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

DEFINING THE NONPROFIT SECTOR:
COLOMBIA

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

PREFACE

This is one in a series of Working Papers produced by The Johns Hopkins Comparative Nonprofit Sector Project, a collaborative effort by scholars in over twenty countries to understand the scope, structure, and role of the nonprofit sector using a common framework and approach.

The Working Papers provide a vehicle for the initial dissemination of the work of the Project to an international audience of scholars, practitioners and policy analysts interested in the social and economic role played by nonprofit organizations in different countries, and in the comparative analysis of these important, but often neglected, institutions.

Working Papers are intermediary products, and they are released in the interest of timely distribution of Project results to stimulate scholarly discussion, and to inform policy debates. A full list of these papers is provided on the inside of the back cover.

The production of these Working Papers owes much to the devoted efforts of our project staff, in particular Regina Rippetoe, as the program manager, and Wendell Phipps, the project's secretary. We also want to express our deep gratitude to our colleagues on this project, to the International Advisory Committee that is helping to guide our work, and to the many sponsors of the project listed at the end of this paper.

The views and opinions expressed in these papers are those of the authors and do not necessarily represent the views or opinions of The Johns Hopkins University, its Institute for Policy Studies, or any of its officers or supporters, or the series' editors.

We are delighted to be able to make the early results of this project available in this form and welcome comments and inquiries either about this paper or the project as a whole.

Lester M. Salamon
Project Director

Helmut K. Anheier
Associate Project Director

The Johns Hopkins University
Institute for Policy Studies

DEFINING THE NONPROFIT SECTOR: COLOMBIA¹

Introduction

In Colombia the concept “nonprofit organizations” refers to a miscellaneous group of institutions that represent diverse objectives and methodologies and serve various populations. Although they share important common characteristics, such as their private character, non-profit-distribution among members and independence from the government, the social construction of this heterogeneous group as a “sector” is a recent phenomenon. New institutional conditions, derived from the process of democratic opening since the mid-1980s and the Constitution of 1991, have contributed to the emergence and increasingly active presence of nonprofit organizations in the country’s public life. A considerable increase in citizens’ initiatives and civil organizations in this new context has been accompanied by a slow process of independence of a large number of organizations originally promoted by the government and political parties, which have had great importance in establishing the sector’s organizations.

The origin of an important part of the sector’s organizations is related to governmental and political institutions. The Catholic Church (an institution that for centuries fulfilled public functions similar to the government’s), the political parties, and government highly influenced the sector’s structure and development. The creation of civil organizations independent from the government’s institutions and from the political parties and their ideologies is a recent process of great importance for the deepening of democracy and the creation of new methods for providing social services.

The dynamics of organizations in this sector have not developed in an institutional void; the history of these entities is linked to the history of the state’s creation and transformation, to institutional arrangements caused by these changes, and to the relationship among different actors involved in these transformations. In the same way, the future of these organizations does not depend exclusively upon the growth and quality of the “sector,” but also upon the rules of the game that influence their development and the institutional arrangements that allow for the emergence of relationships among organizations in the sector, as well as between these, governmental agencies and private enterprises. In a country where the political culture is characterized by pre-eminence of individual benefits, the exclusion of large sectors of the country’s population from the decision-making process, and a high degree of ideological confrontation, the generation of public institutionality and the renewal of political traditions become a tremendous challenge.

The democratic opening begun during the mid-1980s and the Constitution of 1991, in particular, have generated a favorable environment for the construction of that public institutionality and a broadening of pluralist and democratic participation of *Organizaciones de la Sociedad Civil* (CSOs, Civil Society Organizations) in the orientation and development of public policies in Colombia. The fragmented perception of the sector has slowly begun to change based upon this new Constitution and the process of increased autonomy of civil organizations in relation to the

¹ Rodrigo Villar is an independent researcher and Local Associate for the project in Colombia. For this work, he is based at the Colombian Confederation of NGOs in Bogotá. This document draws from project-related studies done with Hernán Vargas on definitions and classification of the Colombian nonprofit sector, with Beatriz Castro on its history, and with Alfonso Prada on legal aspects.

government and political parties. The re-structuring of the government, the establishment of participatory democracy, the deepening of decentralization, and the greater importance of the private sector in social service provision have all contributed to the greater visibility of CSOs. In turn, this has provided the potential to generate the conditions for CSOs to play an important role alongside the government in the consolidation of political and social democracy.

Although the new Constitution and the opening of public democratic spaces for the participation of CSOs established conditions for a more vibrant civil society, the leverage of a political caste pledged to constitutional counter-reformation, the influence still held by clientelism, and the political violence prevailing all across the country have created a huge counter-weight against the potential for change opened by these developments. To consolidate democracy in the midst of the crossfire between guerrilla movements and paramilitary groups, whose most frequent victims are CSO leaders and innocent civilians, and to generate a renewal of political traditions are an increasingly complex and risky undertaking, but an unavoidable alternative for the country's reconstruction and its ability to face the social and economic challenges of the new century.

In this paper, we provide the elements necessary for understanding the types of organizations that make up the nonprofit sector, how they developed, and the concepts and terms that are used to describe them. First we offer a brief historical review of the development of different types of organizations over time, as well as the institutional context in which they evolved. The next section presents the many terms used to describe parts of the sector in Colombia and the organizations covered under each term. Finally, we analyze the John Hopkins Comparative Nonprofit Sector Project's structural-operational definition as it applies to Colombia.

Nonprofit Organizations: A History of Gradual Differentiation from the Government and Political System

What follows is a synthesis of the institutional context in which different types of organizations, now known as nonprofit entities, originated and developed. The Catholic Church (with its vast public powers and links to the state), political parties and governments have played an essential role in this development. While organizations independent from government and political influence and control have existed since colonial times, the weight and relative importance of these organizations is a recent event.

The Church, the Unfinished Secularization and the Formation of the Sector

The origins of the nonprofit sector and philanthropy in Colombia are intimately linked with the colonial period and the role of the Catholic Church in relation to the Spanish Empire. During the two and a half centuries of Spanish colonial rule (1550-1810), the relationship between the Church and the Spanish Crown was regulated by the Royal Patronage of the Indies, through which the Crown provided the Church ample privileges and protection, in exchange for the Church's promise to evangelize conquered populations and legitimate the process of colonization. The royal protection to the Catholic Church transformed the Catholic Kings into vicars of the Pope, with the authority to name and pay bishops and parish priests, as well as the ability to receive ecclesiastical royalties and decide upon the establishment of churches (Tirado, 1982, p. 121).

The Crown delegated to the Church the administration of education, hospitals, orphanages and hospices. Local governments funds, donations, pious works² and private bequests that were given to the Church supported these activities. Evangelization, the creation and maintenance of social order through housing of the poor and homeless, and charity provided to those most in need were the principles that guided the activities of Church-administered institutions. Only at the end of the 18th century, under the Bourbon's royal regime, did the Crown try to control what it called the temporal aspects of the ecclesiastical government -- property and educational, health and charitable institutions. However, these reforms remained unfinished, with the exception of the expulsion of the Jesuits and the control of pious works (Mörner, 1979).

In addition to these institutions administered and controlled by the Church hierarchy, voluntary associations inspired by Christian beliefs and the ideal of charity to others were created during the colonial period. An important example of this type of organization was the "brotherhood." Brotherhoods were organized geographically as groups of neighbors associated by ethnic or social similarity and united around a saint. These associations generated fraternity and solidarity among members, especially when confronting disease and death (Graff, 1973).

Because the Church had acquired such influence during the colonial period, the major debates in the process of creation of the nation-state during the 19th century centered on the secularization of the state and attempts to reduce the material and spiritual powers of the Catholic Church. The liberal revolution of the mid-19th century (1851-1876) sought the creation of a liberal society, both federal and secular. The governments during this period tried to transfer responsibility for educational institutions, hospitals, hospices and orphanages to municipal governments. Control over the educational structure became one of the central points of contention of the "religious" conflict, to the point of determining one of the deepest differences between the two major political parties: the Liberals and the Conservatives. While the Liberals promoted the secularization of government and its institutions, the Conservatives supported ecclesiastical privileges and Church control over education. Beginning from this point, a powerful and long-lasting alliance was formed between the Conservative party and the Church.

Faced with the Liberals' intention to exert governmental control over education, the Church fostered the creation of private religious organizations and associations for the defense of Catholic education, such as the Catholic Associations of Medellín and of Antioquia and the Christian Education Societies of Popayán and Pasto. The objective of these associations was not simply to promote educational freedom for Catholic institutions, but to retake ecclesiastical control over education in order to avoid the "de-Catholization" of the Colombian population (González, 1979, pp. 50-58). The territorial, material and ideological importance of the Church acquired during colonial times and the fiscal and operational weakness of the new and still precarious state together prevented

² Pious works (*obras pías*) were cash or in-kind donations or bequests to the Catholic Church.

the development of Liberal pretensions and led to compromises that became constitutionally expressed in 1886, the beginning of a period of Conservative hegemony that lasted until 1930.

The 1886 Constitution reconfirmed the established role of the Church as essential in public administration, especially in the educational and social welfare fields, and established a limited sovereignty of the state by again providing the Church with ample privileges. The Roman Apostolic Catholic religion became the state religion of Colombia; it was prescribed that education was to be organized in accordance with Catholicism, and the Church was given the responsibility of providing social welfare. As an outgrowth, the *Juntas de Beneficencia* (Beneficence Associations), administered and directed by religious communities, were created to supervise public charitable organizations such as hospitals, hospices and orphanages. The resources needed for the operation of these institutions came from municipal coffers and specific taxes. Later on departmental and national government support became important, whereas private donations constituted a much smaller source of revenue.

Alongside the joint efforts of the government and the Church, private societies organized by secular Catholics or religious communities were created. Several of these societies received important support from the government. Among the most representative examples was the Society of San Vicente de Paúl, founded in 1857 in Bogotá and legally recognized in 1883. This Society received private donations as well as percentages of specific taxes, such as meat and liquor taxes. With these resources it aided the needy in urban centers, providing alms, home visits and medical attention and administering social service institutions such as schools, asylums, orphanages and elderly homes (Castro, 1996). The works of Father Campoamor, begun in 1911 with the Workers Circuit of San Francisco Javier, the *Caja Social de Ahorros* (Social Savings Bank), and Villa Javier, and the founding of a working-class neighborhood, were important products of that time. The values of savings, dignified labor, family, and acceptance of poverty in imitation of Christ were fostered by his works at the same time as they excluded all political considerations (González, 1989b, pp. 371-396). The *Acción Católica* (Catholic Action), centered on work with employees and laborers, had strong support from the elite and a well-known anti-communist tinge. Philanthropy and Christian charity were united with the intention of creating a force capable of confronting the incipient social and revolutionary movements (Bidegain de Urán, 1985).

Standing out among the non-Church related associations in the 19th century were the freemason lodges and the democratic societies, created by artisans for the education of their members and as means for mutual aid. The democratic societies also had political objectives, supporting the Liberal party and participating in party confrontations, in the same way as their counterparts, the Catholic societies, were supported by the Conservative party. At the beginning of the 20th century, workers in similar trades organized mutual aid societies, which intended to generate solidarity among members beyond political or religious principles. Also at the time, City Preservation Societies and Agricultural Societies developed with broad agendas for promoting progress in the city and the countryside, respectively.

Liberal Social Reforms, Political Polarization and Sectoral Dynamics

The Conservative hegemony was followed by a period (1930-1945) of new Liberal party reforms, which sought a more active role for government in economic and social matters. This period saw the promotion of social reforms (fiscal, agricultural, labor and educational), increased

government intervention in the economy, and constitutional reform (1936). The reform package, again determined to secularize the state, abolished several of the Church's privileges, suppressed references to Catholicism as the state religion, and declared social welfare a government responsibility. These efforts consolidated the alliance between the Church and the Conservative party against the changes. The resulting antagonism led to further polarization of political parties, which was radically expressed during the period between 1945 and 1964 known as *La Violencia* (The Violence), during which some 300,000 Colombians died.

In this mood and period of polarization, important nonprofit organizations related to the political parties emerged. In 1936, in a legal environment favorable for union organizations and supported by the government and the Liberal party, the first confederation of unions was created, the *Confederación de Trabajadores de Colombia* (CTC, the Workers' Confederation of Colombia). The marriage between the Liberal party and the CTC lasted until 1945, when liberal reformism failed. Their separation in 1945 made it clear that the politicization generated by the party's patronage was a one-way affair: while the party had significant influence on the CTC, the CTC had little impact on the party's orientation (Palacios, 1995, p. 159). In 1946, supported by appropriate legislation as well as the Conservative party and the Church, a new confederation was formed, the *Unión de Trabajadores de Colombia* (UTC, Colombian Workers' Union), which battled against liberalism and communism. In 1950s and 1960s the UTC became the dominant labor union confederation.

As in the radical period of the 19th century, during the 1930s and 1940s, the Church fostered the creation of confessional associations and educational institutions in order to oppose the secular character of educational reforms. In 1938 the Confederation of Catholic Schools was created with the primary objective of promoting Catholic education and opposing educational secularization. In addition, several parish-based elementary schools, Catholic high schools and confessional universities were established during this time period (Helg, 1987, p. 164). Due to popular revolts on April 9, 1948 and the beginning of political party violence (*La Violencia*), the Conservative government, supported by the Church and the Confederation of Catholic Schools, embarked upon the "re-Christianizing" of education and a subsequent purge of liberal teachers (Helg, 1989a, pp. 114-127).

In contrast with education, the gradual increase of social intervention in the fields of health and social welfare did not arouse such contention. Compromises with the Church were relatively simple. No political group asked for a governmental plan in these areas, nor was this a topic for major political discussion or confrontation (Abeil, 1996, pp. 15 and 35). Important private, independent foundations, as well as hospitals and public health and child protection institutions were created at this time parallel to the public sector's social welfare agencies (Acción en Colombia, 1974).

The polarization and political division experienced within union organizations and educational associations was not manifested in business associations or women's organizations of that time. In response to strong incentives for collective action arising from increasing government intervention in the economy, several of the most important trade groups were created during this period (Urrutia, 1983, p. 91). The interests of trade groups prevailed over those of political party affiliation. Similarly, women's civic-political organizations were also able to overcome partisan divisions to unite in the battle for the right to vote (Villareal, 1994, pp. 100-106).

The National Front: Growing Autonomy and Anti-governmental Radicalization

Starting in 1958, the leaders of the two major political parties, supported by the Church and business associations, established the National Front, an agreement between the Liberal and Conservative parties for the rotation of the presidency and distribution of power, initially planned for four presidential periods, but later extended until 1982. The objective of the National Front was to end the political violence of the previous years, to reestablish democracy after a short period of military dictatorship (1953-1957) and to reconstruct the government. Although this arrangement contributed to greater institutional stability and a decrease in factional violence by restricting the participation of political parties other than the Liberals and Conservatives and by their bureaucratic coexistence, the National Front also led to the two major parties' loss of capacity to effectively channel citizens' demands and the loss of legitimacy of political institutions. Political inactivity and apathy towards public matters grew due to institutional limitations for participation outside of the two parties' political machinery.

Simultaneous with the bipartisan policy's loss of institutional legitimacy and prestige, new social and ideological forces, critical of the exclusive system, emerged. The Cuban revolution and international efforts to prevent its expansion, the new pluralist and social justice orientations introduced by Pope John XXIII, and the divisions of the international left found an appropriate environment in Colombia. The radicalization of social movements and the closed character of the political system led to a search for alternatives outside the existing institutional channels.

In this environment, organizations critical of the existing political and social system grew in number at the same time as the government itself directly promoted the creation of civil organizations as a strategy to extend the presence of the state. Party domination of social movements and organizations declined, while civil organizations promoted by the government or political parties gradually expanded their autonomy during this period. Relations between the political system and civil organizations were characterized by distrust and mutual opposition, or at the opposite end by clientelism.

The *Juntas de Acción Comunal* (JAC, Community Action Committees), currently the most extensive popular organization in Colombia, are the most outstanding example of organizations promoted by governmental patronage. The program to promote the creation of JACs started in 1958. By 1974 there were 18,000 JACs, and the 1993 census counted 42,582. These organizations, established in counties and neighborhoods, operate with funds from the government or individual politicians, as well as neighborhood volunteers and additional private funds. Such a system contributed to the expansion of clientelism because JACs became privileged intermediaries of public resources for poor communities in exchange for political votes. During the early years of the National Front, the composition of JACs was limited to members of the Liberal or Conservative parties. Later on, committee membership was opened to allow others to participate. In some cases, JACs acquired independence from political parties, even becoming a social base for the development of civic movements and independent social mobilizations (Londoño, 1994, pp. 50-51). JACs have played a significant role in building up social infrastructure (schools, health centers and community centers) as well as physical infrastructure (water supply and sewage systems, bridges and roads).

The *Asociación de Usuarios Campesinos* (ANUC, Association of Peasant Users) is another example of governmental direct promotion of organizations, and their subsequent gradual move

towards autonomy. In this case the objective was to create a popular support base for the government's agrarian reform initiative (Law No. 1 of 1968) to counteract political opposition. The government's ability to protect or control these organizations was very limited. From early on the ANUC began a radicalization process, demanding even more extensive agrarian reform. An inability to suppress the process of radicalization, combined with the dismantling of the agrarian reform by a new government, contributed to the ANUC's split into two groups: one supporting the government and another, representing the majority, in opposition. Throughout the 1970s the majority group's presence was important in peasants' movements, land takeovers, marches and local and regional strikes (Gilhodes, 1989, pp. 348-362).

The sponsorship of labor unions by traditional political parties, very important during the previous decades, diminished during the National Front, even as union membership increased from 5.5 percent in 1954 to 15.5 percent in 1965, and 15.9 percent in 1980. Despite the opposition of the two major political parties and existing labor unions, several new workers' unions were created. The *Confederación Sindical de Trabajadores de Colombia* (CSTC, Union Confederation of Colombian Workers), of communist affiliation, was created in 1964, though its legal status was not accepted until ten years later. The *Confederación General de Trabajadores* (CGT, General Confederation of Workers) was established in 1971 with the purpose of seeking an alternative between communism and capitalism. The active involvement of leaders from the political left, greater presence of white collar workers' unions, and a significant increase in strike movements were the characteristics of this new period in the labor movement (Londoño, 1989).

Women's organizations, such as the *Unión de Ciudadanas de Colombia* (Union of Colombian Women Citizens) and the *Avanzada Femenina Insurgente* (AFIN, Women's Insurgent Advance), maintained their bipartisan composition with members from both leading parties. As in other areas of the civil sector, there emerged institutions, such as the *Unión de Mujeres Democráticas* (Democratic Women's Union), linked to the political left which acted as a bridge between the Communist party and women working together in union activities. During the 1980s, ties between these organizations and political parties loosened. Furthermore new, more autonomous entities emerged in which political involvement was not expressed via the organizations' relationship with party-based organizations, but rather through public debate about gender discrimination in the private realm (Villareal, 1994, pp. 173-180).

During the National Front emerged *Organizaciones No Gubernamentales* (Non-Governmental Organizations, NGOs), a new type of nonprofit organization formed in large part by social activists that focused more on promoting self-help and participatory development and less on providing charity. Around half of the 5,437 NGOs that exist today were created between 1961 and 1980 (Vargas, et al., 1992, pp.33-44). The new social orientations of the Church, the participation of professionals discontented with the hierarchical and authoritarian forms of the political left, and the loss of credibility in social action by traditional political parties and governments contributed to the orientation of these organizations. The promotion of community organizations, collaborative work, self-help and community participation began to be part of these organizations' strategies. The coordination of volunteers through regional and national coordinating bodies also developed during this period.

For the Church, the National Front period meant a movement in two directions. On one side the Church's separation from the Conservative party led to its de-politicization. On the other side,

one sector of the clergy, inspired by liberation theology, moved decidedly to the left and sought major changes in the social, economic and political structures of the country. Conflict within the Church was strong during this period, to the point where the ecclesiastic hierarchy condemned the Ecclesiastical Base Communities and various NGOs promoted by clergy committed to social changes (González, 1991, pp. 234-235).

The government's inability to guarantee basic services for the entire population led to the search for alternatives and the promotion of citizen solutions to community problems independent of the political system and the government. In many cases, the government's inefficiency and limitations fed the idea that it was possible, and even desirable, for citizens to do things on their own.

While this situation contributed to the creation of civic responsibility and an active attitude towards social problems, it also reinforced the paradigm of conflict between the government and the non-government agencies.

The National Front facilitated the emergence of new forms of participation in the world of civil organizations linked to the private, for-profit sector. Trade groups specialized and diversified their activities in order to have greater power in the increasing multiplicity of governmental agencies responsible for economic decisions and to respond to growing special interests. The number of trade groups doubled between 1960 and 1980 (Urrutia, 1983, pp. 16-27). Furthermore, many corporate foundations, financed for the most part by private companies, were created during this period to address diverse issues such as economic development, especially the promotion of micro-enterprises, as well as environmental, educational and social needs. In addition to foundations financed directly by companies, other unique models emerged. Fundación Carvajal, for example, acquired stock in its "parent" company, whereas Fundación Social and Fundación para la Educación Superior (FES, Foundation for Higher Education) founded new companies in order to generate resources to pursue their social mission.

Private businesses were also instrumental in the creation of *Cajas de Compensación Familiar* (Family Compensation Funds). Originally, the *Cajas* were initiated in 1954 by the *Asociación Nacional de Industriales* (ANDI, National Industrialists Association) for the distribution of family subsidies among workers of member companies, but by 1957, the distribution of subsidies was made mandatory under compensation entities organized as nonprofit associations of companies. Now their services, which have broadened to include health, recreation, social marketing, education, training and housing, reach 25 percent of Colombia's total population. Some three million people are affiliated. (Ministerio del Trabajo y Seguridad Social. Superintendencia del Subsidio Familiar, 1996).

Democratic Opening and a New Institutional Framework

The presidency of Belisario Betancur (1982-1986) marked the start of a process of reform and opening of the political regime. Citizen apathy, the regime's legitimacy crisis and political violence were all attributed to the lack of institutional channels for participation. Based upon this diagnosis, the government sought to expand democratic mechanisms to allow for the participation of new actors. These reforms included unsuccessful plans to talk with guerrilla groups and an important decentralizing reform which, in 1986, led to the highest voter turnout in Colombia's recent history (67 percent) and the first-ever popular election of municipal mayors. The presidency of Virgilio Barco (1986-1990) for the first time officially recognized that poverty, which affects one-quarter of

the Colombian population, was an unsettling element in society and developed an anti-poverty strategy in which various civil organizations became involved. Although this presidency was initially reluctant to enter into talks with guerrilla groups because of previous negative experiences, it decided in the middle of its administration to negotiate with the guerilla group M-19, which subsequently returned to civil life in 1990.

At the same time a space was created for dialogue with guerrilla groups and a search was begun for peaceful solutions to violence, a perverse paramilitary reaction erupted to act against amnestied ex-guerrilla fighters, leaders of social organizations (e.g., labor unions, community organizations, and human rights agencies), militants of the political opposition, and all those who were somehow considered to be related to guerrillas. Several paramilitary groups received support from drug dealers, who by then owned a high percentage of lands. Other groups were reportedly supported by the military or other government security agencies. The mixture of political violence from guerrillas, paramilitary groups, drug dealers and security organizations created a spiral of murders, kidnapings, disappearances and assaults that made consolidating democracy very difficult.

In the midst of such political violence, including the assassination of three 1990 presidential candidates, an important movement emerged which, with the support of some political sectors and the government, was able to convene an assembly to push for a constitutional reform which had heretofore been blocked by Congress. The conformation of the assembly broke the monopoly of two-party representation, thanks to the participation of new political actors. A pluralist Constitution that secured a Social State of Law and participatory democracy was the result of their deliberations. Decentralization was reinforced, and economic, social and cultural rights were extended. A large number of participatory spaces and channels were established to encourage debate and discussion with civil society regarding public matters, and the groundwork was laid for greater participation of the private sector, both for-profit and nonprofit, in the provision of public and social services.

This new constitution secured as fundamental rights the freedom of association and speech, and recognized the CSOs (civil society organizations) as democratic means for citizen representation in different stages of public administration. Article No. 103 obliges the government to promote the organization and training of CSOs and emphasizes that this should be done without detriment to the organizations' autonomy. Article No. 355 establishes the possibility of providing public resources to CSOs, under a scheme of contracts and with the purpose of promoting public interest activities in accordance with developmental plans. That same article prohibits the use of parliamentary subsidies, frequently used by members of Congress in the past as a means for financing nonprofit entities that proselytize or inure private benefits.

Since the Constitution was adopted, broad legislation favoring the participation of CSOs in both service delivery and policy debates (education, health, environment, public services, etc.) has developed. Congress is considering a bill, CSO Participation in Public Administration, that seeks to regulate the entire CSO sector by adopting clear definitions, systematizing the sector's rights and duties, and regulating its participation in consultations prior to public policy decision-making and in holding government accountable. This would be the first legislation to take into account the diverse range of the sector's organizations and establish the foundation for its activity within a democratic system.

In the midst of this mood of opening, the organizational population continues to become ever denser. Newly organized actors are gaining energy, while others that for decades have had strength are now losing it. Ethnic and indigenous culture movements and Afro-American communities, in particular, have acquired a higher national profile (Restrepo, 1994, pp. 50-51). The Constitution recognized important rights for these groups by acknowledging their lands and respecting their cultures and right to bilingual and bicultural education (Archila, 1995, pp. 278-279).

Community Action Committees (JACs) have extended their reach through 644 municipal associations, 28 federations and a national confederation. Their autonomy from the government has gradually consolidated.

With the aid of financial and technical support provided by religious and secular organizations from developed countries, NGOs have grown and expanded their areas of interest, as well as their organizational forms. Support for decentralization, consolidation of democracy, respect for human rights, gender programs, work in various social fields and in environment and the promotion of micro-enterprises are part of their growing repertory. The organizational process has become more complex with the creation of multiple networks, alliances with the public and private sectors, and the creation of confederations, including the *Confederación Colombiana de ONGs* (CCONG). Furthermore, multilateral development agencies such as the Inter-American Development Bank and the World Bank have gradually come to support the participation of citizens' organizations, primarily intermediary NGOs, in the design of government policies and programs financed by these agencies.

Among those that have not fared as well since the beginning of the 1980s are labor unions. Union membership in 1990 was estimated to be 6.7 percent, down from 15.9 percent in 1980 (Londoño, 1994, pp. 40 and 59). The decline in union membership is evident in all but the financial sector. In addition, the ANUC, very strong during the 1970s, has since disintegrated into numerous peasant organizations dispersed throughout the country (Archila, 1995, pp. 267-268).

A still incipient trend facilitated by the Constitution is the coming together of the various types of CSOs, and these CSOs and the government, to address public problems jointly. Numerous new spaces for dialogue have been opened. These include Planning Councils, where representatives of various CSOs meet at the municipal, departmental or national level to discuss development plans; Regional Environmental Corporations which include representatives from CSOs on their boards to help determine environmental policies and programs; initiatives, such as the Consultation for Strengthening Civil Society, convened by a broad range of NGOs, JACs and universities, in order to establish common CSO agendas on social policies; and the previously-mentioned legislation that establishes norms for the CSOs. More recently, various CSOs have joined in common cause around cross-cutting issues including education, the peace process, and transparency in local and national elections. Together, these experiences indicate that the existing diversity of organizations is beginning to find a more favorable institutional climate for collaborative and public debate and action, and that the channels for communication and agreement between the CSOs and government may lead to a relationship of cooperation, avoiding the manipulation and dependence of other times.

In spite of these factors that favor the reconstruction of legal public institutionality and democratic forms of government with civil society participation, however, there still remain obstacles to achieving these aims. The most significant at this point is the increase in guerrilla and

paramilitary political violence, which fly in the face of peaceful conflict resolution and democratic debate. Citizens and leaders of organizations in many municipalities are today threatened by either side in this civil war. Today, four families are displaced from their land every hour due to violence. The number of displaced Colombians totals some 920,000. In the last twenty years, more than 3,000 victims, mostly community leaders, social activists and political militants, have disappeared. The reconstruction of rules for peaceful coexistence and guaranteed human rights for all are top priorities for ensuring the survival of civil society.

Most Important Terms Used to Describe Nonprofit Entities

Various terms are used in Colombia to describe the many diverse types of nonprofit organizations. Just as social construction of the sector is recent in Colombia, the terms used to describe it are just beginning to appear, and the boundaries and criteria for including organizations within a sector are imprecise. Formal typologies and definitions of the sector are often vague and changing. In legal terms, with the exception of tax legislation and recent legislation regarding the registration of organizations, there is no normative body that covers all nonprofit organizations. The Law on CSO Participation in Public Administration which will be discussed during the next legislative session will be another general legal piece for the CSO, addressing such aspects as CSO consultations on policy decisions and monitoring of and participation in public administration. The rest of Colombian legislation that concerns nonprofit organizations is diffuse and regulates only specific types of entities.

Each of the terms used to depict the sector emphasizes specific characteristics that are useful for determining the inclusion or exclusion of specific organizations. At the same time, however, many of the characteristics are shared by two or more terms. This leads to a set of definitions that are not mutually exclusive, i.e., there is an overlap of subgroups of organizations that are included in the different definitions.

Nonprofit Private Entities

The term nonprofit private entities is the broadest of all utilized to refer to this sector. This concept highlights a single fundamental aspect of the way these institutions operate, i.e., they do not redistribute profits among members of the institution. The October 10, 1982 decision of the State Council defines nonprofit private entities as “those that do not seek the distribution of earnings among members, but re-invest them to pursue their stated activity or objective.” Thus, the emphasis is not on the lack of revenue or profits, but on the fact that the objective of these organizations is not primarily to gain profit, and that any profits obtained from their activities are reinvested in the social objective for which they were created.

The concept “nonprofit” is a technical term used little in daily language but of great importance at a legal level. It does not refer to the organization’s approach, its beneficiary population, or any particular value. The nonprofit criterion is shared by a great diversity of institutions that socially and politically are not perceived as part of the same group or sector. In legal terms, tax legislation and a 1995 decree (No. 2150 which relates to the registration of nonprofit entities at chambers of commerce) regulate general aspects of the sector. In the 1991 Constitution the concept is utilized in several articles, such as No. 355 which prohibits granting parliamentary

subsidies to these entities, but establishes the possibility of using public funds to contract them for public interest activities in accordance with development plans.

Tax legislation provides nonprofit entities preferential treatment in relation to income tax, classifying some as “non-contributors,” i.e., tax-exempt, and others as “contributors under a special regime,” i.e., eligible for tax rate reduction. Among the specific types of organizations considered tax-exempt are JACs, labor unions, parent associations, hospitals, higher education institutions, consumers’ leagues, pension funds, alumni associations, political parties and religious congregations. Other nonprofit organizations, including corporations, foundation, associations, and cooperatives, are considered “contributors under special regime” and are eligible for a 15 percent reduction of income tax paid on any surplus as long as a) the surplus is devoted to programs in the fields of health, education, culture, amateur sports, environment, or scientific and technological research, and b) the services are accessible to the broader community.³ “Contributors under special regime” with revenues of over \$100 million pesos and “activos” valued over \$200 million pesos are required to prove to the Committee of Nonprofit Entities that they meet the conditions.

The other piece of legislation that refers to nonprofit entities, the previously-mentioned decree No. 2150 of 1995, eliminates governmental recognition of these institutions as legal persons and now requires only that they register the public or private document of constitution with the local chamber of commerce in order to obtain their legal status. Nevertheless, while the decree was intended to cover all nonprofit organizations in general, it also established various exceptions and special procedures for certain types of organizations. These include unions, political movements and parties, religious institutions, cooperatives, higher education institutions and health service-providing institutions.

In addition to these general laws and regulations, there are numerous special provisions that refer to particular subgroups of nonprofit entities, depending on their legal form or field of activity. Foundations and corporations, for example, perhaps the most common forms of nonprofit entity, have been regulated since 1876 by Colombia’s Civil Code. The Civil Code defines a “foundation” as an aggregation of resources with a “public benefit” purpose and a “corporation” (or “association” - the terms are interchangeable) as an aggregation of individuals pursuing a common purpose. The objectives of corporations may be broader than those of foundations, since foundations are limited to public benefit and common utility, while corporations may include religious and altruistic activities, as well as the defense of their own interests.

Legislation regarding foundations in particular is illustrative of the historical process of state formation and the state’s relationship with the Church and foundations. The colonial institution of the Royal Patronage of the Indies had permitted royal intervention in ecclesiastical affairs and, consequently, in determining the use of the Church’s revenues. This power was transferred to Congress after Independence. Though in 1830 and 1848 legislation was enacted that favored foundations, in 1861 the state expropriated the property of civil and ecclesiastical foundations, generating great insecurity regarding the perpetual character of their endowments. The uncertainty created by government intervention during the radical period ended with the adoption of the

³ Family compensation funds, mutual investment funds, employee funds, and trade groups that are not involved in industrial or marketing activities are considered “non-contributors,” whereas those that engage in industry or marketing are considered “contributors under special regime.”

Constitution of 1886, which guaranteed the stability of the foundations' endowments. This Constitution prohibited legislators from modifying the destination of earnings as determined by donors and imposed on the president the obligation to inspect and oversee the application of resources in accordance with the donors' will. (Additionally, article No. 47 of this Constitution secured association liberties, permitting the creation of public or private associations as long as they "were not against morals and legal order.")

Today, the concepts of "common utility institution" and "private foundation" are used interchangeably, although this was not always the case. In fact, the legal history behind these two concepts demonstrates the slow legal differentiation between private law and public law foundations. The original legislation on common utility institutions or foundations covered the entire range of entities whose objective was "the provision of service to the community under the concept of social benefit and not primarily the pursuit of profit" (Decree No. 685 of 1934). Within this broad definition remained both privately-promoted foundations and those created by the government and "organized by virtue of an administrative public act (law, ordinance, agreement, decree)" (Law No. 93 of 1938). Among the latter were public benefit institutions (hospitals, hospices, orphanages) supervised by Beneficence Associations. The legal separation between foundation-like public institutions and private law foundations or institutions of common utility occurred only with the administrative reform of 1968, when the Decree-Law No. 3130 of 1968 defined "institutions of common utility or foundations as legal nonprofit entities created for the purpose of serving social interests, according to the will of their founders." This decree further stipulated that these institutions were to be regulated by the rules of private law and that they were not to be affiliated nor related to the government administration (Tafur, 1990, p. 45).

Social or general interests maintain their importance in legislation regarding foundations and corporations. As noted above, in contemporary tax legislation, foundations and corporations are considered "contributors under special regime" and must demonstrate a social objective in order to be eligible for tax reductions.

As for foundations and corporations, there are specific regulatory regimes for other special types of nonprofit entities. For example, the Substantive Labor Code establishes norms for unions; Law No. 79 of 1988 regulates cooperatives; Community Action Committees (JACs) are regulated by various governmental laws and decrees, such as Law No. 52 of 1990 or Decree No. 1419 of 1991; Law No. 99 of 1993 defines important aspects of environmental nonprofit entities; Law No. 133 of 1994 regulates religious institutions; and so on.

Civil Society Organizations (CSOs)

The concept of civil organizations or civil society organizations (CSOs) is of recent use and describes a broad range of organizations. This concept is linked to the participation of citizens' organizations in public life. Its most clear definition is found in the bill for the Statutory Law No. 249, which is the result of a broad consensus between civil organizations and the government and seeks to create a general framework for the participation of CSOs in public administration, beginning with the principles and norms adopted by the 1991 Constitution.

The objective of this bill is to "regulate the participation of civil organizations in public administration." This has implications for the type of organizations included in the CSO sector

insofar as the characteristic emphasized is the potential to participate in different levels of public administration, especially in relation to decision-making, administrative procedures, and its monitoring.

Article No. 11 of that bill defines civil organizations this way: “For this law’s purposes, civil organizations are understood to be groups of people, or the ensemble of goods that constitute a foundation, in pursuit of a specific objective, of **private** nature, **nonprofit**, **independent** from the government, and of no political or religious character.”

In order to better understand the spectrum of organizations referred to by the concept of civil organizations or CSOs, we cite the classification used for public consultation, which adopts as its main criterion the “interest” of the organization ⁴:

- *Community organizations* are defined by territorial criteria. The bill states: “These are organizations made up of inhabitants of the same neighborhood, district, county, municipality, locality, commune, reserve or territory, with the objective of demanding satisfaction of basic claims and promotion of common interests. Organizations of this type are, among others, Community Action Committees (JACs), and associations of neighbors, community mothers, and rural and urban inhabitants.”
- *Sectoral organizations* defend or promote the interests and activities of members of a specific sector. According to the bill, sectoral organizations “are groups organized with the objective of defending, satisfying and promoting social, economic, professional or group rights and interests. Organizations of this type are, among others, unions, trade associations, professional associations, and collective property forms, such as pre-cooperatives, cooperatives and mutuals.”
- *Non-governmental organizations* undertake activities to benefit third parties. The bill suggests defining NGOs as follows: “These are organizations whose objective is the promotion of integrated development of society, the fulfillment of a social function, the defense and protection of collective interests such as human rights, the environment, culture, education, housing; public space, security and health; public accountability; or those relating to specific social groups determined by gender and age.”
- *Ethnic organizations* include those of indigenous and Afro-American communities. The bill’s text says: “These are organizations whose objective is the defense of the interests of indigenous populations and Afro-Colombian communities, which differentiate from their own or traditional authorities.”

⁴ Proyecto de Ley Estatutaria [Bill] No. 249 of 1996.

Organizations of the Solidarity Economy: The Solidarity Sector

In general, the solidarity sector has been understood to be that composed by “solidarity economy” organizations, that is, those which have associative modes of work and property. In May 1996, however, a bill was presented to the Colombian Senate regarding the Associative Labor and Solidarity Organizations Regime, in which solidarity and humanistic purposes are considered part of the sector’s definition. This bill defines the solidarity economy and associative labor, subsectors that make up the solidarity sector, and stipulates that this form’s objective shall not be profit-seeking. Several citations from the bill should help understand how the sector is defined.

Article No. 1 of the bill defines the solidarity economy as “the ensemble of social efforts identified by **solidarity and humanistic ideals** for the management of natural, scientific, technological and financial resources to ensure the integrated development of the human being as subject, actor and purpose of the economy.” Article No. 2 goes on to explain that associative labor is considered to be “the collective effort of various persons who, both as workers and owners, unite in order to fulfill needs that dignify the members and promote the common good.” Further, Article No. 4 of the bill emphasizes that the purpose of the solidarity economy is not profit, but the human being. This article states that “the economy must be integrally and **without concern for profit** for the benefit of the human being, social and cultural development, and rational management of the environment.”⁵

There is no consensus regarding the types of organizations that are classified within the solidarity sector. In general it was understood that the sector was composed of cooperatives, pre-cooperatives, mutuels and community enterprises. However, important recent documents and the cited bill include other organizations in the sector. For example, a public policy document on employment⁶ includes within the solidarity sector cooperatives, employee funds, mutual associations, family compensation funds, profit-making and service enterprises of Community Action Committees (JACs), producers’ associations, self-managed enterprises, and nonprofit foundations and corporations, including NGOs (see below).

Non-governmental Organizations (NGOs)

The term non-governmental organization (NGO) has gained great popularity in public opinion, academic literature and politics. While the term is generally understood to refer to a subgroup of nonprofit organizations, there is no agreement on the definition of the term or the types of organizations included under the NGO category. In contrast with the concept of nonprofit entity, which has a basic legislative framework surrounding it, the NGO group is not governed by a separate

⁵ Proyecto de Ley No. 277 de 1996 sobre el Régimen de Trabajo Asociado y de Local Associates Organizaciones Solidarias [Bill No. 277 on the Associative Labor and Solidarity Organizations Regime]. *Gaceta del Congreso* [Congressional Gazette] No. 170. Año V. 10 May 1996. p. 3.

⁶ See Documento Conpes No. 2778, 28 April 1995, “Más y mejores empleos” [“More and Better Jobs”]. In: Presidencia de la República y Departamento Nacional de Planeación. 1995.

regulatory structure, even though statutes exist for several of the organizations included in this category (foundations, associations, corporations).

Definitions regarding these organizations vary from the broadest, which considers an NGO a private, nonprofit entity voluntarily constituted (Castañeda, 1990), to one that includes only centers for popular promotion (Memorias del Encuentro de NGO, 1993). The most complete study on the NGO phenomenon in Colombia defines them as the subgroup of nonprofit entities “that is particularly committed to service, to socioeconomic, cultural and political development, and to the promotion of self-development in popular sectors and in marginal communities.” Excluded from this subgroup are schools, universities, hospitals, family compensation funds, religious congregations, churches, cooperatives, JACs, civil defense committees, parent associations, unions, sports clubs, trade associations, and professional associations, among others. (Vargas, et al., 1992).

The expansion and presence of NGOs in the social and political arena have increased in the last years. Their flexibility and ability to adapt to contextual changes have allowed NGOs to evolve from a predominantly charity function prevalent until the 1960s, to a role of providing services in different social areas in the 1960s and 1970s. In the 1980s, NGOs emphasized development programs, generally based upon the organization of poor communities and the promotion of self-help (Vargas, et al., 1992). During the latter part of the 1980s and into the 1990s, the deepening of democracy, the support for the process of decentralization, and the participation in debates over public policies have had an important influence in this sector.

Concurrently with these changes in modes of intervention, the relationship with the government has evolved. In the 1970s and 1980s, under the idea of self-managed resolution of social problems, NGOs mainly sought alternatives on a small scale independent from the government. By the late 1980s and into the 1990s, decentralization and the opening of institutional spaces and channels for participation had contributed to relationships involving NGO negotiation and coordination with the government at various levels (national, departmental and municipal) and among NGOs working in the same territory. Government contracting of NGOs had also increased.

As noted previously, the organizational forms of NGOs have become more complex. Currently there exist NGO networks organized around diverse topics (gender, human rights, community justice, child protection, popular education, etc.); consortia for the development of joint programs; sectoral associations such as Ecofondo, which unites more than 400 environmental NGOs, or Fedevivienda in the housing field; NGO federations in 24 departments; and the Confederation of NGOs (CCONG) with 2,800 members.

Hybrid Cases of Nonprofit Entities

Cooperatives. Cooperatives are included in all of the above-mentioned typologies as nonprofit entities. Legislation on cooperatives stipulates that any year-end surplus be distributed as follows: a minimum of 20 percent to the reserve fund for social provisions, at least 20 percent to an educational fund, and a minimum of 10 percent to a solidarity fund. The use of the remaining 50 percent is decided upon by the assembly, which may choose to re-valuate social provision, to provide services, to decrease membership fees, or to return it to members according to their use of services or

participation in work.⁷ Thus, the distribution of surplus among members is restricted, but possible with at least 50 percent of the total.

As such, cooperatives devote a significant percentage of their resources to the collective objectives of the organization, but they may still distribute part of their surplus among members. This implies that they do not fully comply with the basic criterion of nonprofit entities, that of non-distribution of profit to members, thus making them a hybrid type of organization, both for-profit and nonprofit.

Pre-cooperatives. In terms of profits, this type of organization is regulated by the same rules as cooperatives. The only difference is that they are not required to create a solidarity fund, thus they may re-distribute up to 60 percent of their surplus to members.⁸

Employee funds and mutual associations. This type of associative organization is part of the solidarity economy and is ruled by the same cooperative legislation.⁹

Hybrid Cases between the Public and Nonprofit Sectors

Programs promoted by the government. In Colombia there are a variety of programs promoted by the government which are based on community organization. Some are more highly regulated, controlled, and subsidized by government than others. Among these a good example is the *Hogares de Bienestar Familiar* (Family Welfare Homes). In 1987, under the aegis of the program against poverty, the national government promoted the creation of these *Hogares* as a means to expand the coverage of child assistance programs via community self-help mechanisms. Under the program, a designated mother or community person, “community mother,” provides care and educational attention to a group of children, usually in the “mother’s” home. Each day one community member aids the community mother. Currently 70,000 *Hogares* are estimated to be providing attention to 1.2 million children.

For each home there is a Parents’ Committee, which monitors the quality of care and supports its activities. Within each neighborhood between 15 and 25 Parents’ Committees form a Parents’ Association, whose members include the parents or persons in charge of the children attended by the *Hogares* and the community mothers. The board of directors of each Parents’ Association, elected by its membership, manages the program within the neighborhood and administers resources allocated by the *Instituto de Bienestar Familiar* (Institute of Family Welfare) to pay community mothers and to purchase food and materials, as well as other resources contributed by the parents themselves. The Associations also determine the number of homes per zone, select community mothers, and determine any necessary infrastructure modifications. While the Associations have autonomy in their decisions regarding the local management of the homes, they do not decide the

⁷ Law No. 79 of 1988. Article No. 54.

⁸ Decree No. 1333 of 1989.

⁹ See Law No. 79 of 1988. Article No. 131

program's general policies.¹⁰ In this sense, although the *Hogares* and the Parents' Associations are civil nonprofit organizations not belonging to the governmental structure, they act as quasi non-governmental organizations (Quangos) for the development of a governmental social policy, created and supported by the government, and dependent on it.

The same occurs to different degrees with other programs and organizations promoted and sponsored by the government, such as Community Action Committees (JACs), Rehabilitation Councils, Green Councils, and Committees for Integrated Rural Development.

Family Compensation Funds. As noted earlier in the historical background section of this paper, the *Cajas de Compensación Familiar* (Family Compensation Funds) constitute an important part of the nonprofit sector in Colombia, as much for the amount of resources they manage as for the services they provide. According to a recent report of the Department of Family Subsidy, there were 65 such funds in Colombia in 1996, distributed among 28 of the 32 departments, with a coverage, by any of their services, of over 9.2 million beneficiaries, equivalent to 25 percent of the country's population, and an affiliated population of over 3.2 million. Of those affiliated, 52 percent have incomes below two minimum salaries (Ministerio del Trabajo y Seguridad Social. Superintendencia del Subsidio Familiar, 1996).

A considerable percentage of their resources, 30.63 percent, is derived from mandatory subsidies provided by employers, in a proportion of four percent of total payroll. These compulsory payments constitute a parafiscal contribution, an "intervention technique of the government in the economy, with the purpose of taking away resources from one economic sector and investing these in the same sector, outside of the national budget" (Angarita, 1993, p. 103). Strictly speaking, these parafiscal contributions, despite their mandatory character, are not taxes, since they lack the generality of taxes, i.e., they will not go into the general budget but rather be dedicated to the benefit of contributors.

Although employers must enroll their employees in these funds and pay parafiscal contributions, citizens cannot demand from the government, as a right, the provision of this service, since these entities are private. In addition, the importance of resources derived from parafiscal contributions has diminished over time, and the entities' own resources at this moment constitute the majority of resources. In this sense, we consider Family Compensation Funds a borderline case between the public and nonprofit sectors, since they combine the operational mode of nonprofit entities with the mandatory payments and affiliation characteristic of the public sector.

¹⁰ See Ministerio de Salud [Ministry of Health]. Decree No. 2019 of 1989, which regulates the operations of *Hogares de Bienestar Social*.

The Structural-Operational Definition

The structural-operational definition proposed by the John Hopkins Comparative Nonprofit Sector Project (Salamon and Anheier, 1997) uses the following criteria:

- The institutionality or formality of organizations (in a sociological, not legal, sense);
- The private character of organizations (institutionally separate from government);
- The non-distribution of profit among members or shareholders;
- The existence of self-governing mechanisms; not externally controlled;
- The existence of some degree of voluntary contribution and willingness to associate.

This definition is similar to that in the previously-mentioned bill, CSO Participation in Public Administration. The organizational criterion is expressed in this bill by including under civil organizations those “groups of persons or the ensemble of goods constituted as a foundation and subject to pursue a specific objective.” The criteria of being nonprofit, private and independent of the government are explicitly expressed. The self-governing criterion, though not expressed in the definition, is related to independence from the government. However, the bill before the legislature does not include the voluntary criterion.

The other definitions described earlier in this paper use different criteria. As we have seen, the concept of nonprofit entities emphasizes one of the central criteria, that of non-distribution of surplus, but does not specifically address the other criteria. The NGO and solidarity sector concepts rely on definitional criteria that focus on the objective of the organizations, the population served, and their operational mode. In the case of NGOs, in addition to being nonprofit entities, these must be for “social benefit” and aid “popular sectors.” In the case of the solidarity sector, in addition to having associative labor modes, entities must have “solidarity and humanistic ideals.”

Now we will discuss each of the criteria of the structural-operational definition as it applies to the Colombian context.

Organized or Institutional

The first criterion is that the organization possess some degree of institutionality. Here, institutionality refers to the existence of an internal structure, specific goals or organizational boundaries. That is, it has a sociological sense that may or may not have legal equivalence. This criterion is of great importance to avoid including in this project any type of temporary group.

The fact of not making the institutionality criterion equivalent to that of legal personality allows an ample group of organizations without legal status to be included in the project. In Colombia, there is a large set of groups and organizations that are not registered, nor have legal status, despite having a social institutionality, since they are organizations with rules for their functioning and with members and directors. These include numerous neighborhood committees, community groups, associations, civil committees, sports groups, producers’ associations, cultural and environmental groups, etc. In some cases these organizations, at their founding, are backed by an institution with legal status, and later acquire their own status when a governmental institution or donor agency requires it from them in order to approve projects, contracts, and grants. In other cases, financial administration is done by one of its members under the supervision of a committee,

but the group itself does not exist legally separated from its members. Due to their “informal” character, in legal and registration terms, it is very difficult to estimate the impact of this subgroup of organizations in this sector. In practical terms, however, the probability of non-registered organizations being incorporated into the quantitative aspects of this project is rather remote, due to the methodological difficulties implied.

Private, Non-governmental

This criterion refers to the organization’s separation from the governmental apparatus. It is important to point out that the criterion is related to institutions as structurally separate from the government and does not imply that resources may not be received from governmental agencies.

This criterion is of great importance for the characterization of the sector. However, it needs to be taken into account that a large number of CSOs that, though structurally separated from the government, have been fostered and supported by governmental programs and that their mode of operations and general characteristics were designed by governmental agencies.

Self-governed

This criterion refers to the control that organizations have over their activities and emphasizes the autonomy of organizations and their capacity to define and alter their mission, structure and statutes and to choose members and directors.

As with the previous criterion, this is of great importance in defining the sector. Still, because the government has played a significant role in the creation and promotion of an important subgroup of entities, it has to be taken into account that though various organizations have the capacity to name their directors and alter their mission, the government continues to have considerable influence on their operations.

Non-distribution of Surplus

This criterion emphasizes the idea that these organizations do not exist for the generation of profit. The non-distribution of surplus among members is the character proposed by this criterion. In Colombia, the different definitions referring to the sector (nonprofit entity, CSO, solidarity organization, NGO) have as a common feature the criterion that profit not be the primary objective of the organization.

Cooperatives, mutuals and pre-cooperatives are classified in Colombia as nonprofit entities and are included within different definitions of the sector. These organizations are considered to be, in principle, nonprofits because they reinvest a portion of their surplus in their social activity or mission and because their objective is not primarily profit. Still, since they are able to distribute profit among their members, they do not comply fully with this criterion.

Voluntarism

The criterion of volunteering has two meanings. One refers to the participation of volunteers in organizations, whether they be active in operations or on governing boards, or voluntary

contributions of resources. The other meaning relates to the question of whether membership or participation is compulsory, i.e., mandated by law.

Despite the existence of ample participation of volunteers in the sector, none of the definitions used in Colombia make use of volunteerism as a defining feature of nonprofit organizations. In some Colombian organizations there are no volunteers, even at the level of the board of directors, because there is no legal prohibition against payment of members of nonprofit boards. On the contrary, the criterion of volunteering in the creation of the organization or the principle of free association is constitutionally guaranteed and seems to better define an important feature of the organizations in the sector.

Summary

As can be seen from this discussion, the structural-operational definition used in the Johns Hopkins Comparative Nonprofit Sector Project includes the basic criteria utilized in Colombia to characterize the sector from the point of view of structure and operational mode of nonprofit organizations. Because the structural-operational definition explicitly leaves aside the objectives, purposes, ideals, and goals of the sector's organizations used by several of the other common definitions (e.g., NGO and solidarity organization), it gains a certain measure of academic objectivity, but also loses classificatory power in terms of political, social, and cultural values.

At the same time, however, the project's definition does not allow for a clear separation between those nonprofits created by the initiative of the citizens themselves and those, such as JACs, the ANUC, *Hogares*, etc., that have been created and promoted through the direct influence of government programs in Colombia. The criterion is structural separation, rather than political autonomy. Thus, although we include these organizations in the project, we consider them a hybrid type that falls between the governmental and non-governmental sectors. In addition, because organizations within the cooperative sector do not fully comply with the non-profit-distribution criterion, they will not be included within the project, even though they are considered by all of the terms commonly used in Colombia, except NGO, to be a part of the same sector.

Conclusion

The idea of a "third sector" is very recent in Colombia. There exists a great variety of organizations that objectively may be included under the category of nonprofit, third sector or civil society organizations. However, the social construction of the sector and the perception of belonging to a single group is just beginning. The way of identifying the sector and the organizations included under its various denominations still lacks consensus and precise delimitation. Furthermore, even though they share certain criteria, the various typologies that refer to the entire group of organizations emphasize different aspects such as participation in public administration, the non-distribution of surplus among members, the solidarity ideal, or the non-governmental character. These differing emphases lead to alternative delimitations regarding the contours of the sector and to varying criteria for inclusion of organizations in the sector.

The heterogeneous nature of organizations that could be included in the sector, as well as their multiple objectives and work modes, make it difficult to generalize any characterization about

their potential impact on Colombia's political and social development. The uniqueness and specific contribution of many nonprofit organizations relative to governmental agencies and private, for-profit enterprises is not always clear; nor are the borders between these three sectors. The historical importance of governmental agencies in the creation of nonprofit organizations translates into the fact that the border between the governmental and non-governmental sectors is in many instances fuzzy, and that many organizations, even if they have a private legal structure, depend heavily upon governmental policies, programs and resources, thereby converting these organizations into implementors of governmental programs rather than independent entities. It should also be remembered that the evolution of clientelism in Colombia made use of nonprofit entities in many instances. Furthermore, from the point of view of beneficiaries, the difference between nonprofit and for-profit entities is often imperceptible, especially in the case of certain hospitals, educational institutions or social services.

Co-existing with this subset of organizations which are relatively indistinct aside from their operational structure is another broad group of entities which by their objectives, beneficiary population, operational style and values distinguish themselves clearly from the governmental and for-profit sectors. Throughout Colombia's history, there are numerous examples of nonprofit organizations created quite independently of government and political parties. Yet, only recently has this sort of autonomously created and operated organizations come to the fore.

The 1991 Constitution generated institutional and legal conditions for the greater visibility and independence of nonprofit entities. This Constitution facilitates their autonomy and their participation and active presence in public policy debate, in the provision of social services, and in the monitoring of governmental programs. Participatory democracy, the possibility of greater private sector influence in social development, and the extension of decentralization are constitutional orientations favorable to the development of different types of organizations within the sector and to their participation in the construction of a social and democratic government. Moreover, the new Constitution created important precedents for developing general legislation for the sector overall and for overcoming the current situation of normative fragmentation.

Despite signals of revitalization among civil society organizations and their increasingly active and autonomous presence in public affairs, the space opened for these civil society organizations is challenged by limits to civic participation imposed by heightened political violence. The social and institutional reconstruction of Colombia requires the development of a legitimate public institutionality in which the diverse actors recognize each other in a project for the nation as a whole. This demands, on one hand, a decisive effort toward democratization on the part of the government, and, on the other, overcoming the particularism of many civil society organizations. Placing the common good as a general orientation for action, in the midst of a great diversity of interests and an increasing social complexity and diversification, is a great challenge faced by the organizations of the sector.

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