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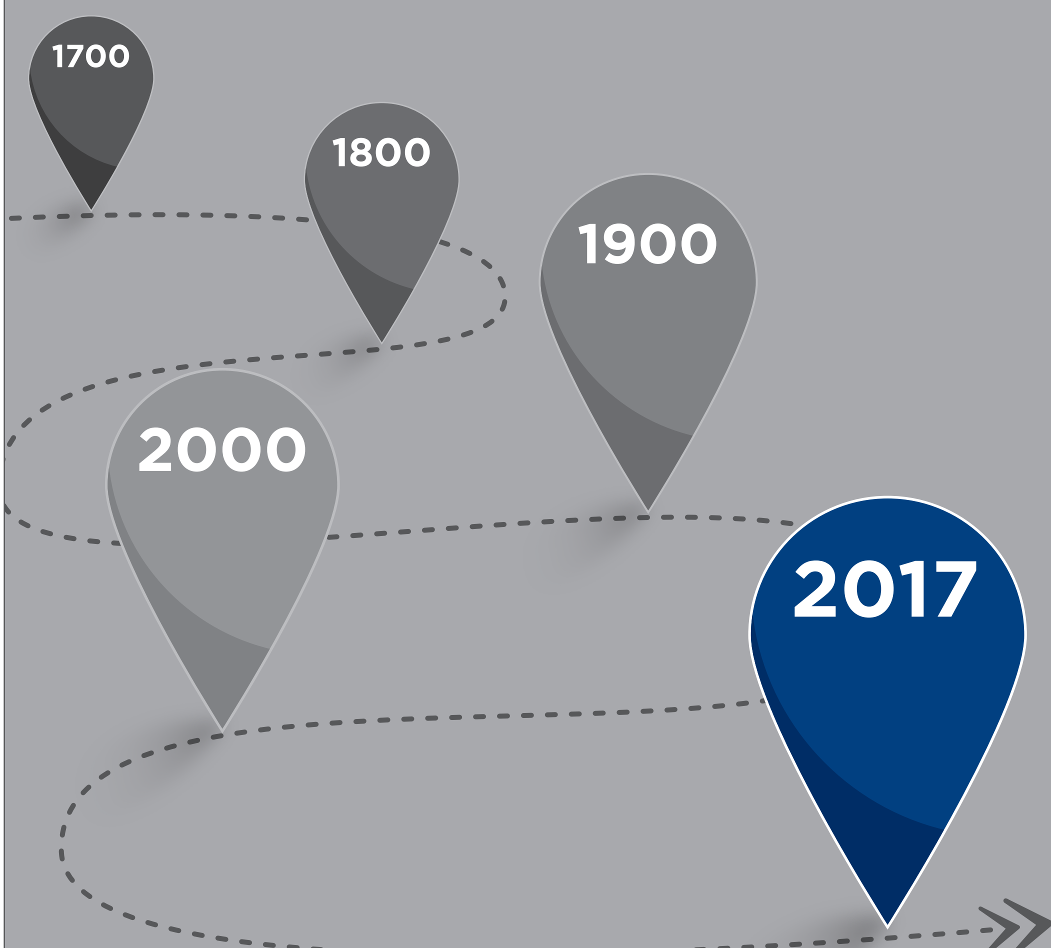
ORIGINS & EVOLUTION OF NONPROFIT FUNCTION



SUBMITTED TO
BOARD OF GOVERNORS
MAY 2016

The Origins & Evolution of Nonprofit Function

First Edition - 2016

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www.NonprofitConferences.org

Ordering Information: Quantity sales. Special discounts are available on quantity purchases by corporations, associations, and others. For details, contact the publisher at (800) 257-6670

Printed in the United States of America

Library of Congress Control Number: 2014922757
CPSIA Code: PBANG0915A
ISBN-10: 0692358013
ISBN-13: 978-0-692-35801-6
Second Edition
10 9 8 7 6 5 4 3 2 1

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THE ORIGINS & EVOLUTION OF NONPROFIT FUNCTION

THE ORIGINS & EVOLUTION OF NONPROFIT FUNCTION[1]

> ***Democratic government, as it was understood at the end of the eighteenth century, had no place for voluntary associations. The will of the citizenry was expressed through government; associations organized by special interests could only serve to weaken and undermine representative institutions.[2]***

Peter Hall, perhaps the best nonprofit historian of our time, made it very clear that the early founding fathers did not have a positive regard for voluntary associations. They saw them as a threat to democracy, an engine of factions, given to 'evil' purposes, and virtually uncontrollable by government. In 1796, in his farewell address, Washington said voluntary associations are "small but artful and enterprising" minorities (who) put their will "in the place of the delegated will of the nation".[3] Channing, a well-known preacher, philosopher and community leader wrote in 1829: "They (voluntary associations) are perilous instruments. They ought to be suspected. They are a kind of irregular government created within our Constitutional government. Let them be watched closely. As soon as we find them resolved or even disposed to bear down on a respectable man or set of men, or to force on the community measures about which wise and good men differ, let us feel that a dangerous engine is at work among us, and oppose to it our steady and stern disapprobation."[4]

While many nonprofit textbooks and the United Way, among others, present a romantic picture of early Americans as people who loved to associate[5], which they did, it must be understood to be within the backdrop of great suspicion by major government, business and church leaders of the day, including Jefferson, Adams, Jackson, and Washington. However, associations did flourish, particularly those that concentrated on building the institutions we now take for granted, such as schools, churches, hospitals, universities, foundations, food distribution, etc.

1 Few histories of nonprofits can be found. We acknowledge this section is influenced by 1) Hall, Peter Dobkin Hall. "Approaches to the History of Nonprofits." www.nonprofits.org. May 5, 2004. and 2) also the many documents his project at Harvard has accumulated that helped define the nature of the nonprofit sector as retrieved on http://www.hks.harvard.edu/centers/hauser ; 3) Hall, P.D. *Historical Perspectives on Nonprofit Organizations in America*. Jossey-Bass Handbook of Nonprofit Leadership and Management, Chapter 1.

2 Hall, P.D. (2007). *Introduction to Essays by Leonard Bacon*. Cambridge, MA: Hauser Center for Nonprofit Organizations, J.F. Kennedy School of Government, Harvard University.

3 Washington, George (1796) Farewell address at the end of his presidency.

4 Channing, 1829 as referenced by Peter Hall in the introduction to Leonard Bacon's essays, Ibid 2.

5 Most often referencing Tocqueville, Alexis de. (2003). *Democracy in America*. London, England: Penguin Books, 596.

Government leaders struggled with what voluntary associations proper role should be, if any, in society and how to exercise control, authority, governance, and limits on their existence and efforts. The largest associations flourish rather quickly in the late 1700s and were affiliated with various denominations.

Leonard Bacon Principles

The earliest full treatment of how nonprofits should be organized and why was written by Leonard Bacon (1802-1881) based on his observations of having served on university, church, and other nonprofit boards and as a major community and church leader.[6] He was an esteemed Congregational pastor, as well as teaching church polity at Yale University. His essays are as timely for today's issues with nonprofit organization and governance as they were when written.

He struggled with what form of organization a nonprofit should have to properly and faithfully execute its duties and responsibilities. He struggled to determine what a proper relationship should be between voluntary associations and representative government. While not discussed here, he also was the major writer of the day to redefine the role of religion in public life. He did this during a time when churches were "losing their legal standing as tax-supported public institutions and having to embrace new and unfamiliar status as voluntary associations. Later, as associations became major actors in the political debate over slavery, he helped to pose fundamental questions about voluntary association governance and accountability as they related to the role of voluntary associations in democratic life."[7]

While not all of his principles are summarized here, a few of his key ideas are presented because they have formed the basis for nonprofit organization, and principles of governance through to the present.

l. His foundational principle was based on a view of **moral agency** and **stewardship**. In summary, he said that no matter the faculties or possessions of a person or group, all people were to view all their assets as property belonging to God, and they were to be wise stewards of what they had.

> ***"Every man is bound to regard all his property, and all the avails of his industry and enterprise, as belonging to God; he is to hold it all, and manage it, as a sacred trust for which he must give account to the supreme proprietor; he is to apply it and dispose of it exclusively as the Lord's servant, and in the work of the Lord."***

He eventually applied that principle to voluntary associations by investing stewardship responsibilities to the CEO and board.

6 Bacon, Leonard. (1847). *Responsibility in the Management of Societies. New Englander*. Vol V, 32.

7 Hall, P.D. (2007). *Introduction to Essays by Leonard Bacon*. Cambridge, MA: Hauser Center for Nonprofit Organizations, J.F. Kennedy School of Government, Harvard University. http://www.hks.harvard.edu/content/download/68919/1248486/version/1/file/Bacon_Essays.pdf

2. Bacon did not believe that either the church or government were "formed to manage the property of its members or to command their charitable efforts". But the voluntary associations were accountable to God for what they did with their assets. They needed to be good stewards of wealth and talents. They needed to be put to good purposes. The actions of voluntary association leaders (board and staff) had to be individual not institutional actions and commitments, which he didn't think could be delegated to others (church, state, or businesses). The moral agent was not the church, or state, but the individual because individuals, not institutions, are accountable. Individuals had to choose to do good and individuals had to see it was their responsibility to do good with their and other's assets (property).

> ***"giving the humblest individual the power of doing good to all men, in a sense, doing that which was once only the prerogative of princes."***

3. **Voluntary associations** were seen as **extensions of individual moral agency and responsibility**, not a substitution. Voluntary associations allowed individuals to do good and act responsibility together and, when this was done, their impact was greater. They **expanded the scope of benevolent action**. Voluntary associations vastly expanded the 'scale and power of individual action, giving "the humblest individual the power of doing good to all men, in a sense in which it was once the prerogative of princes."

4. He acknowledged that the **ultimate control and governance** of individuals and voluntary associations **had to come from within each person**. "How they choose to act, what they choose to do with their property, would have to come from "every man's own judgment and conscience," through faith in "Him who giveth the increase," and made "effectual by his Spirit."

5. As the size of voluntary associations grew his principles of moral agency and stewardship were not enough to curb the abuse of power and misuse of assets of voluntary associations. By 1840, small voluntary associations had grown in number and also in size. The largest were church affiliated. In 35 years' time, for example, the American Board of Commissioners for Foreign Missions had grown so much that it had a salaried staff, 300 missionaries and assistants in 93 missions. Its revenues were $250,000. It was the wealthiest charitable corporation in the USA. Bacon was on the board and struggled with its enormous size and inability as a board member to really know whether or not the money collected was being put to use for the purposes stated in its charter. This lead him to consider whether the church, government, numerous boards connected together, or one central board should be the governing mechanism. In his essay on *Responsibilities in the Management of Societies,* he goes through each organizational and governance form and carefully lays out why each is not satisfactory. By the time he writes his essay, several different forms of governance have been established by various universities, hospitals, denominations, and colony/state governments. He had been on the board of several to witness their efficacy and ills.

As the membership and outreach of voluntary associations grew there were various attempts to make organizations accountable to relevant stakeholders. Dual boards were created, boards were enlarged to have in some instances hundreds of members, differing categories of member on board occurred (lifetime; time appointed; those with voting rights; those representing proportionally contributors-government, wealthy, businesses) and executive committees were established on boards that were closer in proximity to various groups affiliated with an organization. In theory, it was felt by some that increased numbers would make the organization more accountable, but exactly the opposite effect occurred. "Greater numbers intensified the informational asymmetries between boards, committees, and salaried staff --much to the advantage of staffs and to board cliques and factions." When this happened it violated Bacon's principle of individual moral agency and stewardship.

He also witnessed the rise of the power of paid executives and executive committees on boards and the enormous influence they had over what the organization did and how the public was affected, persuaded, and changed. He saw them give in to the political leaders of the day on major issues affecting communities (legitimizing slavery was a central issue during his time). He realized his principle of individuals had to will to do good things and see they were stewards of the assets of the organization needed some oversight. **Moral agency and stewardship were insufficient safeguards**. The questions he posed were: "Ought the executive department of a great voluntary society, for missions or for any similar enterprise, to be really and formally responsible to anybody? So, to whom, and how?" Bacon asked. "Who are the society? –where is the control? Shall the officers in the executive department govern the whole movement, responsible only to God? Or shall they be under the government of some constituency?[8] After a detailed review of two of the major charitable organizations of the day with different governance structures, he laid out the following principle.

"A **true responsibility of the executive to some superior or constituent power is a security against mismanagement and the gradual perversion of the trust**," not because of "fraudulent mismanagement," but "in consequence of devoting their minds too engrossingly to the one particular interest which they have in hand. "Great perversions of trusts," Bacon noted, tended to occur inadvertently, as a by-product of routine, taking place "for the most part unconsciously, gradually, and with the best intentions"[9]

His solution? **Administrators, board managers** (today called trustees or directors) and **board committees should be required to report fully and regularly on their activities.**

6. But who should the executives report to? His discussion talks about the circumstances of his day, which are not unlike today. He saw government officials who opposed the views of voluntary association boards and executives and their attempts to suppress or dissolve the voluntary association (issues surrounding slavery were huge). He saw church leaders trying to suppress the work of its voluntary associations. He saw businesses and the wealthy trying to control voluntary associations, particularly universities and, later, foundations for their own legacies and purposes. He was very much a part of the struggle of many. He also considered having administrators and executive committees of boards report annually to a general assembly of members and interested public.

8 Bacon, Leonard. (1847). *Responsibility in the Management of Societies*. *New Englander*. Vol V, 32, 29-30. http://www.hks.harvard.edu/content/download/68919/1248486/version/1/file/Bacon_Essays.pdf

9 Bacon, Leonard. (1847). *Responsibility in the Management of Societies*. *New Englander*. Vol V, 32, -33. http://www.hks.harvard.edu/content/download/68919/1248486/version/1/file/Bacon_Essays.pdf

He was forced to rule out this solution because these "assemblies" tended to be just a form of entertainment and not true forums in which serious business or 'free inquiry and debate' occured.

Bacon rightly concluded voluntary associations had a right to exist and were legitimized under the First Amendment of the Bill of Rights, the right of the people to peacefully assemble and freedom of speech. The governance form he decided worked the best was **a small true working board of trustees**. Each member had to retain a sense of individual responsibility for the activities of the organization (moral agency). He combined his principles of individual moral agency and stewardship by differentiating the various components of governance and operations (i.e. the board did some things and administrators did others). **Organizational legitimacy and authority in a democracy proceeded from fiduciary responsibilities imposed on trustees as managers of the property of others, rather than from electoral or political accountability**. He established the principle of parity, equality among stakeholders in his principle of stewardship to address the wealthy, religious, government officials who all said they were the ones with legitimate authority and control because of their contributions or position in society. There was to be an **egalitarian relationship among trustees to donors and beneficiaries, living and dead**. (i.e. no matter one's office, wealth or intelligence, all were equal before God and therefore trustees did not derive their authority from their government office, intelligence, wealth, but rather Trustees were stewards of the assets of donor and those benefiting from those assets).

Hall writes about the significance of Bacon's conclusions:

> ***"The notion that there could be forms of authority that could both exist legitimately within a democracy founded in the popular will, much less the idea that they might be crucial to sustaining democracy, it was an astonishing assertion with important implications for perfecting the then still fragile rationale for the existence of voluntary organizations. When the article was written, the Jeffersonian and Jacksonian animus against voluntary organizations was still very much alive. Most states outside of New England either forbade or strictly limited the activities of private commercial and eleemosynary corporations -- a situation that would persist until the last decade of the nineteenth century, when an aggressive effort to spread the doctrines and technologies of civil privatism would transform the institutional cultures of New York, Pennsylvania, and the Midwestern states."***[10]

Throughout Bacon's life he saw charitable organizations' administrators and boards not live up to his principles. He saw boards and administrators advocate for slavery and suppress free assembly and free speech. He saw them turn corrupt and misuse contributions for self-interests. He saw the power struggle between government leaders attempt to control and dissolve charitable organizations. He was very much a part of these struggles as a director/trustee on the boards of several charitable organizations. In the end, his writings pretty much suggest that **any form created to hold**

10 Hall, P.D. (2007). *Introduction to Essays by Leonard Bacon*. Cambridge, MA: Hauser Center for Nonprofit Organizations, J.F. Kennedy School of Government, Harvard University, xi-xii. http://www.hks.harvard.edu/content/download/68919/1248486/version/1/file/Bacon_Essays.pdf

charitable organizations accountable was going to be flawed *if his principles of moral agency, stewardship, parity, and accountability were not adopted.* He viewed voluntary associations as having their own sphere of authority and control, apart from government, and business.

We encourage all readers to take the time to read Bacon's essays.[11] They are relevant to the operation and governance of nonprofits today.

Bacon's conclusion that property and all assets were a gift from God, given to people to do good things was certainly not embraced by many board members. The prevailing view was that if one had some claim over the asset, they had the right to control it for the purposes they desired. However, ownership of property that was for public use was less than clear cut. Colonies were settled/created by businesses (e.g. Massachusetts Bay Company), by wealthy individuals and families, church leaders, and by government officials. The battle over governance was partly a battle to determine property rights as contributors to the founding of various institutions. Through a series of court cases, mainly dealing with ownership and governance of universities and hospitals, **it was decided by the courts that neither the state, wealthy, church, or businesses owned charitable organizations, no matter who much they had contributed to the nonprofit, but rather the charitable corporation owned the assets, once given, and were to be governed by a board of trustees**.

The early founding fathers wanted everything controlled by and financed by government. Those favoring government control wanted charitable institutions to be governed by government officials, while those favoring little or no government intervention into the affairs of daily living wanted charitable institutions to be accountable to and governed by donors (either businesses or wealthy individuals/families.) At the heart of the battle was differing ideas of who the public was and how they were to be represented and who had the rights to determine how and for what purposes property (all assets) given to a voluntary association were used.

Early membership on charitable boards were donors who had contributed to the organization's development (i.e. wealthy individuals, state officials, clergy, businessmen). As time passed, leaders realized that these boards tended to defer to those on the board with the most influence and who had contributed the most to the organization's development. Their composition was not representative of the customers the charity served or the larger set of affiliated stakeholders[12]. Sometimes, the motives of those in power were not for the benefit of the organization but for the person's political or personal interests. Through a series of court cases, the power exercised by individuals on these boards was buffered by declaring that a **board member did not/could not act as the board in decision making, but rather the entire board had to decide, using a quorum, in order for it to be considered an official, legal board action**. But the powerful handled this by creating lifetime appointments, or rigging elections so that nominees were selected and voted into office by existing board members, and lobbying outside board meetings for their positions and influencing votes by offering other favors. This still happens today.

11 The can be retrieved at http://www.hks.harvard.edu/fs/phall/dochistcontents.html

12 For example, several court cases dealt with the lack of representation of students, alumni, and faculty on university boards of trustees.

"The measure of a man is what he does with power" (Plato). 1840, voluntary associations were becoming active in political advocacy efforts on behalf of customers related to their causes, as well as on political issues that board members were addressing in the legislatures. The slavery issue was front and center. Some community leaders felt that some voluntary association boards were incorrectly entering into government political affairs and lobbying for abolition, among other things. Some felt that some board members were abusing the power they were given as board members to make political statements to their charity's customers and were organizing them on behalf of their cause and political convictions. This led leaders to address the **need for rules to regulate board members of voluntary associations, as well as define what a voluntary association could and could not do without violating its charter**. Wayland, a well-known Baptist preacher and President of Brown University, said limits were necessary to prevent the tendency of powerful factions to take control of associations and put them to "evil purposes".

Charities' Behaviors That Led to Litigation

Some of the major board and administrator behaviors that have led to litigation or mediation throughout the years are as follows.

1) Misuse of funds for other than mission-related purposes (inurement issues).
2) Lack of transparency with the organization's public on salaries, consulting fees, bonuses for employees, board members, donors, funders.
3) Engagement in entrepreneurial efforts considered as excessive unrelated business activities in violation of nonprofit tax laws (UBT codes)
4) Violation of the state's nonprofit laws.
5) Violation of the state's ethics laws.
6) Boards did not provide its customers (e.g. students of universities, alumni, donors, etc.) equal voice on the board;
7) Boards didn't represent all stakeholders (i.e. its public) as indicated in incorporation by-laws.
8) Original By-laws and charters re-written to exclude full representation of stakeholders without full review and vote (as called for in by-laws) of stakeholders. (A membership organization issue)
9) Major financial decisions made without full board representation (i.e. no quorum present).
10) Lack of due process for employees
11) Acting as a closed club with a narrow range of insiders.
12) Lifetime appointments of directors/trustees.
13) Conflicts of interests because of board member business interests which inhibited them from being a free moral agent and addressing administrative and operational issues.
14) Boards knowing there are major issues but failing as a group to act to resolve them.
15) Inhibiting free speech of stakeholders at board meetings or of some directors/trustees that had opposing opinions to those of the power leaders.
16) Failure to provide the rights of assembly for all stakeholders.
17) Failure to act independently as board members in their decision making, with no apparent public debate or deliberation.

18) Expelling or finding ways to not involve those board members that disagreed with the opinions of the influential on the board.
19) Suppressing the involvement of all stakeholders from participation in election of board members.
20) Using funds excessively for organizational capacity building, but not for its programs and services in support of mission.
21) Being passive in deliberation and going along with whatever the chair or influential members said.
22) Board members not attending board meetings.
23) Forming very large boards that reduced board members sense that they needed to exercise independent judgment and active participation.
24) Passively submitting to whatever the administration said.
25) 'Back him (CEO) or sack him' attitude seen as an exercise of full fiduciary responsibility.
26) Use of nondisclosure agreements to curtail debates about policy, procedures, use of money, or legitimacy of activities defined as contrary to mission and to avoid whistle-blowing.
27) Use of executive sessions to curtail information and decision making by all stakeholders (members of the society for which the corporation exists).
28) Use of Robert's Rules of Order to curtail open discussion, full debate of opposing ideas, full disclosure of information needed to make an informed decision, thus curtailing freedom of speech.

The Advent of Business Influence on Charitable Organization Governance

As power and influence on charitable boards moved from domination by government officials, the rich or clergy, businessmen became the largest group represented on boards (CEOs, lawyers, financial managers). These businessmen came with a business model for the role and responsibilities of a board, and the rights, roles and responsibilities of administrators, which perhaps is best summarized by what Judge Cabranes said:[13]

> ***"The widespread practice of trustee passivity in the absence of truly incompetent presidential performance has been described as 'back 'em or sack 'em'. This pithy and useful aphorism (which I first heard from fellow trustees) describes, as best I can tell, the view of most trustees of the scope of their fiduciary responsibilities."***

Business involvement with charities has also had a major effect on how funds are raised, who gets funded, and how charitable organizations should be organized and operate. These will be discussed in another section of this report.

13 Cabranes, J. (2007). Myth and reality of university trusteeship in the Post-Enron Era. *Fordham Law Review*, Vol. 76, 966.

Qualities of an Effective Board

Board culture is related to board effectiveness. The characteristics of the culture that most have advocated for since the early 1800s is openness, inclusiveness, lively participation, respectful dissent, mutual trust, parity, freedom of speech, freedom of peaceful assembly, and full representation of the public to be served by the corporation.[14]

The Basis of Trust in Board Actions

Bacon also addressed clergy and government official abuse of their powers and influence by virtue of their positions and offices when he said that trust in board members was <u>not</u> built by using God (in the case of clergy) as a legitimizer for what they did as a manager of a charity. He also said that public officials should <u>not</u> evoke their power by saying they represented the will of the people as a government agent because other entities besides government also represented the will of the people. They had to build trust with their actions and words, as equals on a board.

The Growth of Charities

The growth of the sector occurred in spurts, stimulated by various political events: wars and Presidential initiatives. Prior to 1940, there were an estimated 12,500 nonprofits. During and after the events of WWI, there was a rapid growth spurt and an estimated (by IRS commissioner) 50,000 nonprofits existed. Another major growth spurt occurred during the Kennedy/Johnson era with more than a quarter million nonprofits registered with the IRS by approximately 1965. By 1970, the nonprofit group was called a "sector" and another growth spurt occurred. By the mid-1980s, the United States was home to more than a million nonprofits.[15] This was also the era of Reagan cutbacks in government social programs and advocacy of the nonprofit sector's ability to do what was necessary.[16] By 2003, there were 1.3 million nonprofits (933,000 501c3s).

Between 2003 and 2013, the number of public charities (501c3s) grew 19.5%, faster than the growth of all registered nonprofits (2.8%). By 2008, there were 1.5 million nonprofits (950,000 501c3s).[17] In 2012, there were an estimated 2.3 million nonprofits, with 1.6 million registered with

14 Richard Chait noted that trustees are 'understandably chastened' by scandals that have marred both corporate and nonprofit governance in recent years, and has expressed concerned that as a result 'boards will be lawfully mediocre and the trustees will misconstrue due diligence as evidence of effectiveness rather than its prerequisite." Chait, R. (2009). The Gremlins of Governance: A trusteeship Q&A with Richard Chait. *Trusteeship*, Vol 10, July/August.

15 Estimated by the IRS commissioner as reported by Arnsberger, Ludlam, Riley, & Stanton in *A History of the Tax Exempt Sector* as retrieved from https://www.irs.gov/pub/irs-soi/tehistory.pdf

16 See Elizabeth Boris' piece on the myths about the nonprofit sector http://www.urban.org/sites/default/files/alfresco/publication-pdfs/307554-Myths-About-the-Nonprofit-Sector.PDF

17 Nonprofit sector Brief as retrieved from http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412209-The-Nonprofit-Sector-in-Brief-Public-Charities-Giving-and-Volunteering-.PDF

the IRS.[18] Public charities (501c3s) made up a larger share of the nonprofit sector in 2013 (67.5%) than in 2003 (58.1%).[19] By 2013, there were 1.4 million nonprofits (950,000 501c3s), the decrease in all nonprofits largely due to the effects of the Great Recession. By 2015, there were 1,548,644 nonprofits (the number of 501c3s were 1,088,447).

GROWTH IN NUMBERS. While the entire nonprofit sector (comprised of 30 categories) only grew in numbers by 2.8% in the last decade, **the 501c3 public charities (one of 30 categories of 501c tax code) grew in numbers by 19.5%, the largest growth of any of the categories of nonprofits.**[20] By publication of the 2012 Nonprofit Almanac, there was 1 nonprofit (i.e. all categories) for every 175 Americans!![21]

GROWTH IN REVENUES. By 2012, when examining just increases in revenues and comparing it with GDP growth in general, the nonprofit sector (all categories) grew by 6% annually at the same time the total GDP grew by only 3%.

NATURE OF CONTRIBUTED AND EARNED INCOME. The latest (2013 figures reported in 2015) breakdown of sources from which nonprofits get revenues indicated that the largest source of revenue was from fees for services (47.5% from private sources; 24.5% from government sources). Individual and corporate contributions were the third largest sources (13.3%), followed by government contracts (8%); investment income (4.8%) and other income (1.9%).[22]

GROWTH IN NUMBER OF STAFF AND WAGES. The recent recession did not seem to stop the nonprofit sector's employment growth. From 2008 to 2012 period government employment grew by 8%, business employment declined by -6% and nonprofit employment grew by 17%.[23] Growth in wages between the three sectors also has a similar growth rate. Wages increased by 23% from 2000-2010 in the government sector; decreased by -1% in the business sector; and increased by 29% in the nonprofit sector.

NUMBERS OF NONPROFITS BY BUDGET SIZE. The charitable sector is largely comprised of small organizations. As of 2013, 77.1% of all nonprofits had budgets below $1 million (29.5% with budgets below $100,000; 37% with budgets from $101,000-$499,000; and

18 As reported by the Urban Institute's National Center on Charitable Statistics as retrieved from the 2012 Almanac http://www.urban.org/features/nonprofit-almanac-and-almanac-briefs

19 The Nonprofit Sector in Brief as retrieved from http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000497-The-Nonprofit-Sector-in-Brief-2015-Public-Charities-Giving-and-Volunteering.pdf

20 http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000497-The-Nonprofit-Sector-in-Brief-2015-Public-Charities-Giving-and-Volunteering.pdf

21 The Nonprofit Almanac 2012 as retrieved from http://www.urban.org/features/nonprofit-almanac-and-almanac-briefs

22 Sources: National Center for Charitable Statistics calculations of IRS Statistics of Income Division Exempt Organizations Sample (2009, 2011); Urban Institute, National Center for Charitable Statistics, Core Files (Public Charities, 2013); American Hospital Association 2012 survey; and National Health Accounts (Centers for Medicare and Medicaid Services).

23 The Nonprofit Almanac 2012 as retrieved from http://www.urban.org/features/nonprofit-almanac-and-almanac-briefs

another 10.6% with budgets from $500,000- $999,000). Another 14.4% had budgets from $1 million-$4,499,999. Another 3.3% have budgets between $5 million-$9.99 million and only 5.3% had budgets ranging from $10 million or more.[24] It should be no surprise that the 10 largest nonprofits are 5 universities (Harvard, Stanford, Yale, Princeton, Columbia University of NY) and 5 health care systems [Kaiser Foundation hospitals; Howard Hugh's Medical Institute; Kaiser Health Plan, Inc.; Partners Healthcare System, Inc. (MA); Dignity Health (CA)]. Relevant to these guidelines, as of 2013, there were approx. 950,000 charitable organizations, 501c3s, and 732,450 of them had budgets below $999,999. Of the 732,450, a whopping 280,250 had budgets below $500,000! That is 280,250 nonprofits with missions that cannot be accomplished on a scale commensurate to alleviate the need that exists, given the size of their budgets! What is not clear from all these figures is how many of the 732,450 nonprofits with budgets below $1 million have remained so for the past five years or longer.

Throughout the emergence of the nonprofit sector, certain key issues were debated and litigated. A few of the key issues and resolutions that affected how nonprofits were organized and governed, and what they were allowed to do and why are discussed in the following section. But for a variety of reasons **"effective governance by the board of a nonprofit organization is a rare and unnatural act"**[25] and we continue to strive to find ways to organize and govern that uphold the principles of moral agency, stewardship, accountability, fiduciary responsibilities over property rights, freedom of speech, freedom of peaceful assembly, fair and just representation, due process, and parity among contributors, administrators, board members, beneficiaries.

24 Nonprofit in Brief 2015 as retrieved from http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000497-The-Nonprofit-Sector-in-Brief-2015-Public-Charities-Giving-and-Volunteering.pdf

25 Taylor, B.E., Chait, R.P., & Holland, T.P. (1996). The New Work of the Nonprofit Board. *Harvard Business Review*, 4, September-October.

CLUSTERS OF ISSUES THAT HELPED DEFINE HOW THE SECTOR IS ORGANIZED AND WHAT IT DOES

CLUSTERS OF ISSUES THAT HELPED DEFINE HOW THE SECTOR IS ORGANIZED AND WHAT IT DOES

Perhaps engrained in the American (human) experience is a fundamental struggle with authority and control. Some say Americans, as a culture, resist authority and control of any kind and do what they can to reduce any person, regulation, policy, or organizational form that tries to exert authority and control over individual rights, liberties and freedoms.[26] After all, most settlers came to America to escape the prevailing governance of the church, wealthy, and/or the state. Yet, in order to be a community (colony, state, nation) leaders had to organize the community, give the organizations created rights, roles and responsibilities, and expect that they treat community residents according to values and morals believed to be just, fair and right.

Who owns the nonprofit?

As settlers developed charity organizations, issues of property rights arose. In the beginning, people didn't think of community activities as being 'public' or 'private' as we now understand it. Settlers came, often as representatives of businesses, and settled towns and colonies. Settlers embraced different religious convictions and were used to differing church polity. Settlers came knowing only the laws and rules for community organization from their home county and their religious traditions. Educated settlers came with well-formulated worldviews on the nature of man, community, the right and limits of government of any kind whether it be colony, state, or nation. People with wealth came with a sense of entitlement and the right to control and influence political affairs, as well as much of the daily lives of others impacted by the use of their wealth.

Our early history is filled with property accumulation by denominations, businesses, and government. Companies settled some colonies. In fact, the first known example of a board of directors was when a private business, the Massachusetts Bay Company, created a board of directors to manage the colony's business. The church was involved heavily in providing human services and protection to the environment from the beginning of America's history. The church, through its members, contributed money and secured property to build schools and other basic features of community we take so for granted today.

The nature and extent of government involvement in residents' everyday lives were hotly contested. How much authority and control over its citizens and business adventures should government leaders have? It was complicated because government, in the beginning, paid for most everything, including giving payment to churches. Business leaders clashed with government leaders over who owned what property, particularly over ownership of schools, universities and hospitals, and later over culture and the arts organizations. If a colony was started by a company, or government, or the church, didn't

26 Studies of cultural differences among nations confirm this. See the Human Values Survey at http://www.worldvaluessurvey.org/wvs.jsp

its leaders have ownership, authority and control over how the colony or organization was formed and functioned? Some said yes and some said no. The end result was that some of the nonprofit sector's organization, and nonprofit law reflects a series of major battles over who owns the property (assets) secured by nonprofits, and who had the right and under what circumstances to take its assets, and who ensured the assets were used according to the mission of the organization rather than self-interests? The end result was that the courts decided that *the charity (corporation) owned the assets, not donors (whether it be state, church, businesses or individuals) and had the rights and responsibilities of ownership.*

The whole notion of having a board of trustees or directors grew from the struggle to define a space where the government did not own everything or have the right and authority to control everything and everybody, and conversely, where businesses did not exercise ownership over things that had become recognized as charitable or public institutions.

Businessmen were the first to challenge late 1700 and early 1800 public officials on how much authority and control they had over charitable institutions. It was messy because some community organizations were founded using multiple sources of revenue. Simply put, the end result was the creation of a space that basically said *ownership (and the right to have authority and control over the entity in question) wasn't determined by the source of the revenue, but rather by the incorporated purpose of the organization*. The *board idea became an authority and control buffer between the interests of contributors to charitable organizations*. However, the 'buffer' was not perfect and contributors (church, business, wealthy, government) did continue, and still do continue, to exert control and influence over what is done by charities.

The beginning boards, however, were always comprised of influential people who came from government, wealthy families, the church clergy, and businesses. To further try to control the amount of authority and control these individuals and the groups they represented had over what was done in charities, the laws indicated that an *individual board member acting on their own did NOT represent the board's decisions and that only the board as a whole could represent the charities interests*. The board had to decide together rather than decisions (for example by the board chair and administrator) being seen as a board decision.

Who is the 'Public' To Whom the Nonprofit Is Accountable?

As mentioned previously, the '*public' was defined pragmatically as being any individual or group affiliated with or having a stake in what was done by the nonprofit.*

There was and still is great debate about who that public is. To what extent did government represent the will of the people? What people? What were the limits of government intervention and control over voluntary association affairs? Different models were adopted. Some said the board was a representative of the public served by the organization. Some said it was all stakeholders

affiliated with the charity. Some said the government was the rightful representative institution. The various organizational forms that developed as a result of the answers to those affected the composition of the board, as well as to whom specifically the board was to report. Differing models among the states were developed.

Regardless of the model adopted, the courts made it clear that *government did not represent the total will of the people and therefore was limited in its control and authority over a nonprofit*. The nonprofit was considered as a *separate relational and governed space from government, businesses, and churches*. Pragmatically, the courts ruled that the *public in question were the stakeholders* that *were somehow affiliated with the charity* (donors, individuals benefiting from the charities work, staff, and volunteers).

What Limits the Activities of Nonprofits?

America has gone through periods when government's roles and responsibilities expanded and other times contracted relative to charitable activities. During expansion times, government grew by increasing taxes, either directly or indirectly through various fees it charged (known as 'regressive' taxes).

Our tax laws, as they evolved, had to weigh in on what kinds of community efforts were taxed and what weren't and why. While there was some form of taxes or fees collected from the early days of America's founding, a federal tax system was not established until 1913 and it wasn't until 1917 that Americans were given an ability to deduct charitable contributions from the amount owed to the federal government.[27]

Major pieces of tax legislation evolved starting in 1894 and going through to 1969 when the last major tax shift occurred. Each major piece of legislation further defined the sector and its operation, either directly or indirectly. *All nonprofit income producing activities were considered business activities that could make a profit (income or expenses)*. The principles established in the early legislation were: 1) organizations operating for charitable purposes were exempt from federal tax; 2) taxpayers could deduct charitable contributions, designed to stimulate charitable giving; and 3) the organization had to be free from "private inurement" (i.e. the organization's revenues could not be used to benefit an individual(s) in the organization). Organizations that inured were profit-making organizations. Organizations that were free from inurement were "nonprofit" or not-for-profit**.** The notion of a deduction was written into tax codes around the time of the start of WWI to stimulate the growth in numbers of nonprofits.

One major responsibility of a board is to keep the organization free from inurement. However, this principle does not restrict boards from being paid or staff from being paid a fair wage given their experience, education and normative industry standards (i.e. today that would be based on the Department of Labor's analysis of job classifications and wages by regions[28]).

27 See https://www.irs.gov/pub/irs-soi/tehistory.pdf for a more complete coverage of the history of taxation law for nonprofits.

28 See http://www.bls.gov/soc/home.htm

What Caused Nonprofits to Stop Earning Money from Certain Business Activities?

Before 1950, nonprofits could earn money from commercial business activities that were unrelated to mission, as long as the organization used net revenues for mission-related purposes.[29] But for-profit businesses felt that the nonprofit sector had a competitive advantage over them (i.e. they were taxed but nonprofits weren't so more revenues available to grow the business). So in 1950, Congress created the UBIT law (Unrelated business tax).[30] It further defined and limited the types of activities that nonprofits could engage in.[31] "Income was considered UBI, if it was produced from an activity deemed a "trade or business" that was "regularly carried on" and was not "substantially related" to the organization's exempt purpose(s), regardless of whether or not the profits from the unrelated trade or business were used solely for exempt purposes."[32] In addition, "tax exemption was no longer permitted to "feeder" organizations, which did not conduct any charitable activities, but rather operated commercial enterprises from which they passed income to a charitable organization." The 501c section of the tax law appeared in 1954, as well as further limits on political activities. So government and business continue to limit voluntary association activities, as has been the case since the late 1700s.

The kinds of activities that a nonprofit could do and that were seen as untaxable were defined through taxation laws. The list changed from time to time and was largely handled by declaring new categories of nonprofits. For example, in 1934 tax law set limits on charities ability to lobby. Some charities were considered charities at one point and later deemed businesses that collected profits that went to stakeholders for their personal benefit rather than to the charities' public benefit so they lost their charitable status. Until just recently, most IRS scrutiny occurred over universities', hospitals' and foundations' activities. Starting around 2000s, national nonprofits began to be examined more closely. Tax legislation has not only defined the activities of charities but also curtailed entrepreneurial efforts on the part of nonprofit to generate earned income rather than being reliant solely on contributed income.

The last major tax code reform occurred in 1969. One major change was in the UBT code that further defined and limited the types of entrepreneurial activities that were non-taxable.

"a trade or business activity does not lose its identity as a trade or business merely because it was carried on within a larger aggregate of similar activities or within a larger complex of other endeavors that are related to the exempt purposes of the organization (called the "fragmentation" rule). Second, in order to be considered "related," there had to be a causal relationship between an organization's engaging in a trade or business activity and the performance of the organization's exempt functions.

29 See https://www.irs.gov/pub/irs-soi/tehistory.pdf for additional coverage of the history of taxation law for nonprofits.

30 In 1951 Congress added state and municipality owned colleges and universities to this list.

31 See https://www.law.cornell.edu/uscode/text/26/501 & https://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations

32 See https://www.irs.gov/Charities-&-Non-Profits/Unrelated-Business-Income-Tax

This relationship had to be substantial, and the activities that generated the income must have contributed importantly to the accomplishment of the organization's exempt purpose(s)."[33]

"The Taxpayer Bill of Rights 2, enacted for 1996, added "intermediate sanctions" as an alternative to the revocation of an organization's tax-exempt status in instances when a person with substantial influence over the affairs of the organization was found to have engaged in an excess benefit transaction. The rules, which apply to organizations exempt under IRC sections 501(c)(3) and 501(c)(4), require reimbursement of the excess benefit to the organization and payment of excise taxes and interest penalties by disqualified persons and/or organization managers."

We suspect, with the advent of social enterprises and Fourth Sector-type activities that additional tax codes will be developed to handle the peculiar nature of the revenue generating activities these types of organizations are conducting.

What Are the Nonprofit's Obligations to Donors?

In the founding days of our nation, the concept of trustees emerged from court rulings which basically favored the ability of the wealthy to have a fair amount of control over their dollars through trustees. Some institutions, particularly colleges and hospitals, which were publically funded up to this point became private institutions during this period as the courts sorted out control issues. The logic of the initial ruling was that *gifts were made to the trustees and therefore constituted private contracts between the trustees and donors*.[34] Thus, it was established in the early 1800s that donors could create charitable organizations that allowed them to maintain a lot of control and authority over the institutions created.

Some states fought the early court's views on trustees because they considered the court's rulings favored the wealthy so did not allow a board of trustees' model in their state. For example, New York placed all charitable and educational organizations under Regents, a public authority comprised of elected officials, which meant the government controlled the entity, rather than businessmen and wealthy family members. The logic was the government was the representative institution expressing the will of the people and it was the will of the people (not the wealthy) that had authority and control of charitable assets.

For some time, it was still not clear how much legal authority and control a wealthy individual had over the nonprofit institutions their dollars helped create. The courts continued to rule for some time in American history that the wealthy had the right to transmit their wealth to nonprofits in the way they saw fit and to exercise control over how it was spent.

Control and authority issues arose when some of the nation's first wealthy began dying. Were trustees bound by the trusts and foundations established, or did trustees have rights and duties to carry out their sense of corporate purpose? In the early days, however, private corporations run by the wealthy were interlocked with charitable ones in ways we would hardly recognize today, but

33 As retrieved from https://www.irs.gov/pub/irs-soi/tehistory.pdf .

34 Hall, P.D. (1992) *Inventing the Nonprofit sector*. Baltimore, MD: John Hopkins University Press.

which are beginning to emerge again in new forms because of the IT wealth and the rapid growth of the wealthy in America (and elsewhere).

By the end of the 1800s, most charitable organizations were run by the same or similar faces (wealthy individuals, clergy, government officials, businessmen). To this day, wealth still controls and dominates many of the larger boards of major nonprofit organizations. As the hugely wealthy set passed from the scene and the business-lead culture started, businessmen were the new set of leaders on boards. The wealthiest tend to be on the boards, or people appointed by them, of arts and culture nonprofits, while business executives, lawyers, and financial managers dominated the boards of many other nonprofits organizations. And today, while nearly half of all nonprofit funding comes from taxpayers (through contracts, fees for services, awards, cooperative agreements),[35] an estimated 1.5 million nonprofit boards are privately controlled and technically not responsible either to the public at large or to their presumed beneficiaries.[36] Their boards are not elected by the public or the customers they serve. They appoint their own successors (or the executive director does in many). Even membership nonprofits tend to have very low member involvement and, for all practical purposes, even those with quorums in their by-laws have to ask for proxies and the current board establishes the board nomination lists with little to no additional input made by members.

The principle that donations represent contracts between the donor and the nonprofit is still found in law. However, another principle is present indicating that ownership of revenues, no matter what their source, is based not on the source of the revenue, but on the incorporated purposes of the organization. Ownership of the contribution (and the inherent authority to decide on its use) passed from donor to trustee, who is to act independently and for the good of the organization's mission, not the donor. Donors do have an acknowledged bond with the organization and it behooves administrators to understand their donors wishes and intentions of their gifts so that unnecessary power plays over ownership do not occur after the gift is given or, worse yet, large gift donors are never asked about the use of their gift, evaluates the organization, and tells other people of wealth and influence that their gift was misused. Building the kinds of relationships advocated in *New Guidelines for Tomorrow's Nonprofit* will help leaders avoid such situations.

What Works Against Fundraising and Program Evaluation Capacity Building?

By the early 1900s, the base from which charitable organizations received revenue shifted from wealthy individuals to corporations and government. Corporations and government managers were to foster charitable giving. It literally became a job requirement for middle and upper-level business managers.

35 See National Center for Charitable Statistics, 2013 report. Through government contracts, grants, cooperative agreements, fees for services. It's hard to tell the actual percentage because individual charitable contributions are reported with government grants in the same percentage category.

36 Most boards are not elected by the public. Most boards do not have clients linked to a cause on their board for a variety of reasons. Most membership organizations do not select their board, they are given a roster of names and struggle to get enough members to show up at meetings or send in a proxy. For the most part, the public (i.e. all stakeholders affiliated with the organization) really isn't involved and it's a private matter among board members.

The Charity Organization Society, started in the 1880s, strived to consolidate many of the charities that had formed and brought 'scientific methods' and 'trustification' to this sphere of activity. Chambers of commerce and boards of trade often coordinated drives to accumulate funds on behalf of charities. When WWI started, Woodrow Wilson further galvanized the notion of charities working together to support war efforts by pooling donations from the public. His war chest became an idea for the charitable world too (i.e. the community chest).

President Wilson realized that the only way to get a concerted war effort going in the volunteer sector was to create an organization that promoted joint effort among charities. There have been many critiques of the heavy-handed pressure put on charitable organizations during this period and the 'forced' contributions from workers in industries and government in a manner that was strikingly like what communism did in Europe during the cold war to make voluntarism mandatory that has left such a bitter taste and memory in so many from the 'satellite' nations formally under USSR control.

There was great social pressure to contribute to the war effort and social stigmas of disloyalty to America if a charitable group or individuals questioned giving to the war effort. Some pretty heavy handed tactics were used during this period, such as having each employee pledge a contribution, with accompanying social stigma if they didn't, and having the pledge automatically deducted from their paychecks, and forcing employers to pick up the contributions of all employees that did not give. Some remnants of these tactics are still with us.

The community chest idea, born out WWI war needs to harness American's dollars and effort, established the idea and value of a <u>company</u>-wide rather than <u>community</u>-wide solicitation for charities. The community chest became the United Fund, which became the United Way of today. It established an organizational system to coordinate giving on a local level and with a businesslike corporate model with techniques for the collection of funds.

The 'mythmaking' noted by some[37] was that the volume of dollars raised through payroll deductions achieved through corporate giving programs would be sufficient enough to solve major social and environmental problems of the day and also that the community was being adequately represented by community chest like organizations with boards largely represented by corporate executives and donations by a limited set of employees participating in these community chest like activities.[38]

Today, many corporations now pretty much believe it is their civic duty to help raise funds for charities. Corporations leaders see such engagement by their young executive leaders as a great training and testing ground to test out their interpersonal, financial and leadership skills in a highly regulated and routinized environment. Corporations located far from local communities have found their involvement in United Way fundraising valuable in reducing the isolation that corporations

37 Such as Wagner, D. (2000). *What's Love Got to Do with It? A Critical Look at American Charity*. The New Press.

38 Brillant, E. (1990). The United Way: Dilemmas of Organized Charity. NY: Columbia University Press; Carter, I. (1961). *The Gentle Legions*. Garden City, NY: Doubleday. Kang C., & Cnaan, R. (1995). New findings on large human service organization boards of trustees. *Administration in Social Work*, 19:3, 17-44.

from afar have with local communities. Corporations also realize that it makes them look socially responsible when their employees give, even when the corporation itself doesn't contribute.

Having just one big drive rather than multiple solicitations is attractive to corporations for a variety of reasons, including being able to better control what charitable causes get money. Corporations also used it to gauge lower level employee loyalty to company causes. In the 1980s, 100% participation was a very important message sent to all involved, until a series of court cases and congressional investigations began to question the coercive practices used by some corporations.

Clearly, the notion that public giving was much more effective than government assistance came into public discourse during the height of the Great Depression when most of America's families were cold, hungry and barely surviving. However, the model for this private sector effort was a highly centralized organizational vehicle that would take over what government had been doing (and couldn't do any longer because the national coffers were bare because of the Great Depression and the lack of ability to gain revenue through taxation). The community chest was the solution. Some writings suggest that some saw this as a way to limit the number of nonprofits started and to ensure those that were in existence had a chance to grow large enough to tackle the issues for which it was formed.

Throughout the nation's history, during plentiful times (lots of tax dollars available) government tended to play a larger role in funding charities, while during lean times government advocated the 'private' sector raised funds for charities and influenced what was done and how. More recent cuts in federal spending, the looming out of control national deficit, have coincided with major political pushes for the private sector to increase volunteerism rather than having so much managed by government agencies. Yet, today between 35-50% of all funding for 501c3s, perhaps more, comes from government through contracts, grants, cooperative agreements, and awards and fees for services.

In the late 1960s, President Lyndon Johnson's Great Society further expanded the size, scope and funding of nonprofits. Great Society legislation's effect was to expand Medicare, Medicaid, federal student loans, the National Institutes of Health, the National Science Foundation, the food stamp and rent supplement programs, and many other federal programs that provided resources, directly and indirectly, to nonprofits. Many of these programs still exist and are sources of revenue for nonprofits.

Another outgrowth of corporate involvement in charitable fundraising is cause-related marketing programs in which businesses adopted a cause or package of causes and raise funds. Their corporate name is marketed at the same time and without high-cost advertising. New markets are found as well.

As with all that has been described above, there are good and corrupt examples of each. Our focus isn't on dwelling on the good or bad, but to understand how various relationships among government, charities, business have developed, how they have worked together, who tends to lead, and the nature and extent of authority and control each exerts over the other. There is also

concern that when one type of initiative happens that funding actually is reduced in other areas. For example, when a corporation receives a fair market value tax deduction for goods given to a charity, but the goods arrive unusable or spoiled, or when a cause-related marketing scheme in which a business looks socially responsible ends up having the business actually contribute less.

Fundraising through corporations for charities has become so accepted that some corporations now have a 'performance center' dedicated to their annual charitable fundraising involvements. Some business leaders have begun to question the need for such entities as the United Way that consolidate fundraising efforts.

Which charities get money from federated type organizations also has changed within the past twenty years. United Ways, for example, are now doing their own strategic planning so that they have a basis to determine who to give to and who not to. As charity leaders have become more professionalized and organized, slowly the prevailing notion that most charities are being improperly managed and lead is somewhat leaving us. From the perspective of corporations and federated fundraising organizations, they are left with trying to decide on what basis to give and to whom. Strategic planning for the community has become the new basis to determine who gets what funds. Those charities that directly support the federated fundraising agency's strategic plans are those funded or at least considered. The rest are not eligible, except for a small pot of funds that some federated agencies have had to create to deal with the uproar from charities and the donor public.

The corporate world is organized to fundraise for charitable causes that are related to their needs, interests, products and services. The federated agencies are organized to consolidate fundraising in a location and indirectly to assure the public that the organizations given money are well managed, and services are resulting in positive outcomes. The board of the charity is effectively overlooked or bypassed, although certainly the federated fundraising agency would never say that. Furthermore, when one examines the extent of the review for a $5,000 gift or less it is amazing the level of program and operations audits that occur by these organizations. In exchange, the nonprofit creates a solid proposal, opens up its entire financial management operations, promises not to raise funds for a lengthy period of time, and uses a lot of the executive leaders' (board and staff) time to present their case. Certainly, in most cases, more than the amount raised is spent in preparation and presentation of their case for support! Greater numbers of nonprofits are choosing to skip this process, particularly since the amount of money they use to receive is lessened during the years when the federated fundraising agency's strategic plan doesn't coincide with their capacity building needs.

The social norm and motives for philanthropy have changed, yet remarkably have also stayed the same. The motives driving federated fundraising agency and the corporations that associate with them have changed. Motives such as financial self-interests, legitimization of the way questionable wealth was obtained, the perpetuation of and control over dynastic wealth, and the perceived need to consolidate the multiple fundraising processes in a community have been key motivations, along with the more virtuous motivates of neighbor helping neighbor, engaging in good works, actively showing love to others, and it being a spiritual duty. Motives have always been mixed: power, pride, religiosity, altruism, conformity, corrosion, authority, class dominance, distrust or trust, control, and legacy making. "Charitable work is part of the exercising of power as well as an obligation deeply embedded in their (American's) religious or secular moral principles."[39] This issues discussed above are some of the key ways power and mixed motives have affected the nonprofit sector leader's attitudes and actions.

What Should Be Nonprofit Leaders' Response?

The sector is not ending the major social and environmental ills it was/is intended to address. There is more hunger, homelessness, mental illness, substance abuse, poverty than ever before. Global environmental issues are mounting. Millions of children are going to bed hungry. Children are going to school unable to read. Yet we keep doing the same things in the same way and expecting a different result. It's like the English speaker who goes to another country and thinks they will be better understood, if they speak louder, and say the same words over and over again, but slower!

Most who have worked in the nonprofit sector for any period of time, agree that any form of organization will have problems and be given to possible corruption. Just as Bacon concluded back in the early 1800s, ultimately each individual will be accountable for their actions and accountable to others in this world and the next!

However, should we create organizational structures and operations on the premise that all leaders will inure and misuse assets? Should competent, well-trained administrators never have the authority and control needed to lead the organization to accomplish mission at a scale that makes sense, given the extent of the issues present? Should the primary responsibilities of the board be premised on the misuse of dollars and that the staff doesn't know how to develop the organization, services and products? We think not.

We think it is time to re-examine how we organize nonprofits, what roles and responsibilities boards and staff have and at what stages in their development, and who the public is for the various kinds of nonprofits that now are in existence. One size (organization, governance pattern) does not fit the need of all.

In the guidelines section, we outline a few beginning principles for leadership and management action by board and staff that we think ensure accountability, maintain fiduciary responsibilities of the corporation, but free leaders to act in a timely manner to grow the organization so that it can truly accomplish mission. We reduce the burden placed on the board which will also reduce the time and effort the CEO spends on board functions. We more narrowly define the board's role and give greater responsibilities and accountability to CEOs. We increase the attention to contributors and involve them more strategically in organizational capacity building. We advocate for greater entrepreneurial activities to drive in more revenues. We encourage all to achieve the scale required to truly alleviate the issues surrounding their cause. This will require leaders to address structural changes in society, as well as therapeutic and educational needs.

39 Wagner, D. (2000). *What's Love Got to Do with It? A Critical Look at American Charity*. The New Press, 111.

We believe if we don't come up with better relationships between board and staff of nonprofits, the best and brightest will not stay in or join the sector, and it will continue to limp along, not meeting society's needs, or truly eradicating social and environmental issues we face today or project facing in the near future. It's time to <u>***meet need fully***</u> and <u>eradicate</u> pervasive social and environmental <u>issues</u>. It's time to think how we have to organize, lead and manage ourselves to do that. It's time to address whether the nonprofit sector wants to do this and, if not to re-define its role and purpose in society, and perhaps its tax status. It is in this spirit that we offer *New Guidelines for Tomorrow's Nonprofit* for further debate and discussion. We offer them as the BEGINNING of dialog, not the end.

THE ORIGINS & EVOLUTION OF NONPROFIT FUNCTION

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During her fifty-year career, Dr. Robinson worked in community and regional support systems development for at-risk families, children and youth organizations, community-based literacy systems, holistic family centers and nonprofit human services organizations. In addition, her focus has been on systems-based approaches to community planning and policy development, and social impact assessments of various community change projects. Her expertise is rural, integrated community development.

Dr. Robinson previously served as Director of the Center on Neighborhood Development and the Director of the Center on Nonprofit Leadership within the Institute on Families and Neighborhood Life at Clemson University (1998-2009). She also co-lead in the development of the Institute's PHD program in International Family and Community Studies.

Prior to her work at Clemson University, she was Associate Director and Research Professor at the Institute for Families in Society and Director of the Division on Neighborhood Development at the University of South Carolina (1995-1998). From 1981-1995, she was a tenured Assistant and Associate Professor in the College of Agriculture and Human Resources (Department of Human Resources), an Associate Professor in the College of Social Sciences (Department of Urban and Regional Planning), and Research Associate in the Center on Youth Development at the University of Hawaii at Manoa. In 1977, she and her husband moved to Hawaii where she was a Research Associate in the Culture Learning Institute at the East-West Center (1978-1981) before joining the UHM faculty. From 1975-1978, she was a senior graduate assistant and Research Associate in the Nonformal Education Institute at Michigan State University working on a multi-million dollar USAID project in Indonesia to enhance the nation's teacher training college system to include, among other things, an emphasis on community development initiatives. In addition, she served as Vice President of Program and Publications for Pioneer Girls, a faith-based, interdenominational, international girls club, camp and women's leadership development program (1970-1975). From 1967-1970, she was a graduate assistant in the College of Education at Texas Women's University

working on marine biology science curriculums for inland schools, and a science teacher in the Denton Texas public school system. While studying at Moody Bible Institute, she founded and directed an out of school child and teen development and literacy center in two housing projects in Chicago, as well as founding and hosting a radio program at WMBI (1964-1970).

Dr. Robinson testified several times before the U.S. Congress, several states' legislative bodies, and the United Nations. She served as a consultant to numerous state social service, health, juvenile justice, governors' offices, environmental, and municipal agencies. Internationally she was a consultant to 28 international organizations, including several divisions of the United Nations, the U.S. Agency for International Development, the International Institute for Applied Systems Analysis, ASEAN and the All Union (USSR) Academy of Sciences, Asian Development Bank, Asian Institute for Technology, Australian Commonwealth's Scientific and Industrial Research Organization, Canadian International Development Agency, Chulalongkorn University Social Research Institute, European Centre For Social Welfare Policy and Research, the German Development Bank, German Ministry of Education, Indonesian Ministry of Education and Culture, and the U.S. Peace Corps.

She has received numerous awards and recognitions from her work, including several fellowships and an Award of Distinction from the National Association of State Universities and Land Grant Colleges for her leadership of a national task group to add new science understanding to what was offered through schools and colleges of Agriculture and Natural Resources across the U.S. She was awarded the University of Hawaii Regents' Medal for Excellence in Teaching in 1990, the highest award given at UHM. She also has received awards of distinction from the U.S. Peace Corps and USDA for her community development work. At the University of South Carolina, she was recognized for her contributions to research productivity, and received three faculty excellence awards while at Clemson University. Texas Woman's University honored her in 2015 with the Chancellor's Alumni Excellence Award and, that same year, the National Development Institute awarded her their 25th anniversary Nonprofit Leadership Award. In 2017, the National Association of Nonprofit Executives and Organizations honored her with their first Robinson Lifetime Achievement Award. She received letters of commendation from three states' governors for her work in enhancing various aspects of human service delivery systems. Having traveled and worked in 151 countries, she is a recognized leader in rural community development in a variety of national and cultural contexts.

She retired in 2009 from Clemson University but remains affiliated with the Institute as an Adjunct Professor. Since her retirement, she has remained active in leadership roles within two charter schools, National Development Institute and the National Association of Nonprofit Organizations & Executives. She currently lives in Pawleys Island, South Carolina.

THE ORIGINS & EVOLUTION OF NONPROFIT FUNCTION

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Jimmy LaRose's passion for "people who give" has inspired philanthropists around the world to change the way they invest in nonprofits. His belief that donors are uniquely positioned to give charities what they truly need – leadership rather than money – is the basis for his work with individuals, governments, corporations and foundations, in the U.S., Europe, Asia & Middle East. Jimmy, in his role as author, speaker, corporate CEO & nonprofit CEO champions all of civil society's vital causes by facilitating acts of benevolence that bring healing to humanity and advance our common good.

Now, in his twenty-seventh year of service, his message that money is more important than mission and donors are more important than people or causes has resonated with policy institute scholars, social activists, doctoral students, business leaders, think tanks, nonprofit and NGO executives who rely on him and his team of veterans to meaningfully grow their charitable enterprise.

He's the author of RE-IMAGINING PHILANTHROPY: *Charities Need Your Mind More Than Your Money*™ written to philanthropists who give nonprofits what they really need...enterprise models that grow capacity and achieve financial sustainability. **https://JimmyLaRose.com**

He's the architect of the Major Gifts Ramp-Up™ Donor Cultivation Model & Online Cloud used by charities around the world to meet the needs of their primary customers…the advocates, donors and volunteers who financially underwrite their mission. **https://MajorGiftsRampUp.com**

He's the founder of National Development Institute™, a 501(c)3 public benefit charity established in 1990 that insures funders, granting organizations and corporations safeguard their mission by building capacity within charities who serve the human welfare, education, health care, arts & environmental sectors. **https://NonprofitConferences.org**

He's the founder of National Association of Nonprofit Organizations & Executives (NANOE) our Nation's only unifying legislative body comprised of Governors nominated from all 50 States who oversee the codification of guidelines that govern sound charitable practice. **https://NANOE.org**

He's the designer of the CNE, CDE & CNC™ Credentialing Program providing practitioners the training and certification they require to lead nonprofits to greater success. **https://NANOE.org**

He's the inventor of DonorScope™ an online prospect research platform used by charities to identify donors who give big gifts to great dreams that are backed by sound plans. **https://DonorScope.com**

He's the founder of 501c3.Buzz™ an online forum moderated by a nationwide network of academicians, practitioners & consultants who have dedicated their lives to advance the common good. **https://501c3.Buzz**

Finally, Jimmy is the CEO of both Development Systems International™ and PAX Global™ firms that specialize in implementing the Major Gifts Ramp-Up Model for nonprofits, ministries and churches who raise major gifts. **https://Development.net** & **https://PAXglobal.com**

James P. LaRose has served as a specialist with the U.S. State Department's Speakers Bureau traveling the world working with embassies, foreign governments, and leaders to promote philanthropy and civil society in developing countries. He was the founding President of the Western Maryland Chapter of the Association of Fundraising Professionals (AFP), and is a graduate of AFP's Faculty Training Academy (FTA). He is a graduate of Indiana University's Executive Leadership Program, Indianapolis, IN, the National Planned Giving Institute, Memphis, TN, Tennessee Temple University, Chattanooga, TN and Word of Life Bible Institute, Schroon Lake, NY. Dr. LaRose received his Doctorate in Philanthropic Studies from Ecumenical University. Rev. LaRose was ordained as minister of the gospel by the Ecumenical Church of Christ in further support of his service to the hurting and hopeless around the world. He and his beautiful wife Kristi are citizens of the Palmetto State where they make their home in Lexington, South Carolina.

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