



# THE NONPROFIT SECTOR

A Research Handbook

---

EDITED BY WALTER W. POWELL

"This book is likely to be the bible of researchers on the non-profit sector for the next decade. It is a superb, comprehensive, and thoughtful piece of work."

—Stanley N. Katz,  
President, American Council of Learned Societies

---

# THE NONPROFIT SECTOR

---

## A Research Handbook

EDITED BY WALTER W. POWELL

YALE UNIVERSITY PRESS  
New Haven and London

Copyright © 1987 by Yale University.

All rights reserved.

This book may not be reproduced, in whole or in part, in any form (beyond that copying permitted by Sections 107 and 108 of the U.S. Copyright Law and except by reviewers for the public press), without written permission from the publishers.

Designed by Susan P. Fillion

and set in Optima display and Times Roman text type.

Typeset by Keystone Typesetting Company, Orwigsburg, Pa.

Printed in the United States of America by Murray Printing Co., Westford, Mass.

Library of Congress Cataloging-in-Publication Data

The Nonprofit sector.

Includes index.

1. Corporations, Nonprofit—Management.
2. Corporations, Nonprofit. 3. Charitable uses, trusts and foundations. I. Powell, Walter W.

HD62.6.N67 1987 338.7'4 86-15984

ISBN 0-300-03702-3 (cloth)

0-300-04497-6 (pbk.)

The paper in this book meets the guidelines for permanence and durability of the Committee on Production Guidelines for Book Longevity of the Council on Library Resources.

---

# Preface

---

**T**his handbook is a collective effort to produce a state-of-the-art review and assessment of scholarly research on the nonprofit sector. Over the past ten years or so, public attention to and scholarly analysis of the voluntary sector have increased substantially. The range of services and activities provided, in part or exclusively, by nonprofit organizations has expanded, and public awareness of the importance of nonprofits appears to have grown commensurately. Some of the stimulus for scholarly inquiry on the voluntary sector was generated by the Commission on Private Philanthropy and Public Needs (referred to as the Filer Commission, after its chairman, John Filer). These research papers provided scholars and policymakers with a baseline knowledge, circa the mid-1970s, of the scope and operations of the nonprofit sector. More recently, scholars have been attracted to the study of nonprofits because of a growing recognition of their many unique organizational attributes. Moreover, these features—often analytically fascinating in their own right—cast in sharp relief the different roles played by government and the private sector. This body of research has now grown to the point that a stocktaking seems in order; thus the decision to produce this handbook was made.

The majority of the contributors to this volume have been associated with the Program on Non-Profit Organizations, an interdisciplinary research program based at the Institution for Social and Policy Studies at Yale University. It is under the program's auspices that the handbook appears, and it is the program's support of scholarly debate and inquiry that has made the volume possible. The program began in 1976 with the goals of studying the role, character, organization, and impact of the voluntary sector in the United States and abroad and of building a substantial body of information, analysis, and theory relating to nonprofit organizations. It has engaged approximately 150 scholars, at Yale and many other institutions, as participants in this research agenda. They come from a wide spectrum of academic disciplines—all the social

sciences, history, law, and medicine—and their efforts have produced numerous working papers, journal articles, chapters, and books. This healthy output, however, is not readily accessible: there is no single compendium that summarizes the research of program-affiliated scholars, as well as the work of many others, not affiliated with the program, who have been studying the voluntary sector.

The purpose of this handbook, then, is to build a solid foundation under the burgeoning field of multidisciplinary scholarship on the nonprofit sector. We have attempted to meet this goal in a volume that we hope will be widely used by scholars who teach and conduct research on nonprofit organizations and by practitioners who work in or advise nonprofits. The authors have prepared chapters that speak both to scholars in their own disciplines and to others who may be unfamiliar with the author's disciplinary language and assumptions. This is by no means an easy task for an academic, but many of the contributors have succeeded admirably.

The authors present a thorough and realistic appraisal of current knowledge in their respective fields; moreover, they provide integrative frameworks that will help readers interpret previous research on the subject. They have emphasized issues of importance and persistence so that these chapters will remain salient for many years. But we also want the essays to provoke debate and stimulate new lines of research; in doing so they will, in a sense, hasten their own obsolescence. Our aims are to pinpoint those issues and problems of the nonprofit sector that require more research and theory development and to highlight the unresolved challenges that face nonprofit managers and their staffs and thus demand the attention of policymakers.

The handbook is organized into six parts and twenty-four chapters. Part I of the volume offers an overview of the nonprofit sector. Peter Hall maps the changing terrain of the sector, providing a backdrop that allows us to see how the environment of the nonprofit sector has evolved over the past

two hundred years. Henry Hansmann and James Douglas introduce us to the two disciplines—economics and political science—that have contributed the most to our theoretical understanding of the reasons for the existence of the nonprofit sector. Gabriel Rudney presents a much-needed empirical survey of the size and scope of the nonprofit sector. The second section of the volume deals with the relationship of the voluntary sector to government and private enterprise. John Simon gives us a comprehensive analysis of the theory and practice of federal and state tax treatment of nonprofits. Lester Salamon draws our attention to the fact that many government-funded services are actually delivered by nonprofit organizations. Turning from the role of the state to that of the private sector, Richard Steinberg shows us the various ways in which nonprofits differ from private firms as well as the ways in which they resemble and compete with them.

The third part of the volume focuses on crucial organizational and management issues. Melissa Middleton looks at the governance role played by nonprofit boards of directors. Rosabeth Kanter and David Summers tackle the thorny question of effectiveness: what standards of success or failure are available to an organization to which the more conventional standards of market and ballot do not apply? Dennis Young addresses the role of leadership and the unique problems and opportunities for entrepreneurial management that are afforded by nonprofit organizations. Rebecca Freidkin and I examine the literature on organizational change and discern some of the critical factors that have been responsible for changes in the missions and goals of nonprofit organizations.

The functions of the nonprofit sector are many and varied. The chapters constituting part IV by no means exhaust the range of activities and services that are undertaken or offered by nonprofits. Rather, we have chosen to focus on what we regard as the core functions—that is, the activities in which nonprofits play either a preponderant or a particularly vital role (and, secondarily, on which sufficient research has been carried out to justify a review). One of the most helpful features of these chapters is their comparative institutional focus. Paul DiMaggio looks at both popular and high culture and accounts for the differential presence of nonprofit and for-profit organizations in these areas. Theodore Marmor, Mark Schlesinger, and Richard Smithey discuss the contribution of nonprofits to health care and contrast this effort with that of public and for-profit health care providers. Daniel Levy compares public and private educational institutions in the United States and abroad with specific attention to their differences in focus and scope. Ralph Kramer gives us a thorough assessment of the role played by nonprofits in delivering personal social services. Carl Milofsky examines the key features of community-based nonprofits. Craig Jenkins addresses the role of nonprofit social movements in the political process and suggests under what circumstances nonprofits play a vital advocacy role.

The fifth part of the handbook deals with the fundamental issue of financing. Here we are concerned with basic questions about the nature and scope of charity and patronage.

Christopher Jencks does a marvelous job of pulling together various data sources in order to ascertain who gives what to the nonprofit sector. His focus is on individual contributions of money; more research on the donation of time and services is sorely needed. Michael Useem looks at the role played by private corporations in supporting the voluntary sector, a role that is growing rapidly in importance as government contributions to nonprofits have either remained stable or declined. Paul Ylvisaker addresses the substantial power and influence that foundations have over other nonprofit organizations. Useem and Ylvisaker discern important patterns in corporate and foundation giving. In both cases, a small number of organizations dominates grant giving. The authors suggest ways in which the pluralism of the voluntary sector may be harmed by this dominance as well as ways in which this degree of influence affords special opportunities. In response to increased competition for, and decreased availability of, sources of financial support, many nonprofits have turned their efforts to generating their own income. These attempts at producing earned income have met with mixed success: some fail and thereby weaken the organization's financial base, whereas others bring in healthy revenues but harm the organization's reputation and even threaten its tax-exempt status. Ed Skloot examines a number of cases of nonprofit entrepreneurship. He analyzes the ingredients that are necessary for success and illustrates the potential obstacles that cause many ventures to fail.

The last part of the handbook represents a foray into the important question of the role played by the nonprofit sector in other industrialized nations and in developing countries. The United States can be distinguished from all other societies (save, perhaps, for Israel) by the size of the work load it assigns to its voluntary nonprofit sector. Yet we do not understand why the United States is exceptional in this regard, nor have we devoted sufficient attention to studying the scope and dimensions of the nonprofit sector abroad. Estelle James, who knows a good deal more about these issues than anyone else, provides us with several answers to the question of the comparative vitality of the nonprofit sector. For example, she finds that the roles played by organized religion and cultural heterogeneity are critical in explaining the presence of the nonprofit sector. In the following chapter, we move from global comparisons to a specific region. Helmut Anheier, supplementing the literature with his field research, gives us insights into the operations of indigenous voluntary associations in West Africa. The final chapter, by Avner Ben-Ner, deals with producer cooperatives, that is, worker-owned firms, which exist in varying numbers in many capitalist societies. There are, to be sure, many variants on this type of organizational form (for example, worker-owned service firms like taxicab companies; consumer cooperatives; and mutual benefit life insurance and savings and loan associations). These different types of organizational arrangements point to the need for more comparative research—particularly cross-national, but also across sectors and across different forms of organization. The chapters in

part VI provide an important foothold on this territory. We hope others will join us in enhancing our knowledge and understanding of these key topics.

Producing this handbook entailed a great deal of work—and not just on the part of the authors, the advisory editors, or myself. Several people whose names do not appear on the title page or the table of contents played a major role in this large project. It was a task that at times seemed overwhelming. But the advice and helpful blue pencil of our editor, Gladys Topkis, was a steadying source of support. Luisa Dato did a marvelous job in helping to manage the project—

keeping track of authors and their chapters, staying in touch with the contributors, and urging them to the swift completion of their work. Cecile Watters copyedited the entire manuscript—an unenviable task she performed with both skill and speed. Finally, we are indebted to the Lilly Endowment, Inc., whose generous grant supported the production of this volume.

Walter W. Powell

New Haven, Connecticut  
May 1986

---

# Contents

---

	List of Tables	vii
	List of Figures	ix
	Preface by Walter W. Powell	xi
<b>Part I</b>	<b>An Overview of the Nonprofit Sector</b>	
1	A Historical Overview of the Private Nonprofit Sector Peter Dobkin Hall	3
2	Economic Theories of Nonprofit Organization Henry Hansmann	27
3	Political Theories of Nonprofit Organization James Douglas	43
4	The Scope and Dimensions of Nonprofit Activity Gabriel Rudney	55
<b>Part II</b>	<b>The Nonprofit Sector, the State, and Private Enterprise</b>	
5	The Tax Treatment of Nonprofit Organizations: A Review of Federal and State Policies John G. Simon	67
6	Partners in Public Service: The Scope and Theory of Government- Nonprofit Relations Lester M. Salamon	99
7	Nonprofit Organizations and the Market Richard Steinberg	118
<b>Part III</b>	<b>Organization and Management</b>	
8	Nonprofit Boards of Directors: Beyond the Governance Function Melissa Middleton	141
9	Doing Well while Doing Good: Dilemmas of Performance Measurement in Nonprofit Organizations and the Need for a Multiple-Constituency Approach Rosabeth Moss Kanter and David V. Summers	154
10	Executive Leadership in Nonprofit Organizations Dennis R. Young	167
11	Organizational Change in Nonprofit Organizations Walter W. Powell and Rebecca Friedkin	180



**Part IV Functions of the Nonprofit Sector**

- |    |   |     |
|----|---|-----|
| 12 | Nonprofit Organizations in the Production and Distribution of Culture<br>Paul DiMaggio                  | 195 |
| 13 | Nonprofit Organizations and Health Care<br>Theodore R. Marmor, Mark Schlesinger, and Richard W. Smithey | 221 |
| 14 | Voluntary Agencies and the Personal Social Services<br>Ralph M. Kramer                                  | 240 |
| 15 | A Comparison of Private and Public Educational Organizations<br>Daniel C. Levy                          | 258 |
| 16 | Neighborhood-Based Organizations: A Market Analogy<br>Carl Milofsky                                     | 277 |
| 17 | Nonprofit Organizations and Policy Advocacy<br>J. Craig Jenkins   | 296 |

**Part V Sources of Support for Nonprofit Organizations**

- |    |   |     |
|----|---|-----|
| 18 | Who Gives to What?<br>Christopher Jencks                            | 321 |
| 19 | Corporate Philanthropy<br>Michael Useem                             | 340 |
| 20 | Foundations and Nonprofit Organizations<br>Paul N. Ylvisaker        | 360 |
| 21 | Enterprise and Commerce in Nonprofit Organizations<br>Edward Skloot | 380 |

**Part VI Comparative Perspectives**

- |    |   |     |
|----|---|-----|
| 22 | The Nonprofit Sector in Comparative Perspective<br>Estelle James                              | 397 |
| 23 | Indigenous Voluntary Associations, Nonprofits, and Development in Africa<br>Helmut K. Anheier | 416 |
| 24 | Producer Cooperatives: Why Do They Exist in Capitalist Economies?<br>Avner Ben-Ner            | 434 |
|    | Index   | 451 |
|    | About the Contributors  | 461 |



---

# Tables

---

2.1	A Four-Way Categorization of Nonprofit Firms	28
4.1	Employment by Economic Sector, 1972 and 1982	56
4.2	Distribution of Gross National Product Originating in For-Profit, Nonprofit, and Government Sectors, 1960 and 1975	56
4.3	Distribution of Philanthropic Employment, 1972 and 1982	57
4.4	Philanthropic Employment as Percentage of All Private Employment, 1982	58
4.5	Earnings in the Philanthropic Sector, 1972 and 1982	59
4.6	Assets and Liabilities of Nonprofit Sector, 1975	61
4.7	Growth in Historical Cost of Physical Assets, Nonprofit and For-Profit Sectors, 1960 and 1975	61
4.8	Relationships among Assets, Debt, and Production in Nonprofit and Corporate Sectors, 1975	61
4.9	Distribution of Assets by Organization Size, Health and Educational Philanthropic Organizations, 1975	62
4.10	Sources of Revenue for Philanthropic Organizations, 1980	62
4.11	Sources of Support for Nonreligious Philanthropies, 1980	63
5.1	Aerial View of Federal Tax Treatment of Nonprofits	70
5.2	Aerial View of State Tax Treatment and Federal Nontax Treatment of Nonprofits	72
6.1	Estimated Federal Support of Nonprofit Organizations, 1980	102
6.2	Share of Government-Funded Human Services Delivered by Nonprofit, For-Profit, and Government Agencies in Sixteen Communities, 1982	103
6.3	Distribution of Federal Support among Types of Nonprofits, 1980	103
6.4	Nonprofit Revenues from Federal Sources as a Share of Total Nonprofit Revenues, 1980	104
6.5	Sources of Support of Nonprofit Human Service Agencies, 1981	105
6.6	Government Revenue as a Share of Total Revenues for Selected United Way Agencies, 1980	105
6.7	Federal Government Support of Nonprofit Organizations by Avenue of Assistance, 1980	106
6.8	Extent of Government Reliance on Nonprofit Organizations in Sixteen Sites, 1982	107
6.9	Percentage of Social Service Agency Income Coming from Government, by Site, 1981	107
6.10	Regional Variations in the Scope of the Nonprofit Sector	107
7.1	Sectoral Composition, by Industry	120

7.2	Nonprofit Four-Firm Concentration Ratios, by Industry	121
7.3	Income and Wealth Statements for Nonprofit Organizations	121
7.4	Index of Collectiveness, 1973–75	122
13.1	Relative Proportions of For-Profit, Private Nonprofit, and Public Health Care Providers in the United States	224
13.2	Public Subsidies and the Growth of For-Profit Health Care	227
13.3	National Health Expenditures	228
13.4	Insurance Coverage and Market Shares of Proprietary Health Care Facilities	231
13.5	Percentages of Hospitals with Low-Income Services Available, in Urban Areas with Both Private Nonprofit and For-Profit Short-Term General Hospitals	232
13.6	Proportion of Physicians Reporting Exclusions of Patients of Various Types	232
13.7	Level of Charges as a Reason for Selection of Facilities	233
14.1	Some Formal Differences among Governmental, Voluntary, and For-Profit Social Agencies	243
14.2	Comparison of Board Members and Executives on Six Attributes	245
14.3	Conditions Conducive to Greater Power for the Executive than the Board	245
14.4	Government Funds as a Share of Total Income for Selected United Way Agencies, 1980	246
14.5	Three Types of Service Provision Relationships	249
16.1	The Funding of Neighborhood-Based Organizations	285
18.1	Distribution of Philanthropic Giving by Type of Recipient, 1962–81	322
18.2	Charitable Deductions Claimed by Taxpayers Who Itemized in 1981	323
18.3	Charitable Giving in 1981 as Reported to Gallup	323
18.4	Percentage of Income Donated to Philanthropy	324
18.5	Percentage of Income Given to Philanthropy by Married Itemizers Under Age 65 in 1970, by Tax Bracket	331
18.6	Philanthropic Contributions, Tax Rates, and Propensity to Give, 1924–82	333
18.7	Trends in Hours of Volunteer Work, 1965–82	337
19.1	Corporate Income and Contributions, 1940–82	341
19.2	Distribution of the Contributions of 534 Large Corporations, 1982	343
19.3	Primary Policy Setter and Primary Manager of Company Contributions, 229 Major Companies, 1980–81	344
19.4	Factors Identified by Company Managers as Influencing the Level of Corporate Contributions, 229 Major Companies, 1980–81	348
19.5	National Organizations Concerned with Corporate Philanthropy	355
20.1	Fields of Interest, 1955–79	368
20.2	Intended Beneficiary, 1955–79	368
20.3	Recipient Institutions, 1955–79	369
20.4	Geographic Location, 1955–79	370
20.5	Fields of Interest, 1980–83	371
20.6	Intended Beneficiary	371
20.7	Recipient Institutions	372
20.8	Geographic Location, 1983	372
20.9	The Top 25 Recipients of Grants from Foundations with Assets of \$100 Million or More	374
22.1	Total Expenditures by Government and NPOs	399
22.2	Major Activities of NPOs in Japan, 1981	399
22.3	Major Activities of Approved Charities in Sri Lanka, 1979	400
22.4	Nonprofit versus Government Expenditures in the United States	400
22.5	Sources of Nonprofit Revenues in the United States	400
24.1	Producer Cooperative Statistics in Selected Countries	422

---

# Figures

---

5.1	A Schematic Sketch of Nonprofit Tax Categories	68
14.1	Typology of Service Provider Roles	250
17.1	Foundation Grants to Social Movements	312
17.2	Philanthropy and Social Movement Giving	313
19.1	Distribution of Company Gifts among Major Beneficiaries, 1982	342
19.2	Giving Program of Exxon Corporation, 1982	346
23.1	Third-Sector Organizations in Africa	428

I

---

# AN OVERVIEW OF THE NONPROFIT SECTOR

---



# A Historical Overview of the Private Nonprofit Sector

PETER DOBKIN HALL

**H**istorians have tended to ignore the nonprofit sector. The existing scholarship examines only particular fields (education, health care, social welfare, the professions, philanthropy), the development of specific institutions, and the lives of individuals prominent in nonprofit areas. But little of the literature deals meaningfully with nonprofit institutions as a distinctive sector of activity. Thus I will draw on this research, fragmentary as it is, to delineate a historical model of the origins and development of the nonprofit sector in the United States and its relation to the for-profit and public sectors.

I define a nonprofit organization as a body of individuals who associate for any of three purposes: (1) to perform public tasks that have been delegated to them by the state; (2) to perform public tasks for which there is a demand that neither the state nor for-profit organizations are willing to fulfill; or (3) to influence the direction of policy in the state, the for-profit sector, or other nonprofit organizations.

Nonprofit organizations exist under a particular combination of ideological, political, social, and economic conditions that are, in turn, the products of a unique set of historical experiences. Ideologically, the nonprofit organization and its supporters see the will of the state as the collective will of the individuals who compose it. Politically, this view that sovereignty resides in the people is expressed institutionally in such legislative forms as grants of incorporation, tax exemptions, and tax regulations providing incentives to individuals to make donations to nonprofit organizations; it is expressed through such juridical devices as the creation of equity jurisdiction, which facilitates private collective action by permitting the allocation and administration of property

for future purposes. These ideological and political conditions can exist only in a social context in which individuals are socialized to responsible autonomy and the modes of authority are geared to compliance rather than coercion. Paralleling all three sets of conditions is an economic system in which individuals' financial resources and productive energies are subject to their discretionary disposal. The nonprofit sector is, then, a distinctive product of democracy and capitalism.

With the exception of England, on whose legal precedents and institutional experience Americans have drawn extensively in creating their own institutions, no other nation has depended so heavily as has the United States on private nonprofit organizations for performing so many public activities. Compelling testimony to this fact is that, as developing nations in this century have looked to developed countries for institutional models, their embryonic nonprofit sectors have been based on American rather than British examples.

## THE PRIVATE NONPROFIT SECTOR IN THE UNITED STATES, 1780–1844

Although the laws of corporations and of charitable trusts had undergone extensive development in England before the end of the eighteenth century, they had little impact on the colonies. Because of their subsidiary status to the British crown, colonial legislatures lacked the power to create corporations (although they sometimes did). Because of the primitiveness of legal conditions and the absence of a legal profession before the mid-eighteenth century, equity, the jurisdiction under which trusts are enforceable, was either ill understood or, more often, entirely lacking. Many colonies, particularly those in New England, expressed a pronounced hostility to private corporations and to equity, which they associated with the corruptions of the Stuart monarchy and the Church

This research has been supported by grants from the Exxon Education Foundation, the Teagle Foundation, the American Council of Learned Societies, and the Program on Non-Profit Organizations, Institution for Social and Policy Studies, Yale University.

of England. As a result, few corporations existed in the colonies before 1780. And their status was not firmly established as for-profit or nonprofit, private or public.

The situation of Harvard College, the oldest corporation in the colonies, illustrates well the ambiguous status of all colonial corporations. Although possessing a charter and thus technically private, it was governed by boards composed of ministers of the state-established church and state officials sitting in *ex-officio* capacities. Although it possessed an endowment made largely of donations and bequests from private individuals, much of its funding came from periodic public appropriations. Moreover, it was regarded as a public institution. Early business corporations such as the Massachusetts Bank (1783) were similarly ambiguous in their status: their capital often consisted of combinations of public and private subscriptions; public representatives often sat on their boards; the state reserved a right to interfere with or abrogate their charters at will; extensive justifications of their public utility were usually necessary to persuade legislatures to grant their charters.

It was only, then, in the late eighteenth century, when political and economic independence and cultural nationalism impelled major changes in institutional life, that lawyers and legislators began—in a fashion dictated largely by local and regional concerns—to draw on the English legal and organizational precedents of the previous two centuries.<sup>1</sup>

The five decades following the Revolution determined how Americans would deliver educational and charitable services. The Revolution itself left moot fundamental questions affecting the private exercise of public power. In New England, the Revolution did not immediately alter traditional conceptions of social and economic organization (Buel 1969). Nor did the displacement of the Tory elements of the elite alter the conviction held by the privileged and apparently assented to by the less so that the wealthy, learned, and respectable were those to whom public responsibilities of every sort were best entrusted. There was a movement for the establishment of both what we would call private for-profit corporations, beginning with the Massachusetts Bank in 1783 and continuing into the 1790s with the creation of bridge, turnpike, and canal companies, and a host of nonprofit corporations such as medical societies (Hartz 1948; Handlin & Handlin 1969; Hall 1973, 1982b). Although these grants of incorporation were clearly delegations of power from the state to groups of individuals for the performance of public tasks, and although profits might accrue to some of those who provided the capital, they were not conceived of as private corporations in the modern sense (Davis 1917; Dodd 1960; Kutler 1971). Their charters were not perpetual, and as their language makes clear, the corporations were created to serve public purposes. Most important, legislatures made the grants selectively to groups of individuals who, as long as pre-Revolutionary conceptions of social authority remained intact, were viewed more as public stewards than as private profiteers.

Although Massachusetts, like many other former colo-

nies, wrote a new state constitution in 1780, the property qualifications it specified both for voting and officeholding were eloquent testimony to the successful grafting of the Puritan conception of social corporatism onto a new commercial mentality. The Revolution passed without a rejection of the English laws governing the establishment of charities. Although Massachusetts courts did not possess equity powers (which posed a potential obstacle for the creation and administration of charitable and testamentary trusts), this defect was remedied by the legislature in 1819. In Connecticut, the pre-Revolutionary social order and ideology remained similarly unshaken by the war, though it differed from Massachusetts. It retained its colonial charter and the legislative acts that had proceeded from it (Purcell 1918), and the status of charities remained unchanged. As in Massachusetts, the post-Revolutionary wave of corporation building was entrusted to the elite. Favored by ideology, legislation, juridical framework, and commercial resources, the New England states led the new nation in incorporations of both for-profit and nonprofit enterprises, with 60 percent of incorporations as against 20 percent for the more populous and wealthy mid-Atlantic states (New York, New Jersey, Pennsylvania, and Delaware) and 20 percent for the relatively undeveloped states of the South and West (Davis 1917, 2:28).

Outside New England, institutional life was profoundly changed by the Revolution. The end of royal government and the establishment of state constitutions created the political and legal conditions favorable to extensive corporate activity. But religious and political heterogeneity placed almost insurmountable obstacles in the way of for-profit and nonprofit incorporations. In Pennsylvania and New York, efforts to obtain corporate charters became entangled not only in jealousies among Anglicans, Quakers, Dutch Reformed, and Presbyterians but also in conflicting interests between commercial and agrarian sectors. Thus, as of 1800, the middle states had granted only sixty-seven charters (to New England's two hundred), only two more than the economically backward and war-ravaged South. New York, moreover, had repealed the Elizabethan Statute of Charitable Uses and had, by the establishment of the University of the State of New York (the Regents), placed the government of private charitable and educational organizations within a political structure of accountability (Whitehead 1973). This hostility to private eleemosynary corporations was elaborated during the next three decades, as the state legislature passed laws that not only restricted the ability of testators to make bequests to endowed institutions but also required the institutions to hold the size of their endowments within limits specified by their charters. By 1830, New York surpassed both Boston and Philadelphia in population and wealth. But its philanthropic resources were scattered among a host of competing institutions, none of them the equal of Harvard, the Boston Atheneum, Massachusetts General Hospital, or the Pennsylvania Hospital. Not until the 1890s, after a major set of legal reforms, would New York City's charitable and



cultural organizations match its commercial eminence (Ames 1913, 286ff.; Scott 1951, 251ff.).

The situation of nonprofit organizations in Pennsylvania between 1780 and 1830 was complex and ambiguous. On the one hand, as early as 1776, the new state government had encouraged the incorporation of charities and protected the rights of unincorporated ones—actions that were reaffirmed in 1790 when the state revised its constitution (Wyllie 1959, 205–06; Miller 1961, 15–17). On the other hand, it deprived its courts of the equity powers necessary for the enforcement of charitable and testamentary trusts—vital elements in the creation of institutional endowments (Hitchler & Liverant 1933, 156ff.). Individuals were free to create such trusts—and many did—but the lack of institutional mechanisms for their enforcement posed problems. As a Massachusetts court had noted in 1804 (fifteen years before the legislature granted it equity jurisdiction) in a case in which a trustee refused to pay an annuity to a widow upon her remarriage even though the annuity had not been subject to such a condition, “If this conveyance was in *trust*, this court could not have compelled the execution of it; and until the legislature shall think it proper to give us further powers, we can do nothing on subjects of that nature (1 *Massachusetts Reports* 204 [1804]). This ambiguous juridical situation hardly encouraged the growth of charitable endowments!

Finally, Pennsylvania’s diverse ethnic and religious makeup mirrored New York’s in many respects. And although the state did not go so far as to establish a governmental oversight body comparable to the Regents, intense political and economic competition among Episcopalians, Presbyterians, Quakers, and Lutherans, between English-speaking and German-speaking groups, and between Jeffersonians and Federalists led to a scattering of philanthropic resources. Pennsylvania had many colleges by 1830, but none remotely comparable to Harvard or Yale. Only in the field of medicine, in which the Pennsylvania Hospital, along with newer institutions like the Jefferson Medical College, received broad charitable support, were the state’s early nonprofits of major national significance.

The South, however, was the fountainhead of anticorporate legal doctrines (Hirschler 1939, 109–16; Miller 1961, 6–8). Thomas Jefferson was hostile to corporations of any kind, regarding them as unwarranted grants of public privilege and property to private persons. Having repealed the Statute of Charitable Uses in 1792, the Virginia legislature in 1801 seized all the properties owned by the recently disestablished Episcopal church, turning them over to county overseers of the poor for management (permitting them, however, to be applied to the uses designated by their donors). By 1806, the legislature had enacted a statute that provided that all property given for charitable purposes was to be turned over to the management of county overseers of the poor. Individuals were free to make charitable gifts and bequests and were assured by the statute that they would be used as directed, but their management by political bodies could hardly have been reassuring to the potentially benevolent. Between 1790 and

1830, the Old Dominion paralleled New York’s hostility to private eleemosynary corporations, refusing to charter new organizations and restricting the ability of individuals to provide them with property by gift and bequest.

The divergent attitudes of the states on the status of corporations and charitable trusts were necessarily reflected at the federal level (Zollman 1924). Although there were no federal statutes dealing with charities and corporations during the early national period, by 1819 a number of crucial cases were pending before the Supreme Court. The case of *Dartmouth College v. Woodward* involved the right of the state of New Hampshire to alter the charter of a private corporation against the will of its trustees. In this decision Chief Justice Marshall defined corporate charters as contracts and barred unwarranted government interference in their performance. Daniel Webster’s argument in favor of the college emphasized not only the importance of protecting private corporations from government interference but also the nature of the bond between donors and the corporation:

The case before the court is not of ordinary importance, nor of every-day occurrence. It affects not this college only, but every college, and all literary institutions of the country. They have flourished, hitherto, and have become in a high degree respectable and useful to the community. They have all a common principle of existence—the inviolability of their charters. It will be dangerous, a most dangerous experiment, to hold these institutions subject to the rise and fall of popular parties, and the fluctuations of political opinions. If the franchise may be at any time taken away, or impaired, the property may also be taken away, or its use perverted. Benefactors will have no certainty of effecting the object of their bounty; and learned men will be deterred from devoting themselves to the service of such institutions, from the precarious title of their officers. Colleges and halls will be deserted by better spirits, and become a theater for the contention of politics. Party and faction will be cherished in places consecrated to piety and learning. The consequences are neither remote nor possible only. They are certain and immediate. (4 Wheat. 518 [1819])

Nevertheless, federal doctrines on private charity remained confused. Although the Supreme Court had supported the corporate side of the argument for private charitable corporations in the *Dartmouth College* case, its decision in *The Philadelphia Baptist Association v. Hart’s Executors* undermined the rights of private donors (4 Wheat. 1 [1819]). In 1795, Silas Hart, a citizen of Virginia, bequeathed a small sum of money to the Philadelphia Baptist Association, to be used to educate young men for the ministry. His executors refused to surrender the bequest to the Baptists, arguing that, because the association was not incorporated at the time of Hart’s death, it could not hold charitable property under Virginia law. Moreover, Hart’s executors argued that the membership of the organization was too poorly defined to

constitute a legal beneficiary. While such a bequest might be legal under English law, Virginia's repeal of the Statute of Charitable Uses rendered it void in that state. Chief Justice Marshall sustained the defendants.

Although the *Hart* decision did not affect the activities of states like Massachusetts and Connecticut where incorporated charitable organizations were well established in fact and in law, it created serious problems in New York and Pennsylvania where the status of these institutions had not yet been clarified. Not until 1844, when the Supreme Court ruled on the *Girard Will* case, were private nonprofit corporations placed on a firm legal footing under federal law (Wyllie 1959, 219–20). This case involved the will of Stephen Girard, an enormously wealthy merchant who, on his death, left \$7 million for the establishment of a college for orphans in Philadelphia. Although the case raised many important issues, the central one was the status of charitable bequests in places where the Statute of Charitable Uses had been repealed, as it was in Pennsylvania. By 1844, the quality of American legal scholarship had improved, and the attorneys for the Girard estate were able to demonstrate that the Elizabethan statute had, in fact, merely been the codification of a long series of other statutes and that, therefore, charitable trusts still stood on a firm foundation regardless of the legal status of the Statute of Charitable Uses (43 *U.S.* 127 [1844]). Thus, after 1844, private charitable corporations were securely established under federal law, although this did not affect the actions of states like Virginia and New York, which continued to limit their activities.

### THE NONPROFIT SECTOR AND THE TRANSFORMATION OF AMERICAN CULTURE, 1780–1860

The evolution of American law in the first half-century of the Republic was merely symptomatic of a more profound transformation of society, economics, politics, and ideology. This transformation began in New England as an effort to deal with a tension among Puritan ideology, institutions, and resources. It ultimately affected the entire country, as New Englanders migrated to other regions, carrying with them a distinctive set of social ideas, economic practices, and institutional forms (Johnson 1978, 20, 139; Ryan 1982, 18–59, 105–44; Hall 1982b, 151–77).

Puritanism was more than a body of religious beliefs; it was also a social ideology. As developed by New Englanders, it drew largely but selectively on the colonists' medieval heritage, especially from the traditions of manorial communalism, and from their readings of the Old Testament. The central institution of New England life was the household, in which all were required to live, submitting themselves to the authority of its head, the father. Under this system of "family government," formal institutions of political and social life were barely necessary. Fathers were the agents of social control in the communities, each taking responsibility for those under his care. And, as Peter Laslett (1965; 1–21) has noted, domestic organization in this tradi-

tional society was economic organization, for the majority of the population engaged in subsistence agriculture, each household providing basic necessities for its members (also see Morgan 1944, 133–60; Greven 1969, 72–99). Neither the state nor the church had any real independence in this system. The church was a gathering of believing heads of families with a minister who served at their pleasure. The state, as manifested in the government of the towns, was a gathering of the landowning heads of families of good character.

This system was maintained and perpetuated by the collective control of land resources (Greven 1969, 41–71). When a town was settled, a portion of the land granted its proprietors by the colony was immediately distributed, but the bulk was held in reserve for distribution to future generations. By the third and fourth generations of settlement—that is, by the last decades of the seventeenth century in New England's older communities—these land reserves were exhausted. Although still deeply committed to their Puritan beliefs, fathers had to encourage vocational and geographical mobility for their sons (Farber 1973; Hall 1982a). But buying land, whether in their own towns or in others, cost money. Apprenticeships in the trades and professions were also costly commitments. Sustaining the Puritan polity pushed New Englanders from subsistence agriculture toward market production.

Although it began in the older communities, the crisis of land and resources became pervasive by the mid-eighteenth century, affecting not only farmers but all occupations. Overwhelmed by applicants for apprenticeships and swelled by their own trainees and recent immigrants from Europe, the crafts became extremely competitive. Even the professions were affected: as pulpits became increasingly difficult to find, many who had been trained as clergymen took up medicine and law, transforming them from marginal occupations into learned vocations.

The crisis in the occupational structure, evident by the early decades of the eighteenth century, had a pronounced impact on the whole structure of society, especially on the mechanisms of authority. As it became increasingly difficult to reward the young materially for their obedience and the lower orders for their deference, it became less possible to sustain the authority of church, state, and parents. Further, as sons were forced by circumstances to seek new vocations in new places, modes of social control began to shift from an externalized shame orientation, suitable to the patriarchal and communitarian context, toward an internalized guilt orientation, more adaptive to situations requiring autonomy (Vine 1976). Finally, as market production externalized economic activity, it became increasingly difficult for households to sustain their role in the delivery of social services—educating the young, disciplining the deviant, and caring for the sick, the poor, and the disabled.

After the Revolution differences of outlook and interest among the major social, economic, and sectional groups in the new nation began to emerge. Traditionalists favored older social forms based on the patriarchal family, the estab-