may help to explain some of the peculiar characteristics of the nonprofit sector in the developing countries noted earlier -- the politicization of even the most mainstream business and professional associations as new social forces take advantage of the nonprofit form to exert their influence, the importance of grassroots NGOs functioning as agents of social change and not simply vendors of particular services, and the general sense of tension between the nonprofit sector and the state as new *modi vivendi* are worked out between rising and established social and economic groups.

Degree of Centralization

A final factor affecting the structure of the nonprofit sector in different countries is the degree of centralization the citizens are willing (or required) to tolerate in the country's basic political and institutional structures. Generally speaking, the more centralized the structure, the less room for a coherent nonprofit sector. By contrast, the less centralized the structure, the greater the opportunity for the operation of extensive nonprofit organizations. Thus, Germany, which has a federal administrative structure, has a quite vibrant nonprofit sector, whereas France, a more centralized government, has a much more limited nonprofit sphere historically.

What shapes the degree of centralization that exists in a particular society is, of course, quite complex. The presence historically of landed elites able to resist the control of a powerful monarch is one such consideration, as reflected in the history of England. So, too, is the presence of distinct ethnic or religious groups determined to maintain their own way of life within an overall national structure, which characterizes the situation in India, the United States, and to a lesser extent, Germany. Similarly, the degree of centralization is affected by the relationship that exists between political authorities and religious ones. Where Church and State are essentially one, the opportunities for third-sector development are generally limited. Where a sharp separation exists between Church and State, the social space left open for the flowering of a third sector is much more extensive. Thus, the historically close relationship between State and Church in Italy has probably played a role in limiting the development of a coherent nonprofit sector in that country while the sharp separation has helped to foster third sector growth in the United States. Similarly, the rise of liberation theology and the break between at least segments of the Catholic Church and the State in Brazil in recent years has helped to stimulate the emergence of a nonprofit sphere in that country.

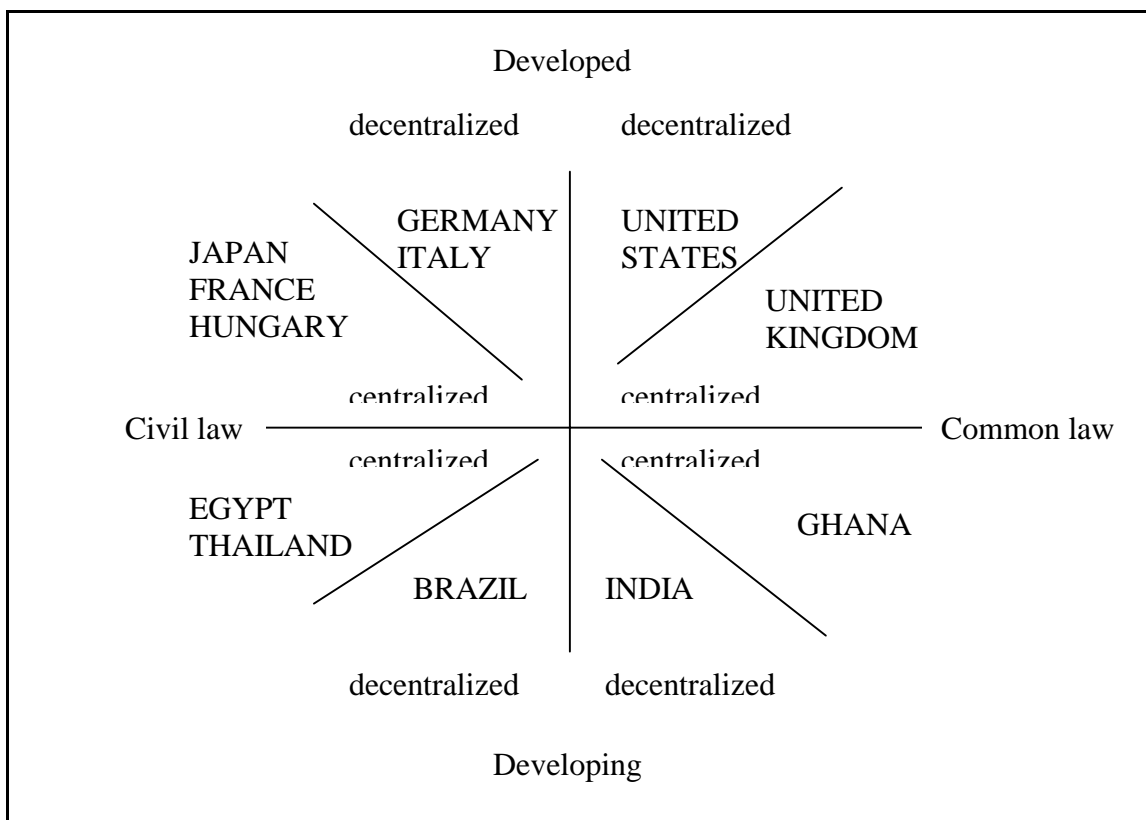
Summary

To be sure, no one of these factors by itself will determine the contours of the nonprofit sector in a country. What is important is the interaction among them. Thus the presence of a common-law tradition is no guarantee of an open posture toward the formation of nonprofit organizations if the level of development and the historic structure of governmental authority work against it. This is evident, for example in the case of Ghana, which has a common-law legal code but a recent political structure hostile to the formation of an independent nonprofit sphere. By contrast, the nonprofit sector has made much headway in Germany despite its civil-law system thanks to a tradition of decentralization and the hold of the Catholic doctrine of "subsidiarity," which places a premium on solving problems through private institutions first and permits reliance on government only as a last resort.

While far from a complete "theory" of organizational patterns, the three dimensions identified here -- type of legal system, level of development, and degree of centralization -- provide at least a framework for identifying differences and similarities in the character and structure of the nonprofit sector in different locales and a vocabulary for clarifying certain fundamental differences. As reflected in Table 2, this set of factors defines an eight-fold division of societies. The first

dimension sets developed countries apart from developing countries; the second, separates civil law from common law traditions. This yields a four-fold classification, within which the third dimension distinguishes between centralized and decentralized countries.³

Table 2. Types of Nonprofit Sectors



Using this schema it is possible to describe more precisely some of the differences and similarities in societies that are relevant to the character and structure of the nonprofit sector. Thus, for example, the United States and the United Kingdom are both developed countries that share a common law tradition, both of which are generally congenial to the development of the nonprofit sector. But in terms of the degree of centralization, England evolved a far more centralized political and institutional structure than the United States and this has limited the space available for the development of the nonprofit sector.

Similarly, both Germany and Japan are civil law countries. While this creates a potential for tight limitation of the nonprofit sector, this limitation has materialized much more heavily in Japan than in Germany. One plausible reason for this is the much higher degree of political

³ Because government and administrative structures tend to develop within a given legal and economic system, we introduce "degree of centralization and decentralization" as the third, conditional dimension.

centralization in Japan, reflecting the homogeneity of the society and the power of the centralizing regimes that took power at the end of the feudal era. In Germany, by contrast, the survival of a tradition of federalism from feudal days, and the principle of subsidiarity borrowed from Catholic doctrine, have helped to preserve a much larger space for the development of nonprofit institutions.

Conclusion

This essay challenges the conventional rhetoric of voluntarism, which tends to equate the scope of a "caring tradition" in a society with the size and visibility of the nonprofit sector it contains. The preservation, transmission, and implementation of a "caring tradition" is thus by no means vested exclusively, or even chiefly, in the nonprofit sector around the world. To the contrary, no coherent concept of a nonprofit sector exists in most parts of the world. Based on cross-national analysis, we find that the very concept of the nonprofit sector does not bear any relation to the extent of "caring" present in societies. Rather, government is more often viewed as the appropriate agent of the caring tradition. To the extent that reliance on the nonprofit sector comes at the expense of mobilizing effective State action, therefore, the nonprofit sector may in fact be viewed as more of a barrier to the effective operation of a caring tradition than an asset.

As we have seen, a variety of factors seem to determine the relationship between the nonprofit sector and the tradition of "caring." These factors include the legal framework in use, the level of development and the degree of social differentiation, and the extent of centralization of social and political control. These factors help explain under what conditions, and in what form, the nonprofit sector may supplement "caring," and when it compensates for the lack of such a tradition elsewhere in society. The autocratic State, exemplified perhaps best by Bismarck's Germany, was in an important way also a "caring" State, as expressed in the term "*fürsorglicher Staat*," which meant, both literally and practically, that the State sees as its obligation to care for its subjects, even though notions of democracy and civil liberties may have had little room in such a political system. In contrast, the liberal State, represented by the United States and the United Kingdom, was, if not "uncaring," at least historically not as concerned about notions of equity and social welfare, while at the same time willing to tolerate higher degrees of income inequality. In such situations, reliance on the nonprofit sector (as opposed to the State) became a code word for disregarding serious social and economic problems.

Increasingly, however, this notion of a trade-off between state action and nonprofit action has itself come into question (Salamon, 1987; Gidron, Kramer and Salamon, 1992). Although the nonprofit sector differs widely from place to place, as reflected above, significant questions have been raised in recent years about the capacity of government, by itself, to solve the inter-related crises of the welfare state, development, socialism, and the environment that now confront the world. The result has been a widespread "associational revolution" that has begun to narrow significantly the vast differences in the role and character of the nonprofit sector around the world (Salamon, 1994).

Where this trend will lead is anyone's guess. What seems clear, however, is that no single pattern will evolve. While sharing certain common features, the future shape and contours of the nonprofit sector from place to place will continue to reflect peculiar patterns of cultural and historical development. To understand the shape of the nonprofit sector of the future, therefore, it is important to begin with a clear understanding of where this sector has come from. It is in this sense that the kind of basic definitional and conceptual work presented here is crucial.

Appendix A

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