

**WORKING PAPERS
OF
THE JOHNS HOPKINS
COMPARATIVE NONPROFIT SECTOR PROJECT**

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***Defining the Nonprofit Sector:
Poland***

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**The Johns Hopkins University
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Suggested form of citation:

Leś, Ewa, Sławomir Nałęcz, and Jakub Wygnański.
“Defining the Nonprofit Sector: Poland.” *Working
Papers of the Johns Hopkins Comparative Nonprofit
Sector Project*, no. 36. Baltimore: The Johns Hopkins
Center for Civil Society Studies, 2000.

ISBN 1-886333-43-2

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Preface

This is one in a series of working papers produced under the Johns Hopkins Comparative Nonprofit Sector Project, a collaborative effort by scholars around the world to understand the scope, structure, and role of the nonprofit sector using a common framework and approach. Begun in 1989 in 13 countries, the Project continues to expand, currently encompassing about 40 countries.

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 inform policy debates. A full list of these papers is provided inside the back cover.

The production of these working papers owes much to the devoted efforts of our project staff. The present paper benefited greatly from the editorial work of Stefan Toepler, the coordinator of our Central European work; Regina List, the project manager; Mimi Bilzor, communications associate; and Brittany Anuszkiewicz, project assistant. On behalf of the project's core staff, I also want to express our deep gratitude to our project colleagues around the world, 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 institutions with which they are affiliated, The Johns Hopkins University, its Institute for Policy Studies, the Center for Civil Society Studies, or any of their officers or supporters.

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
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Defining the Nonprofit Sector: Poland¹

Introduction

The role that voluntary organizations played in the breakthroughs of 1989 occasionally overshadows the larger historical significance of the nonprofit sector in Poland. In fact, civic efforts have a long-standing history in Polish society. Efforts to alleviate poverty, bolster the national spirit, and preserve Polish culture became important social, cultural and political forces after Poland lost its independence in the 18th century. After 123 years of extrinsic partition between the neighboring powers, Poland regained sovereignty in 1918 and voluntary organizations once again played an important role in shaping national identity as well as in providing social services, health care, and education. Under German occupation during World War II, the Polish Underground State and Army, clandestine study classes, and underground relief work formed the heart of the Polish resistance movement.

Under communist rule between 1944 and 1989, sectarian and non-sectarian voluntary organizations and institutions could neither set goals nor implement programs independently from the government. They also faced legal and financial restrictions. Voluntary organizations allowed by the Polish government, including the Polish Red Cross, the Polish Scouts' Association, and the Society of the Friends of Children, were required to support the same political and welfare objectives that the communist state supported. Despite the systemic violation of principles fundamental to voluntary organizations, including the freedoms of association and expression, informal networks became mechanisms for countering the citizenry's apathy and establishing small circles of freedom during the late 1970s. In 1980 the independent trade union movement *Solidarność* (Solidarity) was born, encouraging the struggle for democracy. After martial law was declared in December 1981, the Solidarity movement and many other voluntary organizations were operating in conspiracy providing (a decade later) the institutional and moral basis for the peaceful democratization process in Poland.

After 1989, a "boom" of citizens' initiatives occurred in Poland. Voluntary organizations became vehicles for political, economic, and social reforms. Specifically, they have served as providers of various services bridging the post-communist welfare gap and as actors in the formation of civil society. This does not mean, however, that the recent development of these institutions has been without controversy or criticism. Indeed, unprecedented growth and exceptionally liberal tax policies at the beginning of the transitional period allowed some voluntary organizations to abuse their privileged position, casting doubts on their true purposes.

In order to present the voluntary sector's past and present contributions to Polish society, as well as its prospects at the end of the 20th century, we focus on four major subjects of analysis: a historical overview of voluntary organizations; major types of voluntary organizations in Poland; the legal framework underpinning their operations; and current trends and challenges that these organizations face. In the historical overview, we focus on three traditions or factors that

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seem to have been the most influential in terms of shaping basic segments of the voluntary sector in Poland: the charitable traditions of Occidental Christianity; the secular philanthropic and civic tradition; and the patriotic tradition. In the subsequent section, major types of voluntary organizations in Poland including associations and foundations are examined. This is followed by a description of the current legal and tax frameworks and a discussion of the structural-operational definition used by the Johns Hopkins Comparative Nonprofit Sector Project. In the final section, we discuss the concept of civil society in the Polish context and focus on the prospects and challenges of the nonprofit sector in Poland, including the relationships between voluntary organizations and the state.

As a terminological note, in most countries there is no single term that fully captures the complex nature of voluntary organizations. In Poland, among the terms frequently used are: nongovernmental organizations (*organizacje pozarządowe*), the nonprofit sector (*sektor non-profit*), and social organizations (*organizacje społeczne*). While the two former terms were coined abroad and have been “imported” recently, the latter term was used in Poland prior to 1989. Its popular use, however, has dramatically declined due to a negative connotation symbolizing political control and structural dependence on government. With the passage of time, however, the term is gradually losing its pejorative meaning. Presently, social organizations are predominantly conceptualized as public benefit organizations, while their original sociological view of encompassing a broad array of organizations, from political parties and trade unions to voluntary organizations, is being gradually taken up by the term “nonprofit sector.” In this paper, the term “voluntary organizations” will be used to describe voluntary action in Poland prior to 1989, while “nonprofit sector” will refer to the period after 1989.

Historical Background

In order to chart the historical development of voluntary organizations in Poland, we distinguish six time periods: the Old Polish era until the loss of independence in the 18th century; the period of partition; the interwar period; the immediate post-WWII period; the communist period; and the period since the recent transition (after 1989).

THE OLD POLISH ERA (TO 1795)

The first period, the Old Polish era, begins in the Middle Ages and ends in the 18th century with the loss of Poland’s independence. Within this period, we distinguish three major sub-periods in the historical development of charity, philanthropy and voluntary organizations: origins and early history pre-1496; the period between 1496 and 1768; and the period between 1768 and 1795 (Koralewski, 1919).

Origins and early history—pre-1496

The oldest traditions shaping the voluntary sector in Poland are the charitable, philanthropic and civic traditions of Occidental Christianity. Latin Christian culture and institutions were adopted in Poland after the conversion of Mieszko I, the Prince of Poles, to

Catholicism in 966. Thus, connecting to Occidental civilization permitted Poland to “participate directly, although less intensively, in the Western cultural and institutional experience” (Lubecki, 1997).

The feudal system in Poland remained less developed than in other parts of Western Europe. Poland maintained traditions of ancestralism and tribalism, which fostered a peculiar notion of *caritas* stemming from one’s natural solidarity and moral duty toward one’s neighbor (Radwan-Pragłowski and Frysztacki, 1996). The notion of *caritas*, which developed in Poland since the country entered Latin culture, was supplemented with the *res sacra miser credo*, along with the expansion of Christianity. Thus, medieval charity in Poland was founded on an indigenous value system based on *caritas* and the Occidental notion of *res sacra miser*. Giving charity was perceived as a requirement for a good Christian, and those in need were treated with compassion and respect (Geremek, 1994). No distinction existed between the deserving and the undeserving poor (Assorodobraj, 1966, p. 238).

In the medieval period, clergy from France and other parts of Europe who settled in the Polish territories implemented western-style welfare institutions, especially hospitals (Góralski, 1993). The Roman Catholic Church—under the auspices of religious monasteries and religious associations—played an essential role in providing education and charity, as it did in Western Europe (Leś, 1994). The first schools in the Polish territories were founded during the Middle Ages by churches and monasteries. The first church hospital was founded in 1108 in Wrocław and was followed by a second in Jędrzejów in 1152. In the Middle Ages, the Cistercian, Joannits and Augustians monasteries founded hospitals or operated ones that were founded by kings and dukes (Bunsch-Konopka, 1985). For example, King Mieszko Stary and Duke Henryk Mazowiecki founded hospitals in the medieval era and then delegated their operation to religious orders.

The second influence shaping the voluntary sector in Poland is a nonreligious (secular) philanthropic tradition. Secular forms of organized philanthropy date back to the middle of the 15th century, when the first charitable brotherhoods were founded. These organizations, although secular, were deeply rooted in religion and closely related to the Catholic Church. One of the oldest charitable brotherhoods, the Saint Lazar brotherhood, was established in Cracow in 1448 and aimed to provide relief to the poor. More than a century later, priest Piotr Skarga founded the Misery Brotherhood, first in Cracow and then in Warsaw. Among its members were eminent personalities like King Zygmunt III. This brotherhood was particularly active in raising and distributing charity to the poor and the ill, as well as prisoners. In 1591, Saint Lazar hospital was founded in Warsaw to aid society’s most needy (Bunsch-Konopka, 1985). Beginning in the 14th century during the Piast and Jagiellonian dynasties, public authorities gradually also became involved in regulating relief for the poor and disadvantaged. One of the earliest examples of public intervention in this realm was King Kazimierz the Great’s statute on mental illness, created in 1347. In addition to charitable and philanthropic organizations, another significant element of voluntary activity in the medieval era was the guilds and livery companies of the early 14th century. As elsewhere, they existed to control production and prices, as well as quality of workmanship, but they also played a role in welfare provision.

The period between 1496 and 1768

The second sub-period in the Old Polish era dates back to the end of the 15th century. At that time, public authorities introduced several repressive legal measures in response to increasing numbers of poor people. In 1496, King Jan Olbracht issued a statute defining the number of beggars allowed in towns and rural areas. Similar to measures adopted by public authorities in France, Germany and England, the Jan Olbracht Statute aimed to “license” begging by establishing so-called “beggars’ contingents.” In 1529, King Zygmunt Stary issued regulations concerning the mentally ill, which some authors call the first psychiatric acts in Polish history (Bunsch-Konopka, 1985). Vagrants and beggars were perceived as posing a threat to the social order, as were those dispossessed of land due to changes in the feudal economy and, to a lesser extent, the urban poor. Landed gentry imposed restrictions on the development of cities, which limited free trade and brought some bourgeoisie to the verge of poverty (Góralski, 1973). Undoubtedly, the growing population of the poor and the pressure to introduce anti-poverty measures spurred public authorities to take more responsibility for poor relief. From the end of the 15th century to the late 18th century, there was a diarchy between the Catholic Church and municipalities over the control of hospitals.

Another impulse for developing secular voluntary institutions in Poland accompanied the Reformation period. Although the Reformation in Poland was short-lived and Catholicism was soon restored, hospitals were viewed as secular institutions supervised by state authorities during this time. In this spirit, Andrzej Frycz Modrzewski—an outstanding politician, philosopher and reformer of the 16th century—advocated in his treatise, *De Republica Emendanda*, the creation of a separate lay office to care for the poor. This office would have at its disposal state property designated for relief work. Modrzewski promoted public control over hospitals and almshouses as well as the introduction of a special tax to assist the “deserving poor” (Góralski, 1973; Bunsch-Konopka, 1985). Bunsch-Konopka has argued, “In Poland, the demand for control over charity work has been a question of economics and merits” (1985, p.14). The economic argument was that Church charity, then the sole provider of formal philanthropy via hospitals and almshouses and nearly all forms of charitable giving at that time (e.g. bequests, donations and foundations’ support), was entitled to tax-free wealth.

The clergy enjoyed several privileges, including exemptions from property taxes and other obligatory contributions, as well as entitlements to bequests in the form of land. This endangered the economic position of the landed gentry, who were obliged to pay taxes and were under growing financial pressure, threatened with the gradual loss of their land (Bunsch-Konopka, 1985). As a result, in 1669, the Parliament introduced legislation that limited the rights of the clergy regarding the acquisition and inheritance of land properties. Beyond the economic argument, there was also concern about the Church’s placement policies in hospitals. Despite the fact that municipalities contributed financially to almshouses and hospitals, they had little, if any, influence on admission policies and supervision of these institutions. Admissions rules favoring the religious poor became the heart of disputes between lay authorities and the clergy (Góralski, 1973).

Municipalities were not in a position to take the control of hospitals away from the clergy because the Council of Trent (1545-1563) as well as local councils of Polish clergy solely entrusted bishops with charitable work. Another important factor diminishing the “bargaining” position of lay authorities vis-a-vis the clergy was a collapse of towns and their middle classes (Góralski, 1973). Finally, the conflict between lay municipalities and church authorities over the supervision of hospitals was won by the Church. According to Góralski (1973), this was because the clergy used hospitals as centers for ministering to their parish and as locations for church servants, rather than as a place for the city poor.

Merchant and trade guilds became important forms of civic and welfare organizations in Poland in the Middle Ages and Renaissance because they rendered support to needy members of corporations. The first friendly societies for miners were established before 1526 in the Opole region of Silesia. It is widely believed that friendly societies founded in the 16th century gave birth to mutual insurance societies in Poland later on (Banasiński, 1983). More generally, in this time period, Poland adopted, along with Christianity, “the complex institutions of Occidental feudalism with their notions of contractual obligations of rulers, division of secular and religious power, and most importantly, institutions of local and city self-government” (Lubecki, 1997).

The period between 1768 and 1795

The third phase in the Old Polish era started in the Polish Enlightenment period under the reign of the last Polish King, Stanislaw August Poniatowski. Although this period covers fewer than thirty years in Polish history, it is important because of political dynamics that led to the country’s loss of independence in 1795. Beginning in the 16th century, Poland developed an agriculturally based farm-village economy (*gospodarka folwarczno-pańszczyźniana*) (Topolski, 1992) and a political system—landed gentry democracy (*demokracja szlachecka*)—in which landed gentry held positions of power. In the 18th century, Poland experienced a crisis in the feudal economy that led to the diversification of land-holding structures and class cleavages in the countryside. This, in turn, contributed to increases in the number of rural poor, who moved to urban areas. As Góralski has noted: “Difficult economic conditions have led to a situation where those who were not working became a burden on their families and villages. The elderly and the handicapped were practically dependent only on themselves” (1973, p. 6) .

Beginning in the Enlightenment period, rivalry between the landed gentry and nobles for political leadership in the country became fierce. This is why there were not major efforts toward social reform during the first part of the Enlightenment period in Poland (Radwan-Pragłowski and Frysztacki, 1996). With the establishment of the *Boni Ordis* Commission for Old and New Warsaw by King Poniatowski in 1765, however, an important development took place. Although its central aims were urban reform and improvement of both the financial base and the infrastructure of ruined cities and towns, the *Boni Ordis* Commission was also assigned to provide poor relief and to control hospitals. In particular, the Commission’s role was to control vagrants and beggars by sending those who were unable to work to hospitals while the others were punished, expelled from town, or employed to do public works. In 1768, Parliament decided to set up this type of commission in other royal cities (Srogosz, 1989).

These initiatives were followed by the ground-breaking establishment of the Commission Over Hospitals in 1775, which essentially contributed to the emergence of modern state administration in the fields of welfare and health. The Commission's main tasks were to oversee hospitals and charitable activities as well as to introduce measures against begging. It was active for only a short time period (1775-1780), however, and was not very successful.

Nevertheless, the emergence of a central state administration in the fields of social assistance and health should be seen as a state attempt to introduce non-sectarian projects into a realm almost entirely controlled by the Church. Thus, according to Bunsch-Konopka (1985) and Srogosz (1989), despite its weaknesses, the so-called Constitution of Hospitals of 1775 indicated the beginning of modern state intervention in social welfare. Such institutional developments might be interpreted as the next steps in a process of secularization of control over charitable activities. After 1780, the Commission Over Hospitals was officially dissolved by the Parliament and replaced by a *Boni Ordinis* Commission. Based on a registry published in 1791, there were at the time 497 hospitals in Poland with over 5,000 residents (Góralski, 1973).

THE PERIOD OF PARTITION (1795-1918)

The patriotic tradition, the second major source of inspiration for Polish voluntary organizations, is closely connected with Poland's loss of sovereignty (1795-1918). Poland was divided between the Russian, German and Austrian empires, and adopted the social, economic and political institutions of these territories. Occupying powers assumed control of Polish charitable institutions. Although there were different public welfare structures in each of the occupied parts of Poland, responsibility for the provision of welfare for permanent residents generally remained at the community level.

According to Bunsch-Konopka (1985), "During the 19th century in Polish lands under partition, there was rapid development of private philanthropy, and charity took various forms" (p.22). Loss of sovereignty and social challenges accompanying the Industrial Revolution contributed enormously to the development of various philanthropic, educational, economic and political associations within the Polish territories under partition. This development, which was religiously and patriotically motivated, was a response of the Polish landed gentry, clergy and later, the intelligentsia, to:

1. the need to maintain national identity and regain sovereignty, and
2. the deteriorating living conditions of the Polish nation marked by such factors as an increase of poverty and juvenile delinquency.

Three major types of voluntary organizations during the partition period include independence-oriented political clubs and societies, educational and philanthropic organizations, and economic corporations. The main goal of patriotic organizations was to regain independence through national uprisings and to press for social reforms. Examples are the Patriotic Society of the November 1830 National Uprising and the patriotic circles of the January 1863 National Uprising.

Polish philanthropy aimed to help those who had suffered economically due to widespread industrialization and urbanization, as well as those who were politically and economically repressed due to their opposition to the occupying powers. Philanthropy and voluntary efforts such as religious and nonreligious associations, foundations, social and economic societies, mutual benefit associations, cooperatives, savings banks, and movements (both officially registered and unsanctioned) assumed the role of non-existent Polish public institutions. They bolstered the national spirit and sense of solidarity, helped to preserve Polish culture and organized adult education as well as charity work. Charitable activity during this period was thus often perceived not only as the rendering of assistance to the needy, but also as a patriotic obligation (Bunsch-Konopka, 1985). As Radwan-Pragłowski and Frysztacki said, “All kinds of social activity and philanthropy have found a new, higher goal: God and human beings were to step down to give room to the nation” (1996, p. 243).

After three unsuccessful national uprisings, Polish activists and philanthropists of the 19th century sought ways to regain national sovereignty. They decided on economic development and the provision of both education and charity to the working class, rather than military action against the invaders. At the heart of this plan was a concept called positivism, or the deliberate effort to bridge the gap between social elites and working class segments of society by raising educational and economic levels. This gave rise to numerous institutions in the fields of welfare, health care and education, and stimulated cooperative movements as well as Christian trade unions (Radwan-Pragłowski and Frysztacki, 1996).

In Polish lands under Russian occupation, the Warsaw Charity Association was established in 1814 by eminent personalities including Zofia Czartoryska-Zamoyska, Adam Czartoryski, Stanisław Staszic and Jan Ursyn Niemcewicz. The Association was active in the fields of child care, the provision of crèches, and the organization of orphanages, soup kitchens, shelters, and employment offices. As the century progressed, Karol Marcinkowski established several associations aimed at developing educational and economic activities in lands under German occupation. The Society for Helping the Poor of the City of Poznań and the Society of Scientific Assistance are examples. Since 1871, people’s banks and cooperative movements were initiated by priests Augustyn Smarzewski and Piotr Wawrzyniak and counteracted the severe anti-Polish policy that began after 1851 in the German occupied partition. In Cracow (then under Austrian occupation) in 1886, Albert Chmielowski, a painter, established a monastery named after himself—Tertiaries of Brother Albert.

Towards the end of the 19th century, there were many social, educational and health care initiatives, such as the Society of Summer Camp, which formally registered in 1897 but had been informally active since 1881. Its supporters included famous novelist Bolesław Prus and physician and pedagogue Janusz Korczak. The Society was entirely funded by private philanthropy. Other social and philanthropic initiatives of that time included the Warsaw Hygienic Society and the Society against Tuberculosis. The former was active in organizing education and welfare for children. The latter set up the first rehabilitation centers to fight tuberculosis. The Society against Tuberculosis was supported by eminent founders including the famous Polish novelist Henryk Sienkiewicz; a well-known composer and politician, Ignacy

Paderewski; and the influential Zamoyski and Krasinski families. At this time, philanthropy was broadly perceived as a vital mechanism paving the way towards the independence of Poland.

SECOND REPUBLIC OF POLAND (1918-1939) AND WWII PERIOD

Another source of inspiration for the development of voluntary organizations was the Polish Second Republic (1918-1939). In 1918, Poland regained its independence after 123 years of partition. The inception of parliamentary democracy brought political, social and civil rights (including the right to associate), as well as a modern social welfare system. Voluntary organizations, including many religious and ethnic associations and foundations (Catholic, Jewish and Ukrainian), played a significant role in society. These groups complemented local self-government by providing education, culture, health, welfare and sports services. Foundations and associations were vital to Poland's recovery from WWI in terms of material losses and the complex legacies of partition; voluntary organizations helped to shape national identity, develop a sense of common good after years of partition, and reintegrate Polish society. Legally, associations were regulated by the Temporary Decree on Associations of 1919, until 1932, when a new Act on Associations was enacted. The 1919 decree authorized the Ministry of Interior or (upon its acceptance) local administrative authorities to register associations. During the Inter-War Period, there was no overall legal framework on foundations. Laws regulating their existence were inherited from the pre-1918 period; therefore, different regulations existed in each of the three former territories.

During the German occupation of World War II, activities of the majority of formal voluntary organizations were suspended. The only exceptions were the Polish Red Cross (PRC) and the Central Welfare Council (CWC). Their activities were heavily limited and controlled by the German occupying authorities. However, in German occupied Poland (*Generalna Gubernia [GG]*), the Polish Red Cross was very active and supported thousands of wounded Polish soldiers who participated in the 1939 defense of Poland. During the Warsaw Uprising of 1944, Red Cross staff—mostly volunteers—provided medical assistance in hospitals and medical stations, ran soup kitchens, provided in-kind support, and ran an information bureau providing information on soldiers and civilians who were killed or missing (Raczyńska, 1974). The Central Welfare Council, founded in 1940 in Cracow, represented Polish voluntary welfare organizations in German occupied Poland. As the Council's charter stipulated, membership in the Central Welfare Council neither restrained member organizations' autonomy nor dispossessed the organizations of their properties. In 1942, however, German occupying authorities changed the statute, depriving member organizations of their independence and revoking their statutes (Kroll, 1985).

During WWII, the tradition of Polish patriotic voluntary action dating back to the partition period was an important source of inspiration for self-defense. The Polish Underground Movement, the continuity of the Polish State Organization, and the existence of the Polish Underground Army were unique in Europe (Karski, 1999). One of the most outstanding civic efforts during WWII in the field of education was the organization of clandestine study groups at all levels of education in German occupied Poland. It is also important to stress the courage of welfare workers and volunteers engaged in relief work during this period.

During the German occupation, nearly 20 percent of the Polish population was killed as a result of the German extermination policy. Poland's social development was affected profoundly. Material losses were estimated to be 38 percent of Poland's assets, or 16.9 billion dollars. The losses incurred per citizen were the greatest of all countries involved in WWII (Rosner, 1976). While data on the German extermination policy in Poland during WWII are easily available, and the contribution of voluntary action to the resistance movement has been at least partially documented, repressive Soviet policy towards Poles living in Polish Eastern territories is less well-known. These areas were invaded and captured by the Soviet Union in 1939. As a result, voluntary actions that occurred in this area are not common knowledge. In the 1940s, an informational embargo was enforced by the communist authorities to cover up Soviet policies of repression and extermination. Only recently have the first documents been published on the Soviet extermination policy of Poles living in the northeast and southeast sections of the Polish Eastern territories (Jasiewicz, 1997, Rev. Anczarski, 1998).

POST-WWII PERIOD

After 1945, Poland developed strong associations despite the system of mass terror that had been installed in 1944. During the years 1944 to 1948, legal and underground political opposition was suppressed. Later, the aim of communist state repression turned to society at large (Paczkowski, 1998). However, the immediate post-war period, voluntary organizations concentrating on the needs of war victims, repatriates, migrants and the most destitute acted relatively freely. Between 1945 and 1947, voluntary organizations (both sectarian and non-sectarian) provided in-kind relief; ran hospitals, schools and homes for the elderly; and organized after-school activities, summer camps, orphanages and other services for youth (Leś, 1991).

Beginning in 1948, the activities of voluntary organizations were subject to strict political and administrative controls, particularly in areas where the communist state controlled all aspects of life. Private schools, hospitals and charities run by individuals and religious orders were among the first targets of a suppressive state policy. Schools in particular were the first targets of a "war" on the Catholic Church. In 1948, along with the abolition of private religious education, the communist authorities financially and organizationally supported the development of schools run by the atheistic and quasi-voluntary Workers' Society for the Friends of Children. After 1948, this group was known as the Society for the Friends of Children. Communist repression also affected civic activity in public schools. In 1949, for example, the authorities forbade elections for parents' councils (Żaryn, 1997).

POLAND UNDER COMMUNISM: 1948-1989

Besides a short period of independent voluntary work following the war, the communist era was unfavorable to voluntary organizations in Poland. Despite constitutional guarantees of the freedom to associate, political and legal restrictions severely limited the scope and character of civic, charitable and other voluntary organizations existing between 1948 and 1989. Those that did survive had to complement the objectives of the communist state, depriving them of their greatest strength—the ability to define and meet human needs independently.

With the exception of three short periods when the freedoms of association and expression were allowed, intermediary bodies in Poland were not autonomous between 1948 and 1989. Instead, they served as “transmission belts” for state policies (Ehrlich, 1980). As a result, the self-organization of Polish society was subject to three major restrictions and prohibitions (Leś, 1995):

1. Many voluntary organizations never received permission from administrative authorities to formally establish themselves. For example, the veterans of the 1939 defense of Poland were not allowed to associate formally during the communist period (Drapella, 1992).
2. Various voluntary organizations, charitable institutions, schools run by religious orders and health and welfare facilities that existed before WWII, or were created just after 1945, were eliminated from public life in the 1940s and 1950s. Their property was confiscated and nationalized despite the high prestige and impressive organizational output of these organizations.
3. Voluntary organizations that were permitted by political authorities, including the Polish Red Cross, the Polish Women’s League and the Polish Committee of Social Assistance (founded in the 1940s and 1950s), continued their activities. However, the activities of these groups were required to complement the political and welfare objectives of the communist state; the groups could not determine their mission independently (Leś, 1995).

On October 2, 1947, the Law on Associations of 1932 was amended for the first time. Based on new regulations, all Catholic associations—including youth associations—were required to obtain authorization from the government. This was the opposite of the previous legislation and allowed the political and administrative authorities to extend control over Catholic organizations. Associations such as Caritas, the Catholic Youth Association and Saint Zyta’s Association were registered according to the new regulation (Żaryn, 1997, p. 165).

Two years later, on August 5, 1949 a decree was introduced which, together with the earlier amendments, changed the pre-war Law on Associations of 1932. The changes applied to central parts of the legal framework, including the freedoms of expression and association. According to the new regulations, associations were obliged to register and to adjust their statutes to the government’s requirements within three months (by November 4, 1949). From 1949 to 1989, the registration authorities were in the position to deny registration to an association if it did not serve a purpose of public good. Ample ground for abuse stemmed from the fact that administrative authorities predetermined whether an initiative met the public purpose criterion. The concept of public good was not clearly defined and the law on associations was not subject to court control. While associations were either dissolved or became subject to tight administrative control, foundations were entirely liquidated. Their activities were perceived by the communist state as useless and even harmful. Based on a decree passed on April 24, 1952, foundations were dissolved and their property was nationalized. Until the 1980s, the only allowable legal form for voluntary organizations in Poland was the association.

Consequently, the number of voluntary organizations decreased drastically. Between the late 1940s and early 1950s, charitable activities of the Catholic Church were liquidated. In 1950, the Catholic Church was dispossessed of its principal charitable organization, Caritas, including numerous residential facilities and community resources such as soup kitchens and missions in rail stations. Moreover, hospitals run by religious orders and Catholic schools were closed. This also happened to numerous nonsectarian groups. Due to the legislation on associations of 1947 and 1949, many groups were dissolved, including voluntary organizations with long and outstanding records. The Warsaw Charity Society, the Workers' Universities Societies, the Society of Popular Reading Rooms and the YMCA all folded.

On the other hand, "social organizations of working people" including state-dependent trade unions were allowed and even encouraged to exist because they complemented the political and welfare objectives of the communist state. However, the prevailing ideology of centralism and a highly formalized model of public life led to state control over defining and meeting social needs. There was a particular focus on upgrading working and living conditions, alleviating social inequalities and initiating self-help activities (Leś, 1995). As a result, by the beginning of the 1980s, "mass social welfare" organizations provided assistance and services for up to 15 percent of at-risk populations including the bed-ridden elderly and drug addicts (Tobiasz, 1986).

However, quasi-voluntary organizations, including the Polish Red Cross, the Polish Women's League, the Society of the Friends of Children, the Society for Polish-Soviet Friendship, the Polish Scouts Associations, trade unions and various peasants' organizations like Peasants' Self-Help (SCH) and the Union of Agricultural Cooperatives and Organizations, were deprived of the autonomy to define and meet public needs (Leś and Piekara, 1988). Government interference in the organizational functioning of citizens' groups took different forms: from the imposition of statutes and by-laws to the creation of direct and indirect restrictions and prohibitions. Political authorities in Poland, under the principle of "ideological and organizational unity," exercised tight control over staffing decisions and monopolized the distribution of financial resources (Leś, 1994). Severe limitations on the self-organization of Polish society between 1947 and 1989 discouraged a significant part of the population from participating in organized activities. This rendered voluntary organizations unable to meet urgent social needs in post-WWII Poland (Leś, 1995).

The Roman Catholic Church, parishes and religious orders were the few institutions not dependent on government financial resources. Thus, they were able to enjoy internal autonomy. In the years 1950 to 1980, despite being dispossessed of Caritas, the Roman Catholic Church was active in the delivery of community services to the needy through its parish network. In the beginning of the 1980s, the role of the Roman Catholic Church in welfare work increased. It became the main distributor of relief aid sent to Poland from Western countries after martial law was imposed on December 13, 1981. It is not an exaggeration to claim that the Catholic Church in Poland played a crucial role in combating social apathy, enlivening the spirit of self-organization in Poland, and encouraging the struggle for democracy that gave rise to the Solidarity trade union movement.

Another crucial source of inspiration for the rebirth of voluntary organizations in Poland was the deterioration of the socialist welfare state. Beginning in the late 1970s, the model of the socialist welfare state eroded in Poland. The communist government was forced to tolerate and recognize sectarian and non-sectarian voluntary organizations in the field of social assistance (Leś, 1994).

In the 1980s, two trends developed. On one hand, the activities of many quasi-voluntary organizations declined; on the other hand, alternative, independently organized civic initiatives such as discussion clubs, scientific circles and self-help welfare initiatives grew. Many found their shelter in the Church, including Solidarity's civic committees, informal support networks and various new voluntary groups (Leś, 1994). As the crisis of the communist system continued in the 1980s, accompanied by a growing dissatisfaction with the political and socio-economic system, the regime tried to introduce some institutional experiments in order to channel social activity and keep active citizens out of the opposition movement. As a consequence of this policy, the legal situation of voluntary organizations in Poland gradually improved starting in 1984. The Roman Catholic Church put pressure on the communist government to issue a law on foundations—originally with the aim to set up an agricultural foundation. That concept was realized due to the communist authorities' refusal to create an independent foundation supporting farmers; instead, the regime has allowed for enacting a legal form of foundation. The Law on Foundations was issued in 1984—three years after martial law was introduced and 32 years after foundations were legally excluded from the Polish legal system (they were liquidated together with elimination of church-run charitable institutions as a part of communist effort to gain control of all social activity).

The 1984 Law on Foundations should be perceived as an important institutional innovation in public life. It was introduced as an experiment with a more flexible institutional order. The legalization process of informal initiatives continued into the late 1980s and included the new Law on Associations of 1989 and the Act on the Relationship between the State and the Roman Catholic Church of 1989, which regulated the legal status of the main church in Poland. The legal position of other churches and their religious organizations was regulated by the Act on the Freedom of Expression and Religion, which was issued at the same time. Legislation on other nonprofit organizations, such as political parties, trade unions, chambers of commerce and associations of employers, was introduced at the turn of the 1990s.

RECENT HISTORY

Poland has experienced a renaissance of civic voluntary initiatives since 1989. In the years between 1992 and 1997, the number of foundations nearly doubled and the number of associations quadrupled. The increase in registered nonprofits was characteristic of most of the decade, but the end of the 1990s saw a decline in the dynamism of the nonprofit sector (*Zmiany Strukturalne*, 2000). According to our estimates, there were approximately 50,300 active nonprofit entities in Poland in 1997.² Associations and other social organizations were the most

² Taking into account that not all registered nonprofit entities are de facto active, we estimated (based on the 1998 census of nonprofit organizations carried out by the Central Statistical Office) that 85 percent of those registered are active organizations, while the remainder have been dissolved or are otherwise inactive.

numerous (36,000, including voluntary fire brigades), followed by labor unions (8,100), foundations (3,100), professional, business and employers organizations (2,100), church-based social institutions (900) and political parties (100). Polish voluntary organizations target many age groups: children, youth, the middle-aged, and the elderly. Their main activities include social services, sports and recreation, education, professional and labor union services, health care, art and culture.³ One of the major motivations for the evolution of social organizations after the breakthrough of 1989 was the existence of gaps in the institutional infrastructure of the social welfare system. This will be discussed in detail in a later section.

Major Types of Nonprofit Organizations

The structural-operational definition of the nonprofit sector used by the Johns Hopkins Comparative Nonprofit Sector Project (Salamon et al., 1999) covers several types of nonprofit organizations and institutions. These legal entities are governed by the Law on Associations and the Law on Foundations, respectively. Other types include social organizations, political parties, trade unions and professional organizations, and church-based nonprofits.

ASSOCIATIONS

According to the Polish Law on Associations, enacted in 1989 and amended in 1990, associations (*stowarzyszenia*) are defined as voluntary, self-governing, nonprofit, permanent unions of individuals aimed at fostering active participation in public life, actualizing individual interests, and expressing different opinions. An association may exist in three legal forms: unincorporated associations, incorporated associations, and unions of associations.

Unincorporated associations (*stowarzyszenia zwykłe*) can be established by a minimum of three people. These groups must notify local supervisory authorities of the intention to establish an unincorporated association. If, within 30 days of the date of notification, no prohibition is issued, the group may start operating. While these associations do not have legal personality, they have court and proceedings capacities. They are not allowed, however, to form local affiliates or become members of a federation of associations. Unincorporated associations are also forbidden from carrying out economic activities and may receive funds only from membership fees.

Incorporated associations (*stowarzyszenia zarejestrowane*) can be established by 15 or more people. Under the Law on Associations of 1989, an incorporated association must register in a court, but unlike an unincorporated association, it does not need the permission of administrative authorities to register. The organization must declare articles and bylaws, elect a founding committee, report on internal elections, and have a provisional address. The right to establish an association belongs to natural persons exclusively; juridical persons may only be supporting members of a registered association. A registration application containing a declaration of articles must be filed in the registry court. The association should receive a reply from the registry within three months.

³ The above ranking of fields of activities is based on the scope of full-time employment in a given field.

An association becomes a legal entity when its registration is accepted by the court. However, according to the public administration reform of 1999, self-governing local authorities must be consulted by the court in this respect. The right to register an association can be exercised by Polish citizens in good legal standing. The right to create associations may be extended to foreigners residing in Poland, as well. Those not living in Poland may become members of an association only if foreign members are provided for in the association's articles. According to Polish law, registered associations may carry on economic activities but any profits must be used to perform activities stated in the declaration of articles. According to the new regulations, self-governing local authorities are obliged to monitor activities of associations and are in a position to request that a court dissolve an association.

The third legal form for nonprofit organizations is unions of associations (*związki stowarzyszeń*). In order to establish a union of associations, at least three registered associations must participate. Foundations can be members of such unions.

It is worth noting that among the nonprofit organizations covered by the Law on Associations are organizations such as voluntary fire brigades, which are very numerous. Sport clubs that are not registered as commercial companies, their unions and pupils' sport clubs are subject to the Law on Physical Culture of 1996.

FOUNDATIONS

Nonprofit organizations can also take the form of foundations. In Poland, foundations are registered by the Commercial Court of Warsaw or by a Voivodship's Court if the scope of the foundation's operations does not exceed one *voivodship* territory. Registration proceedings are free of charge. A foundation may be established by either a natural or a juridical person, regardless of citizenship and residence. There is no legal definition for foundations; however, the Act on Foundations of 1984 and the amendment of 1991 stipulate that the major features of foundations include legal personality, a non-profit-making purpose, and a declaration of aims stated in the founding act.

Foundations are created to fulfill socially or economically useful purposes. These include health care, the development of economy and science, education, culture and fine arts, welfare, environmental protection and the protection of historical monuments. According to Polish law, a foundation can participate in economic activities that will help it to reach its aims, provided that economic activity is outlined in the foundation's statutes. Economic activities cannot be the main aim of a foundation, however. The law forbids foundations to engage solely in fund raising. If a foundation does not engage in economic activities, the initial value of resources required for registration is 1,000 zlotys. If it participates in any economic activity, the seed money for that activity should exceed 1,000 zlotys (currently courts require more than 2,000 zlotys). Economic activities should be clearly defined in the foundation's statutes and, in contrast to many countries, cannot be mission related, meaning that the content of economic activity should not resemble the foundation's aims. The fact that foundations are permitted to undertake economic activities is already a controversial issue (Sagan and Strzępka, 1992); the requirement that the economic activity be unrelated makes it even more controversial (Izdebski, 2000).

Every foundation has a designated supervisory public institution according to the field of its activity. These supervisory institutions (e.g. Ministry of Education, Ministry of Health) should monitor foundations' activities and have the right to request that the court liquidate a foundation.

TRADE UNIONS, PROFESSIONAL ORGANIZATIONS AND UNIONS OF EMPLOYERS

According to the Law on Trade Unions of 1982 and its subsequent amendments, labor unions may be set up at the company, inter-company or national level. In addition, national federations of trade unions may be created. The Law on Trade Unions stipulates that union activities are regulated by the statute; within its scope they are not subject to other state supervision and control. In order to obtain legal personality, a trade union should register either in a Voivodship Court (for company and inter-company trade unions) or in the Voivodship Court of Warsaw (for nationwide trade unions, federations of trade unions and inter-union organizations). The law stipulates that enterprises provide in-kind support for the trade unions proportional to the number of their members among the employees. Trade unions together with organizations of employers and public authorities negotiate the welfare system changes and employee-employer relation regulations within the special institution called the Three Parties Commission (*Komisja Trójstronna*). Other types of nonprofit organizations such as business and professional organizations operate under separate legal acts: respectively, the Law on Chambers of Commerce (1989), the Law on Socio-Professional Organizations of Farmers (1982), and the Law on Professional Self-Government on Selected Economic Entities (1989). The obligatory membership chambers such as doctors chambers and lawyers chambers have separate laws referring to them exclusively, but they are not included in the nonprofit sector.

POLITICAL PARTIES

Political parties focus on public participation, especially within state politics. A political party is granted legal personality after it registers with Warsaw's Voivodship Court. The legal act regulating the activities of political parties is the Law on Political Parties of 1990 and its subsequent amendments (1997). The recent changes in the law on political parties have aimed to widen the public financial support and limit the business influence on political parties.

CHURCH-BASED NONPROFITS

Other nonprofit organizations operating within the contemporary Polish legal system include churches and their entities such as church-run schools, universities, hospitals, and nursing homes as well as Caritas and semi-membership organizations like Catholic Action (*Akcja Katolicka*). The legal status of the Roman Catholic Church and its organizations is regulated by the Act on the Relationship between the State and the Roman Catholic Church of 1989. According to this law, the following Church structures enjoy legal personality: the Polish Episcopate's Conference, territorial organizational units of the Catholic Church, institutes of consecrated life, seminaries, other organizational units of the Catholic Church, and universities and higher education institutions that are based on ecclesiastical law. In addition, other organizational units of the Catholic Church may obtain legal personality based on the regulations

issued by the Chief Minister of the Office of the Council of Ministries. The Act had significant implications for Church-based nonprofits. The Act enabled the Church to rebuild some of its charitable and educational institutions. Another act of utmost importance for the Roman Catholic Church was a Concordat between the Apostolic See and the Republic of Poland ratified in 1998. The Concordat further strengthened the Church's rights to perform activities in the field of charity, and its rights were made formally equal with the public institutions.

The legal status of other churches and their non-religious institutions is regulated by the Act on Guarantees of Freedom of Conscience and Freedom of Religious Persuasion of 1989. A church or religious union may obtain legal personality after submitting a declaration of the group's statutes to the Office of the Council of Ministers and entering in the register.

SOCIAL ORGANIZATIONS

Social organizations are another type of nonprofit organization that includes both surviving communist-era social organizations and other non-governmental organizations, which are not covered by the above mentioned laws on associations, foundations, labor unions, parties etc. Before 1989, social organizations fit the category of quasi-voluntary organizations. The term "social organization" is still used, but presently refers to a wider spectrum of organizations. The Law on Associations does not apply to social organizations such as the Polish Red Cross, the Polish Allotments Union, or the Polish Hunting Union. These organizations are regulated by specific legal acts: respectively, the Law on the Polish Red Cross, the Law on the Polish Allotments Union and the Law on the Polish Hunting Union. In addition, there are other social organizations that are hardly regulated by any of the existing laws. Regardless of whether they are regulated, if such organizations as committees or councils of parents, self-governing organizations of pupils existing in schools as independent bodies, or committees building local infrastructure are registered, they are included in the nonprofit sector as social organizations.

The formal nonprofit sector does not include many grassroots networks or informal groups (either non-sectarian or sectarian). However, these groups are important citizens' initiatives. School-based environmental protection clubs, charitable committees of parishes, and self-help groups are examples.

Treatment of Nonprofit Organizations in Tax Laws

Associations, foundations, and other nonprofit organizations are subject to the same taxes and to the same public and legal fees as all other legal entities (such as commercial law companies, enterprises, etc.). Therefore, tax benefits are granted not on the basis of an organization's legal status, but on its pursuit of specific public purposes. Tax exemptions apply to all legal personalities, including associations and foundations engaged in scientific and technical research, education, culture, sports and recreation, charity, health care, social welfare activities, vocational and social rehabilitation of the disabled, religious worship, environmental protection, and construction of roads, telecommunication networks and the water supply (Kurczewski, 1997). In addition, foundations are exempt from court registration fees while associations are not.

Nonprofit organizations engaged in education, health care, social welfare activities, sports, recreation and culture are exempt from the goods and services tax (VAT).

Nonprofit organizations and other legal entities are eligible to receive tax deductible donations. This assumes that they are engaged in a range of public activities and that their aims are not financial. In Poland, both individuals and corporations are eligible for tax deductions up to either 10 or 15 percent of taxable income if the contributions support the following public causes: religious worship, charity, social care, public safety, national security, environmental protection, municipal housing and fire protection units (10 percent deduction); and scientific, educational, cultural, fitness and sporting activities, health, social welfare, vocational and social rehabilitation of the disabled, construction of roads and telecommunication networks and water supply (15 percent deduction).

Defining the Nonprofit Sector

The structural/operational definition of the voluntary sector has many requirements. First, a nonprofit organization must be organized or institutionalized to some extent. Institutionalization is easily indicated for organizations that are registered in court or at least registered in the Central Statistical Office register KRUPGN⁴ (an organization cannot get a bank account unless it is in the register). However, there are also a variety of informal initiatives, including local neighborhood committees, committees of parents supporting public schools, and charitable parish committees, that satisfy the institutionalization requirement even though they are not formally registered.

The second criterion—structural independence from the government—is particularly relevant due to the communist state's suppression of voluntary organizations' ability to decide a course of action independent from the government. Since 1989, however, nonprofit organizations in Poland can be formed by voluntary acts and are not subject to tight political or administrative control. Thus, maintaining structural independence from the state is no longer a challenge. A factor that may present more of a threat to organizations' independence is that they have to rely on various funding sources. A problem with this criterion arises when classifying foundations established by the National Treasury (*Skarb Państwa*) or other public funds. The state-established foundations were founded by the central government or local governments with endowments from the public budget, para-budgetary funds and/or foreign aid. Although these foundations are structurally independent once they are established, state agencies exact certain control over their operations by placing a few government officials on their boards. Despite these difficulties, state-established foundations are included as part of the nonprofit sector because they are not part of the direct state administration.

Public or designated funds (*fundusze celowe*) are even more challenging to classify. Special state agencies including the National Veterans' Fund, the Public Fund for Rehabilitation of the Disabled, the Labor Fund, and the National Fund for Environmental Protection and Water Management are budgetary funds that provide financial support for selected social causes. Their funding policies are more flexible than those of the state administration. Both commercial and

⁴ Official Register of National Economy Entities (*Krajowy Rejestr Urzędowy Podmiotów Gospodarki Narodowej*).

nonprofit entities compete to get grants or other types of state support via these funds. Designated budgetary funds are regulated, supervised and controlled by their respective ministries. Therefore they are excluded from the realm of the nonprofit sector.

The third definitional criterion, self-government, is considered an indispensable element of nongovernmental organizations. This criterion poses an issue with many types of organizations closely connected to other institutions. Most committees of parents supporting public schools, for example, are not self-governing bodies. Instead, they are auxiliary entities supporting under-financed public schools and are usually subject to tight control from school administration. Some parents' committees, however, do meet the self-governing requirement and in fact have control over their operations, as evidenced by having their own bank accounts independent from the schools' bank accounts. Consequently, the definition of the nonprofit sector excludes the former but includes the latter committees. A similar situation holds with associations or foundations established adjunct to public or commercial entities to avoid the legal limits of the parent structures (e.g. foundations or associations supporting a particular public hospital, school, etc.).

The fourth criterion, the non-distribution constraint, is essential. This constraint is widely adopted in Polish literature on nongovernmental organizations. However, borderline cases include certain cooperatives and mutual insurance companies that share their profits with members. The Polish System of National Accounts classifies these entities as business enterprises. Therefore, there is no doubt that in the Polish circumstances cooperatives and mutual insurance companies should be excluded from the nonprofit sector.

The fifth requirement, volunteerism, is the last of the essential criteria. According to Central Statistical Office data, the majority of foundations and associations, as well as other nonprofit organizations, do not have salaried staff positions. Thus, volunteerism is an important factor defining Polish nonprofit organizations at large.

Except for nonprofit organizations run by volunteers (who often hold paying jobs elsewhere), the state-established foundations and private grant-making foundations rely almost exclusively on paid staff. Thus, they do not meet the volunteerism criterion. No legislation exists to regulate how (and if) board members are to be compensated for their services. The Law on Foundations does not forbid board members from being paid; on the other hand, the Law on Associations stipulates that members (including board members) must perform their functions voluntarily. In reality, some organizations pay fees to their board members or render compensations in-kind, while other organizations rely solely on voluntary services.

The second meaning of the term "voluntary" is "non-compulsory." It raises the issue of whether organizations with obligatory membership, including professional chambers and bar associations, should be included in the sector. Officially, these organizations are listed in the Polish System of National Accounts as a part of the nonprofit sector, but the structural-operational definition rules out such types of organizations.

In addition to the general defining characteristics of nongovernmental organizations, public benefit and political non-involvement are sometimes stated as necessary components of

nonprofit organizations. It is worth mentioning that the criteria-oriented structural/operational definition has its own precursor in the Polish literature. For example, Karpowicz (1977) identified three criteria for distinguishing social organizations—structural independence from state, permanent organizational structure and voluntary membership.

The Nonprofit Sector and Polish Society

THE NONPROFIT SECTOR AND CIVIL SOCIETY

In Poland, a discussion of the idea of civil society began in the 1970s. However, no profound debate or precise conceptualization of civil society emerged. The re-emergence of the term “civil society” occurred in conjunction with the crisis of communism in Central and Eastern Europe and gradually became a strategy of opposition (Ogrodzinski, 1991). In Poland, a moral (ethical) model of civil society prevailed until the breakthroughs of 1989. Common values, not economic interests, were perceived to be the basis for social independence. Social independence was to be achieved by enlarging private circles of freedom and by breaking down the state monopoly in the public sphere. This was attained by the establishment of organized voluntary groups beginning in the late 1970s (Leś, 1994).

The most frequently used terms at that time were “second or alternative society,” “the shadow society,” “parallel polis,” “self-governing republic,” or just “society,” as opposed to the communist, autocratic state. The concept of civil society as an alternative polis and program of moral resistance against the communist regime emerged in the 1970s and 1980s in close relationship with the Solidarity (*Solidarność*) trade union, and again after the breakthrough of 1989, with the post-communist transformation. According to Szacki: “Although civil society was discovered, at the beginning it was rather a discovery of the most general framework, which had much more resonance than meaning” (Szacki, 1997). Moreover, as some analysts have pointed out, the term civil society in Poland has been exploited by political elites of different political orientations, including communists.

Since the beginning of the transformation, a free market and restitution have been articulated as prerequisites for a rebirth of a developed civil society. The most basic systemic conditions required in order to recreate a civil society in Poland were perceived as being:

- Expansion of an “entrepreneurial and self-sustaining (*podmiotowej*)” mentality, which is characteristic of members of a civil society;
- Modification of hitherto dominantly passive and anti-individualistic mentality towards self-determination (*upodmiotowienie*); and,
- Reduction of state paternalism and defensive/reactive claimant type mentality vis-à-vis the state of traditionally vulnerable groups such as the elderly, the disabled and the chronically ill.

At present, civil society is not perceived as a parallel polis to the state, but rather as an “in between” actor, an intermediary creating opportunities to overcome contradictions between the

state and society. Thus, it enables a “client” to become a “citizen” through participation in public life. As Bronisław Geremek has pointed out, “A civil society is neither against the state nor is it a parallel polis. Nowadays, relations with the state are based on cooperation” (Geremek, 1994). It is crucial for the conceptualization of civil society that, as Szacki (1997) points out, there is a gradual movement away from a negative definition, which conceptualizes civil society as an opposition to the totalitarian state, and towards a positive concept in which the core elements of the definition are self-organization and participation in public life. These elements contribute to the reduction of social and political passivity as well as to the realization of public good.

Another description of civil society frames it as cooperation and discussion between various autonomous groups about public issues. These groups are created either along territorial communities, which are self-governing, or along common interests or causes. Nonprofit organizations are generally perceived as the actors in a civil society. This includes autonomous structures such as local, national and international associations, as well as social movements. Thus, the notion of civil society is broad and covers both individual and collective actions aimed at pursuing the public good. Currently the most frequent term used in Poland in connection with civil society is the term nongovernmental organization.

CURRENT TRENDS AND CHALLENGES

Between 1989 and 1990, Polish nonprofit organizations experienced systemic transformations including an unprecedented resurgence of foundations, associations, professional organizations and grass-roots initiatives. The rebirth of citizen participation can be explained partly by political and economic changes that followed the overthrow of the communist regime, and partly by deeply rooted religious, civic and cultural traditions of organized independent voluntary action, which date back to the 18th century. Another crucial impetus for the re-emergence of nonprofit organizations was the deterioration of the socialist welfare state. Growing institutional and administrative vacuums in the social welfare system and the decline in service coverage during the transition contributed to the establishment of new voluntary organizations. Foreign and international governmental and nongovernmental agencies also played an important role in reinstating nonprofit organizations in Poland in the early 1990s. International support was a crucial income source that helped the sector to stabilize, to shape its professional and ethical standards and to identify new fields of activities (Leś, 1994).

After the breakthrough of 1989, the fundamental principles underpinning voluntary organizations—freedom of expression and freedom of association—were guaranteed by the Polish Constitution. The severe limitations that prevented citizens from active participation in public life during communism were removed. Citizens are now generally free to take part in political activities and participate in elections. During the early stage of the transition, nonprofit organizations were widely believed to be a vehicle for political, economic and social reforms, and to be actors in the formation of civil society. Subsequently, however, an understanding of the role of nonprofit organizations in public life was widely questioned among dominating political elites. In the second part of the 1990s, the nonprofit sector both solicited reforms and acted as a watchdog of the democratic transition function. It seems that, after a period of diminished responsibilities, nonprofits have a much wider scope of concern, targeted both at the needs of

small groups and society at large. Nonprofit organizations thus gradually have been recognized as an indispensable element of the democratic system and an emerging actor in Poland's welfare policies. In the mid 1990s, the main challenges confronting the nonprofit sector in Poland were:

- to remain a guardian of democratic transformation and a restorer of civil society;
- to establish itself in the newly emerging welfare mix;
- to mitigate institutional crises and social conflicts in the transition period; and
- to counterbalance tendencies towards individualization and privatization of behavior in Polish society (Frysztański, 1996).

The changing role of civil society vis-à-vis the state presents another challenge. The antagonistic relationship that existed between the state and civil society during communism is gradually being replaced by cooperation. This presents both an opportunity and a challenge for nonprofit organizations as they engage in intermediary roles and try to overcome contradictions between the state and society. The role of social service providers in Poland's newly emerging welfare system is especially tenuous. While during communism social service providers operated at the margins of state social policy and were structurally dependent on the state, in the post-communist welfare state the ideology of paternalism in the public social welfare system was replaced by strategies that favored commercialization of social services over partnerships between public and non-profit providers in social welfare delivery. This strategy of commercialization driven by "market rationality" favors cost effectiveness at any price and at the expense of the public good, solidarity and altruism.

During the first years of transition, the activities of nonprofit organizations extended far beyond relief work into the fields of education, professional social services, religion, leisure and sports. However, these organizations have not been integrated into the social welfare system or conceptualized as part of an autonomous sector, such as the market and state sectors. In part this is why the nonprofit sector in Poland is at a crossroads in development. After the rebirth period (1989-1993), Poland's nonprofit sector reached the limits of its internal growth, both organizationally and financially.

The policies of Poland's political elite towards the nonprofit sector are still unclear. As a result, there is a lack of sound state policies vis-à-vis nonprofit organizations and a lack of clarity about institutional responsibilities among the public sector and nonprofits. This, in turn, greatly impedes the emergence of a new funding relationship between the government and the nonprofit sector. Such a relationship is crucial to the sector's survival because international financial support has shrunk and domestic private revenues are not sufficient to make up the difference.

Some observers have raised doubts about the effectiveness of a current civil society in Poland. They refer to the fact that "the most extensive, strongest organizations, associations, cooperatives, political parties and trade unions come from the ancient regime" (Smolar, 1996). It is also a challenge for the nonprofit sector to inspire citizen participation. According to opinion polls, 53 percent of Poles in 1992 (*Potrzeba Reprezentacji ...*, 1992) and 67 percent in 1995 (*Polacy – 1995*, 1996) declared that no existing civic organizations represented their concerns. At the same time, 54 percent of Poles indicated that they were interested in establishing a new

nonprofit organization that would represent their needs and interests (*Potrzeba Reprezentacji ...*, 1992).

RECENT LEGAL INITIATIVES

It needs to be stressed that in the new Polish Constitution of April 1997, subsidiarity is listed along with the protection of freedom, equality and social dialogue. These values are premises underpinning the democratic character of the political system in Poland. The principle of subsidiarity finds its application in ongoing administrative reforms aimed at the decentralization of the state. Undoubtedly, a policy of decentralization targeted at reinforcing local self-governing institutions through a new division of competence between central and local authorities is a clear sign of the application of the subsidiarity principle. On the other hand, there is very limited understanding of further subsidiarity, especially in terms of local governments' support for nonprofits. The 1999 decentralization reform together with the changes in public finance regulations suspended most public support to the nonprofit sector, but the changes also opened legal possibilities for future partnership between local authorities and nonprofits.

As far as plans and intentions to de-nationalize state-run and municipal institutions are concerned, the field of education has seen the most significant reform efforts. Beginning in the 1999 school year, primary and secondary schools as well as foster care facilities were taken over either by local self-government, associations, churches or individuals. The plan to reform the Polish educational system separates the regulatory and control functions of the state from the delivery of services. While the former function of overall responsibility remains the public sector's obligation, the latter function—delivery of services—is now performed by both public and private (including nonprofit) providers.

Nonprofit and commercial schools are guaranteed to receive at least 50 percent of costs calculated for a pupil in the respective public schools. The further development of this mechanism is expected to promote development of new non-public schools, abolishing the post-war state monopoly in education. In the meantime, the high costs of public schools led local governments to begin converting public schools into nonprofit ones. This “nonprofit”-ization process began in rural areas but over time is also expected to reach towns and cities.

In the field of social services, processes of de-nationalization, de-monopolization and implementation of the subsidiarity principle are far less advanced than in the field of education. The majority of social services are still provided by the public sector while some have been commercialized. Nonprofit organizations acting in this field are perceived as auxiliary to public sector programs instead of as autonomous players in social policy (Leś, 2000). Thus, relationships between the public sector and nonprofit social service providers are based on ad hoc and spontaneous terms, rather than on long-term cooperation based on contracts and agreements. According to recent research findings, in 1999 only 8 percent of counties (the middle level of self-governing local authorities) contracted social services out to nongovernmental organizations while another 12 percent offered grants. The strategy of commercialization of public welfare services adopted by the ruling coalition led to the erosion of the service function of Polish nonprofit organizations over the last few years. Moreover, there is no legal initiative that might

have changed this direction toward a crowding out of the nonprofit sector as a service delivery partner at large.

Conclusion

One of the most remarkable outcomes of the transformation in Poland at the turn of the 1990s was a renaissance of voluntary organizations. Inspirations for this renaissance included the religious and patriotic traditions of charity and voluntary action, and the deterioration of the public welfare state as well as international aid. Since the beginning of the post-communist transition, nonprofit organizations have played a significant role in meeting social welfare needs. They provide social services, educational services, and sports and recreational activities. In Poland, nonprofit organizations not only have adhered to socially useful causes, but also have acted as restorers and promoters of a civil society by serving as a mediator between the demands for individual freedoms and rights and the obligations of community responsibility.

Despite their importance in mitigating social tension and their growing capacity as providers of professional services, Polish nonprofit organizations have been operating on the margins of the welfare system. The integration of nonprofit organizations into the system of welfare provision seems to be a long-term process due to a strong statist mentality on the one hand and a neo-liberal strategy adopted by the Polish government to reconfigure the state welfare system on the other hand. The integration of Poland into the European Union may help to facilitate the further development of the Polish nonprofit sector. In European Union countries, the state does not have a monopoly on service provision but rather acts in close partnership with local authorities and nonprofit organizations. Beyond the service function, however, one of the main challenges still facing the nonprofit sector is to enliven citizens' solidarity.

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